

Employee fired shortly after filing complaint? Brace yourself for a retaliation lawsuit

An employee who complains about perceived discrimination may be wrong, but filing a complaint still counts as protected activity. If she files an EEOC complaint or a lawsuit, firing her shortly after she complains is just asking for a retaliation claim.

Recent case: Mary, who has a disability affecting her vision, went to work for a counseling service after scoring high on a pre-employment test. She got along well with clients and did a good job. Then her supervisors began noting some documentation problems and worked with her to correct them. She completed a performance improvement plan.

Meanwhile, Mary requested several accommodations for her vision problems.

Then, her supervisor emailed another manager with discharge authority, informing him that Mary was reportedly suing the employer. The email was sent at 9:26 a.m. At around 10, Mary seemingly confirmed this, telling her supervisor she had filed an ADA complaint. The email was forwarded to the manager a few minutes later. A few hours later, the supervisor and manager spoke on the phone. A few days later, without consulting HR, the manager fired Mary.

Mary added retaliation to her lawsuit.

The employer successfully got the discrimination claim dismissed, but the retaliation claim was scheduled for trial. The court looked at the timing of the protected activity (filing an ADA complaint) and her discharge and decided a jury might conclude Mary had been fired for engaging in protected activity. (*Hanson v. Northern Pines*, DC MN, 2018)