

JANUARY 14, 2021

DAILY REPORT

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Lawsuit Claims State Juvenile Justice Agency Illegally Fired Woman Under COVID-19 Quarantine

The complaint said a recently hired employee was advised to self-quarantine by her doctor after exposure to the virus, but was ordered back to work before the quarantine ended.

BY GREG LAND

A woman who was fired less than a month into her job with the Georgia Department of Juvenile Justice after she resisted returning to work before her doctor-ordered COVID-19 quarantine ended has sued the agency for violating the federal Emergency Paid Sick Leave Act.

According to the complaint filed Wednesday in the U.S. District Court for the Northern District of Georgia, Crystal Hammond was hired by the DJJ on Oct. 16; on Oct. 31 she unknowingly came into contact with someone who was carrying the coronavirus.

A couple of days later she began feeling ill and went to



Photo by John Disney/ALM

Doug Kertscher is a partner at Atlanta-based Hill, Kertscher & Wharton, LLP.

see her medical provider, who on Nov. 3 ordered her into a 14-day quarantine because she had been exposed to the virus, it said.

The quarantine was to run through Nov. 13, 14 days after her exposure.

That day Hammond informed her superiors at the DJJ, providing medical documentation and asking whether the EPSLA covered her absence.

On Nov. 10 DJJ denied her leave and ordered her back to work the next day. Hammond

asked if she could return on Monday, Nov. 16—the next business day after her quarantine expired—and offered to provide more medical documentation. Both offers were denied.

Instead she was terminated “in retaliation for taking and requesting leave protected by the EPSLA,” said the complaint, filed by Doug Kertscher and Julie Burke of Hill, Kertscher & Wharton LLP.

In an email, Kertscher said Hammond had been hired as a human resources technician at the agency.

When DJJ responded to her request for time off more than a week later, “she was told ‘you should return to work on your next scheduled workday [Nov. 11], as failure to do so may result in termination,’ but she didn’t want to expose her co-workers since her quarantine period hadn’t expired,” Kertscher said.

The ESPLA is part of the Families First Coronavirus Response Act, and requires employers—including governmental agencies—to provide up to 10 days of paid sick leave to employees diagnosed with or

suffering symptoms of COVID-19, who have been quarantined or advised to self-quarantine by a medical provider or who are caring for someone under quarantine.

“[Hammond’s] leave documentation started the 14-day quarantine period on the date that plaintiff Hammond was directly exposed to COVID-19, rather than the date of her appointment with a medical provider,” her complaint said.

“This is not a grounds to reject documentation.”

The agency “did not provide plaintiff an opportunity to correct any alleged documentation deficiency nor did it provide plaintiff with the opportunity to provide the document that the DJJ deemed required documentation prior to denying the request for leave,” it said.

Hammond’s complaint also includes a claim that her treatment violated the Fair Labor Standards Act, and that she is “entitled to the amount of her unpaid wages, or her unpaid overtime compensation, as the case may be, and in an additional equal amount as liquidated damages.”

“We find it hard to understand why DJJ did what it did here, when so many other employers and employees have worked together to overcome the obstacles of the pandemic,” Kertscher said.

“Maybe they’ll have a great explanation; we are looking forward to the discovery process in this case.”

A copy of the complaint was forwarded to the office of Attorney General Chris Carr, but no response was forthcoming.

Greg Land covers topics including verdicts and settlements and insurance-related litigation for the Daily Report in Atlanta.