

DFEH News Release

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For Immediate Release

CONTACT: Bill Branch
(916) 478-7241

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING ANNOUNCES \$325,000 SETTLEMENT IN BREAST CANCER DISCRIMINATION CASE

ELK GROVE – The California Department of Fair Employment and Housing (DFEH) today announced the settlement of a pending case against the County of Sonoma, alleging that a female employee with breast cancer was denied a reasonable accommodation of her medical condition and disabilities which would have allowed her to continue performing her duties.

Diane Pizza had been employed by the county as a drug and alcohol counselor for six years when she was diagnosed with breast cancer and subsequently underwent a lumpectomy, chemotherapy and radiation treatments.

The county initially granted her request to be excused from conducting evening classes. However, in January 2004, she was diagnosed with depression and anxiety, attributed by her healthcare provider to the cancer diagnosis and requisite treatment. The county refused to reduce her workload to 40 hours (from the approximately 60 she had been regularly working) with 15 minute rest breaks and weekends off.

Rather, in March 2004, the county advised Pizza "...it does not appear that you have a current disability. As a result, no accommodation is required..." The county further asserted that it had no legal obligation to grant Pizza a reasonable accommodation because she had not experienced a "recurrence" of cancer.

Unfortunately, Pizza did experience a recurrence just three months later, requiring her to undergo further surgery and chemotherapy. She was released by her physician to resume her duties in April 2005, so long as she worked a maximum of 40 hours per week, took 15-minute breaks regularly and did not work weekends. Instead of reinstating Pizza to her position, the county offered to return her to work as a drug counselor assigned to the county

jail, a demotion which posed health risks to Pizza, thereby forcing her to retire and sustain significant income and benefit losses.

With no admission of liability, the county agreed to pay Pizza \$325,000, as well as adopt and disseminate to all employees written workplace policies that comply with the Fair Employment and Housing Act (FEHA). Additionally, the county will provide training for all supervisors and managers on the requirements of the FEHA.

“This case serves as a reminder to all California employers that the California Fair Employment and Housing Act provides protections to employees with physical or mental disabilities, as well as medical conditions, including any health impairment associated with a diagnosis, history or record of cancer,” said acting DFEH Director Wanda Kirby. “Employers are required to engage in an interactive process – a dialog with the employee -- and to provide reasonable accommodation that allows an employee with a physical or mental disability or medical condition to continue performing essential duties unless to do so would result in undue hardship for the employer.”

The DFEH enforces laws prohibiting discrimination in employment, housing, public accommodations and acts of hate violence. Further information about the DFEH and its services may be obtained by visiting the Department’s web site at www.dfeh.ca.gov or by calling (800) 884-1684. Housing complaints may be filed by calling (800) 233-3212.

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