

Former radio DJ claims she was fired after seeking to work from home

by [Judy Harrison](#) August 29, 2022



Randi Kirshbaum broadcasts remotely from her home for out-of-state radio stations as her dog Grady rests at her feet.

The 68-year-old has sued her former employer, the Portland Radio Group, alleging that they refused to allow her to work from home, as her doctor advised, during the early days of the pandemic. Credit: Courtesy of Randi Kirshbaum

A Hancock County woman who worked at Portland radio stations for 38 years claims in a lawsuit she was fired illegally after she refused to return to working in the stations' office during the early days of the COVID-19 pandemic.

Randi Kirshbaum, 68, of Southwest Harbor sought an accommodation to work from home on her doctor's advice rather than in the office in the early months of the pandemic due to her age and family history of pulmonary disease, the complaint said.

Kirshbaum, who was a disc jockey and manager at WPOR and WCLZ, was fired in May 2020 after she sought to continue working from home, according to the complaint. Because of her age and a family history of pulmonary fibrosis that occurs when the lungs become damaged or scarred, Kirshbaum sought to continue working remotely as she had since mid-March, when Gov. Janet Mills declared a state of emergency and, in essence, shut down the state.

The DJ, who previously lived in Scarborough, is asking to be reinstated and is seeking unspecified damages including back pay and benefits and future lost earnings. The stations, part of the Portland Radio Group, are owned by Saga Communications Inc. of Grosse Pointe, Michigan.

Kirshbaum's case is part of a growing number of labor lawsuits nationwide alleging coronavirus-related labor and employment violations.

Such lawsuits in Maine have included allegations that a Cumberland County Jail contractor had her security clearance revoked when she reported concerns about the jail's virus protocols during an outbreak, that a Portland convenience store fired an employee for refusing to serve maskless customers and that a Lincoln supermarket demoted an assistant manager when she reported to management that customers and employees weren't following virus protocols.

Kirshbaum claims that her firing from the radio station violated the Emergency Paid Sick Leave Act, a component of the Families First Coronavirus Response Act and the Emergency Family and Medical Leave Expansion Act, both passed by Congress in response to the pandemic.

Her attorney, David Webbert of Augusta, said Friday that a complaint Kirshbaum filed against Saga with the Maine Human Rights Commission in late 2020 is pending. Once the commission's investigator has filed a report, discrimination claims will be added to the complaint, he said.

Saga, through its attorney, Shiloh Theberge of Portland, denied Kirshbaum's allegations.

"Saga will not comment on this ongoing litigation, except to deny Plaintiff's claims and state that it is planning to vigorously defend itself against those claims," the company said.

Nationally, employment-related lawsuits over work issues during the pandemic are winding their way through the courts but no definitive decisions have been issued, according to Webbert. Several plaintiffs in other states have survived motions to dismiss their cases.

“These plaintiffs will still need to prove liability, but the courts’ willingness to allow them to proceed suggests some viability to these theories,” Webbert said.

The COVID-19 outbreak and its aftermath have made remote work an alternative to having employees perform their duties in an office in many professions.

Before the pandemic, courts often viewed skeptically requests to work from home as a reasonable accommodation under the American with Disabilities Act, finding that in-office work was an essential function of employees’ jobs, Webbert said.

“However, the pandemic has revealed that employees may successfully perform their jobs working remotely,” he said. “Indeed, the Equal Employment Opportunity Commission has stated that the ability to work from home during the pandemic should be considered in assessing the continued viability of remote work.”

Kirshbaum currently works remotely from her home on Mount Desert Island as a music director and on-air personality for radio stations in Baltimore and Vermont.

The case initially was filed in May in Cumberland County Superior Court in Portland. The attorney for Saga on Thursday moved it to U.S. District Court in Portland. An answer to the complaint is due Thursday.