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HHR Wins 2nd Circuit Appeal Affirming Dismissal of Disability Discrimination Suit

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November 9, 2021 — The firm obtained an appellate victory for American University of Antigua (AUA) and Manipal Education Americas (MEA) when the Second Circuit upheld a New York federal court ruling dismissing a disability discrimination suit brought by a medical student over her academic dismissal from AUA.

On Oct. 22, a three-judge panel affirmed U.S. District Judge Jesse Furman’s rejection of Debbie Ann Bromfield-Thompson’s claims against AUA, concluding that she failed to serve the Caribbean medical school with her amended complaint and summons, and did not allege or prove any wrongdoing by MEA.

Bromfield-Thompson took legal action in June 2019, three years after AUA dismissed her from the M.D. program for failure to satisfy her graduation requirements.

A Washington, D.C. resident with dyslexia who transferred to AUA in 2010 as a fifth-semester medical student, Bromfield-Thompson failed a key qualifying exam five times despite AUA providing extensive accommodations. For her fifth attempt, AUA worked with the National Board of Medical Examiners (NBME), which designed the exam, to add more than double time to the exam to allow Bromfield-Thompson to take breaks. AUA also extended her deadline for completing her graduation requirements until July 2016. Bromfield-Thompson failed the exam again in July 2016, and AUA dismissed her.

Bromfield-Thompson filed an amended complaint against AUA, MEA and NBME in January 2020 that dropped a couple of claims from her original complaint in response to HHR’s motion to dismiss. But she did not address any of the insufficiencies in her factual allegations. HHR moved to dismiss the amended complaint. In October 2020,

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dismissing her complaint against AUA without granting her leave to amend her complaint for a second time to address the insufficiency of service issue. The Second Circuit noted, however, that Bromfield-Thompson did not request leave to amend her complaint in the district court, which “clearly warned her that she would forfeit the chance to address any issues raised in the [original] motions to dismiss if she not address those issues in her amended complaint.”

With respect to MEA, the appellate court pointed out that Bromfield-Thompson’s amended complaint asserted legal claims against “AUA/MEA,” but that every one of the supporting factual allegations stated that AUA was responsible for the wrongs alleged—not MEA. Moreover, the panel refused to consider Bromfield-Thompson’s arguments that “MEA was engaged in a joint venture with AUA or was an independent contractor of AUA, or that she should have been allowed discovery on these issues, because she did not raise these claims before the district court.”

Robb Patryk, Amina Hassan – who drafted the appellate brief – and Grace Ha worked on this case.

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