

Deutsche Bank, Ex-Worker Spar In 'Mommy Track' Bias Case

By **Vin Gurrieri**

Law360, New York (April 27, 2015, 5:52 PM ET) -- A former Deutsche Bank AG employee accusing the company of sex discrimination told a New York federal judge Friday to reject the bank's bid to nix her case before trial, while Deutsche separately urged the court not to award her judgment on her claim that she was fired in retaliation for filing suit.

Plaintiff Kelley Voelker and Deutsche Bank each lodged oppositions to summary judgment motions that both parties filed in March. Voelker argued in her opposition that her claims must proceed to trial because they are based on the bank's own performance reviews and written client feedback and not, as Deutsche Bank claims, on "her opinion."

Meanwhile, Deutsche Bank argued in its own opposition to Voelker's motion for partial summary judgment for liability on her claim of retaliatory termination that the former employee misrepresented both the law as well as the record of the case in her pleading.

Voelker, who started working for Deutsche Bank in 1998, claimed **in her suit** that she was passed over for promotions despite strong qualifications and "mommy-tracked" for her decision to take maternity leave in 2009. She also complained that the company tolerated managers' use of vulgar language, allowed supervisors to make openly derogatory remarks about pregnancy and gave supervisors a green light to entertain clients at strip clubs.

After she filed suit in September 2011, the company also allegedly took retaliatory steps by giving her negative performance reviews, micromanaging her, removing her from important accounts and assignments, and ultimately terminating her in 2012, according to court documents.

In January, U.S. District Judge Valerie E. Caproni warned Deutsche that Voelker's case looked strong enough to survive a bid for dismissal as she set a briefing schedule for the bank's planned summary judgment motion that stretched until early May.

On March 6, Voelker argued that the bank, to avoid summary judgment on liability for retaliatory termination, needed to present admissible evidence that the decision to terminate her was based on a legitimate non-retaliatory reason — a burden Deutsche could not meet.

That same day, Deutsche filed its motion seeking to win the case, saying that nowhere in Voelker's "assortment of claims" could she "identify any concrete fact showing that the bank acted with any improper animus."

Both March motions paved the way for Friday's opposition briefs by both parties.

Voelker's opposition reiterated her earlier argument that the bank offered no legitimate

reason for her firing and that even if it could proffer such a reason, she could "easily establish" that reason was a pretext for retaliation.

"Voelker is an unfortunate victim of [Deutsche Bank's] securities lending division's glass ceiling," her opposition said while also noting that every director and managing director in the division since 1998 has been male and that the division currently employs only one woman.

But Deutsche Bank's opposition argued, in part, that "Voelker cannot establish any temporal connection between her complaint and her termination a year later."

The bank's opposition brief also pushed back against Voelker's claim the bank failed to presented a legitimate reason for her termination.

"The bank has met its burden ... by articulating a legitimate, non-retaliatory reason for terminating Voelker's employment — that she was terminated as part of a [reduction in force] and that she was selected because her supervisor determined that the business would be least impacted by her departure," the bank's opposition said.

Michael J. Willemin, an attorney representing Voelker, told Law360 Monday that even though the plaintiffs' filings "may be voluminous, the documents and testimony presented are very straightforward and draw clear disputes of fact as to whether Ms. Voelker was discriminated against."

As to Voelker's motion seeking a liability judgment on her retaliation claim, Willemin said that Deutsche Bank contradicted itself in its brief as to the reason for her firing from what the leader of her division had previously testified.

"We feel there can be no legitimate reason for her firing," Willemin said. "The head of her division had testified that he chose Ms. Voelker for termination because it would have the least impact on the group. But he later testified that another individual, a male, would have had less of an impact."

Attorneys for Deutsche Bank were not immediately available for comment Monday.

Voelker is represented by Douglas H. Wigdor, Lawrence M. Pearson, Michael J. Willemin and Elizabeth J. Chen of Wigdor LLP.

Deutsche Bank is represented by Scott Rabe and Cliff Fonstein of Seyfarth Shaw LLP.

The case is Voelker v. Deutsche Bank AG, case number 1:11-cv-06362, in the U.S. District Court for the Southern District of New York.

--Additional reporting by Ben James. Editing by Kelly Duncan.
