

THERAPIST ASKED TO RETURN TO WORK FOLLOWING PAID LEAVE, BUT SUES INSTEAD



A therapist was placed on leave after being accused of inappropriate behavior. He was allegedly asked to return to work later but declined. Instead, he brought legal action against the company. The man was hired near the end of 2007 by a private, non-profit organization that aided developmentally-disabled youths and adults. He'd only been working for around two weeks when a juvenile patient made an accusation of improper conduct. The clinical director of the facility was informed, and the man was placed on paid leave while law enforcement and child protective services initiated an investigation. The clinical director had a subsequent discussion with a state employee who was acting as the case manager for the juvenile accusing the man of misconduct. While discussing whether or not the youth should continue residing at the facility, the case manager asked the director if he had access to Utah's SAFE database – a catalogue of information concerning investigations being held by the department of child and family services. He said that he did not. The case manager then asked her boss if she could check the database and share the information with the director. She was told no, but she later admitted to accessing it – but further claimed that she did not share the information with the director or anyone else. Law enforcement and child protective services separately completed their investigations, and no charges were filed – child protective services deeming the case as “unsupported.” The director alleges that he called the therapist to invite him back to work and that he declined. The man claims that he never received such a call. He sought employment elsewhere,



and there was no evidence that he asked to return to work or that he was terminated.

The man then filed a lawsuit, making a stigma-plus claim and alleging intentional interference with economic relations under Utah law. Summary judgment was granted in favor of the company, as the district court found no evidence to support the man's claim or any proof of damages incurred from a loss of employment. On appeal, the plaintiff argued only for the stigma-plus claim and made no effort to substantiate the state-law claim. A stigma-plus claim is one in which a person claims that his/her reputation has been stained by information made public. To prove such a claim, the plaintiff must also show an association between the information relayed and an adverse action – termination, demotion, etc. – and that the charges or information are false. Appellate judges did not believe that the plaintiff's assertions that the case manager's actions unfavorably affected his employment “jibe[d] with the facts.” But this was an insignificant point for the simple reason that the man's name was listed in the database – meaning that there were no false charges made. As the plaintiff was unable to prove an “essential element” of a stigma-plus claim, the appeals court affirmed the grant of summary judgment in favor of the facility.