

Page printed from: New Jersey Law Journal

More Accusations Fly in Judge's Suit Over Time Spent Caring for Disabled Son
Charles Toutant, New Jersey Law Journal May 11, 2017

A Superior Court judge who filed a suit claiming he was harassed over the amount of time he spent caring for his handicapped son has filed an amended complaint after being excluded from a Law Day observance.

John Russo Jr. claimed in an amended complaint filed Tuesday that Presiding Criminal Part Judge Wendel Daniels told him on May 2 that he could not join other judges on the dais at a local Law Day event because he filed the suit. Daniels said Russo could only attend the event if he sat in the audience, according to the amended complaint.

Daniels' directive constituted retaliation against Russo for exercising his civil rights, and was in violation of the 14th Amendment, said Russo's attorneys, Amelia Carolla and David Corrigan.

In response to the suit Russo filed in federal court on April 23, which also named Ocean County Assignment Judge Marlene Lynch Ford, Presiding Family Part Judge Madelin Einbinder and the judiciary as defendants, "it is our opinion that they are not only continuing to engage in illegal discrimination by ostracizing Judge Russo, they are retaliating against Judge Russo in an effort to send a clear message to any others that may seek to challenge their authority. This is why we amended our federal court complaint to include additional First Amendment claims for retaliating against Judge Russo," Corrigan said in a statement.

"We believe the travesty here is that merely because Judge Russo sought the intervention of federal court in an effort to protect his basic civil right to have a close association with a person with a protected disability, the Ocean County judiciary retaliated against him by ordering him to not attend the Law Day ceremony in the same manner as other judges were permitted to do," Carolla said in the same statement.

Daniels was made his supervisor after the suit was filed and Russo has been instructed not to have any contact with Ford or Einbinder, Corrigan said. Ford instructed all Ocean County judges, via email, to attend the Law Day event in judicial robes, but Daniels later told Russo not to sit with the county's other judges. Because he was unable to get an answer on whether he should wear his judicial robes while sitting in the audience, he did not attend, his suit claims.

Russo, who was confirmed to the bench in December 2015, is the father of a 19-year-old with Down syndrome and a speech disorder. In 2016, Russo and his wife petitioned the court for appointment as his guardians, an action opposed by the teen's biological mother. And early this year, the son was hospitalized for what was termed a severe psychiatric episode. Russo sought intermittent family leave due to the court case and his son's hospitalization, but the request was denied, according to his suit. Not only that, but Russo's cases were reassigned on April 12 and he was ordered to be evaluated by a mental health professional for fitness for duty before hearing any other cases, he said.

Ford told Russo his conduct was the subject of a complaint by a woman law clerk that, if determined to be valid, could support a hostile work environment complaint. And Russo said Ford told him the adverse action was taken because he had experienced "significant problems adjusting to life as

a Superior Court judge" and that the suspension was due in part to his "history of service on the bench," the suit claims.

Russo is still getting paid, and since his cases were reassigned, he has taken some vacation but otherwise "has been going into work and reading law books because he has nothing else to do," Corrigan said in a phone interview. Russo, who denies any improper conduct toward the law clerk, has requested the judiciary for more information about her allegations but has not received a response, Corrigan said.

Russo served as a judge in the Office of Administrative Law before he was elevated to the Superior Court bench, and there he had an unblemished career, said Corrigan. Russo is the son of former state Senate President John Russo, who represented the 10th District in Ocean County as a Democrat from 1982-91. Ford served the same district alongside the senior Russo as a Democratic member of the General Assembly in 1984-85 and 1990-91.

The younger Russo also held elective office, serving as mayor of Dover Township, which subsequently changed its name to Toms River. He changed his party affiliation from Democrat to Republican in 2003.

But Corrigan, asked if his client's dispute with Ford has a partisan aspect, dismissed the notion.

"We are not raising that as a claim whatsoever," Corrigan said. "We don't raise any issues that she ever made any comments about his political status. I have no evidence there is any grudge."

Judiciary spokesman Peter McAleer declined to comment on the amended complaint or on any investigation of the law clerk's complaint against Russo.

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