

**EMPLOYMENT LAW**

**DISABILITY DISCRIMINATION**

Retaliation

BENCH DECISION: Defense

CASE/NUMBER: William Goldstein  
v. County of Riverside / RIC  
10004676

COURT/DATE: Riverside Superior  
/ July 23, 2013

JUDGE: Hon. Mark A. Cope.

ATTORNEYS: Plaintiff - Michael  
A. DesJardins, Eric A. Panitz  
(DesJardins & Panitz LLP,  
Riverside).

Defendant - Edward P. Zappia, Eric  
W. LaPointe (The Zappia Law Firm  
APC, Los Angeles).

FACTS: Plaintiff William Goldstein worked for the County of Riverside in the Waste Management Department as a heavy equipment operator at a landfill. Over the course of his employment, plaintiff was disciplined for multiple safety violations. Plaintiff also filed multiple complaints against his supervisors and co-workers. The complaints were investigated by human resources and dealt with according to policy. Plaintiff had also previously filed three workers' compensation claims between 2006 and 2007, one for bee stings and a second for inhalation of fumes, and a third for a back injury. The county according to policy and procedure handled all three of these claims. Plaintiff was returned to work after periods of temporary disability and modified light duty to accommodate each of his injuries.

Plaintiff received multiple forms of discipline between 2005 and 2009, including corrective memoranda and written reprimands related to the safety violations. Plaintiff received three below standard performance evaluations and was placed on three-performance improvement plan, and after a deliberate, collaborative process between Waste Management and human resources, plaintiff was terminated on Aug. 26, 2009.

PLAINTIFF'S CONTENTIONS:

Plaintiff alleged that he was terminated from his employment in retaliation for having filed workers' compensation claims and complaints against his supervisor. Plaintiff also alleged that he was discriminated against in 2008 for his back injury in 2007 and that the county failed to accommodate his disability and failed to prevent discrimination based on that disability. Plaintiff claimed that although the county initially accommodated his back injury by allowing him to ride "softer riding machines," it became too much of a burden, and the county stopped accommodating him in 2008.

DEFENDANT'S CONTENTIONS:

The county denied that it retaliated against plaintiff and contended that it terminated plaintiff for legitimate, non-discriminatory reasons. In conformity with its written policies and practices, the county accommodated plaintiff's numerous alleged workplace injuries in 2006, 2007 and 2008. The county also afforded plaintiff his workers' compensation benefits for all three injuries. The county properly documented, managed and attempted to rehabilitate plaintiff's performance deficiencies and safety breaches to safe competency levels between 2004 and 2009. After five different supervisors and one independent safety consultant documented plaintiff's safety and performance deficiencies between 2004 and 2009, plaintiff was terminated in August 2009 after he failed to improve and pass his third Performance Improvement Plan.

RESULT: The court issued a bench decision granting a defense verdict on all five claims.

OTHER INFORMATION: FILING  
DATE: March 15, 2010.