

PRESS RELEASE

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JUDGE CERTIFIES NATIONWIDE EMPLOYEE CLASS ACTION ON BEHALF OF TARGETED DISABLED EMPLOYEES AGAINST THE SOCIAL SECURITY ADMINISTRATION

Advocates for disabled employees of the Social Security Administration (“SSA”) have secured a groundbreaking victory in a class action proceeding before the Equal Employment Opportunity Commission. The action alleges that SSA discriminates against employees with targeted disabilities by creating a glass ceiling and limiting promotional and other career advancement opportunities. Yesterday, the Administrative Law Judge hearing the case granted the employees’ motion for class certification. The ruling ensures that the employees’ claims for injunctive relief and damages can proceed as class claims. Attorneys for the class estimate that the lawsuit will cover approximately 2,000 current and past employees.

The class is represented by a consortium of law firms that includes Berger & Montague, P.C., Brown Levy & Goldstein LLP, Schneider Wallace Cottrell Brayton Konecky LLP, and Disability Rights Advocates.

“I hope this decision serves as a wake-up call to the Agency,” says Ronald Jantz, a deaf SSA employee and the named plaintiff in the case. “I have worked at SSA for over 20 years and never once received a promotion. Hopefully this lawsuit is going to bring about some much needed change and the Agency is going to live up to its obligations. The Agency’s culture of bias has for too long made it difficult for me and others like me, to advance our careers.”

Since 1979, the federal government has considered employees with substantial disabilities (designated by the government as “targeted disabilities”) to be the “harbingers of success” for its anti-discrimination efforts because employees with targeted disabilities tend to experience more discrimination than others. Employees with targeted disabilities (also known as “TDEs”) have impairments that tend to be more severe and immediately apparent to potential employers. Examples of targeted disabilities include: deafness, blindness, paralysis, convulsive disorders, mental illness, and genetic and physical conditions affecting the limbs or spine.

The EEOC has for years reported an alarming decline of people with targeted disabilities in the federal workforce, despite the government's statutory obligation to be a model employer. The EEOC reports that employees with targeted disabilities tend to receive fewer promotional opportunities; stagnate in grade longer than their peers, and are compensated at lower rates than other employees.

Judge David Norken, held in his decision that:

“It makes sense to group TDEs together since [SSA's] policies and practices may affect them in similar ways... in ways more similar than they are different. Consequently, I reject the assertion that the purported class must be broken down into component disabilities.”

Commenting on the strength of the employees' case, Judge Norken noted that:

“Complainant has provided a remarkable amount of evidence at this stage of the proceeding, much more than most other successful applicants for class certification before the Commission...Complainant has presented evidence of a centralized practice affording selecting officials unfettered discretion, statistically significant evidence that TDE's are selected for promotion at lower rates than non-TDEs, anecdotal evidence of discrimination and a social science report on the Agency's organizational culture which permits discrimination against TDEs.”

In a related motion, Judge Norken imposed sanctions against SSA for misconduct in discovery because of the Agency's “long history of refusing and failing to obey by my orders,” noting that “[t]here are consequences for violating my orders.”

The Social Security Administration is an independent federal agency with responsibility for administering three major federal programs:

1. The Old Age and Survivors Insurance (OASI) program which provides benefits to retired workers and their dependents and survivors;
2. The Disability Insurance (DI) program which provides benefits to disabled workers; and
3. The Supplemental Security Income (SSI) program which provides income for aged, blind, and disabled individuals with limited incomes and resources.

Through these programs, SSA provides financial benefits to more than 160 million workers and their families, and pays approximately \$580 billion annually to more than 49 million Americans. SSA is headquartered in Baltimore, Maryland, and has 10 regional offices (Atlanta, Boston, Chicago, Dallas, Denver, Kansas City, New York, Philadelphia, San Francisco and Seattle), 6 processing centers, and approximately 1300 field offices.

SSA employs approximately 62,000 employees, and is led by Commissioner Michael J. Astrue, whose six-year term expires on January 19, 2013.

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