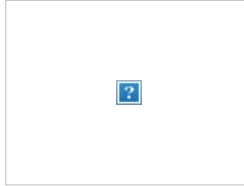


WOMAN IN BRIDAL STORE ALLEGES DISCRIMINATION BASED ON AGE, RACE AND DISABILITY



A woman working as an alterationist in the bridal department of an Arizona store filed a lawsuit against her former managers after she was fired. She claimed violations of Title VII of the Civil Rights Act (based on race), Americans with Disabilities Act (ADA) and Age Discrimination in Employment Act (ADEA). Her allegation of disability discrimination is from her diagnosis of a pituitary tumor and resulting surgery. The district court, however, rejected this claim for numerous reasons. She was allowed to take unpaid, protected medical leave for three months, despite not having been employed for a full year. She returned to work on a part-time basis but continued receiving company-paid medical benefits, usually available only to full-time workers. Perhaps more significantly, the woman admitted that her responsibilities were not notably impacted upon her return to work, and as such, could not show that she was disabled according to ADA guidelines. The court likewise dismissed the claim of an ADEA violation. The woman was 68 years old at the time of her termination, and was a member of the protected class. But so was another worker – the 54-year-old employee hired to work part-time when the plaintiff was on medical leave. This employee was fired when the plaintiff returned but rehired a month later because the plaintiff could only work part-time.



She was then hired as a full-time alterationist after the plaintiff was fired.

The other employee was also related to the plaintiff's claim of racial discrimination. The plaintiff alleged that the other woman's work was inferior to her own. A bridal consultant testified on the plaintiff's behalf and made a similar claim, adding that at least a third of the brides preferred the plaintiff's work and that the other employee could not communicate with clients because the Spanish-speaking woman could not speak English. The consultant further asserted that both the store manager and department manager favored the other woman because all three women were Hispanic and literally spoke the same language. The ultimate decision to fire the plaintiff was made by the manager for the Western region. But this is where the "cat's paw" theory of liability was argued. The theory, derived from a fable in which a cat is manipulated into burning its own paw, takes into account the conceivable influence that might affect a person in power – in other words, the regional manager was allegedly swayed by the other two managers' opinions or potential comments. The company claims that the plaintiff was terminated for various reasons: tardiness, inefficient work and low bookings. The district court, not believing that the plaintiff had supplied any sufficient evidence, granted summary judgment in favor of the defendants on all counts. Appellate judges, however, disagreed. It saw a "triable issue of fact" in the claim of racial discrimination – a jury might consider the decision to terminate as pretextual. The appeals court affirmed the grant of summary judgment with respect to the age and disability claims, but reversed the ruling on the racial discrimination claim and remanded it for further proceedings.