

Accommodation of environmentally sensitive people in a court of justice

A request for accommodation under the Americans with Disabilities Act (ADA) was successfully filed for better access to a courthouse.

Keywords: environmental illness, multiple chemical sensitivity, MCS, electrical sensitivity, EHS, accommodation, Americans with Disabilities Act, ADA, court, courthouse, courtroom, public building

The need for accommodation

People with multiple chemical sensitivity (MCS) or electrical hypersensitivity (EHS) often have to avoid many public buildings. But sometimes it is unavoidable, such as when attending a hearing in a court of justice.

In this case, the defendant and multiple witnesses for the defendant had MCS and/or EHS, and the court hearing was expected to last several hours. The hearing was in a small courthouse with only one courtroom. It was considered asking if the hearing could be held outdoors, but that was not realistic. The defense attorney informally discussed the issue with the judge and offered to host the session at a different location, but the judge didn't agree to it. The judge uses various recording and office equipment at his podium, which all would have had to be moved, so the refusal was reasonable.

The courtroom was visually inspected and sniffed days before the hearing, but the EMF levels were not measured. The room didn't smell moldy, fragranced or have much odor to it and the staff explained that their computers did not use any wireless communication. However, there were no windows, the witness stand was right next to the judge's electronic equipment, and there was overhead fluorescent lighting. There was also a large electronic clock, which was right next to the witness stand and about 8 feet from the defense table.

A paralegal working for the defense attorney wrote the following request, which was submitted on the attorney's letterhead:

REQUEST FOR ACCOMMODATIONS

COMES NOW Defendant, by and through counsel undersigned, hereby requests this court to make accommodations for Defendant's upcoming hearing due to the fact that Defendant and many of the witnesses for this case are environmentally sensitive.

Defendant hereby requests the following accommodations:

1. Disclose the schedule for insecticide spraying in the building (over the last 2 months).
2. Turn off all fluorescent lighting in the courtroom. Defendant will bring a lamp for the Plaintiff's table, the Defendant's table, and one for the Judge (as required for safety).
3. Turn off the Judge's clock
4. Allow Defendant to measure the electromagnetic emissions in the room prior to starting the hearing (including near the witness chair).
5. Allow the witnesses to testify from the Defendant's table as necessary.
6. Allow the witnesses to wait outside, and enter when called to the witness stand.
7. Expedite the hearing to allow only 30 minutes of testimony for each side, so that Defendant has to spend a limited amount of time in the courtroom.

The court responded back in writing, which included these words:

Court's own motion: to clarify time restraints at hearing

IT IS ORDERED:

Insecticide spray has not been used at the court since about 2008 [i.e. 5 years before] to the Court's knowledge. Fluorescent lights may be turned off in the courtroom. Defense may provide lamps if desired. The court's digital clock may be used without display. Electromagnetic emissions in the courtroom may be measured at the defense expense/discretion prior to the hearing. Witnesses have not been required and will not be required to wait inside the court to testify. All witnesses, including the defendant, must testify from a location best suited to have their voice audibly recorded and heard by the opposing party and must be located to be clearly seen by the opposing party.

On-site preparations

Two helpers arrived early and brought along five portable lamps and several long extension cords. Desk lamps were put on the judge's podium, the defense table, and the plaintiff's table. The most powerful lamp was placed near the witness stand and pointed at the ceiling, to provide general illumination, as well as illumination of the witness stand. A lamp with a clamp was clamped onto a chair in the spectator section and directed on the wall for general illumination.

The court room was about 20x40 ft. (7x13 m) with lightly colored walls and ceiling, so the five lamps provided sufficient illumination. Battery-powered lanterns were available to the audience, but were never used.

The electrical environment was measured with the fluorescent lights off. The overall radio-frequency and low-frequency magnetic fields were low for such a building (about 0.01 microwatts/m² and 0.1 milligauss), though the level of dirty electricity was extreme (above 2000 GS units).

The witness stand was indeed "hot" (up to 8 milligauss), while the defense table was the safest seat in the room, so it was fine for people with EHS to testify there.

All the microphones used a cable, none were wireless. The judge's big clock did not radiate, so it was not necessary to turn it off.

The room was better than expected, but still not suitable for people with severe environmental illness to spend hours inside.

During the hearing

The judge decided to reject the defense's request for an expedited hearing, which would only allow 30 minutes of testimony. Instead, the judge limited each witness to 30 minutes.

The defense didn't need to call any witnesses, so there was no need for the alternative witness stand.

The environment in the room was pretty good, just not good enough for the four hours the hearing took. The witnesses and the audience were free to go in and out as they pleased, without disturbing the proceedings. Some spent most of the time on the porch of the courthouse. Two wore masks to protect against the fumes. It was important that the witnesses kept their minds as crisp as possible, in case they were needed.

The Defendant could not leave and just had to endure it. The lack of fluorescent lighting helped.

Notes

Various details and names have been omitted to protect privacy. Some details have been changed for brevity and clarity. The defendant was exonerated.

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