

BURR ALERT

11th Circuit Clean Sweep for Pilgrim's Pride Corporation on FMLA and ADA Claims Due to Alleged Repetitive Injury

By Christine Tenley, Nina Maja Bergmar and Travis Ramey

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On June 1, 2020, the Eleventh Circuit Court of Appeals entered an unpublished, per curiam decision affirming the grant of summary judgment in the U.S. District Court for the Middle District of Florida, Jacksonville division for Pilgrim's Pride Corporation.

The plaintiff, a plant worker in the live shed area, was transferred to a different department after sustaining injuries to his rotator cuff. Plaintiff was subsequently terminated for insubordination after returning to the live shed area against the company's occupational health department's recommendations and plaintiff supervisor's instructions. Plaintiff maintained that he was unlawfully terminated because of race and disability. However, the courts rejected those arguments and dismissed all claims.

This was a clean-sweep win for Pilgrim's Pride Corporation.

- The district court properly didn't allow plaintiff to amend his complaint.
- There was no evidence plaintiff's termination for insubordination was pretextual.
- Plaintiff could not show disability discrimination because plaintiff showed no comparator.
- Pilgrim's Pride provided reasonable accommodations and engaged in the interactive process.
- Pilgrim's Pride did not interfere with plaintiff's FMLA rights because plaintiff got the leave he asked for (hypertension) and never asked for leave for his shoulder.
- The acts plaintiff complains of cannot be FMLA retaliation because they happened before plaintiff sought leave.

The litigation team for Pilgrim's Pride was led by Christine Tenley and Nina Maja Bergmar with the appeal being led by Travis Ramey of Burr & Forman's Birmingham office.

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