

CLIENT NEWS BRIEF

Employee's Inability to Work Under a Particular Supervisor is Not a Disability Under FEHA

The California Court of Appeal recently held that an employee's inability to work with her supervisor due to stress and anxiety did not qualify as a disability protected under the Fair Employment and Housing Act (FEHA).

In 2010, Michaelin Higgins-Williams, a clinic assistant for Sutter Medical Foundation who had been diagnosed with adjustment disorder and anxiety, took an approved medical leave based on stress and anxiety caused by interactions with her manager. (*Higgins-Williams v. Sutter Medical Foundation* (2015) 237 Cal.App.4th 78.) Ms. Higgins-Williams returned to work in August 2010 after exhausting the leave provided by the Family Medical Leave Act (FMLA) and the California Family Rights Act (CFRA).

On her return, Ms. Higgins-Williams received a negative evaluation from her supervisor—the first negative evaluation she had received since starting work at Sutter in 2007. The following month, her supervisor grabbed Ms. Higgins-Williams and yelled at her. Her regional manager ostracized Ms. Higgins-Williams while exhibiting friendly behavior toward other staff. In mid-September 2010, Ms. Higgins-Williams requested a leave of absence, which was granted. While on leave, Ms. Higgins-Williams' doctor notified Sutter that Ms. Higgins-Williams needed to transfer to another department. Sutter, however, did not transfer Ms. Higgins-Williams.

In late December 2010, Ms. Higgins-Williams' doctor notified Sutter that she could return to work. Disagreeing with the doctor's conclusion that she was able to return to work, Ms. Higgins-Williams requested additional leave on January 6, 2011. On January 24, 2011, Sutter informed Ms. Higgins-Williams that there was "no information to support a conclusion that additional leave as an accommodation would effectuate" her return to work as a clinical assistant. Sutter notified Ms. Higgins-Williams that she had until January 31, 2011 to provide such information or else her employment would be terminated. Ms. Higgins-Williams failed to provide the requested information and Sutter terminated her employment on February 1, 2011.

Ms. Higgins-Williams sued Sutter, alleging that Sutter: i) discriminated against her based on a mental disability; ii) failed to engage in the interactive process to make a reasonable accommodation for her disability; iii) retaliated against her for requesting a disability accommodation; and iv) wrongfully terminated her in violation of public policy.

The court determined that Ms. Higgins-Williams' stated disability, anxiety caused by her supervisor, did not constitute a qualifying disability under FEHA. In arriving at this conclusion, the court relied heavily on *Hobson v. Raychem Corp.* (1999) 73 Cal.App.4th 614, 628, which held that "the inability to perform one particular job or to work under a particular supervisor, does not constitute a qualified disability under FEHA." While the court acknowledged that portions of *Hobson* had been disapproved in subsequent decisions, the finding that an inability to work under a particular supervisor was not a disability under FEHA remained intact. Therefore, because Ms. Higgins-Williams did not suffer from a qualifying disability, she was not entitled to the protections afforded by FEHA.

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Ms. Higgins-Williams' claim that she was wrongfully terminated in violation of public policy for using FMLA/CFRA leave was similarly denied by the court, as it found that Sutter had a legitimate reason for terminating her employment and Ms. Higgins-Williams failed to demonstrate that such reason was pretextual.

While this case provides additional guidance as to what constitutes a qualifying disability under FEHA, it does not simplify the disability accommodation process or analysis. For instance, anxiety caused exclusively by an employee's supervisor would not qualify as a FEHA disability under *Higgins-Williams*. On the other hand, an employee's pre-existing mental disease or illness, exacerbated by interactions with the employee's supervisor, may qualify as a disability under *Higgins-Williams* as a psychiatric disability related to supervision in general, or for other reasons recognized by FEHA (e.g., a disability that limits a major life activity).

It is crucial for employers to exercise good faith in determining whether an employee has a qualifying disability, and when engaging in the interactive process to determine if a reasonable accommodation is available. Both FEHA and the federal Americans with Disabilities Act recognize that the interactive process may require several meetings with the employee in order for an employer to satisfy its obligations under the law.

For more on information on *Higgins-Williams* and its implications on leaves and disability accommodations, please contact one of our [nine offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#), or download our [Client News Brief App](#).