

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA  
WESTERN DIVISION**

**MEGAN PURCELL**

**Plaintiff,**

**v.**

**AMERISERVE INTERNATIONAL, INC.,  
and DANA NIELSEN,**

**Defendants.**

No. 1:24-cv-24 \_\_\_\_\_

**COMPLAINT**

**JURY TRIAL DEMANDED**

**NATURE OF THE CASE**

1. This is an employment discrimination case alleging discrimination and wrongful termination based on disability, pursuant to 42 U.S.C. § 12111 *et seq.* (Americans with Disabilities Act, as amended by the ADA Amendments of 2008 (“ADAAA”)), and Iowa Code § 216.6 (Iowa Civil Rights Act of 1965, chapter 216 (“ICRA”)).

**PARTIES AND JURISDICTION**

2. Megan Purcell is an experienced mental health advocate residing in Red Oak, Iowa, who received a diagnosis of colon cancer in late 2023.

3. Ms. Purcell was an “employee” of Ameriserve, and “disabled” within the meaning of the ADAAA and ICRA at all relevant times herein.

4. Defendant Ameriserve International, Inc. (“Ameriserve”) is a provider of residential services to those with intellectual disabilities and is based in Council Bluffs, Iowa.

5. Ameriserve is an entity related to Ameriserve Housing Inc. (“AHI”), a 501(c)(3) organization which claims to spend US taxpayers’ money “Providing clean, safe, affordable housing options for disabled persons.”

6. Ameriserve is an “employer” within the meaning of the ADAAA.

7. Ameriserve is a “person” and an “employer” within the meaning of ICRA.

8. Defendant Dana Nielsen is, and was throughout the relevant period, President and Executive Director of Ameriserve and is a “person” and “employer” within the meaning of ICRA.

9. This Court has jurisdiction pursuant to 28 U.S.C. § 1343, because this matter concerns a federal question of civil rights, and supplemental jurisdiction under 28 U.S.C. § 1367, because the state law claim is sufficiently related to the claim under federal law and is otherwise part of the same case and controversy.

10. Venue is proper in the Southern District of Iowa, Western Division, pursuant to the general venue provision statute, 28 U.S.C. § 1391(b), and 42 U.S.C. § 2000e–5(f)(3), because Ameriserve’s headquarters and principal place of business is in Council Bluffs, Iowa, and all relevant acts occurred there.

#### **AMERISERVE HIRES MEGAN PURCELL**

11. In or around November 2023, Ms. Purcell was offered and accepted full-time employment as a Client Services Coordinator (“CSC”) at Ameriserve, after interviewing with one of Ameriserve’s hiring managers, Area Director Kyle Clemens.

12. At the time Ms. Purcell accepted the offer from Ameriserve, she was employed at Catholic Charities, providing services to victims of sexual assault. She had sought employment

at Ameriserve to further her career because she would have supervisory responsibilities at Ameriserve.

13. A few weeks later, in December 2023, Ms. Purcell put in her resignation at Catholic Charities.

14. The day after putting in her notice of resignation, after a routine colonoscopy, Ms. Purcell learned that she had colon cancer.

15. Ms. Purcell relayed the news of her diagnosis to her then-supervisor at Catholic Charities, Director Carrie Potter. Ms. Potter responded that Catholic Charities would permit Ms. Purcell to retract her resignation, take leave under the Family and Medical Leave Act (“FMLA”), and maintain her current health insurance, in case Ameriserve did anything to compromise her employment status there as a result of the diagnosis.

16. Given Catholic Charities’ offer and the fact that she would not have the job protection of FMLA at Ameriserve, Ms. Purcell told Ameriserve Director Clemens of her cancer diagnosis and impending surgery.

17. Mr. Clemens assured Ms. Purcell that her medical condition would have no impact on her employment at Ameriserve, and shared that he was a cancer survivor to emphasize that her employment was secure. He promised her that her surgery and need for time off for recovery would not cause her to lose her job.

18. When she raised the time off she would require to prepare for and recover from her surgery, scheduled for January 26, 2024, Mr. Clemens pointed out that since she would be in training, which allowed for some remote work and a flexible schedule, Ameriserve would have no difficulty in providing the scheduling and remote work accommodations she would need. Mr. Clemens and Ms. Purcell agreed on January 10, 2024, as her start date.

19. Based on Mr. Clemens' sharing his personal battle with cancer, and his assurance that her surgery and time off for recovery would not jeopardize her job, Ms. Purcell told Catholic Charities Director Potter that she was confirming her resignation from Catholic Charities. She would have rescinded her resignation had Mr. Clemens not provided the assurance he did.

20. At the time Ms. Purcell was scheduled for surgery to treat her cancer, her doctor advised her that many people who have undergone such surgery and, moreover, those undergoing chemotherapy, are able to work while undergoing and/or recovering from such treatments.

21. Indeed, the CSC position for which Ms. Purcell applied included a job description and responsibilities, none of which required a CSC to be physically present at any given location to perform job-related functions.

22. At the time of her hiring, Ms. Purcell could have carried out each of the listed CSC job responsibilities remotely, virtually, and/or by way of a reasonable accommodation.

23. Ameriserve CSCs typically receive a laptop from Ameriserve to carry out their work responsibilities.

24. At the time that Ameriserve hired Ms. Purcell for the position of CSC, she was a "qualified individual," as that term is defined under the ADAAA, and was otherwise qualified to perform the occupation of CSC, by virtue of her training and experience, as provided under ICRA.

25. Ms. Purcell began working at Ameriserve on January 10, 2024.

26. At no time was Ms. Purcell coached, counseled, or even told by anyone at Ameriserve that there were issues with her work performance.

**AMERISERVE FIRES MEGAN PURCELL BECAUSE OF HER CANCER**

27. A Lead Program Coordinator ("the LPC") oversaw Ms. Purcell's position.

28. The LPC reported to Mr. Clemens and to Executive Vice President and Director of Residential Services and Day Habilitation Services Eric Seitz.

29. According to the sworn testimony of the LPC, at some point between January 15, 2024, and January 19, 2024, Ameriserve Executive Director and President Dana Nielsen appeared in an office where the LPC and Director Eric Seitz were meeting. Exhibit A.

30. President Dana Nielsen then stated: “Megan Purcell has cancer. Get rid of her.” *Id.*

31. The LPC responded to Nielsen to the effect of, “She has colon cancer, and has a procedure scheduled to treat it.” Nielsen then replied, “Colon cancer doesn’t just go away. Our insurance policy already went up with [another employee’s] kidney shit. Get rid of her.” *Id.*

32. Cancer is a recognized disability under the ADAAA and ICRA.

33. According to the sworn declaration of the LPC, Dana Nielsen instructed the LPC and Director Seitz to “get rid of” Ms. Purcell within what he claimed was a 30-day probation period. *Id.*

34. According to the sworn declaration of the LPC, the task to fire Megan Purcell fell on Area Director Kyle Clemens. *Id.*

35. On Monday, January 29, 2024, as Ms. Purcell began to recuperate at home from major surgery, she received an email from Clemens—copied to the LPC, Director and Vice President Eric Seitz, and another administrator Alexandria Peterson—stating:

Megan - I hope your procedure went well last week. After careful consideration and discussion, we have chosen to exercise our 30-day probation period option and will be separating your employment with Ameriserve.

*See Exhibit B.*

36. Ameriserve fired Ms. Purcell on January 29, 2024, due to her disability.

37. Ms. Purcell's last full day of work was on January 19, 2024, and as of that date, Ms. Purcell had only worked for 5 (five) days at Ameriserve, all of which were training days.

38. At the time that Ameriserve fired Ms. Purcell, she was a "qualified individual," as that term is defined under the ADAAA, and was otherwise qualified to perform the occupation of CSC, by virtue of her training and experience, as provided under ICRA.

#### **AMERISERVE ENGAGES IN A COVERUP OF ITS ILLEGAL FIRING**

39. According to the sworn declaration of the LPC, several weeks after Ameriserve fired Ms. Purcell, CFO Steve Pearson contacted the LPC to come to his office and sign paperwork regarding Ms. Purcell's termination to make it look as if her termination was the result of an organizational restructuring, necessitated by an allegedly unprofitable 2023. *See* Exhibit A.

40. Ameriserve's revenues increased in fiscal year 2023, relative to the prior year.

41. At the same time Ameriserve fired Ms. Purcell, it advertised open job positions at the company.

42. The LPC, in her sworn declaration, states that she knew that CFO Pearson's explanation of an organizational restructuring and reason for it was "false." *See id.*

43. Ameriserve hired someone who previously held Ms. Purcell's job, Jocelyn Nekuda, back into the same position after Ameriserve fired Ms. Purcell.

44. Prior to hiring Ms. Purcell, Ameriserve was aware of its financial condition for fiscal year 2023, which did not change materially between the date it offered her the position and when Ms. Purcell began working there.

45. After being fired from Ameriserve, Ms. Purcell applied for Unemployment Insurance benefits.

46. As though firing Ms. Purcell after she gave up her health insurance to come work for Ameriserve was insufficiently injurious, Ameriserve concocted yet another fictitious reason for Ms. Purcell's termination. Area Director Clemens filled out a form and submitted it to a state agency, the Iowa Workforce Development Commission ("IWDC"), in an attempt to disqualify Ms. Purcell from receiving Unemployment Insurance benefits. Clemens knowingly and falsely stated to the IWDC that Ms. Purcell was "discharged for [unspecified] misconduct with work." *See Exhibit C.*

47. The IWDC ultimately found Ms. Purcell to be qualified for benefits since "not performing work to your employer's satisfaction [if that were true in Ms. Purcell's case – which it was not] is not misconduct."

48. Ameriserve did not indicate to the IWDC that it had terminated Ms. Purcell as part of an organizational restructuring, as CFO Pearson had stated to LPC.

49. The false filing with IWDF, which contradicts the email Area Director Clemens sent to Ms. Purcell when terminating her on January 29, 2024, and which contradicts the explanation CFO Pearson purported to give to the LPC, is highly probative of Ameriserve's intent to cover up the fact that it discharged Ms. Purcell for an illegal reason.

50. In other words, Ameriserve lied to protect its President, Dana Nielsen, from the consequences of his illegal order: fire someone because of her disability.

51. Termination of an employee because of her disability, and refusing to reasonably accommodate her disability, as was possible in Ms. Purcell's case, is in direct contravention of the basis upon which Ameriserve is permitted to spend U.S. taxpayers' money: serving the disabled.

52. Ameriserve's termination of Ms. Purcell's employment is the cause of significant emotional and economic harm to Ms. Purcell.

53. Ms. Purcell no longer has health insurance, no gainful employment, and suffers significant mental anguish as a result of Ameriserve's actions.

54. On information and belief, undue stress complicates treatment of and recovery from a medical condition.

55. Ms. Purcell has lost sleep, suffered headaches, and gained significant weight as a result of Ameriserve firing her.

#### **ADMINISTRATIVE EXHAUSTION**

56. Within 300 days of the date of the alleged discriminatory actions described herein, Ms. Purcell filed a charge of disability discrimination against Ameriserve and Dana Nielsen with the United States Equal Employment Opportunity Commission, which was cross-filed with the Iowa Civil Rights Commission.

57. The Equal Employment Opportunity Commission issued an Administrative Release (letter of right-to-sue) to Ms. Purcell.

58. Ms. Purcell exhausted all administrative remedies prior to the filing of this cause of action.

#### **COUNT I:**

#### **DISCRIMINATORY DISCHARGE** **IN VIOLATION OF 42 U.S.C. § 12111 ET. SEQ.** **(against DEFENDANT AMERISERVE)**

59. Ms. Purcell incorporates by reference all prior paragraphs.

60. Ameriserve subjected Ms. Purcell to discriminatory discharge in violation of 42 U.S.C. § 12112(b)(5)(B).



61. Ameriserve's conduct constituted illegal discrimination based on Ms. Purcell's known cancer diagnosis, a recognized disability under the ADAAA.

62. Ms. Purcell is a person with a disability, as defined under the ADAAA, 42 U.S.C. § 12102.

63. At the time of her discharge, Ms. Purcell was a "qualified individual," as defined under the ADAAA, because she was qualified to perform the essential functions of the position for which Ameriserve hired her, with or without a reasonable accommodation.

64. Ameriserve terminated Ms. Purcell's employment because of her disability, in violation of the ADAAA, 42 U.S.C. § 12112.

65. As a proximate cause of Ameriserve's illegal actions, Ms. Purcell has suffered significant pecuniary and non-pecuniary damages including lost wages, loss of benefits, loss of promotion opportunities, loss of back pay, loss of future pay, mental anguish, pain, suffering, humiliation and loss of quality and enjoyment of life.

**WHEREFORE**, Plaintiff Purcell respectfully requests that this Court:

1) Enter a declaratory judgment that the actions, conduct and practices of Defendant Ameriserve complained of herein violate the laws of the United States;

2) Enter an injunction and order permanently restraining the Defendant Ameriserve from engaging in such unlawful conduct;

3) Order Defendant Ameriserve to make Plaintiff whole with appropriate lost earnings, future lost earnings, compensation for loss of future pensions and benefits with pre-judgment and post-judgment interest as applicable;

4) Order Defendant Ameriserve to make Plaintiff whole by providing all compensation contemplated under 42 U.S.C. § 12101 *et. seq.* (ADAAA), for non-pecuniary

losses including, without limitation, pain, suffering, inconvenience, frustration, loss of quality of life, humiliation, loss of reputation and mental anguish in amounts to be proved at trial with pre-judgment and post-judgment interest as applicable;

5) Order Defendant Ameriserve to pay Plaintiff punitive damages in amounts to be awarded at trial with pre-judgment and post-judgment interest as applicable and in amounts sufficient to adequately punish the Defendant for engaging in this conduct and to prevent this conduct in the future;

6) Order Defendant Ameriserve to pay Plaintiff's reasonable attorney's fees, expert fees and all costs incurred in bringing and prosecuting this action with pre-judgment and post-judgment interest as applicable; and

7) Enter an order providing all such other relief as this Court deems appropriate.

**COUNT II:**

**DISCRIMINATORY DISCHARGE**  
**IN VIOLATION OF IOWA CODE § 216.6**  
**(IOWA CIVIL RIGHTS ACT OF 1965, CHAPTER 216)**  
**(against DEFENDANT AMERISERVE)**

66. Plaintiff Purcell incorporates by reference all prior paragraphs.

67. Ameriserve subjected Ms. Purcell to discriminatory discharge in violation of Iowa Code § 216.6 (ICRA, chapter 216).

68. Ameriserve's conduct constituted illegal discrimination based on Ms. Purcell's known cancer diagnosis, a recognized disability under the Iowa Code.

69. Ms. Purcell is a person with a disability, as defined under the Iowa Code.

70. At the time of her discharge, Ms. Purcell was qualified to perform the position for which Ameriserve hired her by reason of her training and/or experience.

71. Ameriserve terminated Ms. Purcell's employment because of her disability, in violation of ICRA.

72. As a proximate cause of Ameriserve's illegal actions, Ms. Purcell has suffered significant pecuniary and non-pecuniary damages including lost wages, loss of benefits, loss of promotion opportunities, loss of back pay, loss of future pay, mental anguish, pain, suffering, humiliation and loss of quality and enjoyment of life.

**WHEREFORE**, Plaintiff Purcell respectfully requests that this Court:

- 1) Enter a declaratory judgment that the actions, conduct and practices of Defendant Ameriserve complained of herein violate ICRA;
- 2) Enter an injunction and order permanently restraining the Defendant Ameriserve from engaging in such unlawful conduct;
- 3) Order Defendant Ameriserve to make Plaintiff whole with appropriate lost earnings, future lost earnings, compensation for loss of future pensions and benefits with pre-judgment and post-judgment interest as applicable;
- 4) Order Defendant Ameriserve to make Plaintiff whole by providing all compensation contemplated under Iowa Code § 216, for non-pecuniary losses including, without limitation, pain, suffering, inconvenience, frustration, loss of quality of life, humiliation, loss of reputation and mental anguish in amounts to be proved at trial with pre-judgment and post-judgment interest as applicable;
- 5) Order Defendant Ameriserve to pay Plaintiff's reasonable attorney's fees, expert fees and all costs incurred in bringing and prosecuting this action with pre-judgment and post-judgment interest as applicable; and
- 6) Enter an order providing all such other relief as this Court deems appropriate.

**COUNT III:**

**DISCRIMINATORY DISCHARGE**  
**IN VIOLATION OF IOWA CODE § 216.6**  
**(IOWA CIVIL RIGHTS ACT OF 1965, CHAPTER 216)**  
**(against DEFENDANT DANA NIELSEN)**

73. Plaintiff Purcell incorporates by reference all prior paragraphs.

74. Ameriserve Executive Director and President Dana Nielsen is an “employer” and “person” subject to Iowa Code § 216.6 (ICRA, chapter 216).

75. Dana Nielsen subjected Ms. Purcell to discriminatory discharge in violation of Iowa Code § 216.6 (ICRA, chapter 216).

76. Dana Nielsen’s conduct constituted illegal discrimination based on Ms. Purcell’s known cancer diagnosis, a recognized disability under the Iowa Code.

77. Ms. Purcell is a person with a disability, as defined under the Iowa Code.

78. At the time of her discharge, Ms. Purcell was qualified to perform the position for which Ameriserve hired her by reason of her training and/or experience.

79. Dana Nielsen discriminated against Ms. Purcell by ordering the termination of her employment because of her disability, in violation of ICRA.

80. As a proximate cause of Dana Nielsen’s illegal actions, Ms. Purcell has suffered significant pecuniary and non-pecuniary damages including lost wages, loss of benefits, loss of promotion opportunities, loss of back pay, loss of future pay, mental anguish, pain, suffering, humiliation and loss of quality and enjoyment of life.

**WHEREFORE**, Plaintiff Purcell respectfully requests that this Court:

1) Enter a declaratory judgment that the actions, conduct and practices of Defendant Dana Nielsen complained of herein violate ICRA;

- 2) Enter an injunction and order permanently restraining the Defendant Dana Nielsen from engaging in such unlawful conduct;
- 3) Order Defendant Dana Nielsen to make Plaintiff whole with appropriate lost earnings, future lost earnings, compensation for loss of future pensions and benefits with pre-judgment and post-judgment interest as applicable;
- 4) Order Defendant Dana Nielsen to make Plaintiff whole by providing all compensation contemplated under Iowa Code § 216, for non-pecuniary losses including, without limitation, pain, suffering, inconvenience, frustration, loss of quality of life, humiliation, loss of reputation and mental anguish in amounts to be proved at trial with pre-judgment and post-judgment interest as applicable;
- 5) Order Defendant Dana Nielsen to pay Plaintiff's reasonable attorney's fees, expert fees and all costs incurred in bringing and prosecuting this action with pre-judgment and post-judgment interest as applicable; and
- 6) Enter an order providing all such other relief as this Court deems appropriate.

**JURY DEMAND**

Plaintiff herein requests a jury trial on all matters raised in this Complaint.

Dated October 14, 2024:

**NEWKIRK ZWAGERMAN, P.L.C.**

By           /s/ Tom Newkirk            
Tom Newkirk AT0005791  
3900 Ingersoll Ave, Suite 201  
Des Moines, Iowa 50312  
Telephone: (515) 883-2000  
[tnewkirk@newkirklaw.com](mailto:tnewkirk@newkirklaw.com)

Local Counsel for Plaintiff

Joshua Friedman  
Rebecca Houlding  
Shilpa Narayan  
**FRIEDMAN & HOULDING LLP**  
1050 Seven Oaks Lane  
Mamaroneck, NY 10543  
888-369-1119 x5  
Fax: 866-731-5553  
[shilpa@friedmanholdingllp.com](mailto:shilpa@friedmanholdingllp.com)

*Pro Hac Vice Admission Application To Be Filed*