

ROLE OF NORTH STATE COURT

The State Court Administrator of North State Court and a mental health advocate from Mental Illness Changemakers have agreed to negotiate to resolve a possible discrimination claim under the Americans with Disabilities Act related to a court policy.

North State Court. The State Court Administrator for the US State of “North State,” oversees many court functions including the Office of Dispute Resolution which circulates court-mandated mediator standards governing all community mediators in North State’s 10 county dispute resolution programs.

Mental Illness Changemakers¹ is an organization working to get courts, schools, and other institutions to update their policies to be in compliance with Americans with Disabilities Act protections that make it illegal to treat someone differently based on their seeming to have a mental impairment.²

The Americans with Disabilities Act (ADA) is a United States Civil Rights Law designed to protect people with disabilities from discrimination. Broadly speaking it protects them from four different kinds of discrimination:

-*Screening* – Denying someone eligibility for services based on the knowledge or perception that they seem to have a disabling physical or mental impairment

-*Disparate Treatment* – Treating someone differently based on the knowledge or perception that they seem to have a disabling physical or mental impairment (such as denying them opportunities or communication)

¹ Mental illness can be seen as an offensive term itself, while other organizations (such as the National Alliance on Mental Illness) have it in their name. Its use here is meant to destigmatize people associated with that language by taking ownership of the word (“it’s our word”).

² To learn more about these protections, read the 2023 ABA Dispute Resolution Magazine Article “Preventing Unintentional Discrimination in Dispute Resolution” at <https://bit.ly/ABADiscrimination>

-Denied Accommodations – Refusing a reasonable accommodation request to accommodate an actually disabling physical or mental impairment so a person can access services

-Inappropriate Inquiries – Asking someone questions that reveal the nature or severity of their disability, unless it is done in certain limited, appropriate contexts

After learning that the **North State Court** Standards of Conduct for Mediators directed all mediators to screen people with mental illnesses as safety risks, **Mental Illness Changemakers** convinced them to remove the illegal language from their policy within a month. This Standards of Conduct document had said that mediators were duty-bound to regularly screen for safety challenges and impediments throughout the dispute resolution process, and it had enumerated “mental illness or other mental impairment” as an example. This was promptly removed.

However, the staff at North State Court would never get on the phone with the advocate from Mental Illness Changemakers. Because the old standard of conduct suggested that people with mental illness were safety risks, and the recent advocacy led the North State Court Administrator to write that the Mental Illness Changemaker advocate seemed “threatening,” Mental Illness Changemakers is now saying that they believe North State Court is discriminating against their advocate for treating her like she is a threat. The current dispute is about whether the Mental Illness Changemaker advocate is experiencing a discriminatory response from North State Court because North State Court will not speak with them on the phone.

The North State Court Administrator is now going to meet with the Mental Illness Changemakers advocate to see if they can negotiate a solution to this potential discrimination claim.

Some additional information for you (you are the North State Court Administrator)

This information is being provided to you and you alone; it is entirely up to you whether or not to share it with the other side.

You are very angry. Your staff worked hard, quickly, to update the mediator standards of conduct in less than a month – a pace unheard of for normal updates, and one that is reflective of how seriously your office took the concerns that the standards violated the ADA by mandating mental illness screening.

You do not understand why the Mental Illness Changemakers advocate isn't grateful and you are also very nervous, because you know you misspoke when you wrote your staff was only speaking in writing and not on the phone because you found her threatening.

You are worried that Mental Illness Changemakers may have the evidence and knowhow to have a discrimination claim and after having accidentally said the "threatening" remark in writing you do not want to risk making more mistakes. You have been nervous to say anything more to them.