

## Ex-associate says law firm failed to accommodate her sleep disorder

*Bingham McCutchen says the firm was responsive and the lawsuit has no merit.*

By Casey Sullivan  
Daily Journal Staff Writer

**A**n ex-Bingham McCutchen LLP associate is suing her former firm in Los Angeles County Superior Court for wrongful termination, claiming she lost her job because of a sleeping disorder Bingham didn't want to accommodate.

In her 33-page complaint, filed Monday, 34-year-old Hartwell Harris suggests her former firm could have allowed her to work from home, in keeping with her doctor's recommendation, but instead refused to provide reasonable accommodations for the effects of her sleeping disorder.

The firm sent her a termination letter in February after she took a 10-month medical leave for the sleeping disorder, called delayed sleep phase syndrome. Harris said in court records that Laura Lemmons, Bingham's national director of benefits and HR systems, turned down her request to work flexible hours or telecommute so that she could return to work.

"By terminating my client, Bingham McCutchen is sending

the clear message to employees that if they have a disability, this is not a place for them to work," said Harris' attorney, Tamara Freeze. "Refusing a [telecommute] request is unreasonable. These requests are commonplace."

**'By terminating my client, Bingham McCutchen is sending the clear message to employees that if they have a disability, this is not a place for them to work.'**

— Tamara Freeze

Freeze said the firm's refusal to accommodate Harris' disorder was a violation of California employment laws.

Harris initially took a leave of absence in April 2010. The firm's insurance provider covered a leave of only six months, but court records indicate Harris' sleeping condition kept her out of work well beyond that timeframe and that she had to switch to unpaid, unapproved leave, which she remained on for the following four months, until Bingham allegedly turned down her telecommute request and terminated her employment.

"Bingham took Ms. Harris' requests for accommodation seriously and accommodated them reasonably," said Bingham spokesperson Eric Miller in an emailed statement. "It's unfortunate that Ms. Harris selected this course, and we look forward to a favorable resolution of this matter."

In an additional separate claim, Harris is suing Bingham for defamation based on comments made by partners Jonathan Loeb and Seth Gerber in a 2009 performance evaluation that indicated she acted unprofessionally at work.

"Six weeks later, [Harris] received a vague explanation that a partner had received information from an associate, who had no firsthand knowledge about the matters, that the reporting associate had 'heard from another associate' about some alleged concerns," the lawsuit said. "Clearly Bingham was trying very hard to find an issue with [Harris'] performance so as to disguise its discriminatory animus and retaliatory motive."

Harris was employed with Bingham for three years and had received good performance evaluations, pay raises and bonuses, apart from the 2009 evaluation, according to court documents.

Bingham spokesperson Miller declined to comment about the defamation claim.

casey\_sullivan@dailyjournal.com

## Judge dismisses privacy class actions against Facebook, Zynga

By Craig Anderson  
Daily Journal Staff Writer

**A** San Francisco federal judge dismissed class actions Tuesday that claimed Facebook Inc. and Zynga Game Network Inc. violated users' privacy by transmitting personal information to advertisers without their consent.

In the Facebook case, U.S. District Judge James Ware previously had tossed out a number of claims

Communications Act or the Wiretap Act.

Ware agreed with the assertions of Cooley LLP partners Michael G. Rhodes and Matthew D. Brown that the intended recipient of communications by Facebook users who clicked on advertisements on the site was either Facebook or the advertiser.

Either way, Facebook is in the clear.

"We are very pleased with the judge's ruling," Rhodes said in a

Duane Morris LLP, Ware wrote.

Ware also dismissed other claims in the litigation, including breach of contract, because the plaintiffs failed to demonstrate they suffered any actual damages.

Nassiri & Jung LLP and two other firms represented the plaintiffs in the Facebook case. *In re Facebook Privacy Litigation*, 10-2389 (N.D. Cal., filed May 28, 2010).

Wolf Haldenstein Adler Freeman & Herz LLP of Chicago and several other firms represented the plain-