



Department of Veterans Affairs

COMPLAINT OF EMPLOYMENT DISCRIMINATION

Read the instructions on the reverse side of this form carefully before completing the front of this form.

1. NAME (Last, first, middle initial) (Please print) Sygula, K. Diana	3. MAILING ADDRESS 2890 Trisch Circle Twinsburg, OH 44087	4a. WORK TELEPHONE NUMBER (Include Area Code)
2. EMAIL ADDRESS medina.d@sbcglobal.net		4b. PRIMARY TELEPHONE NUMBER (Include Area Code) 440-829-0932

5. ARE YOU: <input checked="" type="checkbox"/> A VA EMPLOYEE <input type="checkbox"/> AN APPLICANT FOR EMPLOYMENT <input type="checkbox"/> A FORMER VA EMPLOYEE	6a. JOB TITLE, SERIES AND GRADE CRNA in the anesthesia department 6b. SERVICE/SECTION/PRODUCT LINE Anesthesiology	7. NAME AND ADDRESS OF VA FACILITY WHERE DISCRIMINATION OCCURRED Louis Stokes Cleveland VA 10701 East Blvd. Cleveland, OH 44106-1702
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NOTE: For each employment related matter that you believe was discriminatory you must list the bases (list one or more of the following):
Race (Specify), Color (Specify), Religion (Specify), Sex (Male or Female), National Origin (Specify), Age (Provide date of birth),
Disability (Specify), Genetic Information (including family medical history), and/or Reprisal for participating in the EEO process or opposing unlawful discrimination.

8. BASIS	9. CLAIM(S) (What employment related claim(s) - personnel action(s), incident(s), or event(s) caused you to file this complaint? Briefly state the specific claim, personnel action and/or event that caused you to file this complaint. Use an additional sheet of paper if necessary. You should not include information that violates the Privacy Act of 1974 and the Health Insurance Portability and Accountability Act (HIPAA). Some examples are patient medical records, personal records of other VA employees, etc.)	10. DATE OF OCCURRENCE (Include the most recent date(s))
See attached	Please see attached list of claims, and events supporting those claims	See attached

11. REMEDIES SOUGHT (Use an additional sheet of paper if necessary.)

Injunctive relief to stop the unlawful conduct, and recovery of economic and emotional damages

12a. DO YOU HAVE A REPRESENTATIVE? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	12c. PROVIDE THE NAME AND ADDRESS OF YOUR REPRESENTATIVE Caryn M. Groedel, Esq. 31340 Solon Road Suite 27 Cleveland, OH 44139	12d. TELEPHONE NUMBER (Include Area Code) 440-544-1122 ext. 102
12b. IF "YES," IS HE OR SHE AN ATTORNEY? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		12e. EMAIL ADDRESS cgroedel@groedel-law.com
13a. HAVE YOU CONTACTED AN EEO COUNSELOR? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	13b. NAME OF EEO COUNSELOR Linda Stallings	13c. DATE OF INITIAL CONTACT WITH ORM
14. If you contacted an EEO Counselor more than 45 calendar days after the Date(s) of Occurrence, listed in item 10, or if this complaint is filed more than 15 calendar days after receipt of a Notice of Right to File a Discrimination Complaint, you must explain why you were untimely in seeking EEO counseling or untimely in filing a complaint. (Use an additional sheet of paper, if necessary.)		
15a. HAVE YOU FILED A UNION GRIEVANCE ON ANY CLAIM(S) LISTED ABOVE? <input type="checkbox"/> YES <input type="checkbox"/> NO	15b. IF "YES," LIST THE CLAIM(S) AND DATE GRIEVANCE FILED	16a. HAVE YOU FILED AN APPEAL WITH THE MERIT SYSTEM PROTECTION BOARD (MSPB) ON ANY OF THE CLAIMS LISTED ABOVE? <input type="checkbox"/> YES <input type="checkbox"/> NO
		16b. IF "YES," LIST THE ISSUE(S) AND DATE MSPB APPEAL FILED.
17a. HAVE YOU FILED THIS COMPLAINT WITH ANYONE ELSE? <input type="checkbox"/> YES <input type="checkbox"/> NO	17b. IF "YES," PROVIDE THE NAME AND ADDRESS	
18. SIGNATURE OF COMPLAINANT (Sign in ink. Do not print) 		19. DATE 4-25-23

COMPLAINANT DIANA SYGULA'S SECOND AMENDED FORMAL COMPLAINT
 EEOC NO. 531-2021-00072X
 AGENCY NO. 200H-0541—2020105731

<u>Basis</u>	<u>Claim</u>	<u>Date of occurrence</u>
Gender Discrimination	Discrimination based on hiring a less qualified man, Greg Henley, for the Supervisor Anesthesia Tech position, without posting the position, thereby depriving me of the right and opportunity to apply for it.	2016
FMLA retaliation & harassment, ADA harassment	Claimant began taking intermittent FMLA leave in Aug. 2019. Whenever she returned to work after taking 1 or more days of intermittent leave, her manager, Greg Henley, interrogates her about what she did on her day off.	Aug. 2019 - present
Retaliation	After she engaged in the protected activity of reporting Mr. Henley to department head Dr. Susan Raphaely, Mr. Henley began harassing Claimant even more.	2019 - present
Marital status	Mr. Henley harasses Claimant based on her marital status with unwanted, unwelcome, and offensive comments such as, "You don't need your job," "Your husband makes a lot of money", etc. After hearing these comments, Claimant's co-workers began making similar comments to her.	Aug. 2019 - present
ADA Discrimination	Harassment and retaliation. After she began taking intermittent leave and her co-workers heard Mr. Henley's harassing comments to me, they began saying offensive things to her about her health condition, including that they don't see her working much longer due to her illness, that she has 5 good years of employment left -- at most, and inferring that she is incapable of doing her job due to her health condition.	Aug. 2019 - present
Retaliation	After she retained a lawyer to represent her in these employment issues, who sent a letter to the VA on her behalf, Dr. Raphaely started seeking negative feedback about her from her co-workers, and inferred to her co-workers, including in a meeting, that they should report her due to her health conditions, with a defamatory inference that she is not able to perform her job duties effectively.	July 2, 2020 - present
Retaliation	Reprisal in the form of giving Complainant a worse performance review/evaluation after and because Complainant commenced these proceedings, and after and because Complainant has taken, and continued to take, intermittent FMLA leave.	April 15, 2021
Effect of wrongdoing, such as dollars lost, delay produced,	Claimant was at risk for discipline and/or termination as a result of her declining performance evaluation.	

etc.:

Name of wrongdoers: Greg Henley with the approval and acquiescence of Dr. Susan Raphaely

Worker's Compensation retaliation Claimant was at work on her break when she slipped and fell and sustained an injury that required emergency medical attention. She was then placed on a 6 to 8 week medical leave, from July 15 - September 20, 2021, which was classified as "Leave Without Pay".

July 15, 2021

Claimant returned to work, and Admin Raul Rios informed Claimant that Gregory Henley granted her leave without pay, and HR approved it. It should have been with pay.

September 20, 2021

Alleged Legal or Policy violation(s) or other misconduct

AWOL ALLEGATION AND OPPOSITION TO COMPLAINANT'S REQUEST FOR WORKER'S COMP BENEFITS: On **December 2, 2021**, Greg Henley informed Claimant that her previously approved 6 to 8 week of Leave Without Pay was to be retroactively changed to Absent Without Leave (AWOL). The memo stated that her leave was being reclassified as AWOL because her "absence required other team members in the department to cover her duties and work overtime causing hardship to the Anesthesia Service."

December 2, 2021

Retroactively changing Claimant's leave without pay to AWOL because it caused a "hardship" to the VA is **not a valid reason for an AWOL designation, and violates** Medical Center Policy 005-007, which states, "[e]mployees charged AWOL should be notified by their supervisor upon their return to duty, or by the end of the following pay period, of the charges and the reason that leave was not approved." Ms. Sygula's leave *was* approved. Moreover, she was not informed by her supervisor, when she returned to duty on 9/20/21, that she was to be designated as AWOL, nor was she informed of that at the end of that pay period (on or about October 1). In fact, she was not informed by her supervisor that she was being charged as AWOL until more than *two months* after she returned to duty from her *approved leave without pay*.

This AWOL designation also constituted retaliation / reprisal because it came just 13 months after Claimant filed her harassment / discrimination complaint against the VA due, in part, to the conduct of her supervisor, Gregory Henley, with approval and acquiescence by Dr. Susan Raphaely.

It was also done in retaliation for Claimant taking protected and approved intermittent FMLA leave.

The VA's policies state that being charged AWOL may not be considered discipline itself, but can be used to support further progressive discipline.

Effect of wrongdoing, such as dollars lost, delay produced, etc.:	Mr. Henley's wrongful designation of Complainant as AWOL, rather than as "on leave without pay" as originally designated, constitutes continued harassment and retaliation, and could have empowered Mr. Henley, with Dr. Raphaely's blessing, to expedite future discipline against Claimant.	
	Claimant appealed the designation as AWOL, and the denial of her Worker's Comp claim, and prevailed, but it nonetheless caused her to incur legal fees and emotional distress.	
Names of wrongdoers	Gregory Henley, Dr. Susan Raphaely, and Raul Rios	
Alleged Legal or Policy violation(s) or other conduct	Harassment, discrimination, and retaliation / reprisal for taking approved intermittent FMLA leave.	On or about August 2019 and continue to the present.
Effect of wrongdoing, such as dollars lost, delay produced, etc.:	Complainant has been working in a hostile environment for an extended period of time, which has had an adverse effect on her emotional and physical health, and she has lost pay as a result of taking increased intermittent FMLA leave, and has incurred legal fees as a result of fending off Dr. Raphaely's solicitation of "dirt" on Complainant, the filing of these proceedings, her attempts to resolve the matter before filing these proceedings, etc.	
Wrongdoers	Gregory Henley, Dr. Susan Raphaely, and Raul Rios	
FMLA retaliation & ADA harassment	<p>Administrator Raoul Rios told the timekeeper, Sarah Jane Robinson, that he wanted to designate Claimant AWOL ("Absent Without Leave") for intermittent FMLA leave she had taken, which had been approved. Ms. Robinson told Mr. Rios that that would be improper, so Mr. Rios asked H.R. if he could designate Claimant as AWOL. H.R. sent Claimant an email stating that her FMLA had not been approved. Thus, Claimant sent Lorrie in H.R. a copy of the FMLA paperwork she had previously submitted, and was told that her request was being "processed".</p> <p>This continued harassment and retaliation caused Claimant additional stress and aggravation – having to prove that she was not AWOL when she took FMLA leave.</p> <p>Timekeeper Robinson told Claimant that, of all the Cleveland VA employees who take FMLA leave, Claimant was the only one being aggressively pursued.</p>	January 2023

FMLA retaliation & ADA harassment	Greg Henley sent Claimant an email stating that, within 15 days, she was to submit a doctor's note for her absences, including time she had taken off in January and February, and further stating that any time not accounted for would be considered AWOL. What if Claimant's doctor was out of town? What if Claimant was unable to obtain the doctor's notes within 15 days? Henley should have asked the timekeeper if Claimant had submitted the correct documentation instead of harassing Claimant about it, at which time he would have learned that, yes, she had already submitted the appropriate documentation.	February 21, 2023
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This continued retaliation – threats of being designed AWOL and then terminated – caused Claimant additional emotional distress and caused flare-ups of the condition for which Claimant takes intermittent FMLA leave.

FMLA & ADA Harassment, Retaliation	Raoul Rios texted Claimant at 7:15 AM , while she was out on approved sick leave, asking her if she was coming to work the following day. Claimant said yes – that she wanted to finish out the week. She also asked him if she needed to submit any documentation and why he was texting her. Raoul responded that she needed to identify a retirement date and an employee clearance process . In response, Claimant explained that she was on approved leave. Raoul advised her to call HR, and told her that she “better be coming to work until her separation date is official”, or she would “AWOL.”	March 16, 2023
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It was inappropriate for Raoul to text Claimant when she was on approved leave – especially at 7:15 AM. **He is not her immediate supervisor.** Moreover, both Raoul and Greg Henley are aware that Claimant is on an approved leave. Yet, Raoul texted her early in the morning to harass her.

Constructive leave without pay	Claimant felt so threatened, stressed, and emotionally and physically harmed by Greg Henley's and administrator Raoul Rios's incessant efforts to find a way to designate her AWOL, terminate her employment, and cause her to lose her pension (all condoned by Dr. Raphaely), that she went out on leave without pay and began the process of applying for disability retirement. If it isn't approved, Claimant will have been constructively discharged because she cannot return to the hostile work environment in which she has worked for the last 3+ years. No reasonable person under these circumstances would be able to do so. The stress from her job has clearly caused a decline in her emotional and physical health.	March 17, 2023
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On March 20, 2023, while on leave, Claimant was required to attend a conference call with her supervisor and 3 other people – without knowing who they were and without any advance notice. In fact, at the time of the unannounced call, she was driving to her doctor's office and had to pull over to talk. During the phone call, Claimant was informed that, if she was going to be out for more than 30 days, the front office would have to sign

off on it and it had to be approved by her chief and director.