

# Court sides with worker treating disabled relative

By Matthew Blake  
Daily Journal Staff Writer

**T**he failure to accommodate a worker who cares for a disabled relative or perhaps a friend is discrimination under state law, a California appellate court ruled Monday in a groundbreaking interpretation of the Fair Employment and Housing Act.

The 2-1 ruling by the 2nd District Court of Appeal regarding the firing of a truck driver who gave his son dialysis treatment could open the floodgates for a new type of employment discrimination, lawyers said Tuesday. *Castro-Ramirez v. Dependable Highway Express Inc.*, 2016 DJDAR 9032.

"This is an important and potentially far-reaching case for employees with disabled relatives in need of specialized care," said Lee R. Feldman, a plaintiffs' lawyer at Feldman Browne Olivares APC. "We have had dozens and dozens of calls from employees with similar family care issues."

Paul W. Cane, an appellate defense specialist at Paul Hastings LLP, said he has not seen the situation arise very much, "But it certainly could spread, if it becomes law that employers must accommodate the disabilities of persons other than employees themselves."

When Dependable Highway Express Inc. hired Luis Castro-Ramirez as a regional driver in 2010, they accommodated Castro-Ramirez's desire to work shifts earlier in the day in order to administer his son's dialysis treatment.

Castro-Ramirez's son required

daily dialysis and he was the only family member trained to administer the treatment.

But by 2013, the truck driver clashed with a new supervisor who wanted him to work shifts into the evening. The company fired Castro-Ramirez in 2013 when he refused to take on a late-night shift.

Castro-Ramirez sued for wrongful termination, disability discrim-

inated California case has determined whether employers have a duty under FEHA to provide reasonable accommodations to an applicant or employee who is associated with a disabled person," Flier wrote.

In reversing Fruin's summary judgment order, Flier concluded that it is a triable issue whether "plaintiff's association with his

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ination, and retaliation.

Los Angeles County Superior Court Judge Richard L. Fruin granted Dependable Highway Express's motion for summary judgment, citing in part Americans with Disabilities Act cases that say disability accommodation does not extend to associates of the disabled.

But in writing the appellate court's majority opinion, Justice Madeleine Flier pointed out state disability law may provide further protections than federal law in some instances. Flier acknowledged no court has decided if accommodating the associate of a disabled person is such an instance.

"We first observe that no pub-

disabled son was a substantial motivating factor" in firing Castro-Ramirez.

Justice Laurence D. Rubin concurred, while Justice Elizabeth A. Grimes authored the dissent. "I see no reason to construe FEHA departing from the ADA on this issue," Grimes wrote.

A. Jacob Nalbandyan of Employees' Legal Advocates represented Castro-Ramirez, and Don Willenberg of Gordon & Rees LLP represented Dependable Highway Express. Messages left with the lawyers Tuesday were not returned.

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