

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Greenlaw v. Micone

Greenlaw · No. 18-cv-04932-VKD · Decided February 27, 2025

SUMMARY

This is an order from the U.S. District Court for the Northern District of California resolving the parties’ motions in limine in a Rehabilitation Act employment-discrimination case. The court grants, denies, or defers rulings on evidentiary issues involving prior conviction and disbarment, other litigation, employment declarations, late discovery, damages calculations, medical letters, post-termination employment, and related emails. The order states that the sole claim for trial concerns whether OSHA terminated Ms. Greenlaw because of her disability.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Virginia K. DeMarchi
DECIDED	February 27, 2025
DOCKET	18-cv-04932-VKD
DISPOSITION	other
PROCEDURAL POSTURE	Pretrial order resolving most of the parties' motions in limine in an employment-discrimination action scheduled for jury trial.
STANDARD OF REVIEW	Evidentiary motions in limine were decided under the Federal Rules of Evidence and Federal Rules of Civil Procedure governing admissibility, discovery disclosures, hearsay, impeachment, relevance, prejudice, and expert testimony.
PRECEDENTIAL VALUE	unpublished

TOPICS

- motion in limine
- evidence
- hearsay
- impeachment
- civil procedure

PRACTICE AREAS

- evidence
- civil procedure
- federal employment law
- disability discrimination
- civil rights

QUESTIONS PRESENTED

1. Whether evidence of Greenlaw's more-than-ten-year-old felony conviction and related disbarment was admissible for impeachment or another purpose.
2. Whether evidence of Greenlaw's other litigation, withdrawn claims, union-related activities, and unsuccessful theories could be used to suggest litigiousness, general lack of credibility, or absence of disability discrimination.
3. Whether Greenlaw could be cross-examined about statements in federal employment declarations concerning probation and prior termination, and whether extrinsic evidence could be used to prove those matters.
4. Whether late-produced discovery materials and damages evidence concerning other employment opportunities, federal salaries, and benefits should be excluded.
5. Whether medical letters and testimony concerning medical providers' statements were admissible as evidence of disability or for a non-hearsay purpose.
6. Whether Greenlaw could present evidence of post-termination federal employment and testimony about her own symptoms and impairments.
7. Whether emails concerning Greenlaw's dog and reasonable accommodation could be admitted through witnesses who participated in the communications.

HOLDINGS

1. A felony conviction more than ten years old was excluded because its probative value concerning credibility did not substantially outweigh its prejudicial effect under Federal Rule of Evidence 609(b)(1).
2. Evidence of Greenlaw's law degree and disbarment was excluded as irrelevant, and the disbarment was additionally excluded because its probative value was substantially outweighed by its prejudicial effect.
3. Evidence of Greenlaw's other claims or complaints could not be offered to show that she had a propensity to sue or complain, and unsuccessful claims asserted in the present action could not be used for that purpose. The court deferred ruling on factual testimony or interrogatory answers offered to explain why Greenlaw believed her employment was terminated.
4. Greenlaw could be cross-examined about whether she truthfully represented her probation and prior termination history in federal employment declarations. The Secretary could not introduce extrinsic evidence of her probation status to prove specific conduct under Rule 608(b), but could use Greenlaw's own prior inconsistent statements under Rule 613 if she denied being on probation.
5. When a party fails to disclose information required by Rule 26, Rule 37(c)(1) generally bars use of that information at trial unless the failure was substantially justified or harmless. Applying that principle, the court excluded one late-produced dog photograph, allowed Exhibit 85, denied the motion as to unidentified supplemental interrogatory information, and deferred ruling on the purported government pay-scale exhibits.
6. The Dr. Alsan letter was admissible for the non-hearsay purpose of showing that Greenlaw submitted it in support of an accommodation request and that OSHA reviewed it and acted on the request, but it was inadmissible to prove the truth of the medical diagnosis or conclusion stated in the letter.

7. Greenlaw could testify about post-termination federal employment, including its duties and responsibilities, but could not speculate about why other employers hired her or permitted her to perform particular work.
8. Greenlaw could testify about her own symptoms, impairments, workplace limitations, and understanding of her condition, diagnoses, and treatment, but could not testify to hearsay concerning what her doctors said or to her doctors' opinions about her impairments and limitations.

KEY QUOTATIONS

“This motion is denied. While the Court agrees that evidence of Ms. Greenlaw’s underlying felony conviction itself is not admissible, evidence that she was untruthful in her representations to the federal agencies with which she sought employment, including OSHA, about whether she was on probation within the last seven years, or had been fired within the last five years, is relevant to her character for truthfulness or untruthfulness, pursuant to Rule 608.” (at 5)

“The letter is admissible for a non-hearsay purpose: Ms. Greenlaw submitted the letter in support of her request for an accommodation; OSHA reviewed the letter and acted upon it by granting her request for an accommodation.” (at 10)

“However, Ms. Greenlaw may testify about her own symptoms and impairments, how they limit what she can do in the workplace, and her understanding of her condition, diagnoses, and treatment.” (at 13)

FACTUAL BACKGROUND

Greenlaw claimed that OSHA terminated her employment in October 2016 because of her disability. The parties disputed the admissibility of evidence concerning her prior felony conviction and probation, prior litigation and employment applications, post-termination federal employment, medical letters, emails concerning her service animal and accommodation, and alleged damages. The sole claim remaining for trial was whether OSHA violated the Rehabilitation Act by terminating her because of her disability.

PROCEDURAL HISTORY

Greenlaw sued a federal employer alleging that OSHA violated the Rehabilitation Act by terminating her employment because of her disability. The court had previously granted summary judgment for the Secretary on certain claims, including retaliation and claims concerning the Census Bureau and an OSHA whistleblower position. After a February 19, 2025 pretrial conference, the court ruled on most of the parties' motions in limine and deferred certain evidentiary issues for further submissions or trial.

DISPOSITION

other

CASES CITED

- Greenlaw v. Mitchell, No. 12-cv-1598, 2013 WL 5718531, at *1 (N.D. Cal. Oct. 21, 2013)
- United States v. Higa, 55 F.3d 448, 451-52 (9th Cir. 1995)

- United States v. Jackson, 882 F.2d 1444, 1448-49 (9th Cir. 1989)
- Yeti by Molly, Ltd. v. Deckers Outdoor Corp., 259 F.3d 1101, 1106 (9th Cir. 2001)

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