

EEOC v. EchoStar Communications Corp.

No. 02-CV-00581 (D. Colo. May 6, 2005)

The Denver District Office alleged in this ADA action that defendant, a leading provider of satellite television equipment and services based in Englewood, Colorado, discriminated against a blind applicant for a customer service representative position by failing to provide reasonable accommodation in the application process, failing to administer employment tests in the most effective manner, failing to provide reasonable accommodation for him to perform the duties of a customer service representative, and denying him employment opportunities because of his disability. Following a 3-day trial, the jury returned a verdict for the EEOC and the intervening charging party, awarding charging party \$2,000 in backpay, \$5,000 in compensatory damages, and \$8 million in punitive damages. The damages cap is \$300,000.

After completing training at the Colorado Center for the Blind on working in customer service representative positions, charging party went to defendant to apply in response to a newspaper advertisement for customer service representatives. He was told it would not do him any good to put in an application because defendant was not set up to handle blind people. After charging party filed his charge, defendant called him back for an interview that included a braille test that had three times as many questions as the written test given to sighted applicants. At trial, plaintiffs introduced evidence that charging party had been specifically trained to perform a customer service job with the aid of screen-reading technology called JAWS (Job Access with Speech), which translates text into speech. The defendant never attempted to install JAWS or otherwise investigate whether an accommodation could be made to enable charging party to do the job. The defendant also failed to call the Division of Vocational Rehabilitation (DVR), even though at the time charging party applied, the defendant was aware that DVR often paid some or all of the costs of implementing adaptive technology. The EEOC presented expert testimony on how JAWS works and on the expert's installation of screen-reading software in a number of business call centers, including Norwest Bank, Diner's Club, American Express, Pizza Hut, and MCI.

While this case was brought on behalf of a single individual, we believe it has far reaching implications. Breakthroughs in computer technology have opened up doors to individuals with disabilities. However, some employers have closed those doors by relying on stereotypical notions associated with disability even in the face of evidence of workable, inexpensive technology-based reasonable accommodations. We believe that this case, and others like it, will raise consciousness of these issues, and increase the likelihood that other applicants with disabilities will be given the opportunity to show their qualifications and be judged based on their abilities rather than their disabilities.