

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SALVATORE ZICCARELLI,)
Plaintiff,)
v.)
THOMAS J. DART, Sheriff of Cook County,)
Illinois and COOK COUNTY, ILLINOIS, a)
Municipal Corporation and Body Politic,)
WYLOLA SHINNAWI)
Defendants.)
Case No. 17 C 3179
Hon. John J. Tharp, Jr.

REASSIGNMENT STATUS REPORT

1. Nature of the Case

A. Plaintiff, Salvatore Ziccarelli is represented by Kenneth Flaxman (lead counsel) and Joel Flaxman of Law Offices of Kenneth N. Flaxman, P.C.

Defendants, Thomas J. Dart, Sheriff of Cook County, Wylola Shinnawi, and Cook County, are represented by Kimberly M. Foxx, State's Attorney of Cook County through Assistant State's Attorneys Kathleen C. Ori (lead counsel) and Nazia Hasan.

B. This is an action for interference under the Family and Medical Leave Act of 1993 (“FMLA”), 29 U.S.C. § 2601 and the jurisdiction of the court is invoked under 28 U.S.C. § 1331. Jurisdiction is not disputed.

C. Plaintiff filed this suit against Sheriff Thomas Dart, Shinnawi, and Cook County alleging violations of his rights under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, and the FMLA. After discovery, the district court granted Defendants' motion for summary judgment on all claims. Plaintiff appealed summary judgment as to only his FMLA claims.

D. On appeal, the Seventh Circuit affirmed the granting of summary judgment in favor of Defendants on the FMLA retaliation claim and reversed the district court's grant of summary judgment on his FMLA interference claim, finding that a triable issue of fact exists as to whether he was discouraged from taking FMLA leave, which would constitute FMLA interference. *Ziccarelli v. Dart*, 35 F.4th 1079, 1081 (7th Cir. 2022).

E. Plaintiff seeks relief for FMLA interference including wages and benefits he claims to have lost and attorney's fees.

F. All parties have been served.

2. Pending Motions and Case Plan

A. Plaintiff intends to file a renewed motion to reopen discovery by May 24, 2023.

B. Discovery closed in this matter on January 26, 2018. The district court denied Plaintiff's first motion to reopen discovery on March 27, 2023.

C. The district court granted summary judgment to defendants on all of Plaintiff's claims. On appeal the Seventh Circuit, reversed on plaintiff's claim of interference with his FMLA rights but affirmed all other claims for relief. *Ziccarelli v. Dart*, 35 F.4th 1079 (7th Cir. 2022).

D. Both parties intend to file motions in limine.

E. This is a jury trial. The parties believe that the case will take three to four days for trial.

The parties can be ready for trial in July 2023.

3. Referrals and Settlement

A. The assigned Magistrate Judge Valdez is the assigned magistrate.

B. The parties engaged in unsuccessful settlement discussions before preparing the pre-trial order.

C. The parties do not believe that further settlement discussions will be productive.

D. Counsel have informed their respective clients about proceeding before the Magistrate Judge and the parties do not unanimously consent.

4. Other Information

A. The Seventh Circuit's remand to the district court specifically held that the only issue remaining to try is whether Defendants interfered with Plaintiff's FMLA rights. The retaliation claims and constructive discharge theories are no longer part of the case. The parties have begun drafting the pre-trial order and motions *in limine* for trial.

B. Yes, the parties request a status hearing in order to set a trial date and to discuss any other matters regarding trial.

Respectfully submitted,

FOR PLAINTIFF

/s/Kenneth N. Flaxman (with consent)

Kenneth N. Flaxman (Lead Trial)
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Respectfully submitted,

FOR DEFENDANTS

/s/ Nazia Hasan

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