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New York Law Journal

New York Law Journal (Online)

September 10, 2009 Thursday

LENGTH: 216 words

HEADLINE: Drake v. Laboratory Corp. of America Holdings;
U.S. DISTRICT COURT EASTERN DISTRICT OF NEW YORK Civil Practice

BYLINE: web-editor@nylj.com, Special to the new york law journal

BODY:

Judge Block

Read the Full-Text Opinion

Delta Airlines in 1993 fired plaintiff for adulterating a drug test urine sample. His reinstated suit against Delta, claiming the test violated the Fourth Amendment, pursued a theory that Delta targeted him due to union activism. The court set aside the jury's 2004 verdict for plaintiff because he did not present evidence the test was not randomly administered. In plaintiff's current 2001 case, there remains only his claim that the actions of defendants Laboratory Corp. of America Holdings (LabCorp), Northwest Toxicology Inc., and a Northwest employee in connection with the drug test constituted negligence under New York common law. The court held plaintiff unable to invoke equitable estoppel against the remaining defendants' Aug. 14, 2009, summary judgment motion asserting the untimeliness of his fraudulent concealment claim. Plaintiff's knowledge of LabCorp's involvement in the test precluded equitable estoppel against it. Also, even if plaintiff lacked knowledge of sufficient facts to sue Northwest and its employee within the limitations period, equitable estoppel could save his claim only if he showed defendants fraudulently concealed their involvement. Neither Northwest or its employee had contact with plaintiff before his 2001 lawsuit.

LOAD-DATE: April 25, 2011