

**ATTACHMENT A**  
**SAMPLE Direct Examination**

Theory of the Case: Amy's errors on job and late arrivals were not misconduct but the result of inability due to undiagnosed Multiple Sclerosis.

(Minn Stat § 268.095 (subd. 6(a))).

Nutshell Theory: Having M.S. is not misconduct.

**Background**

\_\_\_\_ Name - Amy Smith  
\_\_\_\_ Address - 1531 X Avenue, St. Paul MN 55111  
\_\_\_\_ Name of employer - Y Insurance Company  
\_\_\_\_ Job title - Receptionist/Clerk  
\_\_\_\_ Date of hire - August 1, 1994

**First Year on the Job**

\_\_\_\_ Job tasks - answer phone, greet guests, type, file  
\_\_\_\_ Hired on probation  
\_\_\_\_ Six (6) month probation period  
\_\_\_\_ Successfully passed probation  
\_\_\_\_ Was evaluated after one (1) year  
\_\_\_\_ One (1) year evaluation - excellent  
\_\_\_\_ She set high standards for herself

**Second Year on the Job**

\_\_\_\_ Problems started shortly after 1st year evaluation  
\_\_\_\_ Made some typing errors in notice to insurance claimants  
\_\_\_\_ One (1) Written warning  
\_\_\_\_ Errors surprised her as she set high standards for her work  
\_\_\_\_ Started feeling exhausted  
\_\_\_\_ 10-20 minutes late occasionally  
\_\_\_\_ After three (3) lates received written warning  
\_\_\_\_ Supervisor asked her what was wrong  
\_\_\_\_ Answer -  
    \_\_\_\_ I feel exhausted  
    \_\_\_\_ will try to do better  
    \_\_\_\_ Can't understand why these thing are happening to me

**Day Before Fired**

\_\_\_\_ Asked by supervisor to transfer important call  
\_\_\_\_ Amy lost the call  
\_\_\_\_ Supervisor yelled, "Can't you do anything right?"

- Amy cried
- Struggled rest of day
- Went home distraught emotionally and exhausted
- Worried about job and health

**Day of Firing**

- So exhausted turned off alarm
- Woke up at 10:00 a.m., two (2) hours late
- Called supervisor to apologize
- Supervisor said "You are fired"

**After Firing**

- Right after speaking to supervisor called for medical appointment
- Went to several appointments
- Diagnosed with Multiple Sclerosis

**Learned About Symptoms of M.S.**

- Central nervous system impairment
  - Numbness or tingling in hands
  - Weakness
  - Loss of coordination

**M.S. symptoms help explains problems on job**

- Typing errors
- Failed transfer call
- Lateness due to exhaustion
- Fatigue

**M.S. Is Difficult to Diagnose**

**Medical Exhibit**

- Early symptoms can be slight
- Symptoms, such as fatigue or weakness do not always alert patient that a medical issue exists