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Neighbor News

# Late Judge Wins Dispute With Social Security Administration

## Decision Highlights Long-Standing Issues, Says Association of Administrative Law Judges



Community News, Neighbor

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The Equal Employment Opportunity Commission recently ruled in favor of a deceased administrative law judge and against his employer, the Social Security Administration (SSA).

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The judge was battling stage 4 lung cancer as he heard cases in the Social Security's North Charleston, South Carolina, office.

The EEOC ruled that SSA:

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- Unreasonably delayed issuing a decision on and failed to provide the judge with a reasonable accommodation regarding his requests for telework and flexible scheduling;
- Subjected the judge to harassment with respect to processing his reasonable accommodation, providing an accommodation, time and attendance, and other working conditions; and
- Management denied his request for union representation.

SSA's reasonable accommodation was first to have the judge take a demotion to a senior attorney position. Ultimately, he was permitted to only go into the office for hearing days, but had to take leave in order to travel back and forth to work.

Judge Melissa McIntosh, the president of the Association of Administrative Law Judges, says, "It's a tragedy this gifted judge lost his battle with cancer before he could be vindicated by the EEOC.

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"We know Social Security Administration takes an unusually long amount of time processing reasonable accommodation requests. SSA repeatedly asks for medical evidence beyond what is necessary to support the claim. All of this discourages judges from pursuing their accommodations requests. And this cynical approach has worked. Many judges, with our incredibly high workload, do wear down and forgo their request or do not follow through with an EEOC complaint.

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insufficient oversight."

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Judge McIntosh adds that SSA has a checkered past when it comes to complying with EEOC law and points to a federal worker **winning** a discrimination case almost a decade ago.

In 2014, SSA entered into a **\$10 million settlement** of an EEOC class action lawsuit, after having fought the lawsuit for ten years. The agreement stated there would be "sweeping improvements."

In addition, in 2015, a federal court awarded a Social Security Administration employee more than \$200,000 to cover attorney fees and other costs associated with the employee's wrongful termination and ensuing legal battles. "[T]he ruling ...said SSA's lawyers had acted with 'aggressiveness' and a 'lack of professional objectivity expected of counsel,'" according to **Government Executive**. The article states that the reference is to Andrew Maunz, who worked in the SSA Office of General Counsel under the leadership of current SSA Deputy Commissioner David Black.

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