

VERMONT SUPERIOR COURT, CIVIL DIVISION, ORANGE UNIT

Aurora Berger v. Sarah Root et al.

Berger v. Root, Case No. 24-CV-00561 (Vt. Super. Ct. Sept. 24, 2025) · No. 24-CV-00561 · Decided December 15, 2025

SUMMARY

This is a decision on a motion for summary judgment in a Vermont state court employment discrimination case. The court granted summary judgment for defendants on claims of disability discrimination and retaliation under Vermont's Fair Employment Practices Act, finding no genuine issue of material fact regarding unreasonable delay in providing accommodations or retaliatory motive. However, the court denied summary judgment on the plaintiff's claim that her employment was terminated in violation of her right to free expression under the Vermont Constitution, concluding that factual disputes existed regarding the defendant's motivation related to her personal website.

CASE DETAILS

COURT	Vermont Superior Court, Civil Division, Orange Unit
WRITING FOR THE COURT	Daniel Richardson
JURISDICTION	Vermont Superior Court, Orange Unit
DECIDED	December 15, 2025
DOCKET	24-CV-00561
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved for summary judgment on the plaintiff's disability-discrimination, disability-retaliation, and Vermont constitutional free-speech retaliation claims.
STANDARD OF REVIEW	Summary judgment is appropriate when the record shows no genuine dispute of material fact and the movant is entitled to judgment as a matter of law. After adequate discovery, a party opposing summary judgment must produce evidence establishing a genuine factual dispute and may not rely solely on pleadings, speculation, or conclusory allegations. The court may not resolve competing factual narratives or make credibility determinations on summary judgment.
PRECEDENTIAL VALUE	Unknown; Vermont Superior Court trial-level opinion

TOPICS

disability discrimination

retaliation

free speech

summary judgment

civil procedure

PRACTICE AREAS

employment law

civil rights

constitutional law

disability discrimination

civil procedure

QUESTIONS PRESENTED

1. Whether defendants were entitled to summary judgment on Berger's Vermont Fair Employment Practices Act claim alleging an unreasonable delay in providing disability accommodations.
2. Whether defendants were entitled to summary judgment on Berger's VFEPA retaliation claim alleging that the decision not to seek an extension of her provisional teaching license was retaliation for requesting accommodations.
3. Whether defendants were entitled to summary judgment on Berger's Vermont Constitution, chapter I, article 13, claim alleging that defendants effectively terminated her employment in retaliation for protected expression on her personal website.

HOLDINGS

1. Defendants were entitled to summary judgment because the record showed that the school engaged in the accommodation process in good faith, approved the initial request promptly, modified the accommodations within days after receiving more specific medical information, and thereafter provided accommodations without further dispute.
2. Defendants were entitled to summary judgment on the VFEPA retaliation claim because Berger offered no direct or circumstantial evidence connecting the June 2023 licensing decision to her accommodation requests, which had successfully concluded in November 2021.
3. Summary judgment was denied because the record contained evidence from which a factfinder could infer that Berger's website and the school's reaction to it motivated Kinnarney's decision not to seek a one-year provisional-license extension, thereby ending her employment.

KEY QUOTATIONS

"The mere fact that one event preceded another does nothing to prove that the first event caused the second."
(at 7)

"The parties' competing narratives as to why Mr. Kinnarney did not seek the extension cannot be resolved on summary judgment." (at 10)

FACTUAL BACKGROUND

Aurora Berger, who has Marfan Syndrome, worked as a paraprofessional and part-time art teacher for the Newton School. After she requested accommodations in August 2021, the school approved initial accommodations and, after further discussions and a November 2021 medical note, approved modified accommodations; the record showed no further accommodation problems. Berger later accepted a contract to teach art during the 2023–24 school year, but her provisional teaching license expired before she obtained full

licensure, and Superintendent Jamie Kinnarney did not seek a one-year extension after school officials learned of her publicly accessible website containing nude but nonsexual self-portraiture and an allegation of inappropriate conduct. Berger alleged that the website motivated her placement on administrative leave, pressure to resign, and loss of employment.

PROCEDURAL HISTORY

Aurora Berger sued school-district and school officials, alleging that defendants delayed providing disability accommodations, retaliated against her for requesting accommodations, and effectively terminated her employment in retaliation for protected expression on her personal website. Defendants moved for summary judgment on all claims. The court granted summary judgment on the disability-related claims but denied it on the free-speech and resulting improper-termination claim because material factual disputes remained regarding the reason for the nonrenewal of Berger's provisional teaching license.

DISPOSITION

other

CASES CITED

- *Morrisseau v. Fayette*, 164 Vt. 358, 363 (1995)
- *Celotex Corp. v. Catrett*, 477 U.S. 317, 327 (1986)
- *Gallipo v. City of Rutland*, 163 Vt. 83, 86 (1994)
- *Boulton v. CLD Consulting Engineers, Inc.*, 2003 VT 72, ¶ 29
- *Murray v. White*, 155 Vt. 621, 628 (1991)
- *Palmer v. Furlan*, 2019 VT 42, ¶ 10
- *Gates v. Mack Molding Company, Inc.*, 2022 VT 24, ¶ 16, 216 Vt. 379
- *McCray v. Wilkie*, 966 F.3d 616, 621 (7th Cir. 2020)
- *Strife v. Aldine Independent School District*, 138 F.4th 237, 246 (5th Cir. 2025)
- *In re Shenandoah, LLC*, 2011 VT 68, ¶ 17
- *Lawson v. Halpern-Reiss*, 2019 VT 38, ¶ 22
- *Robertson v. Mylan Laboratories, Inc.*, 2004 VT 15, ¶¶ 42, 47, 176 Vt. 356
- *Hammond v. University of Vermont Medical Center*, 2023 VT 31, ¶ 42, 218 Vt. 250
- *Sauzek v. Exxon Coal USA, Inc.*, 202 F.3d 913, 918 (7th Cir. 2000)
- *Mt. Healthy City School District Board of Education v. Doyle*, 429 U.S. 274 (1977)
- *Waters v. Churchill*, 511 U.S. 661, 668 (1994)
- *Booska v. Hubbard Insurance Agency, Inc.*, 160 Vt. 305, 309 (1993)