

CHARGE OF DISCRIMINATION

Department of Human Rights
Army Corps of Engineers Centre
190 E. 5th Street, Suite 700
St. Paul, MN 55101
651/296-5663
Toll-Free 1-800/657-3704
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PREPARED BY LEGAL COUNSEL

DEPARTMENT OF HUMAN RIGHTS USE ONLY

Case Number: **49320**

Acknowledged by:

Date Filed:

Date Docketed:

MAR - 5 2007

MAR 14 2007

Any person claiming to have been discriminated against because of race, color, creed, religion, national origin, sex, sexual orientation, marital status, disability, age, public assistance status or familial status as provided for in Chapter 363 of the Minnesota Statutes in the areas of employment, real property, public accommodations, public services, education, credit or business contracts may file a charge within one year after the alleged discriminatory act with the Minnesota Department of Human Rights at the above address.

1. CHARGING PARTY

Susan B. Fallek
5038 Archer Lane North
Plymouth, MN 55446

2. RESPONDENT

State of Minnesota
District Court of Minnesota
Fourth Judicial District
12th Floor, Courts Tower
Hennepin County Government Center
Minneapolis, Minnesota 55487

Judge James Swenson (as aider and abettor)
Family Court
Family Justice Center
110 S. 4th St., Suite 600
Minneapolis, MN 55401

3. The discrimination was because of:

Disability and Reprisal

4. The discrimination was in the area of:

Employment

5. Describe the discriminatory act, setting forth in statutory language the violation of Minnesota Statutes, Sections 363A.08, 363A.14 and 363A.15:

Ms. Fallek is a 44-year-old woman, who was employed by the State of Minnesota as a full-time Hennepin County Family Court Referee until March, 2006. After approximately seven years in the Family Law practice, she had achieved an exemplary reputation for her legal acumen and judicial excellence, advancing in the Minnesota Court System between 1995 and 2002 from a contract Administrative Law Judge and Child Support Magistrate to a Hennepin County Family Court Referee.

Following her serious illnesses, report of discriminatory conduct by her supervisor and required Family and Medical Leave Act ("FMLA") medical leaves in early and late 2005 and again in early 2006, Ms. Fallek was subjected to various adverse and retaliatory actions, including the hiring away of and failure to provide her a judicial clerk, failure to obtain adequate substitute referee coverage of her case load during most of those leaves, demands that she do judicial work while on leave, unfounded and harsh

criticism from then Chief Family Court Judge James Swenson, demand for medical documentation within a single day, and the conveying of threats of reassignment to Housing Court while on leave. At no time was there any meaningful interactive discourse with Ms. Fallek as to any reasonable accommodation as required by the Minnesota Human Rights Act.

Upon Ms. Fallek advising Administration in March 2006 of her doctor's approval of her return to half-time Referee work, instead of being granted the FMLA mandated reinstatement or a requested reasonable accommodation, she was first deceptively told there was no part-time Referee position in Family Court. Then, while still on her medical leave, Administration advised her of her demotion to a part-time employee Child Support Magistrate (the position she had advanced from in 2002), while at the same time, astoundingly, the Family Court filled an open part-time Referee position with a less experienced and less qualified lawyer.

After Ms. Fallek returned to work under the 20 hour work restriction, the adverse and retaliatory actions against her continued unabated: She was given only a short time to complete her backlog of orders in previously heard cases, directed to vacate her chambers within nine days, and to have transition and training meetings with both her full time Referee replacement and the lawyer filling the new part-time Referee position, all while being required to preside over numerous court hearings, which forced her to greatly exceed her 20 hour work restriction. She also was provided with a recent written order of Judge Swenson, which was a public court document, upholding her decision but gratuitously launching an *ad hominem* and meritless attack on Ms. Fallek's affirmed order. All of this hostile and adverse treatment caused severe aggravation of Ms. Fallek's already fragile health and precipitated a physical and emotional break down requiring Ms. Fallek's emergency nine day hospitalization in early April 2006.

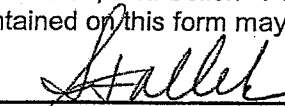
These actions by Judge Swenson and various Fourth District officials constituted illegal disability discrimination and reprisal in violation of the MHRA. Ms. Fallek therefore alleges that the above-named Respondents have discriminated against her in the area of employment on the basis of disability in violation of Minnesota Statutes, Section 363A.08, 363A.14 and 363A.15.

Subscribed and sworn to before me this
5 day of March, 2007.



Notary Public

I swear or affirm that I have read this charge and that it is true to the best of my knowledge, information, and belief. I understand that the data contained on this form may be made public.



(Signature of Charging Party)



THIS

Beth

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