

# Former Napa County deputy DA awarded thousands in disability discrimination case

[Maria Sestito](#) Feb 28, 2018

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Jose Rossi

Contributed

A jury awarded former Deputy District Attorney Jose Rossi \$570,081 in a discrimination case against his former employer, Napa County, in Napa County Superior Court on Tuesday.

Rossi, who worked for the DA's Office from 1993 until 2015, filed his suit against the county in July 2015, alleging that he was discriminated against based on his age, disabilities, and for openly supporting the incumbent district attorney's opponent in an election.

After more than two weeks of trial, the jury found that Napa County had discriminated against Rossi because of his disability, but that it wasn't why he was fired. The jury found that the county's motivation and reasoning for firing Rossi was retaliation due to his opposition to its violation of the Fair Employment and Housing Act. The jury did not think the county retaliated against Rossi for political reasons.

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“I have waited three long years to clear my name,” Rossi said in a statement Wednesday. “I feel vindicated and thankful. I hope this will never happen to another employee in the District Attorney’s office.”

“This sends a message that those charged with doing justice and enforcing the law must do justice for their own employees and enforce the laws protecting disabled employees,” Rossi’s attorney, Jody LeWitter of Siegel LeWitter Malkani in Oakland said. “The District Attorney’s office is not above the law.”

The DA’s Office did not provide a comment. But Kristi Jourdan, public information office with Napa County, provided this statement:

“We are aware of the verdict and disagree with it. There are post-trial motions being considered that preclude us from talking further about this case.”

Rossi, who was 55 years old when his employment was terminated, was diagnosed with carpal tunnel syndrome and, in the fall of 2013, requested reasonable accommodations for it and another disability. The accommodations included restricted typing, training on speech recognition software and access to bathroom facilities.

Around that same time, the electoral race for DA, held by former DA Gary Lieberstein, was occurring, according to Rossi’s suit. Rossi publicly supported Lieberstein’s opponent, Tom Kensok, which, the suit alleges, upset Lieberstein.

In the meantime, Rossi was transferred from the general felonies assignment, where he had been for more than 15 years, to the Napa Special Investigations Bureau, which, contrary to his accommodation requests, was more writing intensive, according to the suit. In addition to that, the suit alleges, he received only limited training on the speech recognition software.

Rossi was out on leave for six weeks in January 2014 after having surgery related to a cancer diagnosis. When he returned to work, the suit alleges, despite repeated requests, he was still not being accommodated for his disabilities. He went out on temporary medical leave in July to focus on recovery and when his doctor said he could return to work in August, the county refused to let him return to work, according to the suit.

He had been told by the county's Human Resources department that his work space was moved to the library due to the earthquake and that the space might not be able to fit his computer, according to the suit.

After various meetings, when he was still not allowed to return to work, Rossi went to the California Department of Fair Employment and Housing and received a right-to-sue notice. In November, Rossi had an attorney send a letter to the county requesting that he be able to come back to work. He then was told he would be able to return to work with all his accommodations at the end of the month.

Those accommodations, though, were not made, according to the suit. And, on Dec. 19, 2015 the county provided Rossi with a notice of intent to terminate and placed him on administrative leave.

His employment was terminated Jan. 20, 2015.

Lieberstein, who no longer works for the DA's Office, said that the office tried to accommodate Rossi's needs to the best of its ability. He said that Rossi was fired for performance issues including failing to file responses to motions, putting improper information in a complaint, and, in general, not acting competently in some cases. The last straw, Lieberstein said, was when Rossi knowingly allowed an innocent man to sit in jail for more than 24 hours.

In response, LeWitter said that Rossi was looking into the case. Lieberstein had wanted to fire Rossi long before that, she said, and that was just pretext for it.

LeWitter said that she feels good about the award — \$470,081 in past economic loss and \$100,000 in future economic loss.

“I think it’s really important to show that everybody’s gotta reasonably accommodate people and not have attitude about it,” she said. According to LeWitter, Rossi, now 59 and still living in Napa, has been unable to find another job since being fired.