

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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MARYLEE ARRIGO,

Plaintiff,

v.

LINK STOP, INC., JAY E. LINK,  
ASHLAND LAKE SUPERIOR LODGE, LLC,  
GRANDMA LINK'S RESTAURANT AND LOUNGE, LLC  
and GORDON PINES GOLF COURSE,  
d/b/a LINK INTERNATIONAL INVESTMENTS, LLC,

Defendants.  
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MEMORANDUM

12-cv-700-bbc

The parties continue to dispute the court's rulings on evidence concerning defendant Jay Link's attitude toward plaintiff's leave. At the final pretrial conference, I ruled that plaintiff could put in evidence suggesting that Link opposed plaintiff's taking of such leave, because this was relevant to her FMLA claim, but that she could not put in evidence suggesting that Link was opposed to continuing to employ a person who had some sort of mental illness, because she is not proceeding on a any claim under the Americans with Disabilities Act.

In an April 28, 2014 letter to the court, dkt. #230, plaintiff's counsel argues that plaintiff should be able to put in evidence showing that Link was second-guessing her need to take any leave at all, because it is contrary to the purpose of the FMLA to second-guess

a medical provider about whether a condition is serious enough to justify a leave. This is a change in plaintiff's position; at the pretrial conference, she argued that Link's questioning of her was directed to determining whether she was sufficiently recovered from her mental breakdown to perform her job adequately. The quotations from Link's deposition tend to support the argument plaintiff made earlier, rather than showing that he did not believe she had been sick enough for FMLA leave, so I see no reason to revise the ruling made at the conference. Moreover, I confirm the ruling that if defendant takes the position that plaintiff was not completing her work in timely fashion, plaintiff may introduce evidence that Link refused to allow her to return for two weeks after she tried to do so, although she may not put in evidence that he did so in order to confirm for himself that she was not mentally ill.

There may be other testimony of a similar nature. I believe it would be helpful to both sides to take some time before either plaintiff or defendant Link is called to the stand to sort out what each side intends to present in the way of testimony from these witnesses, so as to avoid frequent objections and court rulings in the middle of trial.

Entered this 30th day of April, 2014.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge