

In the United States District Court
Northern District of Texas
Lubbock Division

Catherine Brower	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. _____
	§	
Lubbock County Hospital District	§	
d/b/a University Medical Center	§	
	§	
	§	
Defendants.	§	

Plaintiff's Original Complaint

Plaintiff Catherine Brower ("Brower" or "Plaintiff") files this Original Complaint against Lubbock County Hospital District d/b/a University Medical Center and shows:

Parties

1. Plaintiff Catherine Brower is an individual citizen of Texas and a resident of Lubbock County, Texas.
2. Defendant Lubbock County Hospital d/b/a University Medical Center ("UMC") is a local government entity, a hospital district in Lubbock County, Texas. It may be served with process by serving its President and CEO, Mark Funderburk at 602 Indiana Avenue, Lubbock, Texas 79415.

Venue and Jurisdiction

3. Venue is proper in Lubbock County, Texas because the events establishing the

claims occurred in Lubbock County, which is in the Northern District of Texas.

4. This Court has federal jurisdiction over the claims asserted under the Americans with Disabilities Act, 42 U.S.C. § 12101, *et. seq.* and the Age Discrimination in Employment Act, 29 U.S.C. § 621 *et. seq.*

Summary of Claim

5. UMC discriminated against Brower because of her disabilities and age and retaliated against Brower after she engaged in protected activity. Brower sues for disability discrimination, age discrimination and retaliation.

Factual Background

6. UMC hired Brower on August 6, 2015 as a Staff Nurse in the Surgical Testing and Registration (STAR) Center. In that role, Brower performed pre-admission activity for patients who would be receiving outpatient surgery.

7. As a Staff Nurse in the STAR Center, Brower met with patients, typically a day or so before the scheduled surgery. Brower interviewed the patients, asked them a list of questions and gathered medical history and medication history. Brower may also have performed a short physical assessment of a patient, such as taking the patient's blood pressure. However, the "hands on" physical assessment was very limited.

8. As a Staff Nurse in the STAR Center, Brower typically sat across a desk and three to four feet away from the patients as she gathered medical information. Brower would only get close to a patient for a few moments, such as during a blood pressure reading.

9. Brower is an excellent nurse and has been recognized by her peers for compassion, excellent, integrity, honesty and teamwork.

10. UMC has awarded Brower the UMC Always Nurse Award four times. This is an honorary award given to a select few based entirely on patient satisfaction, patient experience, and exceeding patient expectations. Brower received this award from UMC in Q2 and Q3 of 2018, August 2019 and February 2020.

11. On March 16, 2020, UMC suspended all non-essential surgical procedures as part of the COVID-19 pandemic response. UMC assigned Brower to monitor hospital entrances on March 18 and 19, 2020. Brower took the temperatures of persons going into UMC and required them to use hand sanitizer.

12. On March 19, 2020, UMC assigned Ms. Brower to work in its COVID-19 call center from March 20, 2020 through a date in April 2020.

13. On April 7, 2020, UMC, through Vern Pharr, notified Ms. Brower she and other registered nurses were being deployed to the medical/surgical units although most had not performed bedside nursing for over 20 years.

14. UMC, through Pharr and Cindy Hill, asked Brower to fill out a questionnaire to help determine her deployment destination.

15. Brower notified UMC she suffered from the disability of rheumatoid arthritis. On April 7, 2020, Brower notified Hill by email and in person that Brower had forgotten to

include on her questionnaire she was taking a biologic for her rheumatoid arthritis and is immunocompromised because of it.

16. UMC, through Pharr and Hill, told Brower there were no exceptions to putting the RNs on the floor except for pregnant women.

17. On April 13, Brower spoke with Human Resources' Karen Pennell and Sharon Doyle (the Disability Management Coordinator) to determine her options for a reasonable accommodation of alternative nursing positions due to her rheumatoid arthritis and compromised immune system.

18. UMC, through Doyle, told Brower that Doyle did not have nor know of any alternative positions. Though Doyle is UMC's Disability Management Coordinator, Doyle said it is "not [Doyle's] job" to keep up with job listings. Doyle said that Brower was the first person to come to them with such an accommodation request.

19. In the conversation, Brower mentioned the ADA and how it helps employees. Brower then asked about an accommodation. Doyle told Brower that Brower would need to get information from Brower's doctor stating that she had a disability. Doyle added, "We are learning on you. We've never had this before."

20. Until Brower brought up the ADA, UMC, through Doyle, never mentioned it as a possible option. Brower asked Doyle if there was a specific form for the ADA to ask for an accommodation. Doyle reluctantly admitted UMC had an ADA policy and a form but said she could not provide a copy of it to Brower because it was under

development. After Brower pressed Doyle to give her the ADA accommodation form, Doyle finally provided Brower with the UMC Health System Request for Reasonable Accommodation form.

21. On April 17, 2020, Brower returned the completed ADA accommodation request form and her doctors' notes to UMC by giving the documents to Hill, her supervisor, on April 17th, placing a copy on Pharr's desk on April 17th, and emailing Pharr to inform him on April 19th.

22. In the request for accommodation, one of Brower's doctors requested that Brower not be assigned to a position requiring direct patient care because of her disabilities and immunocompromised status. Her doctor requested that she be allowed to continue in the COVID-19 call center as that position was an excellent fit.

23. On April 17, 2020, when Brower submitted the accommodation request, the COVID-19 call center was still open. Brower could easily have continued to work in the COVID-19 call center.

24. However, UMC refused to allow Brower to continue to work in the call center. On April 24, 2020, Doyle told Ms. Brower that the "call center is completely off the table. It's a temporary job and we want you to have a permanent job."

25. UMC, through Pharr and Doyle, then placed Brower on administrative leave. They do so after telling Ms. Brower that the call center job was "completely off the



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