

Failure to interview for promotion can be retaliation

Employees who complain about alleged discrimination and experience retaliation can sue even if it turns out they don't have a valid discrimination case. And almost anything that would dissuade someone from complaining in the first place is retaliation.

Recent case: Kimberley Stoppi works for Walmart and has bipolar disorder. She took a leave of absence to address her symptoms. She complained to HR when she heard co-workers making what she perceived were biased comments about her disability.

Later, she applied for a promotion but was never interviewed despite having the necessary experience. In the end, no one was promoted. Still, Stoppi sued, alleging retaliation for complaining.

The court said she was entitled to a trial, reasoning that a reasonable employee might hesitate to complain about discrimination if she feared she wouldn't receive a promotion interview. (*Stoppi v. Wal-Mart*, No. 3:09-CV-916, MD PA, 2010)