

Suit Says Judge Was Suspended Over Time He Spent Caring for Disabled Son  
Charles Toutant, New Jersey Law Journal April 24, 2017

A state Superior Court judge from Ocean County claims in a lawsuit that he was removed from the bench after clashing with supervising judges over time he spent attending to the needs of his disabled son.

John Russo Jr. said in the suit that he was subjected to a hostile work environment because of his association with his son, 19, who has Down syndrome and a speech disorder and may be bipolar. The judge brought suit against the state judiciary, Ocean County Assignment Judge Marlene Lynch Ford and Presiding Family Judge Madelin Einbinder.

Russo, who was confirmed in December 2015, said in his complaint that he was removed from duty April 12 of this year and told to undergo a fitness for duty evaluation before hearing any more cases. But Ford told Russo that his law clerk had complained about him and that the circumstances could support a hostile work environment if the clerk, who is a woman, is found to have told the truth. Ford also told Russo the adverse action was taken because he had experienced "significant problems adjusting to life as a Superior Court judge" and said the suspension was due in part to his "history of service on the bench," the suit claims.

Russo's attorneys, David Corrigan and Amelia Carolla, said they did not know any details about the law clerk's complaint.

Russo seeks compensatory and punitive damages and an order restoring him to full and active duty and barring further discrimination. His suit brings a claim under section 504 of the Rehabilitation Act against the judiciary and a claim for association disability under the Law Against Discrimination against Ford and Einbinder.

Shortly after taking the bench, Russo discussed his son's disabilities during a meeting with Ford, who told him, "maybe this job is not for you," and adopted a "harsh and judgmental" tone, the suit claims. Later, Ford and Einbinder sought to force Russo to resign because of his association with his disabled son, the suit said. And at a meeting with Einbinder soon after he went on the bench, Russo said, he told her that his son required a significant amount of attention, to which she responded, "Do you know how many of my son's soccer games I have missed?" the suit said.

In August 2016, Russo, who has sole custody of his son, petitioned the court to be named his guardian, due to his disabilities. The case was heard in Burlington County to avoid a conflict, and Russo and his wife, Jennifer Perlmutter-Russo, were appointed guardians of the son in March 2017. At around the same time, the son suffered a "severe psychiatric episode" and required hospitalization in a psychiatric hospital for five days, the suit said.

Russo asked Ford if he was eligible for intermittent family leave due to the court case and his son's hospitalization, but Ford said he was not, the suit claims. And in November or December 2016, Russo expressed concerns to Lynch about being perceived as biased because he was hearing cases in the Family Division while he himself was involved in a pending guardianship case. But Lynch responded, "You're not getting out of Family (Division)," according to the suit.

The suit's hostile work environment claim is supported by alleged statements by Einbinder to judges, court staff and attorneys that Russo was having performance difficulties, and her criticism of him for reprimanding an attorney who entered his chambers without permission, as well as her assignment to him of the largest caseload and most difficult cases, as well as emergent phone duties over the Christmas 2016 court recess, according to the complaint.

Russo is still being paid, and has been allowed to enter his chambers, but all of his cases have been reassigned, which is "disturbing and discriminatory," said Corrigan, of The Corrigan Law Firm in Keyport. Russo is attending a seminar for family court judges on Monday and Tuesday, said Corrigan, but after that he has nothing to do, said Corrigan, who noted that other judges that were accused of various forms of misconduct were given more lenient treatment than Russo.

The plaintiff doesn't know what allegations were made by his law clerk, but denies engaging in any improper conduct, Corrigan said. Yet there is a "buzz" around that courthouse that he did something wrong, Corrigan said.

"This is a guy who has done nothing, other than attempt to be a good father to somebody who has multiple disabilities," Corrigan said.

Judiciary spokesman Peter McAleer said he could not comment on the suit, and, when asked about Russo's job status, said only that the judge is taking vacation time.

Russo, admitted in 1990, is the son of former Democratic state Senate President John Russo. He has been an administrative law judge since 2010. From 2002 to 2010, he was with Russo & Cassidy in Toms River. Before that, he was a solo in Toms River from 2000 to 2002 and spent a year with Levin Cyphers in Toms River in 2000. From 1998 to 2000, he was with Russo Secare Ford Delanoy & Martino in Toms River.

Russo is a graduate of Rutgers University and Seton Hall University School of Law.

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