ADVISORHUB

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Merrill Broker Sues Firm for Allegedly Stealing Accounts During Medical Leaves

By AdvisorHub Staff

A Merrill Lynch broker in Denver has sued the firm in federal court, claiming that its systemic "sabotage" of his relationship with clients during and following two medical leaves have cost him hundreds of thousands of dollars.

Kirk Kringel, who joined Merrill in October 2010 after 14 years with Morgan Stanley and its Dean Witter predecessor, alleged in a case filed last week in federal court in Colorado that Merrill retaliated against him for taking two leaves, violating his rights under the Family Medical Leave Act.

"Merrill Lynch has systematically interfered with and sabotaged Kringel's relationships with his clients by failing to service some of his clients, permanently re-assigning some of his clients to other financial advisors, and providing misinformation to his clients that undermined his relationships," the complaint said.

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Merrill disputes the allegations, said company spokesman Bill Halldin. He declined to comment on whether it will seek to have the complaint moved to arbitration despite Kringel's claim that the alleged violation of federal FMLA law justifies a courtroom trial.

Kringel's lawyers at the firm of Moye, White did not respond to a request for comment. The broker, who alleged in the suit that a former business partner who moved with him to Merrill engineered much of his lost business, could not be reached for comment.

Kringel contends that his colleagues and managers sabotaged accounts that would have generated annual income for him of $267,000 in grid pay and bonuses as a result of actions taken during a three-month leave in 2015 and an unpaid medical leave that he began this February.

The current leave is due to a recurrent fever that may be

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associated with sarcoidosis or celiac disease while the 2015 leave related to a "debilitating anxiety disorder" associated with the death of his father, according to the complaint.

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Kringel alleges that Merrill instructed him on returning after his first leave to refrain from contacting clients for five days and told him not to be in touch with any of them while on his current leave. At least two brokers and his branch manager were "rude" to clients, "made negative representations" and wrongfully blamed him for poor performance of client accounts, his complaint alleges.

It characterizes him as having been an "immensely profitable financial advisor for Merrill Lynch," saying that he managed about $140 million as of yearend 2015, up from $65 million when he left Morgan Stanley five years earlier. His production earned him "mortgage champion" awards in 2011 and 2015, a "Top Advisor Summit" award in 2015 and qualified him that year for Merrill's "Circle of Excellence" recognition club, placing him in the "top ten percentile" of Merrill brokers nationwide, according to his complaint.

Kringel received a "forgivable" signing-bonus loan of $500,500 when he was hired, and under a related promissory note is to receive monthly "transition payments" of $5,870 through full amortization of the loan in October 2018. The suit alleges that Merrill suspended the payments when he went on leave in February. His loan balance at the time was $102,253, according to the complaint.

The outstanding principal plus interest would be due to the firm if he is terminated for any reason, but the note requires Merrill to pay his remaining transition payments in a lump sum "in the event of total disability," according to the lawsuit.

In addition to alleging FMLA violations, the lawsuit also cites beaches of contract and of good faith and fair dealing and unjust enrichment. It seeks an unspecified amount of damages, costs, attorney's fees and interest. ■