



Stevens v. Americorp

Essential Witness Testimony

Plaintiff's Testimony

Linda Stevens (47), former Senior Account Rep. for AmeriCorps, Linda testified that:

1. Worked for AmeriCorps for 20+ years from January 1990 through November 2010. One of the longest term employees at AmeriCorps.
2. Job duties: direct mail, advertise and market to AmeriCorps' customers
3. Take calls from customers. On phone and computer entire day. Handles customer issues and complaints. Customers take out their frustrations with the company on the Account Reps like Stevens.
4. Once, a customer from Hunting and Fishing Magazine called her a "dirty whore" and hung up.
5. Each call could require at least 2 separate data entries, not to mention the follow up by email. The repetitive nature of the job took a toll on her over the years.

Plaintiff's Testimony, con't

6. 2006: Developed burning, tingling and numbness in fingers that affected ability to use phones; disclosed to supervisor in December 2006

7. 2008: Carpel tunnel surgery / out for 2 months; requested and received reasonable accommodations of breaks and better equipment until November 2009

8. During 2010, workload increased and company was “too busy” to accommodate her, rest breaks ceased, company would not limit manual activities, causing carpal tunnel to worsen

Plaintiff's Testimony, cont'd

8. January 2010: Company ignored requests for accommodations (other employee type / dial phone for her, as needed)
9. February 2010: Raised issues with Company regarding failure to accommodate disabilities
10. After Feb. 2010: targeted by her supervisor (George Dodd), increasing workload and refusing to provide accommodations
11. Younger, non-disabled workers given better treatment
12. Dodd's actions worsened and increased her workload

Plaintiff's Testimony, con't

13. When her current supervisor, Dodd, joined the company, they dated briefly.

14. After they stopped dating, Dodd occasionally texted her and Instagram message her asking to see her. She rebuffed him several times.

15. In July 2010, she complained to HR that she was targeted by Dodd because she refused his advances. She complained this targeting created a hostile work environment and she was uncomfortable.

Plaintiff's Testimony

16. The company interviewed her at the time and she felt the attorney that did it asked questions but did not really listen to her. Does not feel the investigation was thorough. Never asked her to recapture or try to find her messages that she deleted.

17. November 24, 2010: Plaintiff fired by Dodd for “poor performance,” did not provide examples

18. Plaintiff was replaced by a non-disabled employee

George Dodd Testimony

- George Dodd (54), AmeriCorps Customer Service Manager, has worked for AmeriCorps for 12 years; Plaintiff's supervisor from 2005 until her termination.
 - 1) Plaintiff's job duties : typing, calling customers, and interacting professionally with customers on the phone
 - 2) Dodd said that he started dating Plaintiff for a very short period right when he joined the company and before he was made her supervisor. The relationship fizzled and he told her that it was over. He feels she never really got over it and that she would mention at company events that they ought to get back together.
 - 3) Plaintiff's performance began to deteriorate in 2009; Dodd met with her many times and verbally counseled about performance issues, telling her that she needed to improve to avoid termination
 - 4) Performance problems included: yelling at customers, failing to meet customer call goals per day, failing to input customer information in computer after calls

Dodd Testimony, cont'd

- 6) November 2009: Written counseling to Plaintiff regarding performance issues with a PIP
- 7) Met with Plaintiff monthly to monitor performance; Plaintiff's performance continued to decline
- 8) In July 2010, he had to meet with an attorney regarding a complaint lodged against him by Linda.
- 9) After July 2010, he was no longer her supervisor.
- 10) Company received customer complaints about Plaintiff being unprofessional, including friending them on Facebook.
- 11) November 2010: Plaintiff failed to return several calls to Hunting and Fishing Magazine (key account); magazine complained
- 12) November 24, 2010, Dodd terminated Plaintiff
- 13) Admitted that Plaintiff was replaced by his former secretary (female; 29)

Dodd's Testimony re: Plaintiff's Disability

- 1) Dodd knew about Plaintiff's surgery in 2008 and told her "take as much time as you need"
- 2) After surgery, Plaintiff working fine and did not raise issues about her hands
- 3) December 2009: Plaintiff approached Dodd to complain about pain in her hands; Dodd told her "health comes first" and requested doctor's note listing potential restrictions so they could discuss any requested accommodations; Plaintiff never provided doctor's note
- 4) Dodd was approached by HR after Plaintiff was placed on the PIP about a complaint she made to HR. She disputed that her performance had declined October 2, 2010: Plaintiff told Dodd she was considering filing a w/c claim; Dodd referred her to HR and told her who to talk to
- 5) Denies ever making any advances on Stephens after they broke up.
- 6) In fact, he alleges it was Linda who reached out to him.

Aaron Dobson Testimony

- Former Customer Service Dept. employee fired by Dodd in 2009 for performance issues
- Believes he was terminated due to age (turned 60 week after his term)
- Dodd called him “old-timer” twice; hoped he could keep up after turning the “big six oh”
- April 2008: Dobson heard Dodd complain about Plaintiff calling him all the time and also requesting time off for surgery and company being shorthanded during her absence; heard Dodd say he would watch her closely upon return
- November 2009: Saw Dodd upset after getting into an argument with Plaintiff on the phone. Dodd explained that Plaintiff’s performance was declining due to her health, and that it hurt department productivity
- Mr. Dobson’s cube near Ms. Stevens. She was a diligent, good customer service rep.
- Heard Ms. Stevens ask for breaks to stretch and rest her hands, but Dodd refused. Said that if she took breaks, then he would have to let everyone take them. Never saw the HR department near their cubes. Any meeting with HR was always in their office.
- If you complained to HR about Dodd or your situation, it went nowhere.

Amber Simpson Testimony

- HR assistant from 2004 through June 2010
- Recalls Plaintiff's complaints of wrist pain from late 2009 through June 2010 (when Simpson resigned)
- Gave Plaintiff time off and assigning jobs with less typing
- Plaintiff at times would go weeks without requesting any accommodations or complaining about wrist pain despite working on computer all day; when Simpson asked, Plaintiff said she was "fine"
- Plaintiff raised a claim of harassment against Mr. Dodd. She started the investigation.
- HR launches an immediate, confidential investigation, which consists of interviews of (i) Plaintiff, (ii) her immediate supervisor, and (iii) the singular witness identified by Plaintiff during her interview.

Amber Simpson Continued

- During the course of this investigation, HR assigns Plaintiff to a different, immediate supervisor.
- As a result of its investigation, HR is unable to confirm that Plaintiff was subjected to hostile work environment sex harassment. The immediate supervisor denied all allegations. Also, the singular witness identified by Plaintiff (Dodson) stated that although he saw her visibly upset one day, she informed him only that her immediate supervisor treats her differently than he treats his other subordinates, and that she would be okay.
- Since she could not find any corroboration of Linda's story during the course of the investigation, the Company did not discipline her alleged harasser, but did alter the reporting relationship to minimize contact between the two of them by assigning Plaintiff permanently to her interim, immediate supervisor.
- When asked for any evidence of Mr. Dodd texting her or messaging her, Ms. Stephens did not produce anything and said she deleted them.
- Dodd told Simpson to help Plaintiff as much as possible with accommodations and assistance
- Simpson (55) filed a w/c claim in 2007 for wrist injury moving files; Company handled claim without question or retaliation
- Never received any information from Dodd about Hunting and Fishing Magazine incident where the client called Ms. Stevens a dirty whore.

Don James Testimony

- Account Rep., worked with Plaintiff from 2002 until her termination
- 2009: Plaintiff's performance began to decline; heard her argue with customers on multiple occasions and reported to Dodd at least twice
- Plaintiff missed significant time from work and often was tardy; not aware of reasons for her absences but heard rumors that she was having a relationship with Dodd
- Entire department forced to work harder when Plaintiff absent
- Never liked Ms. Stevens

Key Exhibits

- Nov. 14, 2009 PIP
 - Argument with customer in May 2009
 - Low calls in July 2009
 - Failure to input data in October 2009
 - Low calls in November 2009
 - Must make average 20 calls / day
 - Input data from each call
 - Must speak to customers in professional manner
 - Warned of termination

Key Exhibits

- Job Description
 - Responsible for servicing accounts in direct mailing, advertising and marketing
 - Duties include:
 - Calling current customers
 - Calling leads on new customers
 - Updating customer information on computers
 - Inputting information on new and potential customers
 - Essential Job functions: word and excel, use computer and enter data, make phone calls, and exhibit appropriate etiquette / behavior with customers

Key Exhibits

- Handbook
 - Employed at-will
 - EEO policy
 - Policy against harassment and discrimination
 - Report complaint to manager, HR office or any other member of management
 - Managers directed to report complaints to HR
 - Promise of no retaliation
 - Progressive discipline policy – typically verbal, written, termination
 - Disabilities in workplace policy – attempt to accommodate unless undue hardship or direct threat
 - W/C policy: report to supervisor or HR to ensure proper claim filing / report within 24 hours of injury
 - Communications with customers – polite tone, for difficult customers, apologize and end conversation; never argue or raise voice