

Verdict: Defense

Los Angeles Superior / BC698499

Topic: Employment Law

Subtopic: Wrongful Termination

Detail: Disability Discrimination and Retaliation

Defense – Yuk K. Law, Zachary Schwake (Law & Brandmeyer LLP)

Plaintiff Jacqueline Ellis, 42, was a certified nurse assistant hired by Dignity Health Northridge Hospital Medical Center in July 2015. On Aug. 12, 2016, plaintiff injured her back at work and was on leave while receiving workers' compensation benefits and treatment. She was assigned to light duty in November 2016. In May 2017, her workers' compensation medical providers released her to return to work with no physical restriction. Plaintiff's back pain increased after being returned to work with no accommodations. In mid-July 2017, plaintiff complained to her doctor that she was given unfair patient assignments in the telemetry unit, often being assigned to the heaviest patients and difficult patients on ventilator.

## EMPLOYMENT LAW

### WRONGFUL TERMINATION

Disability Discrimination and Retaliation

Verdict: Defense

CASE/NUMBER: Jacqueline Ellis v. Dignity Health, Autumn Hilger / BC698499

COURT/DATE: Los Angeles Superior / Dec. 17, 2021

JUDGE: Kristin S. Escalante

ATTORNEYS:

Plaintiff - Ann A. Hull (Law Offices of Ann A. Hull Inc.)

Defendant - Yuk K. Law, Zachary Schwake (Law & Brandmeyer LLP)

FACTS: Plaintiff Jacqueline Ellis, 42, was a certified nurse assistant hired by Dignity Health Northridge Hospital Medical Center in July 2015. On Aug. 12, 2016, plaintiff injured her back at work and was on leave while receiving workers' compensation benefits and treatment. She was assigned to light duty in November 2016. In May 2017, her workers' compensation medical providers released her to return to work with no physical restriction. Plaintiff's back pain increased after being returned to work with no accommodations. In mid-July 2017, plaintiff complained to her doctor that she was given unfair patient assignments in the telemetry unit, often being assigned to the heaviest patients and difficult patients on ventilator. After plaintiff's doctor wrote an email to Dignity Health's leave

department to express concerns, a meeting was held on July 19, 2017. After the meeting, Nursing Director Autumn Hilger confronted and accused plaintiff of having artificial fingernails in violation of the hospital's hand health policy. Plaintiff alleged that Hilger grabbed her hand without her permission and committed battery during the confrontation. Plaintiff denied having artificial nails.

Due to a number of absences, a meeting was held on Dec. 19, 2017 by the hospital administrators with plaintiff, represented by her union steward. After the union representative confirmed that plaintiff could not be fired for absences caused by medical appointments or illness, Hilger accused plaintiff of violating the hand hygiene policy. Plaintiff was given a written warning for violation of the hand hygiene policy. On December 20, plaintiff was confronted by the telemetry unit nursing manager about her nails and was given a final written warning and was eventually told to leave work. On Jan. 4, 2018, plaintiff was terminated for insubordination for repeated violation of the hand hygiene policy. Plaintiff denied having nails that violated the policy.



### PLAINTIFF'S CONTENTIONS:

Plaintiff alleged that the adverse employment actions (warnings and termination) were in retaliation for her leave of absences due to work-related injuries and for her complaints regarding unfair patient assignment when she returned to work after disability leave. Plaintiff claimed that Hilger, the nursing director, angered by plaintiff's complaint of unfair patient assignments, grabbed plaintiff's hand without her permission, and wrongfully terminated her.

### DEFENDANT'S CONTENTIONS:

Dignity Health was of the position that plaintiff repeatedly violated the hand hygiene policy and placed the patients at risk for infection, and her repeated non-compliance with the hand hygiene policy amounted to insubordination, necessitating termination.

INJURIES: Emotional and mental suffering, resulted in plaintiff becoming an alcoholic, and she had to seek residential rehabilitation and treatment for over one month.

DAMAGES: Past noneconomic damages in excess of \$100,000.

SETTLEMENT DISCUSSIONS: Plaintiff demanded \$90,000, and her attorney's fees and costs to be determined by the court.

RESULT: Defense verdict.

OTHER INFORMATION: Defendants will seek costs. Plaintiff has filed a motion for a new trial and intends to appeal.

FILING DATE: Mar. 16, 2018