

Youells v. Dartmouth Hitchcock CV-97-607-M 01/15/98  
UNITED STATES DISTRICT COURT

DISTRICT OF NEW HAMPSHIRE

Fay Youells

v.

Civil No. 97-607-M

Dartmouth Hitchcock Medical Center

**O R D E R**

Defendant moves to dismiss plaintiff's complaint on grounds that her claim for relief under the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12201 et seq., is fatally defective in that she failed to first file a timely administrative complaint with New Hampshire Commission on Human Rights or the Equal Employment Opportunity Commission.

Title I of the ADA has been construed to incorporate the administrative filing requirements imposed by Title VII of the Civil Rights Act, 42 U.S.C.A. § 2000e-5. See Moher v. Chemfab Corp., 959 F.Supp. 70 (D.N.H. 1997). Title VII requires plaintiffs to exhaust available administrative remedies before filing suit. See McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973). Here plaintiff does not deny that she failed to file the requisite administrative claim and does not argue that she has complied with Title VII's exhaustion requirements.

Accordingly, plaintiff's federal ADA claim is hereby dismissed. The court declines to exercise supplemental jurisdiction over plaintiff's other claims because they are based solely upon state law, 28 U.S.C. § 1367(c), and hereby remands

those state claims to the Grafton County Superior Court. The clerk shall enter judgment in favor of defendant in accordance with this order and close the case.

**SO ORDERED.**

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Steven J. McAuliffe  
United States District Judge

January 15, 1998

cc: Nancy Sue Tierney, Esq.  
Byry D. Kennedy, Esq.  
Thomas Royall Smith, Esq.