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HHR Wins Dismissal of Medical Student's Disability Discrimination Suit

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October 28, 2020 — Hughes Hubbard achieved a decisive win for American University of Antigua (AUA) and Manipal Education Americas (MEA) when a New York federal judge dismissed a disability discrimination suit brought by a medical student over her academic dismissal from AUA.

On Oct. 13, U.S. District Judge Jesse Furman granted HHR's motion to dismiss Debbie Ann Bromfield-Thompson's claims against AUA for her failure to serve the Caribbean medical school with her amended complaint and summons; and against MEA for her failure to state a claim.

A Washington, D.C., resident with dyslexia, Bromfield-Thompson transferred from St. Matthews University School of Medicine to AUA in 2010 as a fifth-semester medical student. At AUA, she needed only to complete her clinical rotations and take a series of exams administered by the National Board of Medical Examiners (NBME) before applying for residencies at hospitals in the U.S. and Canada.

Due to her dyslexia, AUA granted Bromfield-Thompson an extra time-and-a half for completing all exams. She passed these tests until she had to take the Comprehensive Clinical Science Exam (CCSE), an NBME-designed test, which unlike prior subject-based tests, tests the AUA students across all subject areas in the M.D. program, and also measures their clinical skills. Bromfield-Thompson took the test three times in 2014. She failed each time.

In June 2015, AUA administratively withdrew Bromfield-Thompson from the college because she was inactive in her clinical rotations, against school policy, for over six months. AUA subsequently re-admitted Bromfield-Thompson on the condition that she complete the remaining requirements for graduation, including a passing mark on the CCSE by March 2016.

Bromfield-Thompson failed the CCSE on her fourth try in November 2015, this time with an approved accommodation of double-time. She then complained to NBME that taking the test in one lengthy sitting caused

her "excruciating pain." AUA worked with NBME to add more than double time to the exam to allow Bromfield-Thompson to take breaks. AUA also extended her deadline for completion of her graduation requirements until July 2016. Bromfield-Thompson failed the CCSE for a fifth time in July 2016, and AUA dismissed her. Bromfield-Thompson appealed her dismissal but alleges that AUA never responded.

Bromfield-Thompson filed suit against AUA, MEA and NBME in June 2019. HHR moved to dismiss in Dec. 2019. Bromfield-Thompson filed an amended complaint on Jan. 10. While dropping a couple of claims in her amended complaint in response to HHR's motion to dismiss, Bromfield-Thomson did not address any of the insufficiencies in her factual allegations. HHR moved to dismiss the amended complaint on Feb. 4.

Judge Furman dismissed Bromfield-Thompson's complaint in its entirety. In his ruling, he concluded that her claims against AUA must be dismissed for insufficient service of process because she served the summons and complaint on an MEA administrative employee at MEA's office in New York, and then made no effort to correct that error after HHR argued insufficiency of service in its first motion to dismiss in December. (AUA contracts with MEA, a New York-based company that provides administrative services to educational institutions all over the world.) He found that her claims against MEA must be dismissed because her complaint did not include any allegations that MEA engaged in wrongdoing.

Judge Furman also threw out her claims against NBME because the court did not have personal jurisdiction over the Philadelphia-based company.

Robb Patryk, Amina Hassan and Grace Ha worked on this case.

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