EEOC'S LAWSUIT TO REQUIRE A TRUCKING COMPANY TO ALLOW A LONG-DISTANCE TRUCK DRIVER TO HAVE AN EMOTIONAL SUPPORT DOG IN HIS VEHICLE IS HEADED TOWARD A TRIAL COURT DECISION IN 2018

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A pretrial order that sets June 1, 2018 as the deadline for filing summary judgment motions and any challenges to the admissibility of expert witness testimony sets the stage for a court to decide the dispute between the Equal Employment Opportunity Commission ("EEOC") and trucking company CRST International, Inc. and CRST Expedited, Inc. ("CRST") over whether CRST (a long-distance trucking company) is obligated to allow a driver to have a service dog ride along to provide emotional support as an accommodation for the ADA-protected disability, Post-Traumatic Stress Disorder ("PTSD").

The court has set the jury trial to commence November 1, 2018.

The EEOC's lawsuit alleges that CRST violated the Americans with Disabilities Act ("ADA") by not allowing Leon Laferriere, a military veteran who enrolled in the CRST employer-subsidized driver certification training program, to complete training, retain his offer of employment, and have a service dog ride in the truck with him as a source of, "emotional support." On behalf of Mr. Laferriere, the EEOC demands backpay with prejudgment interest, past and future pecuniary losses, past and future non-pecuniary losses, including damages for emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation.

The EEOC also seeks punitive damages and an injunction prohibiting CRST from, "discriminating against qualified individuals with disabilities who use a service animal or emotional support animal."

CRST, in its Answer and Affirmative Defenses and its motion to dismiss or transfer based upon improper venue, states that the Veterans Administration psychiatrist who treated Mr. Laferriere for PTSD and prescribed an emotional support/service animal does not state whether a pet therapy/service animal would be prescribed were Mr. Laferriere to become employed as a long distance truck driver or that the service dog Laferriere sought permission to use at CRST was suitably trained as an emotional support dog.

CRST also defends on the basis that it has, "developed and adopted its current policy with respect to allowing dogs on CRST Expedited's trucks under appropriate circumstances." CRST's Answer states that it learned of Mr. Laferriere's desire to have a service animal late in the hiring process (by implication, too late to have engaged in the interactive process about that accommodation).

Public health trends may increase demands for Emotional Support Animals (ESA's) in the workplace.Management Professor C. W. Von Bergen has observed that, "Approximately 61.5 million Americans, one in four adults, experience a mental health impairment in any year and one in 17, representing

13.6 million people, live with a serious mental illness…that costs America $193.2 billion in lost earnings per year." These trends help frame demands for permission to use ESA's in the workplace.

CRST's court filings focus not upon the utility of ESA's in concept but upon whether the ADA obligated it allow Mr. Laferriere's dog during his driver training and ensuing employment. Those filings seem to portend a motion for a summary judgement based upon the particular facts and circumstances of Mr. Laferriere's employment candidacy.

For more information on this topic, please contact Frank Scruggs on the firm's Dispute Resolution Team.

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