

## WOMAN ALLEGES EARLIER COMMUTE WOULD ACCOMMODATE HER NARCOLEPSY



A woman with narcolepsy sued her former employer for allegedly not accommodating her for her condition. The case hindered not so much on defining narcolepsy as a disability, but more on whether or not what the woman was asking for was a reasonable accommodation. The plaintiff was employed at Faurecia Automotive Seating, Inc. in Troy, MI. She began as a temporary contract employee, and when she was moved to a permanent position, her hours were 6:00 am to 3:00 pm. A couple of years later, she and her husband moved to Perry, MI, which more than tripled her commute. That same year, her department changed its standard work hours to increase productivity: 7:00 am to 4:00 pm. The women met with supervisors to let them know that the new hours would be problematic because of her narcolepsy. She was diagnosed with narcolepsy more than a decade before and had informed Faurecia managers when applying for the job. Her medications prevented sleep attacks, but she admitted to napping during lunch breaks and once falling asleep at her computer. She explained to her superiors that the new hours would require her to drive in heavier traffic, and the longer drive would necessitate pulling over for a rest. She requested the previous hours or working through lunch from 7:00 am to 3:00 pm. The woman was told by a supervisor – and later an HR rep – that she could take leave under the FMLA (Family and Medical Leave Act) or quit. She allegedly gave a note from her physician, one stating that she had narcolepsy and recommending the 6:00 am hours, to supervisors and the HR rep – though all three claimed in court to never having seen the note. When the woman received no response, she resigned. She subsequently filed a lawsuit, alleging disability discrimination in violation of the ADA (Americans with Disabilities Act) and the Michigan Persons with Disabilities Civil Rights Act, as well gender discrimination violating Title VII of the Civil Rights Act and Michigan's Elliott-Larsen Civil Rights Act. The district court granted summary judgment in favor of Faurecia, and the woman appealed.



The district court had found that the woman failed to support her claim of narcolepsy as a disability, but appellate judges focused on the altered work schedule as a reasonable accommodation. Her argument was that an earlier commute would entail lighter traffic, but there was no way to prove that traffic would be less dense during those hours. Accordingly, Faurecia was not required by the ADA to accommodate the request. The appeals court likewise agreed with the district court's finding on the claim of gender discrimination. The woman claimed that male employees were allowed to work through lunch and leave early, but the courts saw no adverse effect from her request being denied. Her new hours, judges believed, were not "intolerable," and the bid for retaining the previous schedule was a matter of convenience. The district court's decision was affirmed.

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