

Testimony  
For  
John W. Fenwick  
March 17, 2010  
For  
The Office of Risk Management  
The Committee on Government Operations

Points to be address

Third Party Administrator:

Should not be aloud to handle Government Employees (Public Service) cases they should only handle the Private Sector.

Office of Risk Management:

Has remove the workers from the claimants and they need to ad a personal touch because the claimants are people many times with families. If you work closely and more timely with a case rehabilitation and return to employment may be obtained more timely. Also the ORM has changed the Claims number three (3) times without notification. So what case information was changed as well without notification.

The ORM has changed the rules for Recurrences in the past when a claimant medical condition flared up you could submit a Stander Form CA-2a Notice of Recurrence of Disability.

On a personal note the Office of Risk Management terminated my disability benefits after five (5) years during this five (5) year period with them I have had to wait for approvals, wait for bills to be paid, contact them with very little feed-back, have them make corrections even after the Office of Hearings and Adjudication has stated and only one of four corrections made before termination of benefits, I have been dealt with rudely by the TPA (Rick Bosley), had 11 case managers in five year period. And because of pre existing on the job injuries which should be worthy compensation I have been certified permanently disabled with the D.C. Department of Motor Vehicles since 1997 which is in conflict with the ORM's decision and before I stopped working. I was terminated from my benefits with a doctor's report with the wrong name on it. The ORM had my OPF (official Personnel Folder) retired and there was no separation meaning there is no 52 or Form 1 terminating me as and employee. I made attempts to return to work and the ORM drop the ball and these attempts lead to almost termination of benefits and finally termination of benefits in 2006. The results this termination of benefits has effected my whole family in many ways the snowball effect. I presently have Disability-Based Discrimination Complaint with the D.C. Office of Human Rights.

And I would like to thank you for this time. Please add to the record the attached Exit Letter and Notice of Right to File a Discrimination Complaint, Chronology letter, and letter to the Inspector General.

# EXIT LETTER AND NOTICE OF RIGHT TO FILE A DISCRIMINATION COMPLAINT



CONFIDENTIAL

<b>FROM:</b> David Z. Prince Equal Employment Opportunity Manager/Officer	<b>DATE:</b> January 27, 2010
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**TO:** John W. Fenwick II  
435 Quincy Street, Northwest  
Washington, DC 20011

**BY:** HAND-DELIVERY

Received By:

*John W. Fenwick II*  
1-27-10

**Re:** DISABILITY-BASED DISCRIMINATION COMPLAINT

Dear Mr. Fenwick:

This exit letter is notice that the final counseling/consultation interview has been held or, more than THIRTY calendar (30) days have elapsed in connection with the matter you presented to me as your EEO Counselor on JANUARY 21, 2010. At that time, you complained of DISABILITY-BASED DISCRIMINATION because your employer refuses to reinstate your employment

You visited the Department of Mental Health, Equal Employment Office on January 21, 2010 and today, January 27, 2010, to provide information to support your contention that the Department of Parks and Recreation is violating your human rights.

Since I did not resolve your request, you are entitled to file an individual or class-based discrimination complaint with the District of Columbia, Office of Human Rights.

The complaint may be based on: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, physical or mental disability, matriculation, political affiliation, family and medical leave act and/or reprisal, and other protected class categories, with the District of Columbia, Office of Human Rights (OHR) within FIFTEEN (15) calendar days of your receipt of this letter.

You may present this letter to the Intake Office at the address below:

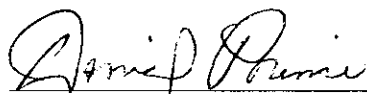
D.C. Office of Human Rights  
441 4<sup>th</sup> Street N.W.  
Suite 570 North  
Washington, DC 20001  
Phone: (202) 727-4559  
[www.ohr.dc.gov](http://www.ohr.dc.gov)

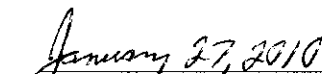
A complaint shall be deemed timely if it is received or postmarked before the expiration of the 15-day filing period, or, in the absence of a legible postmark, if it is received by mail within five days of the expiration of the filing period. If the complaint is not filed within the 15 calendar days, the complaint shall be dismissed by OHR as untimely. The complaint must be specific and contain only those issues either specifically discussed with me, or issues that are like or related to issues that you discussed with me.

If you retain an attorney or any other person to represent you, you or your representative must immediately notify the D.C. Office of Human Rights, in writing. You are also required to provide change of address and/or telephone information. You and/or your representative will receive a written acknowledgment of your discrimination complaint from the appropriate OHR agency official.

Thank you for your attention.

Sincerely,

  
\_\_\_\_\_  
(FEO Manager Signature)

  
\_\_\_\_\_  
(Date)

Cc: Files

January 14, 2010

Facts in chronological order for Disability Case  
For  
John W. Fenwick II  
The DC Department of Recreation and Parks

History: May 12, 1984 fell through the bed of a DC Government Stake Body Truck RC-173 and 240 lbs. of stage platforms fell over on to my upper body. The injuries sustained were to my head, neck, lower back, and leg. Chronic pain was the outcome. January 30, 1986 received another on the job injury due to a fall on ice. Injuries consisted of lower back and right buttocks. There were other injuries on the job due to the high impact nature of being a Recreation Specialist. (Details upon request) February 2, 1997 I sustained another lower back injury due to faulty steering on a Bus, another DC Government Vehicle. At this time my disability status was deemed permanent with the DC Government Department of Motor Vehicles. October 16, 1999 the DC Government Vehicle I was operating was struck from the rear by another vehicle injuring my back and neck some more. Disability causing problems on the job April 24, 2000. On October 10, 2000 while on duty at the DC Government facility I work at I injured my right shoulder while trying to open the door on the field house when a part of the ceiling fell on my right shoulder. I was placed on Worker's Compensation but still working.

Background: October 14, 2000 at the end of my work day while attempting return the DC Government Vehicle I was operating. There was an accident with another vehicle that failed to stop for a stop sign. I received injuries to my hands, arms, head, neck, and back. The passenger from the other vehicle received fatal injuries at the scene. And I witness this fatality which has haunted my everyday since the accident. I was placed on Administrative leave through the investigation.

November 14, 2000: Claim Accepted date of injury 10/14/2000 # 012314.

November 29, 2000: Claim for stress denied date of injury 10/14/2000 # 012314.

On February 5, 2001: I return to work with a letter from my doctor to have me placed on light duty.

February 8, 2001: A letter from the DC Department of Parks and Recreation having me placed in the DC Disability Program.

March 14, 2001; Filed for Formal Hearing with the Office Hearings and Adjudication.

March 27, 2001: OHA Order reversing November 29, 2000 Claim for stress denial.

March 4, 2002: Wrongful Death case moving forward Tarifa Coaxum, Assistant Corporation Counsel.

October 2002: I contacted the Office of Risk Management and the DC Department of Parks and Recreation about trying return to work. (Mrs. Ruby Smith files should confirm)

January 25, 2003: Letter to report for Independent Medical Exam.

February 25, 2003: Went on Independent Medical Exam.

March 12, 2003: Second letter to report for Independent Medical Exam.

March 28, 2003: Second Independent Medical Exam.

April 2, 2003: Letter from Office of Risk Management Intent to Terminate Disability Benefits.

April 7, 2003: I filed for Reconsideration Office Hearings and Adjudication.

April 9, 2003: I filed for Reconsideration D.C. Disability Compensation Program.

June 4, 2003: Pre Hearing meeting at Hearings and Adjudication. In attendance ALJ Fred D. Carney Jr. OHA, Gail L. Davis for the Employer, John W. Fenwick II Pro Se. At this meeting facts were discovered that the Third Party Adjuster had made numerous mistakes.

1. Had claimants name wrong *James* Fenwick instead of John Fenwick on some of the paperwork.
2. Filed agency as Housing Authority instead of Parks and Recreation.
3. Working with wrong file from a closed case dated October 16, 1999. Benefit checks statements will reflect this issue.
4. Amount of Benefits was incorrect based on claimant's salary.
5. IME report was not reliable because of wrong name *James* Fenwick instead of John Fenwick.
6. Claimant was trying to return to work and asked Third Party Adjuster for vocational rehabilitation. (Mrs. Ruby Smith files should confirm)

June 5, 2003: The Office of Hearings and Adjudication remanded the case back to the Office of Risk Management for corrections.

January 7, 2004: Receive Medical Authorization, D.C. Disability Compensation Program.

June 10, 2004: Wife diagnosed with stage III breast Cancer needed daily attention till December 31, 2004. (Notified the D.C. Disability Compensation Program of status).

August 11, 2004: Doctor recertified Disability.

September 17, 2004 Recertification permanent disability with the DC Government Department of Motor Vehicles. For Depression due to chronic pain.

October 15, 2004: Had to appear at Maryland District Court because DC Government Department of Motor Vehicles wrongfully suspended diver's license.

January 2005: Contacted Office of Risk Management about returning to work, retroactive benefits, and benefit corrections. Nina Hill claims adjuster at this time.

January 2005 till September 2005 no contact from the Office of Risk Management.

September 2005: Contacted Office of Risk Management about returning to work, retroactive benefits, and benefit corrections. Betty Phillips claims adjuster at this time.

November 4, 2005: Contacted Office of Risk Management about returning to work, retroactive benefits, and benefit corrections. Spoke with Betty Phillips and Rick Bosley.

November 9, 2005: Memorandum from the DC Department of Recreation and Parks to the Office of Risk Management to verify the Tour of Duty for benefit corrections.

March 30, 2006: Notice of Intent to Terminate Disability Compensation Payments. Note this was mailed to an address reflecting incomplete file.

April 19, 2006: I filed for Reconsideration D.C. Office of Risk Management but not accepted Betty Phillips and Rick Bosley stated I had filed one on April 9, 2003.

April 28, 2006: Termination of Disability Compensation Payments. Mail to the wrong address after notifying ORM of the previous mailing mistakes. (Returned to sender)

May 5, 2006: Filed Application for Formal Hearing OHA.

May 24, 2006: Request for help to Councilmember Adrian Fenty through Throne Pozen.

June 2, 2006: Order OHA for Hearing on July 20, 2006

June 8, 2006: Letter to Councilmember Adrian Fenty from Richard A. Bosley ORM.

June 26, 2006: D.C. Government filed for a Continuance and was granted.

July 6, 2006: Written request submitted to ORM to review my files for my case denied.

July 18, 2006: Letter to ALJ David L. Boddie OHA from Libby C. Morris Unite Manager, DC Department of Parks and Recreation.

September 26, 2006: Formal Hearing at OHA. In attendance ALJ David L. Boddie OHA, Ross Buchholz for the Employer, John W. Fenwick II Pro Se.

September 26, 2006: Judge David L. Boddie granted claimant till 9/29/06 to provide evidence of Denial for stress was reversed, the Order dated November 29, 2000 allowing Claimant to undergo psychological or psychiatric treatment.

September 29, 2006: VIA Hand Delivery with certificates of service to the Office of Hearings and Adjudication and the Office of the Attorney Generals, Order dated November 29, 2000 allowing Claimant to undergo psychological or psychiatric treatment.

August 18, 2006: Filed Motions with VIA Hand Delivery with certificates of service to the Office of Hearings and Adjudication and the Office of the Attorney Generals.

August 28, 2006: The Office of the Attorney General had not contested Claimants Motions within the ten day period as required by law.

NOTE: No activity in case from 9/29/06 till 6/4/07.

April 9, 2007: Hearings on Government Operations John A. Wilson Building.

June 5, 2007: Letter from Blair J. Miles about reassignment of Hearing.

June 19, 2007: Show cause Order which states no new evidence will be introduced at this time only John Fenwick and Craig Herwig for the Employer are to testify.

July 26, 2007: Second Formal Hearing in attendance ALJ Terri Thompson Mallett OHA, Gail Elkins for the Employer, John Fenwick Pro Se. The Governments witness failed to appear and Judge Mallett failed maintain her own Order.

August 15, 2007: Judge Mallett ruled in the Governments favor.

September 5, 2007: John Fenwick appealed decision with the Executive Office of the Mayor. Using DC Code § 1-623.24(d)(4). The Mayor or his or her designee determines based upon strong compelling evidence that the initial decision was in error.

October 3, 2007: Survey from D.C. Office of Risk Management.

October 10, 2007: Response to survey from D.C. Office of Risk Management.

November 27, 2007: Letter from Mayor Fenty to Kelly Valentine ORM.

December 4, 2007: Letter from Kelly Valentine to Mayor Fenty.

December 29, 2007: Appealed to the Mayor's Office again.

February 7, 2008: Letter from General Counsel to the Mayor Garrett L. Lee.

April 7, 2008: Hearings on Government Operations John A. Wilson Building.

April 12, 2008: Appealed to the Mayor's Office again.

July 22, 2008: Working with Joseph Martin Executive Office of the Mayor.

July 29, 2008: Meeting with Mayors new General Counsel Chip Richardson.

August 13, 2008: Appeal through the DC Office of Disability Rights.

September 11, 2008: Letter from DC Office of Disability Rights to contact ORM.

September 17, 2008: Meeting with Congressional Representative Danny K. Davis.

November 17, 2008: Letter from Congress to Mayor Fenty requesting him to meet with my committee.

November 24, 2008: Request for meeting Mayor.

April 28, 2009: Hearings on Government Operations John A. Wilson Building.

April 28, 2009: Filed Official request for meeting with Mayor Fenty. . Using DC Code § 1-623.24(d)(4). The Mayor or his or her designee determines based upon strong compelling evidence that the initial decision was in error.

May 11, 2009: Filed complaint with DC Inspector Generals Office.

June 1, 2009: Filed Official request for meeting with Mayor Fenty.

June 19, 2009: Filed for meeting with City Administrator Office.

June 29, 2009: Requested meetings with Councilmember's Vincent Gray, Mary Cheh, and Marion Barry.

September 9, 2009: Filed Official request for meeting with Mayor Fenty. . Using DC Code § 1-623.24(d)(4). The Mayor or his or her designee determines based upon strong compelling evidence that the initial decision was in error.

September 16, 2009: Turned in information to City Administrator Office for review. That office stated it would complete its review on 10/16/09 and if they could not resolve the issues we would have the Right to file for new Hearings. Robert Throne.

September 17, 2009: Meeting with Harry Thomas, Jr. office with Neil Rodgers.

October 2, 2009: Received information from the DC Inspector Generals Office.

October 16, 2009: The City Administrator Office informed us that Mr. Throne had been transferred to a new Office.

October 20, 2009: Letter to Charles J. Willoughby about case.

October 27, 2009: Reopened case with Inspector Generals Office.

November 23, 2009: Transferred information from City Administrator Office for review with ORM Office of Risk Management.

January 14, 2010: Intake with DC Office Human Rights asked to see another EEO.

January 21, 2010: Meeting with a D.C. EEO.

January 22, 2010: Reviewed OPF at D C H R 441 4<sup>TH</sup> STREET N.W., 330S

January 25, 2010: Requested copy of OPF under the Freedom of Information Act.

January 27, 2010: Exit meeting with D.C. EEO.

January 27, 2010: Received copy of OPF under the Freedom of Information Act.

Revised 1/26/10  
Revised 1/27/10

I personally feel that the Government should not have the right to change Claims Numbers with out notification. When my Claim was accepted for 10/14/2000 the tracking claims # was 012314. The Third Party Adjuster in the year 2003 used LTUNK000855 and a recorded service date of 10/16/1999. That particular service date was officially closed in the year 1999. The records will reflect that the Third Party Adjuster was using that service date in 2002 and 2003 indicating incorrect files *i.e.* Benefit Statements reflects 10/16/1999 date. In March of 2006 the Notice of Intent to Terminate Disability Compensation Payments used 761013-0004-2001-0001 as the claims number. Not at any time did the Office of Risk Management notify me of claims identification numbers changes or any changes in my claim. Respectfully the DC Department of Recreation and Parks in-trusted my incurred risk to ORM the Office of Risk Management.

October 20, 2009

To: Charles J. Willoughby  
Inspector General  
Government of the District of Columbia  
717 14<sup>th</sup> Street N.W.  
Washington D.C. 20005

From: John W. Fenwick II  
Disabled D.C. Worker/Resident  
435 Quincy Street N.W.  
Washington D.C. 20011

Subject: Response of Kelly Valentine, Director Office of Risk Management in the reference to OIG Control Number 2009-0382.

Dear Mr. Willoughby:

After the review of the documents from the Office of Risk Management Ms. Valentine negated to respond to the issue. Director Valentine sent documentation which I still allege to be inaccurate. There are a number of flaws in the information provided by the ORM because of the snowball effect. Not in any of the documentation dose it address the issue of my termination of benefits using a medical report applicable to a different person named *James* Fenwick. On June 4, 2003 the Office of Hearings and Adjudication deemed this report not reliable. Because of this inaccurate information and other mistakes the case was remanded back to ORM on June 5, 2003 from OHA. If possible I would like to meet with one of your Inspectors to review all of the facts in my situation. There is spoliation of evidence by the OAG office by Gail L. Davis and Ross Buchholz which I do intend to contact the DC Bar Counsel. Also ALJ Terri Thompson Mallett decision needs to be vacated due to the spoliation of evidence by the OAG. And through the whole process the ORM has been very disingenuous. I would like to thank you and your office for any help in these matters. I can supply documentation upon request to prove these statements. Although not under oath it was my belief that the OAG's were to uphold the truth.