

# EXHIBIT A

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

-----x  
LESLIE ROOT,  
Plaintiff,

vs.

CORNING COMMUNITY COLLEGE  
Defendant.  
-----x

17-CV-6498 (CJS)

Rochester, New York  
October 25, 20198  
\*\*\* p.m.

**MOTION HEARING**

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE CHARLES J. SIRAGUSA  
UNITED STATES DISTRICT JUDGE

FOR PLAINTIFF: LESLIE ROOT, Pro Se

FOR DEFENDANT: BOND SCHOENECK & KING PLLC  
BY: KATHERINE S. McCLUNG, ESQ.  
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P R O C E E D I N G S

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4           **THE COURT:** For the record, this is Root versus  
5 Corning Community College.

6           The Court notes the presence of the plaintiff,  
7 Leslie Root, appearing pro se.

8           Ms. McClung and Ms. Rusnak are appearing on behalf  
9 of the defendant.

10           Let me start off by saying, I know Ms. Root, you  
11 had to go into your was it your 401K to get the filing fee,  
12 that lawyers are telling you they want X amount of dollars  
13 before taking the case but you're at a distinct disadvantage  
14 in representing yourself. It's not to say you're not  
15 intelligent but you're at a distinct disadvantage. And on  
16 these cases, if you would recover, a lawyer would be entitled  
17 to reasonable attorney's fees.

18           So I don't know who you've talked to. All I can  
19 tell you is if a lawyer evaluated your case and thought there  
20 was a chance, a good chance of recovery and did recover, they  
21 would get attorneys fees.

22           Who have you talked to, out of curiosity?

23           **MS. ROOT:** So I actually did have representation,  
24 attorney SPHRAPBLG they are from Ithaca, New York.

25           **THE COURT:** Don't know him.

1:42PM

1:42PM

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1:43PM

1:43PM 1           **MS. ROOT:** And so he had told me that the EEOC  
2 would find that it would be the end the of the case. And  
3 when that didn't happen -- he may have previously -- he did  
4 say that eventually down the road, he was going to be on the  
1:43PM 5 same committee as the president of the college and if the  
6 case had to go further, he would see it as a conflict of  
7 interest. And when that happened, then I was stuck with all  
8 the administrative fees.

9           **THE COURT:** Did he require a retainer from you, if  
1:44PM 10 I can ask?

11           **MS. ROOT:** Just the administrative fees. I guess  
12 there was a small retainer and, I'm sorry, I don't -- I can't  
13 remember exactly. But then I had to also pay the court for  
14 the -- to file here. So...

1:44PM 15           **THE COURT:** Right. And one of the things you have  
16 to consider, if you were to lose -- and we'll talk about your  
17 case -- but if you were to lose -- I don't know if the  
18 defense would -- but they could recover costs from you. So  
19 that could be another consideration as to why maybe, if you  
1:44PM 20 want, I would give you an opportunity to talk to an attorney.

21           Because here's the situation. The defense has  
22 moved to dismiss on a number of grounds. They've made what's  
23 called a 12(b)(6) motion. Essentially they're saying, just  
24 based on the complaint, the case shouldn't go any farther.

1:44PM 25           In that regard, one of the issues they raised is

1:45PM 1 service. They point out in their papers that you were given  
2 a pretty explicit explanation of the responsibilities that  
3 pro se defendants have about service. And setting aside, for  
4 a moment, the fact that maybe the clerk's office here screwed  
1:45PM 5 up, you know, they should have given you the summons quicker  
6 than they did, you still didn't -- first of all, we don't  
7 have any affidavit of service that you served anybody. And  
8 you didn't serve the complaint with the summons. It says  
9 pretty specifically that you're supposed to serve the -- do  
1:45PM 10 you understand what I'm saying?

11 So, even if you were late with -- let's say it was  
12 the clerk's office that was the cause of you being late for  
13 the issuance of the summons, whose fault is it that --

14 **MS. ROOT:** I went --

1:45PM 15 **THE COURT:** -- the complaint wasn't served with the  
16 summons when you were told it was supposed to be.

17 **MS. ROOT:** I went to the Sheriff department which  
18 is on the list of servers. I went directly there with all  
19 the paperwork, exact instructions and I paid them and would  
1:46PM 20 never have thought for a second they didn't know how to  
21 properly serve.

22 **THE COURT:** Did they ever give you an affidavit of  
23 service? Have they actually made service?

24 **MS. ROOT:** Yes, they mailed me one weeks later.

1:46PM 25 **THE COURT:** And did you send it to the -- did you

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1:46PM 1 include it in your papers? Did you file it?

2 **MS. ROOT:** I think that I called the clerk's office  
3 here.

4 **THE COURT:** But you don't dispute that the  
1:46PM 5 complaint wasn't served?

6 **MS. ROOT:** Yes. To Corning Community College?

7 **THE COURT:** You were supposed to serve the summons  
8 and complaint.

9 And am I correct, Counsel, the complaint was not  
1:46PM 10 served?

11 **MS. MCCLUNG:** That's correct, your Honor.

12 **THE COURT:** And that's their position. They're  
13 saying, here's what they're arguing -- and this is why you're  
14 at a disadvantage without a lawyer -- here's what they're  
1:46PM 15 saying.

16 They're saying you had 90 days from the EEOC, the  
17 Right to Sue Letter, or the EEOC determination to commence a  
18 case in federal court, that you did it on the last day you  
19 could. And then they're saying once you filed the complaint,  
1:47PM 20 you had 90 days to make service. They're pointing out that

21 that if you needed more time, you could have made an  
22 application but you didn't. And they're saying since you  
23 didn't make proper service, then that 90-day time limit for  
24 commencing the lawsuit started running again and you're out  
1:47PM 25 of time.

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1:47PM 1 Now, again, Rule 4(m) is the rule invoked. And I  
2 can extend that. But, I mean, you didn't even, you know, you  
3 didn't even serve the complaint with the summons, as you were  
4 told to.

1:48PM 5 Now I understand, and I'll consider the fact, that  
6 you went but I don't -- I mean, it may take a hearing. I  
7 don't know who you went to. You said you went to a retired  
8 deputy sheriff?

9 **MS. ROOT:** No.

1:48PM 10 **THE COURT:** A deputy sheriff?

11 **MS. ROOT:** I went to the sheriff's department. The  
12 whole department. They said they do it all the time.  
13 Steuben County Sheriff's Department and it was on the list  
14 that I was given by the court for servers. So that's why  
15 I --

1:48PM 16 **THE COURT:** Let's just assume -- they raise a  
17 number of arguments. Let's assume we got by that hurdle and  
18 I said, okay, I'm going to extend everything. I'm going to  
19 give you X amount of time to make proper service. You got to  
20 pay for it but you got to make proper serve and now you  
21 serve.

22 Now they're coming back and pointing out that,  
23 listen, several of the things you complain about occurred  
24 beyond 300 days before you went to the EEOC. They're  
1:49PM 25 discrete acts. It's not -- I can tell you this, it's not a

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1:49PM 1 continuing violation. And that's another issue why you may  
2 want counsel because that's kind of a legal issue, the  
3 continuing violation. That doesn't apply. So, under the law  
4 any acts that occur 300 days before -- let me try to explain.

1:49PM 5 Let's assume each of the things you complained  
6 about in your EEOC complaint was a discrete act; they were  
7 not part of the continuing violation and I'm comfortable they  
8 were not part of a continuing violation. Then, anything that  
9 occurred prior to the 300 days is out. You have 300 days to  
10 go to EEOC and complain about what you believe is  
11 discriminatory conduct. That's one problem.

1:49PM 12 Then we get into -- I'm giving you the benefit of  
13 the doubt on the clerk's office, say, yeah, it happens, maybe  
14 they didn't. Although, I guess we could have a hearing but  
1:50PM 15 let's assume that the clerk's didn't issue the summons. I  
16 explained the problem there. You didn't serve the complaint  
17 even though and you've talked about you went to the sheriff's  
18 department.

1:50PM 19 Then you complain that the EEOC hearing officer  
20 kind of prevented you from detailing all the acts involving  
21 what you maintain, you know, was sexual harassment. You  
22 complained was it a janitor came on to you or sexually  
23 harassed you. You talked a little bit about the student  
24 somewhere. I remember you said a professor's having an  
1:50PM 25 affair with a student. The student came to you and then his



1:50PM 1 wife came to you.

2           **MS. ROOT:** It was a lot of students she was having  
3 affairs with.

4           **THE COURT:** But moving along. There's something  
1:51PM 5 called equitable modification. If you were actually  
6 prevented from filing specific allegations with the EEOC,  
7 then maybe that could be an argument but, again, that's a  
8 legal matter that might be better addressed by a judge.

9           Then you complain, essentially, about retaliation,  
1:51PM 10 disability discrimination and age discrimination. Now, I'm  
11 trying to figure out the disability discrimination because  
12 you maintain that some security guard, if I followed, was  
13 ticked off at you because you parked with a handicap sticker  
14 in a parking spot that somebody he knew wanted to park in,  
1:51PM 15 right, is that?

16           **MS. ROOT:** No, that's not exactly how.

17           **THE COURT:** Well, explain.

18           **MS. ROOT:** That person was already parked in the  
19 handicapped spot.

1:51PM 20           **THE COURT:** And you complained about it, I'm sorry.

21           **MS. ROOT:** It was the only one and I had to carry  
22 my stuff into the building and it was somebody who works  
23 there's nephew and they were pretty angry that I left a note  
24 note on the van saying please don't park in the handicap  
1:52PM 25 spot. I was actually, like, reported for it. But some of

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1:52PM 1 the, some of the other things that you say are close to --

2 **THE COURT:** But then, but then the security guard,  
3 I thought there was somewhere in there that when your  
4 handicap sticker expired --

1:52PM 5 **MS. ROOT:** Yep, the --

6 **THE COURT:** He wouldn't let you park in that spot.

7 **MS. ROOT:** Nope. The day it expired, he told me to  
8 go out and move my car.

9 **THE COURT:** How is that discriminating against you?

1:52PM 10 If you could only park -- hear me out -- if you could only  
11 park in that spot with a handicap sticker.

12 **MS. ROOT:** It was that day. So, it would be until  
13 midnight, I would assume. I got in the car and drove right  
14 to my doctor's office who was astonished and came back and  
15 parked right back where I was.

1:52PM 16 **THE COURT:** I'm having trouble making the  
17 connection. How that is a cause of action under the American  
18 with Disabilities Act because the security guard, what?

19 **MS. ROOT:** Corning Community College made a long  
1:53PM 20 list of whatever they could do to me because I filed against  
21 this professor -- she wasn't a professor; she was an  
22 instructor just like I was -- having affairs with all the  
23 students. This security guy that worked in our building was  
24 part of the -- he worked with the woman that had just taken  
1:53PM 25 over and started most of this. He came to me to move my

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1:53PM 1 vehicle and said, let's just say -- I don't remember the  
2 date -- it expires December 12th. It's December 12th. I  
3 have -- I need to park there because I'm having trouble  
4 walking. It's December 12th. Why am I not parking in a  
1:53PM 5 handicap parking spot? I don't see how that's not disability  
6 discrimination.

7 **THE COURT:** On the part of the college?

8 **MS. ROOT:** Yeah, it's their college employee. That  
9 is the college telling me to move my car. He is the college.  
10 He is the college.

1:54PM 11 **THE COURT:** He's not a supervisor. He's not your  
12 supervisor.

13 **MS. ROOT:** No.

14 **THE COURT:** So that would mean if you followed your  
1:54PM 15 logic, any time an employee says something to you, even if  
16 your supervisor's not aware of it, that's discrimination.

17 **MS. ROOT:** He definitely has a charge over me. If  
18 I didn't go out and move my vehicle, he would have had it  
19 towed.

1:54PM 20 **THE COURT:** But you're missing my point. If I  
21 followed your logic, then any time anybody who's employed by  
22 the college, regardless of what their position is, does  
23 something, let's say that's not civil, then the college is on  
24 the hook.

1:54PM 25 **MS. ROOT:** I would assume if after it's reported

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1:54PM 1 and the college resolves it, then no.

2           **THE COURT:** Let's talk a little bit about your  
3 claim of age discrimination. And I'm trying to piece this  
4 together. You complained about the teacher having an affair  
5 with a student and then you were fired for that reason.

1:55PM 6           **MS. ROOT:** There's a lot of, it's a lot -- more  
7 in-depth than just that.

8           **THE COURT:** But what did --

9           **MS. ROOT:** I worked every day with this woman.

1:55PM 10          **THE COURT:** But what did you plead? Let me --

11          **MS. ROOT:** Yes.

12          **THE COURT:** You tell me what you pled. Because  
13 here's, again, what counsel points out.

14                 On this motion, let's aside for a moment -- and I'm  
1:55PM 15 not going to say I'm going your way -- but let's aside this  
16 whole service issue. Let's set aside that even though the  
17 summons was late, you didn't serve the complaint in a timely  
18 fashion. Let's set aside that in the EEOC complaint there  
19 was nothing about the janitor doing anything, right?

1:56PM 20          **MS. ROOT:** I told the EEOC that.

21          **THE COURT:** I understand that. But there's nothing  
22 in the EEOC. You're claiming that the, essentially, that the  
23 EEOC employee said don't worry about that. We can deal with  
24 it later.

1:56PM 25          **MS. ROOT:** That's exactly what she said. She said

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1:56PM 1 it will all come out.

2 **THE COURT:** Let's set that aside.

3 And let's look at your complaint and you tell me --  
4 so you're maintaining that you have a complaint for

1:56PM 5 disability discrimination because on the day your sticker  
6 expired, you should have been allowed to stay in that spot  
7 till midnight and you were told to move then.

8 **MS. ROOT:** That's one --

9 **THE COURT:** What is the other?

1:57PM 10 **MS. ROOT:** -- one incident. This is an ongoing.

11 This was ongoing. My direct supervisor because of the  
12 problem with this female instructor started changing my  
13 schedule and putting me in different facilities further away  
14 from home at night when I can't work and our -- our

1:57PM 15 supervisor above that, the dean, had to get involved after he  
16 was forcing me to work at night up on the hill.

17 **THE COURT:** I'm talking about -- is that your claim  
18 of disability discrimination? Is that your claim of age  
19 discrimination or is that your retaliation claim?

1:57PM 20 **MS. ROOT:** That's part of discrimination,  
21 disability and retaliation. I went to the HR department. I  
22 made an appointment with her to talk about my accommodations.  
23 I have the emails to prove that. She told the EEOC that she  
24 didn't even know I was disabled. I have an email to prove

1:58PM 25 that she lied about that and that she was helping me with my

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1:58PM 1 accommodations but they're saying it never happened and,  
2 honestly, I don't see how that wasn't proof enough that  
3 they're lying.

4 Then the response I get from this lawyer takes a  
1:58PM 5 lot of points that weren't me. Those were my complaints to  
6 the college. And in the response it says I was doing them.  
7 There's a dozen witnesses and emails to say those were not  
8 me. I find that to be unethical on their part to blatantly  
9 put out lies. They know for a fact those weren't me. Those  
1:58PM 10 were the things I was complaining about. And they say that  
11 those are the reasons that I was terminated. Those were my  
12 complaints of what was happening in our area, mine and the  
13 woman I worked with.

14 **THE COURT:** Again, counsel's pointing out that you  
2:00PM 15 have no claim or cause of action for retaliation based on  
16 your complaints that, one, that a professor was having  
17 inappropriate relations with a student because that's not  
18 actionable under Title VII. It's actionable under Title  
19 VIII; is that correct? It would be actionable under Title  
2:00PM 20 VIII?

21 **MS. ROOT:** It is Title VIII.

22 **MS. MCCLUNG:** We didn't evaluate whether or not it  
23 would be actionable under another statute.

24 **THE COURT:** But it's a whole separate, I assume,  
2:00PM 25 exhaustion requirement under Title VIII?

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2:00PM 1           **MS. MCCLUNG:** That's correct.

2           **THE COURT:** Can I --

3           **MS. ROOT:** Your Honor, I worked with this woman --

4           **THE COURT:** Can I urge you to do this? And I

2:01PM 5 understand that you're sincere. They have a job to do. They

6 have to point out to me what they believe is appropriate on

7 the law and I have to follow the law. Might I suggest you

8 try to contact an attorney again.

9           **MS. ROOT:** I could try. Can I at least tell you

2:01PM 10 the things I researched?

11           **THE COURT:** You can of course tell me the things

12 you researched. I don't know -- now what county are you in?

13           **MS. ROOT:** Chemung.

14           **THE COURT:** Do they have a Legal Aid in Chemung

2:01PM 15 because here in Monroe County we have a legal aid? I don't

16 know if you would qualify but I think you really need to sit

17 down with an attorney and go over some of the issues that are

18 raised and get some advice. First of all, every time you

19 come up here, I know it's a drive, and I think you need to

2:02PM 20 discuss with an attorney some of these points I'm making.

21           **MS. ROOT:** I will. I'm not going to let this go.

22           **THE COURT:** I'm not saying let it go.

23           **MS. ROOT:** Win or lose my voice will be heard.

24 That is a nasty college with sexual misconduct all over it.

2:02PM 25           **THE COURT:** What is it you want? There was

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2:02PM 1 something you wanted to say about what your research. Go  
2 ahead.

3 **MS. ROOT:** I researched about my whole serving and  
4 summons thing and I honestly tried to follow everything  
2:02PM 5 exactly the way I was told. The clerk told me that he found  
6 it in the reserve section probably because you were waiting  
7 for my payment.

8 **THE COURT:** I'm getting, I'm getting by that. On  
9 that one, I'm giving you the benefit of the doubt.

2:02PM 10 **MS. ROOT:** Okay.

11 **THE COURT:** Because that kind of thing happens.

12 But what I'm pointing out but then we go to -- just  
13 step back a second and it may be all true. But your position  
14 is, listen, the clerk's office screwed up because they didn't  
2:03PM 15 get me the summons, okay. Then the sheriff's office screwed  
16 up because they didn't serve the complaint. Then the EEOC  
17 screwed up because they told me I didn't need to --

18 **MS. ROOT:** So are you saying that I'm making it up  
19 now?

2:03PM 20 **THE COURT:** I'm not saying --

21 **MS. ROOT:** Because I went to the sheriff's  
22 department.

23 **THE COURT:** Stop.

24 **MS. ROOT:** And they --

2:03PM 25 **THE COURT:** Can you listen to me for a second. I'm



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2:03PM

1 not saying you're making it up. And certainly on the delay  
2 in our clerk's office, I'm going to give you the benefit of  
3 the doubt. You don't even have to address that because if  
4 that was it, I'd say you know what, you have time to serve.

2:03PM

5 On the other issue, I mean, I'd want to hear, I  
6 mean, who is the sheriff who served it? You must have gotten  
7 back a notice that it was served. You must have their name.

8 **MS. ROOT:** I did. Do you want me to find it?

9 **THE COURT:** I'd just like to know --

2:04PM

10 **MS. ROOT:** They put it in their answer who the  
11 sheriff was.

12 **THE COURT:** Have you talked to him about why -- you  
13 gave him the complaint?

2:04PM

14 **MS. ROOT:** In what I received from their office,  
15 there was -- I didn't need to go back to them because they  
16 listed the whole conversation they had with the secretary and  
17 how they had to come back a second time and they gave it to  
18 the secretary who was the wrong person. At that point it had  
19 already been -- it was done. And I didn't think I had done  
20 it wrong. If I had tried to approach the officer --

2:04PM

21 **THE COURT:** Can I ask you a question. Why did you  
22 wait so long to begin the action?

23 **MS. ROOT:** I didn't have the money. I had to wait.  
24 This was a waiting period to take it out. Sorry.

2:04PM

25 **THE COURT:** That's okay. Take your time.

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2:04PM 1           **MS. ROOT:** So something that I had found -- I'm  
2 going to need a tissue.

3           **THE COURT:** We have tissues right here for you.  
4 Don't worry about. You go ahead and tell me.

2:05PM 5           **MS. ROOT:** I had read that when someone claims  
6 ongoing denial of reasonable accommodation and they have  
7 initiated contact with an EEOC counselor within the timeframe  
8 that this says at a minimum in regard to the reasonable  
9 accommodation issue, the Commission construed the other  
10 incidents has been timely raised, as well.

2:05PM 11           **THE COURT:** That's what I was trying to explain to  
12 you. That's called the Continuing Violation Doctrine. And  
13 under certain circumstances, you can argue that the violation  
14 continues. I don't know that you've pled it that way. But  
15 what else do you want to tell me?

2:06PM 16           **MS. ROOT:** I talked about and I don't know if it  
17 matters at this point but I talked about the answer and  
18 how -- let's say eight out of ten of the points weren't even  
19 me. They were saying I did these things that they weren't  
20 even me. They were another employ that had done them. Not  
21 only did the college know that for a fact because lots of  
22 employees had complained about it. But I don't see how the  
23 attorneys handling the case didn't know it as well because it  
24 was in all of the paperwork that the EEOC had. And I find  
25 that inflammatory. I find it unethical. I just don't

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2:06PM 1 understand.

2           **THE COURT:** Are you saying that the reasons they  
3 gave for letting you go were wrong? But that's really not in  
4 the your complaint, is it?

2:07PM 5           **MS. ROOT:** No, that's not.

6           **THE COURT:** See --

7           **MS. ROOT:** That wasn't in the complaint.

8           **THE COURT:** What you have to understand: Right now  
9 we're at the complaint stage. They're just -- so I don't  
10 know.

2:07PM

11           Now, my secretary -- write this down. My secretary  
12 just sent me a note. There's called Legal Assistance of  
13 Western New York in Elmira, okay. And I'm going to give you  
14 the phone number. 607-734-1647. That's got to be relatively  
15 close to you, correct?

2:07PM

16           **MS. ROOT:** I've never heard of them but I would  
17 imagine.

18           **THE COURT:** So I was trying to explain to you that  
19 I'm just looking at the complaint right now and seeing if the  
20 complaint plausibly pleads causes of action as alleged by  
21 you. That's one issue.

2:08PM

22           The other issue is their motion to dismiss for lack  
23 of service, proper service.

24           Here's what I would suggest. You know, you only  
25 talked to one attorney?

2:08PM

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2:08PM

1

**MS. ROOT:** I made some other phone calls.

2

**THE COURT:** I mean, who did you call?

3

**MS. ROOT:** I tried to call -- I actually -- I called like a legal or 511.

4

2:08PM

5

**THE COURT:** Why don't you do this for me, just because, again, there's some, you know, principles that I'm talking about, this idea of equitable modification with respect to EEOC hearings, the idea that under Rule 4(m), the Court can extend things. Why don't you make -- where do you live again?

6

7

8

9

2:09PM

10

11

**MS. ROOT:** Elmira.

12

**THE COURT:** What county is that?

13

**MS. ROOT:** Chemung.

14

**THE COURT:** There should be Chemung County Bar Association.

2:09PM

15

16

**MS. ROOT:** I think I tried the Bar Association here so they wouldn't have to drive.

17

18

**THE COURT:** They have what's called a lawyer referral service.

19

2:09PM

20

**MS. ROOT:** That's what it was.

21

**THE COURT:** And did they give you names of attorneys?

22

23

**MS. ROOT:** Yes. I called several of them.

24

**THE COURT:** Like who did you call?

2:09PM

25

**MS. ROOT:** I don't...

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2:09PM

1

**THE COURT:** Did you go actually sit down?

2

**MS. ROOT:** Nope, just phone calls.

3

**THE COURT:** How come just phone calls?

4

**MS. ROOT:** They all wanted money.

2:09PM

5

**THE COURT:** I take it they wanted money to sit down and talk to you about whether they would take your case?

7

**MS. ROOT:** Some did. One said that he would take the entire case for \$1,500. Maybe I should call him back.

9

**THE COURT:** I'm really telling you that I think you need -- I know you're adamant about pursuing the claim.

2:09PM

10

11

**MS. ROOT:** I am.

12

**THE COURT:** I know that and you told me that and I'm not suggesting you're not. But I really think you need legal counsel. Because what I was trying to tell you is: When I make a decision on the application, I have to decide it based on the law. Like I said, you seem like a nice lady. But I have to make a decision based on legally who's right and who's not. And getting by the service issue -- I don't know if you've read counsel's brief -- but they're essentially saying you haven't plausibly pled causes of action under the ADA, Title VII and, you know, the American with Disabilities Act.

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Do you want an opportunity to talk to a lawyer?

24

**MS. ROOT:** Yes.

2:11PM

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**THE COURT:** All right. Why don't we do this. I

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2:11PM 1 have the papers. I understand from your papers what your  
2 position is. I clearly understand from your papers that you  
3 are maintaining, one, that the clerk's office delayed in your  
4 summons, that you did your best. You now explained to me to  
2:11PM 5 me the action took long to file because you didn't have the  
6 money because you were denied IFP status. You've told me  
7 that the clerk's office didn't issue the summons until --  
8 delayed in issuing the summons.

9 **MS. ROOT:** They were really nice.

2:11PM 10 **THE COURT:** They are nice up there but that doesn't  
11 mean -- you can be nice and still mess up occasionally.  
12 You've told me that you did your best. The clerk's office  
13 gave you a list of who could serve the summons and complaint.  
14 And that you, at least as far as you know, you went to the  
2:11PM 15 sheriff's department and asked them what they needed. They  
16 told you what they needed. You were relying on them to serve  
17 it and they didn't serve the complaint. You said in terms of  
18 of the EEOC hearing, you tried to bring up the fact of the  
19 janitor and other things and the woman, I guess, intake  
2:12PM 20 officer who spoke to you said don't worry about that. You  
21 can raise it later.

22 **MS. ROOT:** On her behalf, the case was transferred  
23 to somebody else.

24 **THE COURT:** I don't understand what you mean on her  
2:12PM 25 behalf.

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2:12PM 1           **MS. ROOT:** The woman that I met with for hours and  
2 discussed this whole situation with was handling my case and  
3 then because the EEOC is so short staffed, my case was turned  
4 over to somebody else that I never spoke to, so.

2:12PM 5           **THE COURT:** You never spoke to the other person?

6           **MS. ROOT:** Not once. Not one time. Never returned  
7 a call or an email.

8           **THE COURT:** But I take it you had a hearing at the  
9 EEOC?

2:12PM 10          **MS. ROOT:** No, I had nothing.

11          **THE COURT:** They just issued you a Right to Sue  
12 letter.

13          **MS. ROOT:** Yes, a long time later.

14          **THE COURT:** Moving on. If we get over these kind  
15 of --

2:13PM 16          **MS. ROOT:** Hurdles.

17          **THE COURT:** I'll call them procedural hurdles, then  
18 we get to the arguments that counsel has made in their papers  
19 that you have no cause of action because you complained about  
20 a teacher under Title VII because you complained about a  
21 teacher conduct with a student.

22          **MS. ROOT:** Lots of students.

23          **THE COURT:** Multiple students, that any discrete  
24 acts that occurred before the 300 days that you went to EEOC  
25 shouldn't be considered. And that you really haven't pled

2:13PM

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2:13PM 1 plausible claims under any of the theories. So those are the  
2 things that I'll eventually have to look at. Again, my  
3 suggestion would be that you consult an attorney. And I  
4 can't -- Elmira's not that small a place. You should be able  
2:14PM 5 to get somebody who would sit down and talk to you. And,  
6 again, I'm pointing out that if a lawyer prevails, they can  
7 get reasonable attorneys fees.

8 I think it's pretty obvious that you're up against  
9 very good lawyers who are doing their job in representing  
2:14PM 10 their clients to the best of their ability within the bounds  
11 of advocacy. If they feel -- I was going to say you can't  
12 take it personally but it's you, you're going to take it  
13 personally -- but you certainly can't take it personally  
14 against the lawyers. They're just pointing out what they  
2:14PM 15 believe are deficiencies in your case. That's what they're  
16 supposed to do.

17 **MS. ROOT:** Those I agree with. But I do not agree  
18 with the points they made about termination. Those were  
19 complete fabricated lies.

2:15PM 20 **THE COURT:** About what, see, about what points?  
21 You're saying about why you were terminated.

22 **MS. ROOT:** Yes.

23 **THE COURT:** But that's not in your complaint.

24 **MS. ROOT:** No.

2:15PM 25 **THE COURT:** You're just saying that you were



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2:15PM 1 retaliated against. I don't -- if we got farther, then they  
2 would point out that there were legitimate reasons why you  
3 were terminated.

4 **MS. ROOT:** And if they use those, there will be a  
2:15PM 5 problem because they weren't me and somebody gave them that  
6 information.

7 **THE COURT:** What are you looking for in this  
8 lawsuit?

9 **MS. ROOT:** That's how crooked that college is.  
2:15PM 10 They ruined a portion of my life.

11 **THE COURT:** What are you looking for from the  
12 lawsuit?

13 **MS. ROOT:** Compensation. Compensation at least for  
14 some of the things that I've gone through.

2:15PM 15 **THE COURT:** Okay. How long do you need to send a  
16 letter to me and a copy to counsel whether opposing counsel  
17 whether you can retain a lawyer?

18 **MS. ROOT:** Why don't you give me...

19 **THE COURT:** Tell me how much you need and I'll give  
2:16PM 20 it to you.

21 **MS. ROOT:** I'll start making phone calls when I get  
22 home.

23 **THE COURT:** I'm asking you how long you need. 30  
24 days, is that enough time?

2:16PM 25 **MS. ROOT:** Yes.

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2:16PM 1           **THE COURT:** I'll give you 30 days. Now here's what  
2 I expect. In 30 days you need to send a letter to me and  
3 copy to counsel indicating whether you have an attorney. If  
4 you have an attorney, then I'll schedule a court appearance  
2:16PM 5 with the attorney or we'll try to set up some schedule. If  
6 you don't, if you don't have an attorney, just let me know  
7 and then I'll proceed to decide the case. And I do  
8 understand your arguments. Do you have any questions?  
9           **MS. ROOT:** (Nodding no.)  
2:17PM 10           **THE COURT:** If you do, fire away. I'm here. So go  
11 ahead.  
12           **MS. ROOT:** How about, how about just a little brief  
13 personal how, how I got there and why this is so bad.  
14           **THE COURT:** Sure, go ahead and tell me.  
2:17PM 15           **MS. ROOT:** I was a single mother with four kids and  
16 never really felt worthy and I went back to school and the  
17 place I went was there, Corning College, and I excelled. I  
18 was in my 30s and I made a lot of friends with professors and  
19 staff. I gave the commencement speech. They hired me after  
2:18PM 20 I went on to Mansfield and got my Bachelors. And I felt like  
21 somebody. I'm smart. And I was able to give students back  
22 exactly what that college gave me. And I was naive to think  
23 that every institution doesn't have this but I just was under  
24 the impression that everybody that worked within a higher  
2:18PM 25 education system had ethics and morals and wouldn't do

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2:18PM 1 things, you know, to others with sexual misconducts and then,  
2 you know, we like this person better so now we're going to  
3 tear you down until you leave. And that's exactly what  
4 happened. That's why this is so important to me.

2:18PM 5 **THE COURT:** Fair enough. I understand.

6 So, please, do your best to try to get an attorney.  
7 And it has nothing to do with that you're not intelligent.  
8 Obviously you're intelligent. But I think you realize, too,  
9 you're at a disadvantage if you're going up against two very  
2:19PM 10 skilled attorneys and you'd be better served by having some  
11 legal representation who maybe can make arguments that you  
12 don't see and I don't see. Does that make sense to you?

13 **MS. ROOT:** Yes.

14 **THE COURT:** All right. So, within 30 days send me  
2:19PM 15 a letter as to whether you found an attorney. Again, you  
16 have the number of Elmira Legal Aid. I would check with  
17 the -- I mean, the problem with, you hit on a point, the  
18 problem with getting a letter who you retain from Chemung  
19 County means they have to drive up to Monroe County. Again,  
2:19PM 20 I don't know how many names the Bar Association lawyer  
21 referral service gives you but there's plenty of lawyers in  
22 Monroe County who may be willing to sit down with you and  
23 evaluate the case and give you an honest opinion as to  
24 whether they think you're going anywhere.

2:20PM 25 **MS. ROOT:** Okay.

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**THE COURT:** Okay. So we'll wait for 30 days.

Thank you very much.

**MS. MCCLUNG:** Thank you, your Honor.

(WHEREUPON, proceedings were adjourned.)