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'Unusual' Error Gets AT&T's FMLA Win Nixed At 5th Circ.

By **Kevin Stawicki**

Law360 (May 13, 2020, 3:00 PM EDT) -- The Fifth Circuit reversed AT&T's early win in a suit accusing the telecom giant of firing a worker for taking medical leave after suffering an injury, faulting the district court's "unusual and exceptional" refusal to let her take depositions or provide documents to help bolster her case.

There was no reason for U.S District Judge Lynn N. Hughes to shut down Beverly Hawkins' attempts to engage in discovery to show how AT&T retaliated against her for taking a leave of absence under the Family Medical Leave Act, a three-member panel ruled Tuesday, reversing AT&T's summary judgment win.

"The district court repeatedly denied several of Hawkins's requests for relevant discovery — discovery that could have helped her raise a genuine dispute of material fact on her discrimination and retaliation claims," the panel wrote, recognizing that a trial court ruling should only be reversed in an "unusual and exceptional case."

"That was an abuse of discretion, and Hawkins was prejudiced as a result," the panel continued.

The panel affirmed the district court's summary judgment ruling in favor of AT&T for Hawkins' discrimination claim under the Age Discrimination in Employment Act and harassment claims under the FMLA because she "seemingly dropped them prior to this appeal."

An AT&T spokesman said in an emailed statement that the company is "pleased the court confirmed judgment in our favor on Ms. Hawkins' age discrimination and harassment claims, and we continue to dispute any allegations that we discriminated or retaliated against her."

"We are elated that the Fifth Circuit reversed the district court's summary judgment ruling in this matter," Helen Daniel of Daniel Williams & Associates PLLC, who represents Hawkins, said in an email. "We look forward to relitigating these issues in a pursuit of justice on behalf of our client."

Hawkins said in her 2015 lawsuit that after taking FMLA leave to recover from a shoulder injury, she was met with hostility by managers who started closely monitoring her work as a customer service representative, blocking her attempts to make an internal transfer and allegedly saying "one day they're going to get rid of FMLA." Hawkins said her managers then accused her of falsifying a request to miss work and unlawfully used that as the reason to fire her.

Judge Hughes granted the company's motion for summary judgment in 2018, finding that Bell didn't discriminate against Hawkins based on her disability or retaliate against her for taking leave.

"The facts show that Hawkins was simply a bad employee who lied and made excuses for her poor performance and insubordinate behavior," Judge Hughes said. "She will taking nothing from Southwestern Bell, which tried to salvage her job."

On appeal, Hawkins said the lower court failed to let her present evidence that would have shown that her discharge based on the alleged falsified document was "suspicious, erroneous, false, and a pretext for FMLA retaliation and disability discrimination."

"Ultimately, the court improperly restricted Hawkins ability to conduct discovery because all of the matters by which she sought court intervention were relevant to the case at bar," Hawkins said in her brief. "This court should not be exempt from the requirements of the Federal Rules of Civil Procedure."

Hawkins is represented by Helen M. Daniel and Kathryn Y. Williams of Daniel Williams & Associates PLLC.

AT&T is represented by Shauna J. Clark and Joy M. Soloway of Norton Rose Fulbright US LLP.

The case is Beverly Hawkins v. AT&T et al., case number 18-20374, in the U.S. Court of Appeals for the Fifth Circuit.

--Editing by Alyssa Miller.

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