

Verdicts & Settlements

People-Phobic Social Worker Wins \$6.5 Million For Employment Discrimination

By Natalie White

A California jury recently awarded \$6.5 million to a case worker who was forced out of his job because his panic disorder prevented him from dealing with clients face-to-face.

The defendant claimed that the job could not be done effectively without meeting clients in person. But George Alberigi, 52, who suffers from agoraphobia, claimed that he had been doing the job for years over the phone and had performance reviews to prove he was doing it well.

After a five-week trial and five days of deliberation, the jury ruled against the Sonoma County's Human Services Department, awarding the plaintiff \$1.5 million for lost wages and \$5 million for pain and suffering.

Defense counsel did not return requests for comment on the case but has indicated the county's intention to appeal. County officials said after the verdict that the county believed it had acted within the law when it offered Alberigi other work at the same pay.

Request For A Promotion

Alberigi's condition was nothing new. He had been a case worker since 1980, and for more than a decade, he had suffered from the panic disorder that made it difficult for him to meet strangers face-to-face, tackle new situations and go out in public by himself.

However, his attorney Stephen Murphy said, he did his job well with a few accommodations – the most important being that he was allowed to deal with clients mostly by telephone.

"He'd worked as a case worker for a long time, and he was doing a great job. He had consistent outstanding employee reviews. He was even employee of the year in 2000," said Murphy. "Because of his disability, they made accommodations for him for 15 years. Basically, he worked from the office but could do most of his work over the phone."

But that changed abruptly in 2001, after he asked for a promotion.

His superiors said the new position would require him to meet with clients in person and put him in a training program

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that required him to develop these skills. When this aggravated his agoraphobia, Alberigi said he just wanted his old position back, but his bosses said all case workers now had to deal with clients face-to-face – if he couldn't do that, they would have to put him in another position.

"All he wanted was his old job back the way it was before," Murphy said.

Alberigi tried to do his job under the new conditions, but couldn't handle the intense anxiety they produced.

"He basically had a nervous breakdown," said Murphy. "He collapsed at work and was taken by ambulance to the hospital. It was stress related. He was diagnosed with a major depression accompanied by frequent panic attacks."

Subtleties Of The Disease

The plaintiff maintained he could do his job without meeting clients in person since the bulk of the work was interviewing people about their financial status to evaluate whether they were eligible for state medical assistance. He had been allowed to do this from the Sonoma County offices for years

before asking for a promotion.

In spite of years of positive performance reviews, Alberigi's supervisors said they would only try the accommodations if his disabilities were considered temporary. Alberigi explained the situation to his therapist and doctors and they wrote letters saying he might be able to meet clients face-to-face in the future if he worked toward that goal in therapy.

Murphy said the supervisors then said that if the condition was temporary, they did not have to accommodate him at all.

Murphy believes this seemingly malicious flip-flop was one of the reasons the jury decided in his client's favor.

He said one of his biggest challenges was showing the jury that his client's illness was not easily understood. For example, Alberigi's supervisors noted that he was able to come to work each day and had been seen going to the movies with a friend. The implication was that the plaintiff was exaggerating his illness.

"People's initial reaction to the disorder is that it must be black or white," said Murphy. "But it's not. It's a lot of grays. Sometimes he can go out, sometimes he can't.

What he can do one day he may not be able to do another day."

Pushed To The Limit

Alberigi's supervisors made it increasingly difficult for him to keep his job. They changed his work space and made him come to work without an assigned desk. Eventually, panic and anxiety made it impossible for him to go into work at all, Murphy said.

His therapist ordered him to stop working because she believed he was suicidal.

The experience pushed his agoraphobia into a heightened state, making it extremely difficult for him to leave his apartment.

Murphy said he believes the one of the reasons the county did not settle because they did not believe he would ever take the case to trial.

"I suspect that they never expected him to be able to go to trial because of his condition. It took a lot of courage for him to go to trial," said Murphy.

Alberigi was so uncomfortable in public, he didn't even go to the courthouse for the verdict, although he did come to testify.

"The first day on the stand he was terrified, and he looked it," said Murphy. "The defense kept him on the stand for two days and he got a little more comfortable. The jury got a good look at him and believed [his affliction was real]."

Murphy said that when he told Alberigi of the victory over the phone, he didn't even ask about the amount of the verdict.

"He was just happy that they believed him," Murphy said.

Plaintiffs' Attorney: Stephen M. Murphy of the Law Offices of Stephen M. Murphy in San Francisco.

Defense Attorney: Steven M. Woodside, attorney for Sonoma County, Calif.

The Case: *Alberigi v. Sonoma County*; March 14, 2006; Superior County, Sonoma County, Calif.; Judge Elaine Rushing.

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