

FEB 06 2014

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JO ANN FAY,

Plaintiff - Appellant,

v.

COSTCO WHOLESALE
CORPORATION, a Washington
corporation; PATRICIA HANSEN,
“Tish”, an individual,

Defendants - Appellees.

No. 12-55478

D.C. No. 5:10-cv-00834-DDP-
DTB

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Dean D. Pregerson, District Judge, Presiding

Submitted February 4, 2014**
Pasadena, California

Before: SILVERMAN and HURWITZ, Circuit Judges, and VINSON, Senior District
Judge.***

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision
without oral argument. *See* Fed. R. App. P. 34(a)(2).

*** The Honorable C. Roger Vinson, Senior District Judge for the U.S.
District Court for the Northern District of Florida, sitting by designation.

Jo Ann Fay appeals the district court's grant of summary judgment to Costco Wholesale Corporation on her California Fair Employment and Housing Act (FEHA) and California Labor Code retaliation and discrimination claims. We have jurisdiction under 28 U.S.C. § 1291 and affirm.

1. The district court did not err in finding no triable issues of fact on Fay's retaliation and discrimination claims. None of the episodes identified by Fay established retaliation or discrimination under California law.

2. Nor did the district court err in finding no triable issues of fact regarding Fay's claim that Costco violated the FEHA by failing to accommodate her disabilities. The evidence is undisputed that Costco repeatedly engaged in California's legally mandated interactive process and reasonably accommodated Fay's restrictions.

3. The district court also correctly concluded that there was no genuine issue of material fact whether Fay's termination was an act of illegal retaliation or disability discrimination. Fay was terminated for grabbing a customer and then lying about the incident during Costco's subsequent investigation.

AFFIRMED.