

**SFGate**.com**Fired Neiman Marcus worker can sue, court rules**

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**(09-11) 18:25 PDT San Francisco** -- A longtime Neiman Marcus employee in San Francisco who was fired in 2004 when painful ailments prevented her from working as a clothes-fitter can sue the retailer for discriminating on the basis of disability and her Middle East origin, a state appeals court has ruled.

In a decision made public Thursday, the First District Court of Appeal said Forough Nadaf-Rahrov can try to persuade a jury that Neiman Marcus failed to accommodate her disability by offering her a clerical or sales job when she could no longer do the bending and kneeling required for her previous work.

The court also said Nadaf-Rahrov, an Iranian-American, may be able to prove ethnic discrimination based on evidence that the store fired two other Iranian employees shortly after Sept. 11, 2001, but has provided new jobs to two employees with disabilities who are not Middle Eastern.

Nadaf-Rahrov was hired by Neiman Marcus as a clothes-fitter in Dallas in 1985 and transferred to the San Francisco store at 150 Stockton Street in the mid-1990s. She started experiencing back and joint pain in 1997, was diagnosed with osteoarthritis and carpal tunnel syndrome in 2002, and was placed on medical leave at her physician's recommendation in November 2003.

After the doctor extended her leave several times, the store fired her in July 2004 when her sick leave and vacation time ran out, saying she was unlikely to be fit to return to her job in the near future and was unqualified for any other available position. A Superior Court judge ruled in 2006 that the company had not discriminated, but the appeals court revived the suit and said a jury should decide her case.

Nadaf-Rahrov has regained her health but hasn't found another job, said her lawyer, Daniel Bacon. He said the ruling was "an important victory for people who are disabled" because the court required the company to consult with an employee and her doctor about other available work.

Lawyers for Neiman Marcus were unavailable for comment.

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