

The Hon. William L. Dixon
Hearing Date: October 3, 2025

FILED
KING COUNTY, WASHINGTON

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SUPERIOR COURT CLERK
BY Tierria Thompson
DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

Kathleen M. Frates,

Plaintiff,

Vs.

Coastal Transportation, Inc., a Washington
Corporation,

Defendant.

No. 24-2-17273-4 SEA

**Order Granting in Part and Denying in Part
Plaintiff's Motion For Partial Summary
Judgment Regarding Disability, Protected
Activity, and the Affirmative Defense of
Failure to Mitigate**

This Matter comes before the Court on Plaintiff's Motion for Partial Summary Judgment.

In addition to the materials previously filed in this matter, the Court has considered the following:

1. Plaintiff's Motion for Partial Summary Judgment Regarding Disability, Protected Activity, and the Affirmative Defense of Failure to Mitigate; and
2. Declaration of Janelle E. Chase Fazio; and
3. Defendant's Opposition to Plaintiff's Motion for Partial Summary Judgment; and
4. Declaration of Elliot Strong in Support of Defendant's Opposition to Plaintiff's Motion for Partial Summary Judgment; and
5. Declaration of Alexandro Lopes in Support of Defendant's Opposition to Plaintiff's Motion for Partial Summary Judgment; and



1 6. Reply in Support of Plaintiff's Motion for Partial Summary Judgment Regarding
2 Disability, Protected Activity, and the Affirmative Defense of Failure to Mitigate.
3

4 Now, Therefore, it is Ordered Plaintiff's Motion for Partial Summary Judgment
5 Regarding Disability and Protected Activity is Granted, as follows:

6 The jury will be instructed that to establish her disparate treatment disability
7 discrimination claim, she must prove:

- 8 (1) That she has a disability;
9 (2) That she is able to perform the essential functions of the job in question with
10 reasonable accommodation; and
11 (3) That her disability was a substantial factor in Defendant's decision to
12 terminate her. Plaintiff does not have to prove that disability was the only
13 factor or the main factor in the decision. Nor does Plaintiff have to prove that
14 she would have been retained but for her disability.

15 *See* WPI 330.32; *see also Johnson v. Chevron U.S.A., Inc.*, 159 Wn. App. 18, 33–34, 244 P.3d 438
16 (2010).

17 This Court finds that Frates has satisfied the first element of this claim as a matter of law.
18 She had a legally-recognized disability at the time she was employed with Coastal. The remaining
19 two elements will go to the jury to be decided.

20 The jury will be further instructed that to establish her retaliation claim, she must prove:

- 21 (1) That Plaintiff was opposing what she reasonably believed to be discrimination
22 on the basis of disability; and
23 (2) That a substantial factor in the decision terminate Plaintiff was her opposing
24 what she reasonably believed to be discrimination or retaliation.

25 *See* WPI 330.05; *see also Cornwell v. Microsoft Corp.*, 192 Wn.2d 403, 411–12, 430 P.3d 229
26 (2018).

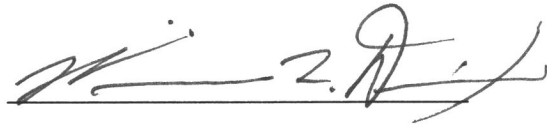
27 This Court finds that Frates has satisfied the first element of this claim as a matter of law.
She engaged in protected activity prior to being terminated by Coastal. The remaining element



1 will go to the jury to be decided.

2 Further, Plaintiff's Motion for Partial Summary Judgment on Defendant's Affirmative
3 Defense of Failure to Mitigate is Denied. The court finds that there are genuine issues of
4 material facts on this affirmative defense that preclude summary judgment.
5

6
7 Dated this 3rd day of November, 2025.

8 

9 Judge William L. Dixon V

10 King County Superior Court

11
12
13 Presented By:

14 Beck Chase Gilman PLLC

Approved as to form by:

O'Hagan Meyer, PLLC

15
16 By: /s/ Janelle E. Chase Fazi

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