

## Summary Judgment Review

**Case Name:** *Heard v. Georgia's Own Credit Union*

**Nature of the Order:** Magistrate's Final Report & Recommendation

**Magistrate Judge:** Justin S Anand

**District Judge:** Timothy C. Batten Sr.

### Claims & Outcomes:

#### 1. Claim: FMLA Retaliation

**Outcome:** Recommend Summary Judgment be Granted

#### 2. Claim: Section 1981 Race Discrimination

**Outcome:** Recommend Summary Judgment be Granted

**Whether R&R Followed:** N/A

### For Race/Gender Discrimination Cases:

**Race of Plaintiff:** African American

**Gender of Plaintiff:** N/A

### Summary:

Plaintiff, an African American woman, worked for Defendant Georgia's Own Credit Union as a Human Resources Business Partner and held herself out as an expert on FMLA and leave processes. After an employee, Lia Bowers, took FMLA leave after her request for vacation time was denied, Plaintiff and VP Nathan McManus began holding meetings with Bowers to discuss the necessary steps regarding her leave. Plaintiff opposed McManus' harsh treatment of Bowers based on her use of FMLA leave and expressed that outwardly. After several meetings, an investigation was conducted into the meetings held by Plaintiff and McManus with Bowers. Plaintiff was later terminated for the mishandling of Bowers' leave situation. Plaintiff sued and alleged a FMLA retaliation claim and a Section 1981 race discrimination claim. Defendant moved for summary judgment.

In her complaint, Plaintiff alleged that she was retaliated against because of her protected conduct of opposition to McManus' hostility toward Bowers' and her use of FMLA leave. Judge Anand concluded that Plaintiff cannot show a causal connection between the protected activity and her termination. Judge Anand stated that Plaintiff failed to point to any record evidence to show that the Defendant's purported reason is pretext and even expressly stated that she was not arguing that the employer was wrong regarding its stated motivation for termination. Judge Anand noted that, instead, Plaintiff rested her argument on the admissibility of the evidence that Defendant relied upon to show its motivation. Judge Anand dismissed that argument as meritless.

Further, Judge Anand stated that Plaintiff failed to satisfy the similarly situated comparator analysis required in the *prima facie* case of race discrimination and rejects the proposition that McManus and Plaintiff were comparators. He also noted that the convincing mosaic analysis was

not applicable here because Plaintiff failed to raise the theory, and thus, he was without occasion to properly consider whether Plaintiff could proceed under a convincing mosaic theory. Judge Anand went on to note that Plaintiff failed to engage the record evidence to rebut Defendant's legitimate, non-discriminatory reason, just as she failed to with the FMLA retaliation claim. Accordingly, Judge Anand recommended that the motion for summary judgment be GRANTED in its entirety