

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,**

Plaintiff,

vs.

GREENVILLE FORD-MERCURY, INC.,

Defendant.

FILED
AUG 06 2002
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS OFFICE

No. 00-CV-0770-DRH

ORDER

HERNDON, District Judge:

I. Introduction

The Equal Employment Opportunity Commission (hereinafter "EEOC") filed this action against Greenville Ford-Mercury, Inc. (hereinafter "Greenville Ford") under Title I of the Americans with Disabilities Act of 1990 ("ADA"), **42 U.S.C. § 12101 et seq.**, and Title I of the Civil Rights Act of 1991. EEOC alleged that Greenville Ford terminated Donald Holding on April 10, 1997 because of his disability, diabetes. A jury trial was held on July 22, 23, and 24, 2002. On July 24, 2002, the jury returned a verdict in favor of EEOC and against Greenville Ford and awarded Donald Holding \$25,000 in compensatory damages for emotional harm and \$60,000 in punitive damages. Section V of the Pre-Trial Order in this case provides that the Court shall decide the extent of prospective injunctive relief and the amount of back pay, lost fringe benefits and interest, if any, to which Donald Holding is

entitled.

II. Findings of Fact and Conclusions of Law

A. Monetary Relief

1. Back Pay

Consistent with the jury's verdict, the Court finds that Donald Holding is entitled to an award of \$526 in back pay and interest. Donald Holding's 1997 W2 form at Greenville Ford shows he earned \$2,856, or \$858 per month, for the period of 3.33 months until April 10, 1997. Near the end of April 1997, Donald Holding was hired at Dan Hecht Chevy as a mechanic. He worked for approximately one month, and earned \$3,210. Holding started work at GSI on about June 1, 1997. His total earnings at GSI during 1997 were \$5,514, or an average of about \$788 per month – less than he earned at Greenville Ford. The difference between the \$858 per month he earned at Greenville Ford in 1997 and the \$788 per month he earned at GSI in 1997 was \$70 per month. However, starting in January 1998, Holding began to earn more at GSI than he did at Greenville Ford.

Back pay calculations are on a quarterly basis.¹ The EEOC does not seek back pay for the first three months after Holding's discharge (April 10 - July 9, 1997) because he earned more in this quarter than he would have at Greenville Ford. The EEOC does seek back pay for the next six months, but shortens that period to end on

¹ Back pay calculations are quarterly under the ADA and Title VII, which follow the back pay provisions of the National Labor Relations Act ("NLRA"). ***Albermarle Paper Co. v. Moody*, 422 U.S. 405, 419 (1975).**

December 31, 1997 because starting on January 1, 1998, Holding began to earn more at GSI than at Greenville Ford. The EEOC therefore seeks back pay for the 5.66 months from July 10 to December 31, 1997. The Court finds that Holding is entitled to 5.66 times the \$70 difference in monthly rates which totals \$396. The Court also finds that Holding is entitled to interest in the amount of \$130, for a total back pay award of \$526.

2. Medical Benefits

The EEOC seeks compensation for the costs of medical expenses incurred by Donald and Cindy Holding that would have been covered by Greenville Ford's medical insurance had Donald Holding not been terminated. Donald Holding received at no cost to himself health insurance from Greenville Ford that covered his own medical expenses. He also received health insurance coverage for his wife for which he was paying \$66.80 every two weeks when he was terminated. When he was fired, his medical insurance for himself and his wife was terminated. Since then, Donald Holding has not obtained medical insurance coverage for his wife and insurance coverage for himself has been episodic.

Dan Hecht Chevy provided no medical insurance. Although Holding started work at GSI sometime around June 1997, his medical insurance did not start until January 1, 1998, and because of a one-year waiting period for pre-existing conditions, his diabetes was not covered by insurance until about January 1, 1999. The GSI plant closed in June 1999, causing Holding to be laid off. He obtained partial medical coverage for himself approximately one year later, in August 2000, but there

was again a one-year waiting period for pre-existing conditions. As a result, Holding did not obtain coverage for his diabetes until August 2001. Therefore, Holding did not have medical insurance coverage for his diabetes from the end of April 1997 until January 1999, and then from June 1999 to August 2001. During this time, Holding incurred \$949 in medical expenses that were not covered by insurance, and his wife incurred \$1750 in medical expenses that were not covered by insurance.² The Court finds that Donald Holding is entitled to compensation for the \$949 in medical expenses that would have been covered had he not been terminated by Greenville Ford. Because Greenville Ford was paying neither her insurance premiums nor her medical expenses, the Court finds that Holding is not entitled to compensation for the medical expenses incurred by his wife during this period of time.

B. Injunctive Relief

The EEOC seeks prospective injunctive relief barring Greenville Ford from future disability discrimination. Injunctive relief is appropriate even in the absence of a pattern and practice of discrimination. ***EEOC v. Ilona of Hungary*, 108 F.3d 1569, 1578 (7th Cir. 1997)**. “[I]nstead, injunctive relief is authorized once the court has found that the defendant intentionally engaged in an unlawful employment practice.” ***Id.*** The Court finds that there is sufficient evidence for the jury’s finding that Greenville Ford discriminated against Donald Holding. The Court, therefore,

² The EEOC seeks \$587 in compensation for the medical expenses incurred by Donald Holding’s wife. This figure is based on the \$1750 in medical expenses incurred minus the \$1163 Donald Holding would have paid in premiums for the spousal medical insurance.

orders the prospective injunctive relief described in Section III(4)-(9) of this Order.

III. Conclusion and Order

Having made the foregoing findings of fact and conclusions of law, the

Court **ORDERS:**

Monetary Relief

1. Greenville Ford shall pay to Donald Holding \$14,706 in compensatory damages and \$35,294 in punitive damages, for a total of \$50,000.³ No deductions for taxes or otherwise shall be made from the awards of compensatory and punitive damages.
2. Greenville Ford shall pay to Donald Holding:
 - a. \$526 in back pay and interest, and
 - b. \$949 in compensation for Donald Holding's medical bills after his discharge from Greenville Ford, which this Court finds would have been covered by Donald Holding's health insurance at Greenville Ford had he not been discharged.

Greenville Ford may withhold Donald Holding's income taxes on these amounts (totaling \$1474) and may also withhold therefrom his share of

³ The Civil Rights Act of 1991, 42 U.S.C. § 1981a(b), authorizes the award of compensatory and punitive damages. Subsection (3)(A) thereof limits the sum of compensatory damages and punitive damages to \$50,000 for an employer with more than 14 and fewer than 100 employees. Section IIIB of the Pre-Trial Order provides that at "all relevant times Defendant has had at least 15 employees." The \$14,706 in compensatory damages and \$35,294 in punitive damages are in the same ratio as the \$25,000 in compensatory damages and \$60,000 in punitive damages awarded by the jury.

social security taxes. There shall be no withholding, however, of Greenville Ford's share of social security taxes or of any other amounts.

3. The Court **DENIES** the EEOC's request that Greenville Ford compensate Donald Holding in the amount of \$587 for his wife's medical bills after his discharge from Greenville Ford.

Injunctive Relief

4. Greenville Ford shall not discriminate against any person based on disability.
5. Greenville Ford shall not engage in reprisal or retaliation of any kind against any person because of such person's opposition to any practice made unlawful under the ADA; or because of filing a charge, testifying or participating in any manner in any investigation, proceeding or hearing under the ADA; or because of such person's seeking or obtaining relief under this Order.
6. Greenville Ford shall train its managers and officers in regard to the requirements of the ADA. The trainer it selects must be a person acceptable to the EEOC. Greenville Ford shall provide notice to the EEOC of its selection of a trainer within two weeks of the entry of this Order. Greenville Ford shall provide to the EEOC a certification that it has completed the training within two weeks after the completion of said training.
7. Greenville Ford shall conspicuously post on a bulletin board at each of

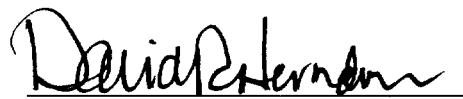
its facilities, in a location accessible to and frequented by its employees, the notice attached as Exhibit A.

8. Greenville Ford shall provide written notice to the EEOC of any complaint of disability discrimination within one week after receiving such complaint. Notices shall be sent to Gordon Waldron, Equal Employment Opportunity Commission, 500 West Madison Street, Suite 2800, Chicago, Illinois 60661.
9. The injunctive relief described in paragraphs 4-8 of this Order shall remain in effect for two years from the entry hereof. During that period, the Court shall retain jurisdiction to enforce its provisions.

The Court **DIRECTS** the Clerk of the Court to enter judgment in favor of EEOC and against Greenville Ford in the amount of \$14,706 in compensatory damages for emotional harm, \$35,294 in punitive damages, \$526 in back pay and interest, and \$949 in compensation for medical expenses – for a total award of \$51,475. The Court further **DIRECTS** the Clerk of the Court to enter judgment in favor of EEOC and against Greenville Ford for the injunctive relief ordered herein.

IT IS SO ORDERED.

Signed this 6th day of August, 2002.


DAVID R. HERNDON
United States District Judge

COURT ORDERED NOTICE

This Notice is being posted by order of Judge David R. Herndon of the Federal District Court for the Southern District of Illinois, East St. Louis Division. The United States Equal Employment Opportunity Commission ("EEOC") filed a lawsuit against Greenville Ford-Mercury, Inc. ("Greenville Ford") alleging that Greenville Ford terminated an employee in violation of Title I of the Americans with Disabilities Act of 1990 (the "ADA") because of his disability, diabetes. Following a jury verdict in favor of EEOC on July 24, 2002, Judge Herndon ordered Greenville Ford to pay that employee money damages. Judge Herndon also ordered Greenville Ford not to discriminate against any persons on the basis of disability, nor to discriminate against any person who opposes discrimination, or who files a charge of discrimination, states that he or she intends to file a charge of discrimination, or opposes practices that he or she reasonably believes to be discriminatory.

The Equal Employment Opportunity Commission is an agency of the United States Government empowered to enforce Title VII of the Civil Rights Act, the Equal Pay Act, the Age Discrimination in Employment Act of 1967, and the Americans with Disabilities Act. These laws prohibit employers from discriminating on the basis of age, sex, pregnancy, race, color, religion, national origin, and disability. These laws also prohibit retaliation against any employee because he or she opposes discrimination, states that he or she intends to file a charge of discrimination, does file a charge of discrimination, or participates in the investigation or litigation of a charge or suit.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This Notice must remain posted for two years from the date shown below and must not be altered, defaced, or covered by any other material.

John P. Rowe, Director
Chicago District Office
Equal Employment Opportunity Commission
500 West Madison Street #2800
Chicago, Illinois 60661
(312) 353-2713

Greenville Ford
Dated: _____, 2002

Exhibit A