

162 A.D.3d 416
Supreme Court,
Appellate Division, First Department, New York.

Lisa BYAS, Plaintiff–Respondent,
v.
CORNELL UNIVERSITY, Defendant–
Appellant, Guy Mazza, Defendant.

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ENTERED: JUNE 5, 2018

Attorneys and Law Firms

Venable LLP, New York (Brian J. Clark of counsel), for appellant.

Tuckner, Sipser, Weinstock & Sipser, LLP, New York (William J. Sipser of counsel), for respondent.

Friedman, J.P., Sweeny, Gische, Mazzarelli, Gesmer, JJ.

Opinion

Order, Supreme Court, New York County (Shlomo Hagler, J.), entered on or about September 19, 2017, which denied the motion of defendant Cornell University for

summary judgment dismissing the amended complaint, unanimously modified, on the law, to grant the motion to the extent of dismissing the second cause of action for aiding and abetting discrimination, and otherwise affirmed, without costs.

Defendant asserted that it laid plaintiff off as part of a legitimate, nondiscriminatory departmental restructuring in which it effectively eliminated her position by transferring responsibility for her duties to its partner hospital. Viewing the record in the light most favorable to plaintiff as nonmovant, we find that in opposition, plaintiff raised issues of fact as to whether defendant's proffered reason was a pretext for disability discrimination.

Since the only individual defendant has already been dismissed from the action, there is no basis for maintenance of the aiding and abetting theory pleaded in the amended complaint's second cause of action (*see* Administrative Code of City of N.Y. § 8–107[6]; *see also* *Priore v. New York Yankees*, 307 A.D.2d 67, 74, 761 N.Y.S.2d 608 [1st Dept. 2003], *lv denied* 1 N.Y.3d 504, 775 N.Y.S.2d 781, 807 N.E.2d 894 [2003]).

All Citations

162 A.D.3d 416, 74 N.Y.S.3d 737 (Mem), 2018 N.Y. Slip Op. 03939