FILED ORIGINAL

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U.S. DISTRICT COURT
DISTRICT OF OREGON
MEDFORD, OREGON

BY_____

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff, v. WINDMILL INNS OF AMERICA, d/b/a WINDMILL INN OF ASHLAND, Defendant.	CIVIL ACTION NO. 00-3106-CO COMPLAINT JURY TRIAL DEMAND

NATURE OF THE ACTION

This is an action under Title I of the Americans with Disabilities Act of 1990 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of disability and to provide appropriate relief to Sandra Newkirk who was adversely affected by such practices. The Equal Employment Opportunity Commission alleges that Windmill Inns of America failed to hire Sandra Newkirk, a qualified individual with a disability, blindness, because of her disability.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 107(a) of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12117(a), which incorporates by

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reference Sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e-5(f)(1) and (3) ("Title VII"), and pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the District of Oregon.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title I of the ADA and is expressly authorized to bring this action by Section 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant, Windmill Inns of America (the "Employer"), has continuously been doing business in the State of Oregon, as Windmill Inn of Ashland and has continuously had at least 15 employees.

5. At all relevant times, defendant Employer has continuously been an employer engaged in an industry affecting commerce under Section 101(5) of the ADA, 42 U.S.C.§ 12111(5), and Section 101(7) of the ADA, 42 U.S.C. § 12111(7), which incorporates by reference Sections 701(g) and (h) of Title VII, 42 U.S.C. §§ 2000e(g) and (h).

6. At all relevant times, defendant Employer has been a covered entity under Section 101(2) of the ADA, 42 U.S.C. § 12111(2).

STATEMENT OF CLAIMS

7. More than thirty days prior to the institution of this lawsuit, Sandra Newkirk filed a charge with the Commission alleging violations of Title I of the ADA by defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. Since at least May, 1999, defendant Employer has engaged in unlawful employment practices at its Ashland, Oregon, facility, in violation of Sections 102(a) and 102(b)(5)(B) of Title I of the ADA, 42 U.S.C. §§ 12112(a) and 12112(b)(5)(B). The defendant Employer refused to hire

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Sandra Newkirk, who is blind and who is a qualified individual with a disability who can perform the essential functions of the job with or without a reasonable accommodation, as a "reservationist" in violation of Sections 102(a) and 102(b)(5)(B) of the ADA.

9. The effect of the practices complained of in paragraph 8 above has been to deprive Sandra Newkirk of equal employment opportunities and otherwise adversely affect her status as an employee, because of her disability.

10. The unlawful employment practices complained of in paragraph 8 above were and are intentional.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining defendant Employer, its officers, agents, successors, assigns, and all persons in active concert or participation with it, from unlawfully failing to provide equal employment opportunities to employees with disabilities and to accommodate employees' disabilities, and any other employment practice which discriminates on the basis of disability.

B. Order defendant Employer to institute and carry out policies, practices, and programs which provide equal employment opportunities for qualified individuals with disabilities, and which eradicate the effects of its past and present unlawful employment practices.

C. Order defendant Employer to make whole Sandra Newkirk, by providing appropriate back pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices.

D. Order Defendant to post and keep posted the notices required by Section 105 of the ADA, 42 U.S.C. § 12115, which incorporates by reference Section 711(a) of Title VII, 42 U.S.C. § 2000e-10(a).

E. Order Defendant to make and preserve all records relevant to the determination of whether unlawful employment practices have been or are being committed, in accordance with Section 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference Section 709(c) of

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Title VII, 42 U.S.C. § 2000e-8(c).

F. Order defendant Employer to make whole Sandra Newkirk by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 8 above, including past and future out-of-pocket losses, in amounts to be determined at trial.

G. Order defendant Employer to make whole Sandra Newkirk by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraph 8 above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

H. Order Defendant Employer to pay Sandra Newkirk punitive damages for its malicious and reckless conduct, as described in paragraph 8 above, in amounts to be determined at trial.

I. Grant such further relief as the Court deems necessary and proper in the public interest.

J. Award the Commission its costs of this action.

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JURY TRIAL DEMAND

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The Commission requests a jury trial on all questions of fact raised by its complaint.

DATED this 28th day of September, 2000.

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