

# VERDICTS & SETTLEMENTS

## EMPLOYMENT LAW

### DISABILITY DISCRIMINATION

Retaliation

SETTLEMENT: \$31,000

CASE/NUMBER: Corydon Johnson v. County of Riverside, George Solorio / RIC1212177

COURT/DATE: Riverside Superior / Sept. 16, 2013

ATTORNEYS: Plaintiff - Daren H. Lipinsky (Brown & Lipinsky LLP, Chino Hills).

Defendant - Edward P. Zappia, Brett M. Ehman, Laurie DeYoung (The Zappia Law Firm APC, Los Angeles).

FACTS: Plaintiff Corydon Johnson was employed by the County of Riverside in its Waste Management Department as a heavy equipment operator at a landfill from July 2007 to July 2011, when he resigned his employment. As a heavy equipment operator, plaintiff was required to operate numerous machines including but not limited to scrapers, compactors, dozers and water trucks. Over the course of his employment, plaintiff suffered several injuries to his shoulders, the causes of which are in dispute. Plaintiff attributed them to his use of the heavy equipment and mainly, the scraper.

The county disputed that any of plaintiff's injuries were caused by his work activities. As a result of his injuries, plaintiff's health care provider issued various restrictions numerous times during the course of plaintiff's employment. Each time he presented restrictions from his medical providers, the county placed plaintiff in a modified duty position in its administrative offices, and when necessary, authorized his medical leave. When plaintiff indicated his desire not to return to the landfill, the Waste Department discussed with plaintiff working permanently in the offices. Plaintiff however, wasn't interested in such a position. While plaintiff was out on leave for medical reasons in 2011, he resigned his employment with the county.

#### PLAINTIFF'S CONTENTIONS:

Plaintiff alleged that he was harassed and ridiculed by his supervisor as a result of his injuries and time spent on light duty in the administrative offices. He claimed that he complained of the harassment to both supervisors and to the human resources department, but that nothing was done.

Plaintiff also claimed that he was discriminated against because of his medical condition in that he wasn't accommodated and required by the county to continue operating heavy equipment, mainly the scraper, after he complained to his supervisors that operating the scraper caused him severe pain his shoulder.

Plaintiff contended that he was constructively terminated from his employment as a result of the harassment by his supervisor and had no choice but to resign rather than face continuing harassment and ridicule. Plaintiff further contended that if he remained at work, he would have continued to be required to operate the scraper, and with the advice of his doctor, that wasn't in his best interests.

#### DEFENDANT'S CONTENTIONS:

The County of Riverside denied all allegations and contended that any and all of plaintiff's medical restrictions were accommodated during the course of his employment. Each time plaintiff presented his supervisors with restrictions, he was accommodated by being placed on light or modified duty and assigned to the administrative offices. When plaintiff didn't have restrictions, he was expected to perform work on all machines, including the scraper, just as his co-workers were.

Defendants also denied that plaintiff was harassed by any supervisor. Plaintiff never complained to the human resources department such harassment and never filed a formal complaint under the county's complaint procedures. Further, plaintiff only requested documentation to file such a complaint after he had resigned his employment. Yet, even then, he didn't file a complaint.

The county claimed that plaintiff suffered no adverse employment action, as the county or his supervisors never adversely acted upon his employment. Plaintiff resigned when he was out on an authorized medical leave, and just after being assigned light duty in the administrative offices accommodated him. His pay was never reduced and he was never suspended or demoted. Thus, defendants denied all allegations set forth in plaintiff's complaint.

RESULT: The case dismissed with prejudice after a settlement agreement was reached between the parties for \$31,000.

OTHER INFORMATION: FILING DATE: Aug. 10, 2012.