

## Labor Law: Court Discusses Nurses' Union's Legal Duty Of Fair Representation.

A nurse sued her own union when she was terminated from her position after thirteen years at the hospital, allegedly due to the hospital's failure to provide her with reasonable accommodation under the US Americans With Disabilities Act.

Although the union did file a grievance on her behalf, her lawsuit claimed the union did not conduct an appropriate investigation, did not notify her to appear at the Step 1 and Step 2 grievance hearings and did not present evidence in her absence to corroborate that her termination violated the hospital's own internal human resources policies, the collective bargaining agreement and state and Federal law.

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***The nurse alleged that prior to her termination she notified her union she was facing termination and asked the union to file a grievance on her behalf.***

UNITED STATES DISTRICT COURT  
NEW YORK  
May 11, 2010

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The US District Court for the Northern District of New York ruled that the nurse's allegations against her union stated valid grounds for a lawsuit and that the lawsuit will go forward to determine if the allegations can be proven.

As exclusive bargaining representative, a nurses' labor union is required by law to serve the interests of all its members without hostility or discrimination, to exercise its discretion with complete good faith and honesty and to avoid arbitrary conduct, the Court pointed out.

The union's duty to provide fair representation is especially acute when a member has been terminated or is facing termination from employment. Passante v. NY State Nurses Assn., 2010 WL 2425953 (N.D.N.Y., June 11, 2010).