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# EMPLOYMENT AUTHORITY

## NY Agency Must Face Nurse's Sex Harassment Suit

By Alexis Shanes · March 16, 2021, 9:46 PM EDT

A New York federal judge said Tuesday that a state agency for people with developmental disabilities cannot ditch a nurse's claims that she was subjected to persistent sexual harassment and assault from a co-worker and faced retaliation from supervisors after she went to the police and filed internal complaints.

U.S. District Judge Lawrence Kahn rejected three motions to dismiss Mary Tromblee's sexual harassment and retaliation case, upholding Title VII claims against New York state and its Office for People with Developmental Disabilities alongside state-level claims against Tromblee's two supervisors.

Tromblee alleges she was subjected to lewd and dangerous treatment between December 2016 and October 2017, and that the agency didn't do anything about the conduct.

Tromblee claims Chad Dominie, who is named in the suit, made explicit, degrading comments about her and called her demeaning names. She alleges he put his hand down her blouse while she was on a phone call, bruised her wrists and thighs and exposed himself to her. And at one point, she says, he pinned her on a chair and threatened to rape her.

Tromblee says she reported the incidents to a female supervisor, Alexis Barlow, who is also named in the suit. But in response, Barlow implied the problem was Tromblee's fault, she claims. Tromblee claims she submitted an internal complaint and "filed criminal charges" at a local police department in October 2017. Dominie pled guilty in April 2018, and her complaint was found substantiated the following month, according to the judge's ruling. In March 2019, two other women made similar allegations about Dominie in the press, the ruling said.

However, Tromblee says, the retaliation was swift.

Another supervisor named in the suit, Liam Stander, excluded Tromblee from "critical communications" about individuals with disabilities for whom she was responsible, she says.

Agency managers also mishandled Tromblee's time cards at least 10 times, causing her to lose pay, she alleges.

And between April and July 2018, the agency allegedly refused to make a different job available after it learned Tromblee was interested.

Tromblee says she was later subpoenaed to testify at disciplinary proceedings against Dominie. As a result, she alleges, she was forced to partake in several preparation sessions, which caused her to be retraumatized.

Managers later began retaliating against Tromblee's daughters and sister, who also worked for the agency, she says. In July 2019, Tromblee was informed that Dominie would be returning to work, according to the judge's ruling. By that point, though, Tromblee had already sued. She lodged her complaint in May 2019, and the state, Barlow and Stander moved to dismiss in March 2020.

But in the Tuesday ruling, Judge Kahn said the state and the agency were liable because the two supervisors knew about the conduct and didn't take action.

"If even some of these allegations are proven, the state defendants will be held liable for hostile work environment harassment," Judge Kahn said. "Her allegations far exceed legal sufficiency."

In its bid to dismiss, the state had asked the court to toss only specific aspects of Tromblee's retaliation claim related to certain actions that it said didn't count as adverse. But Judge Kahn didn't buy the argument.

Tromblee's repeated complaints resulted in a pattern of slights, Judge Kahn said. She also faced more distinct adverse actions that, taken together, could prove retaliation — including the conduct against her family, he said.

"Aside from their proximity to plaintiff's protected acts, that these injuries coincidentally were inflicted on three of plaintiff's family members during a period in which the agency was engrossed in a sexual harassment crisis in which plaintiff played a central role, reinforces an inference of causation," Judge Kahn said.

Separately, Tromblee said that being forced to testify constituted retaliation, even though her testimony wasn't particularly timely in relation to her complaints, the judge said.

"She alleges that forcing her to repeatedly rehearse the details of her sexual assaults before the hearing started, and forcing her to testify about her sexual assaults in the same room as her abuser ... contributed to a hostile work environment," Judge Kahn said. "The court agrees." Judge Kahn also found that New York's sovereign immunity from state-level claims didn't protect Barlow and Stander from such claims. He denied the duo's arguments that they weren't sufficiently involved in the dispute to be liable for aiding and abetting. The court did, however, toss Tromblee's Section 1983 claim. Tromblee had argued that she had a constitutionally protected interest in keeping her state job, but she failed to state a specific constitutional violation, Judge Kahn said.