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APR 28 2008

Jonathan W. Feldman
U.S. Magistrate Judge
Western District of New YorkHonorable Jonathan W. Feldman
2120 U.S. Courthouse
100 State Street
Rochester, NY 14614-1309Case No. 6:07cv6050 - John Giallanza vs Time Warner Cable
Re: Motion for Protective Order and to Squash Plaintiff's Subpoena

4/27/08

Dear Magistrate Feldman,

I am representing myself as pro se in a discrimination case, John Giallanza vs. Time Warner Cable. I am responding to the defendant's (TWC) motion for protective order and to squash plaintiff's subpoena.

Firstly, there are fundamental flaws in the argument and examples set forth by the defendant's representing law firm, Seyfarth Shaw, as to the reasons for wanting protective order and to squash the subpoena for Ms LaBue's medical records. Seyfarth Shaw, maintains that the plaintiff (John Giallanza) does not explain why Ms Rena LaBue's medical records are of any importance.

Although I have stated the reasons in the past, let me be clear in restating the reasons as to the importance of Ms. LaBue's medical records. I believe we are all, at least somewhat, familiar with the infamous singer, Britney Spears. Ms Spears suffers (according to news reports) from a Uni/Bi Polar disorder almost identical to Ms LaBue's condition. Hence, Ms LaBue's mental state during my employ at Time Warner Cable is, in fact, of great importance. Ms Spears and Ms LaBue can simply state (for the record) that their mental illness has absolutely no effect on their personal or professional life. However, referencing their psychological medical records will often tell a different set of truths.

Hence, the need to access Ms LaBue's medical records and/or psychological medical records. I need, the court needs to have this questioned answered - "How did Ms LaBue's mental illness or the medications she was taking influence how she treated the plaintiff, John Giallanza, during his employ. Did her knowledge or condition influence her day-to-day decisions on how she treated the plaintiff. Since Ms LaBue was the plaintiff's direct supervisor - this question must be addressed and answered by facts instead of overly simplified statements during Ms LaBue's deposition. The oversimplified and vague statements that Ms LaBue made at that deposition were obviously coached by Seyfarth Shaw.

Seyfarth Shaw also maintains that there is no evidence that Ms LaBue suffered from any mental illness. This is an erroneous statement. From a medical standpoint, there is no known cure for Uni-Polar or Bi-Polar disorder! There are medications that may help control her symptoms, however, there is no cure. Therefore, Ms LaBue was either suffering from the symptoms of her mental illness or was under the influence of psychopathic drugs - as well as possible side effects that these drugs often have on patients who use them.

On the contrary, there is plenty of evidence that Ms LaBue's mental illness directly affected her work and personal life. Firstly, she often mentioned that her husband at the time, Terry Owen, wanted a divorce from Ms LaBue. Ms LaBue told me that it was because, at times, she either did not take her medication or was taking medications that were having adverse side effects. Additionally, Ms LaBue had told me of other incidences where she acted out in a manner that she was (later) uncomfortable with and said that it was due to her Uni Polar condition. Therefore, there is plenty of evidence that Ms LaBue's mental illness does play an important roll in how she treated the plaintiff as well as the plaintiff's situation. There is simply too much at stake to dismiss this. Here are some of the symptoms of Uni-Polar disorder:

- Extreme Lethargy.
- Disturbed sleep, early waking, difficulty getting to sleep and waking up tired after a normal night of sleep.
- Permanent sense of anxiety.
- Sensation of utter despair, hopelessness or uselessness of everything.
- Irritability and physical exhaustion.

Associated Features:

- ☐ Lack of concentration.
- ☐ Lack of sexual drive.
- ☐ Irrational fears such as fear of death, thoughts of suicide, or fear of committing suicide.

Additionally, I, the plaintiff would agree to seek only the complete *psychological* medical records from Ms LaBue's Psychiatrist, Dr. Izhar S. Mustafa instead of her complete medical records. There is one additional item that I should mention, Ms LaBue claims that I took advantage of her "goodwill" when she told me the doctor she was seeing for her mental illness. To be completely honest, I did not even remember the name of her doctor after she mentioned it to me. About 2 or 3 weeks after that conversation, my primary physician referred me to Dr. Mustafa because my condition was not improving by simply seeing my Psychologist, Dr. Santo Bentivegna. It was a complete coincidence. If needed, I can have my primary physician testify or give the defendant written confirmation of this fact!

I also do not have any intent to annoy or embarrass Ms LaBue (as claimed by the defendant). My only desire is to prove and win my case - nothing more and nothing less. I simply do not think that Ms LaBue's assessment of her own mental illness is as credible as looking at Ms LaBue's Psychiatric medical records. Her assertion that the medications she was and is taking were simply used to control "her lows" that she claimed in her deposition - does not explain her state of mind during the time of the plaintiff's employ at TWC.

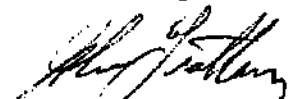
Both the plaintiff and the court deserves to see "real and concrete" evidence to prove whether or not Ms LaBue's mental illness influenced her or perhaps gave her an unfair advantage in how she and Time Warner Cable treated me and ultimately decided to terminate my position. We deserve to know the absolute truth. It seems as though the Ms LaBue is trying to hide evidence that may be damaging in defending her case.

Coincidentally, I am currently employed at WROC TV & WUHF TV (I was employed by WUHF TV previous to working at Time Warner Cable). A salesperson was out ill for over 3 straight weeks!!! A few weeks before he was out ill - he took a week's vacation. Therefore, that salesperson was out for over 4 weeks in a 2-month window. That sales person had been employed for only 6 months. The company I work for now actually helped this individual get back on his feet (with no punishment or dismissal/termination). On the contrary, Time Warner Cable and the TWC supervisors I worked for terminated my position. Additionally, at Ms LaBue's deposition, she had the audacity to claim that TWC were actually helping me by terminating my position. She actually said it with a straight face. I could not believe my hears!

Therefore I am asking his Magistrate, Judge Feldman to dismiss the defendant's motion for protective order and to squash plaintiff's subpoena.

Magistrate Feldman, I have every confidence that you will use your professional judgment and experience to seek fairness in this matter and grant my requests.

Kindest regards,


John Giallanza

RECEIVED**APR 28 2008**Jonathan W. Feldman
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Case No. 6:07cv6050 - John Giallanza vs Time Warner Cable - *(Part 2)*
Re: Motion for Protective Order and to Squash Plaintiff's Subpoena - *(Part 2)*

4/27/08

Dear Magistrate Feldman,

I am representing myself as pro se in a discrimination case, John Giallanza vs. Time Warner Cable. I am responding to the defendant's (TWC) motion for protective order and to squash plaintiff's subpoena.

This is "Part 2" of the response to the motion by TWC representing law firm, Seyfarth Shaw which states it wants to squash the subpoena for Ms LaBue's employment records and attendance records.

Well, here we go again! This is another attempt by Ms LaBue and Seyfarth Shaw to point us in the wrong direction. This is a classic example of "non e` mia colpa" - it's not my fault! Seyfarth Shaw, maintains that the defendant is in another "class" of employee rules and privileges. They claim that some employees have a certain (higher class set) of absentee rules and some have a lower class set of rules.

They also claim that management can take as much time off as they want because TWC does not keep records of their days absent or vacation days or sick days. Wow, I want to work as a manager for that company! Oh yea, I did work for that company...

Does Seyfarth Shaw really expect you and I to believe this? Let us instead examine the facts. In the Time Warner employee handbook, it clearly states that for all 1st year employees there are 2 weeks (10 business days of paid vacation). There are also 5 sick days and 2 personal days allocated for all 1st year employees. I also spoke to other employees at Time Warner Cable, in various markets, and they clearly stated that all attendance and absence for all employees (including that of management) is carefully accounted for by their HR and Corporate.

Additionally, the company I work for now, WROC/WUHF Nexstar has a similar attendance and absentee policy for all employees (including management).

The reason that TWC and Seyfarth Shaw are fighting this is because they know it will be damaging to their case.

Seyfarth Shaw also claims that by providing me with, the "All Employee Evaluations" conducted by Ms LaBue and Mr. LaRose will prove anything. Well, if they will not prove anything – then let's see them. If they're not important to the case then why are they fighting the subpoena? I hear silence in the room...

Here is another reason I'm requesting Ms LaBue's personnel and attendance records. In 2007, Ms LaBue's son fell ill. Ms LaBue decided to take many weeks off to care for her son. Please let me be clear, there is nothing wrong in caring for your family. However, if Seyfarth Shaw is claiming (as they did in during the plaintiff's deposition) that a person who is excessively absent cannot adequately perform their job. Therefore, the same thing must be said about Ms LaBue's excessive absence. Otherwise, it may shout discrimination again!

Mr. Reice made the assertion during the plaintiff's deposition – that you cannot do your job if you are not present - should ring true for Ms LaBue. She could not do her job either if she was not present week after, week, after week! This is what Seyfarth Shaw is claiming...

Therefore, I am asking his Magistrate, Judge Feldman to dismiss the defendant's motion for protective order and to squash plaintiff's subpoena.

Magistrate Feldman, I have every confidence that you will use your professional judgment and experience to seek fairness in this matter and grant my requests.

Kindest regards,



John Giallanza

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