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Plaintiff's Efforts To Preclude Her Deposition In Discrimination/Retaliation Suit Rejected By U.S. District Court For The Eastern District Of North Carolina

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Koryn M. McHone
Of Counsel

The United States District Court for the Eastern District of North Carolina recently rejected a *pro se* plaintiff's efforts to evade being deposed in her suit filed under Title VII of the Civil Rights Act of 1964. Specifically, after suing her former employer North Carolina Department of Administration/North Carolina Human Rights Commission ("NCDOA"), plaintiff Linda Huggins sought a protective order precluding NCDOA from deposing her in relation to her claims of discrimination and retaliation. The opinion rejected such efforts and affirmed the rights of an opponent to obtain discovery through deposition testimony, barring extraordinary circumstances. *See Huggins v. N.C. Dep't of Admin.*, No. 5:10-cv-00414-FL, slip op. (E.D.N.C., June 7, 2012) (Flanagan, J.).

Plaintiff's arguments in favor of the protective order were two-fold: (1) NCDOA had already obtained her written discovery responses; and (2) her health could be endangered if she was to be deposed, as the increased stress associated with a deposition could trigger a stroke. The Court reiterated the general principle that parties ordinarily are not limited to the benefit of only one type of discovery, clarifying that it remains common to explore discovery responses further through sworn deposition testimony and that an order prohibiting a deposition in its entirely was rarely issued. As the plaintiff was unable to establish that she had been subject to unduly burdensome written discovery or present other facts to suggest her deposition was inappropriate, the Court rejected her request for a protective order.

Further, the Court rejected plaintiff's assertion that she had suffered a past stroke and that the further stress of a deposition could lead to a repeat episode. In dismantling such argument, the Court scrutinized submitted medical records, finding that they failed to establish any past stroke occurrence or that she was at risk of stroke if deposed. After noting that other underlying causes could have lead to particular symptoms, and that she was not partaking in a regular treatment regimen for her alleged conditions and was under no restrictions, the Court determined plaintiff had not made the requisite showing to obtain the protective order.

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