



Employment Law Note

OCTOBER 2022

Sexual Harassment in the Workplace Could Lead to Disability Benefits



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A recent decision by the U.S. District Court for the Western District of Washington suggests that sexual harassment in the workplace could lead to the wronged employee receiving disability benefits under the employer's disability insurance plan. This case signals an emerging trend of courts exploring the psychological impacts of sexual harassment and the intersection of these effects with disability law. While we commonly know that sexual harassment can lead to claims alleging emotional distress damages, this recent decision explores the interesting and nuanced impact of sexual harassment on disability benefits.

What Happened in this Case?

In this case, *Witney v. United of Omaha Life Ins. Co.*, the Plaintiff, Natalie Witney, worked as a Bank Manager at People's Bank and was a member of a Long-Term Disability Plan administered by Defendant United of Omaha Life Insurance Company ("United"). Witney alleged that while she was employed at People's bank she was sexually harassed and that the harassment exacerbated her existing mental health issues (including PTSD, a mood disorder, and bipolar disorder) to an extent that she could no longer work. She further claimed to have experienced various symptoms including depressed mood, panic attacks, sleep disturbance, loss of interest, low energy, impaired concentration, and even suicidal ideation. The Court concluded that Witney was disabled during the relevant time period and was entitled to disability benefits under her employer's plan.

Importantly, the Court noted that although Witney experienced other stressors—including co-parenting

disputes, financial stressors, and frustrations with her parents—the sexual harassment she allegedly suffered in her workplace could still be linked to exacerbating her existing mental health issues and history of prior sexual trauma.

Although United argued that Witney should have been able to work once she was removed from her hostile working environment, the Court explicitly noted that this remedy "was not the silver bullet that [United] portray[ed] it as." The Court further noted the absence of any authority holding that only individuals whose disabling mental health symptoms arise outside of the context workplace are entitled to disability benefits. The Court ruled in Witney's favor and directed United to find that Witney was disabled within the meaning of the plan and to pay her unpaid benefits owed for the relevant time period.

What Are the Main Takeaways from this Case?

First, this decision should signal to employers the growing sympathy that courts are showing to employees suffering from mental health issues. The Court emphasized that a plaintiff "should not be penalized" in circumstances where her disabling mental health conditions were "triggered and exacerbated by the actions of a co-worker." As noted above, it further recognized the absence of any legal authority holding that "only individuals whose disabling mental health symptoms arise *outside* of the context of the workplace are entitled to disability benefits" (emphasis in original).

Second, this case signals that a job position reassignment may not be enough to accommodate an employee with a mental disability who is suffering

sexual harassment in the workplace. The Court rejected United's argument that Witney was only prevented from working her specified job due to the contact she had with her alleged harasser, but that she was not prevented from working generally as a bank manager. The Court instead agreed with Witney when Witney argued that it was not the harassment itself but the "extent and severity of her symptoms related to past sexual trauma...that necessitated her departure from her job."

What Steps Should Employers Take?

As an employer, it is critical to have robust policies and protections in place for employees to prevent, discourage, report, and rectify instances of sexual harassment in the workplace. This includes instituting a comprehensive policy prohibiting workplace harassment and a thorough complaint and investigation procedure for employees to utilize. It is also advisable to require regular training and instruction on workplace harassment for all staff, employees, supervisors, and other company members.

Employers should likewise be well-versed on topics such as workplace harassment and disability accommodations, and the intersection between them. Training and instruction should be provided so that company owners, executives, and supervisors are trained to respond to instances of harassment and requests for disability accommodations and/or benefits appropriately and effectively.

As we all continue to navigate our way through these often difficult, nuanced, and complicated conversations in the workplace, we must continue to be mindful of federal, state, and local regulations. Inquiries related to workplace harassment and disabilities are highly fact-specific. Therefore, we recommend consulting with legal counsel when faced with an employee workplace harassment complaint.

For questions about the *Witney v. United of Omaha Life Ins. Co.* case and its implications for employers, please contact us at Sebris Busto James.

For more information about this month's Employment Law Note
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