

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
PEORIA DIVISION**

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,**)
)
)
Plaintiff,)
)
v.)
)
**Studley Products, Inc. and Wildwood
Industries, Inc.**)
)
Defendants)
_____)

CIVIL ACTION NO. 04-1323

COMPLAINT

FILED
SEP 21 2004
JOHN M. WATERS, Clerk
U.S. DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS

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. The Equal Employment Opportunity Commission ("EEOC") alleges that Studley Products, Inc. and Wildwood Industries, Inc. failed to accommodate Jerry Barth's 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 reference Section 706 and Section 707 of Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. § 2000e-5, and § 2000e-7.
2. The employment practices alleged to be unlawful were committed within the State of Illinois.

PARTIES

3. Plaintiff EEOC 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 Section 706(f)(1) and (3), 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times, Studley Products, Inc. (“Studley”) was doing business in the State of Illinois and had at least 15 employees.

5. At all relevant times, Studley was 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, Studley was a covered entity under Section 101(2) of the ADA, 42 U.S.C. § 12111(2).

7. At all relevant times, Wildwood Industries, Inc. (“Wildwood”) was doing business in the State of Illinois and continuously had at least 15 employees.

8. At all relevant times, Wildwood was 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).

9. At all relevant times, Wildwood was a covered entity under Section 101(2) of the ADA, 42 U.S.C. § 12111(2).

10. At all relevant times Studley and Wildwood have acted as a single or joint employer of Jerry Barth.

STATEMENT OF CLAIMS

11. More than thirty days prior to the institution of this lawsuit, Jerry Barth filed a charge with the EEOC alleging violations of Title I of the ADA by Wildwood. All conditions precedent to the institution of this lawsuit have been fulfilled.

12. In 2002 and 2003 Defendants failed to accommodate Jerry Barth, and disciplined and terminated him because of his disability, in violation of Section 102(a) and (b)(5) of Title I of the ADA, 42 U.S.C. § 12112(a) and (b)(5).

13. The effect of the practices complained of in paragraph 12 above has been to deprive Jerry Barth of equal employment opportunities and otherwise adversely affect his status as an employee, because of his disability.

14. The unlawful employment practices complained of in paragraph 12 above were intentional.

15. The unlawful employment practices complained of in paragraph 12 above were done with malice or with reckless indifference to the federally protected rights of Jerry Barth.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining each Defendant, its officers, successors, assigns, and all persons in active concert or participation with it from engaging in employment practices which discriminate on the basis of disability.

B. Order each Defendant 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 the unlawful employment practices of each Defendant.

C. Order each Defendant to make whole Jerry Barth by providing compensation for nonpecuniary losses resulting from the unlawful practices complained of in paragraph 12 above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

D. Order each Defendant to pay Jerry Barth punitive damages for its malicious and reckless conduct, as described in paragraph 12 above, in an amount to be determined at trial.

E. Grant such further relief as the Court deems necessary and proper in the

public interest.

F. Award the Commission its costs of this action.

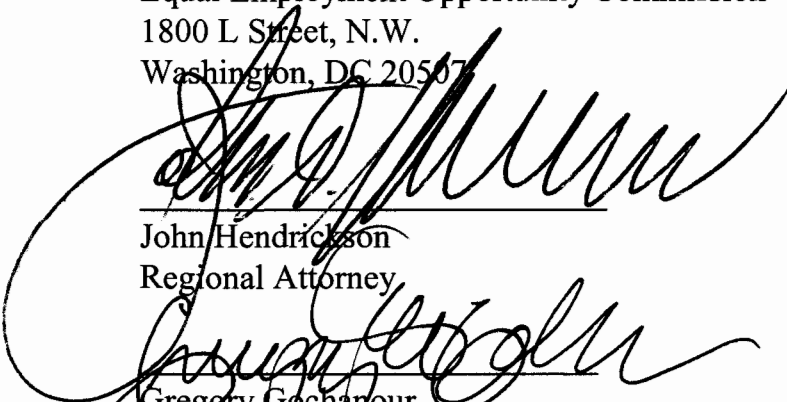
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The Commission requests a jury trial on all questions of fact raised by its complaint.

ERIC DREIBAND
General Counsel

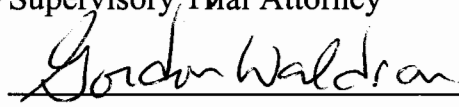
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