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Gordon v. The City of NY

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
Employment Litigation

New York Law Journal

March 13, 2017

Judge James C. Francis IV

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Gordon worked for New York City's (City) Law Dep't. A 2014 employment discrimination complaint alleged disparate treatment. In May 2016 Gordon broke his hand during an anxiety attack allegedly arising from defendants' illegal discrimination. Initially taking accrued sick leave, Gordon later sought to take leave under the Family Medical Leave Act (FMLA). He received no response to completed forms sent to the Law Dep't on June 30, 2016. Without informing him, the City cancelled his health insurance as of July 24. Gordon resigned five days after his Aug. 5 receipt of a letter telling him his insurance benefits had been cancelled but that he was "eligible for COBRA." The court permitted Gordon to amend his discrimination action to allege the City's violation of the FMLA. The court found an employee appointed under New York's Civil Service Law may sue for breach of an employment contract. Further, because his amended complaint alleged an employment contract based on policies articulated in a Law Department employee manual, leave to amend would not be denied as futile. Further, Gordon's claim for damages for being denied the right to use accrued leave time could be brought as a contract breach claim rather than an Article 78 proceeding.

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