

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

JUDGE AMY ST. EVE

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

v.

UNITED PARCEL SERVICE, INC.,

Defendant.

MAGISTRATE JUDGE KEYS

**02C 6305**

Civil Action No.

**DOCKETED**

SEP 05 2002

COMPLAINT

JURY TRIAL DEMAND

FILED - EDS  
02 SEP -5 AM 9:14

CLERK  
U.S. DISTRICT COURT

NATURE OF THE ACTION

This is an action under Title I of the Americans with Disabilities Act of 1990 ("ADA") to correct unlawful employment practices of United Parcel Service, Inc. ("Defendant" or "UPS") on the basis of disability and to provide appropriate relief to Chuck Thomas ("Thomas"). Defendant failed to reasonably accommodate Thomas when his development of Type 2 Diabetes rendered him unable to drive trucks requiring a Commercial Drivers License by not reassigning him to a position that did not require such a license.

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 ADA, 42 U.S.C. §12117(a), which incorporates by reference Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, ("Title VII"), 42 U.S.C. § 2000e-5(f)(1) and (3), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981A.

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2. The employment practices hereafter alleged to be unlawful were and are now being committed within the jurisdiction of the Northern District of Illinois.

### **PARTIES**

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

4. At all relevant times, UPS has continuously been and is now a corporation doing business in the Northern District of Illinois, and has continuously had and does now have at least fifteen (15) employees.

5. At all relevant times, UPS has continuously been and is now an employer engaged in an industry affecting commerce within the meaning of Section 101(5) of the ADA, 42 U.S.C. § 12111(5), 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, UPS has been a covered entity under Section 101(2) of the ADA, 42 U.S.C. §12111(2).

7. At all relevant times, Thomas was a qualified individual with a disability within the meaning of Section 101(8) of the ADA, 42 U.S.C. §12111(8).

### **STATEMENT OF CLAIMS**

8. More than thirty (30) days prior to the institution of this lawsuit, Thomas filed a

Charge with the Commission alleging a violation of Title I of the ADA by UPS. All conditions precedent to the institution of this lawsuit have been fulfilled.

9. Since at least August 1998, UPS has engaged in and is continuing to engage in unlawful employment practices at its facilities in and around Chicago, Illinois, in violation of Title I of the ADA, 42 U.S.C. §12112(a), (b)(4), and (b)(5)(A). These practices include, but are not limited to:

- (a) failing to reasonably accommodate Thomas by reassigning him to a position that did not require a Commercial Drivers License;
- (b) failing to engage in an interactive process with Thomas to determine if an accommodation was available; and
- (c) failing to make an individualized assessment of Thomas' medical condition in determining whether Thomas was disabled under the meaning of the ADA.

10. The effect of the practices complained of above has been to deprive Thomas of equal employment opportunities and otherwise adversely affect his status as an employee because of his status as a disabled person in violation of Title I of the ADA, 42 U.S.C. §12112.

11. The unlawful employment practices complained of above in Paragraphs 9 and 10 above were and are intentional.

12. The unlawful employment practices complained of above in Paragraphs 9 and 10 were and are done with malice and/or reckless indifference to the federally protected rights of Thomas.

**PRAYER FOR RELIEF**

WHEREFORE, the Commission respectfully prays that this Court:

- A. Grant a permanent injunction enjoining UPS, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in any employment practice which discriminates on the basis of disability;
- B. Order UPS to institute and carry out policies, practices, and programs which eradicate the effects of its past and present unlawful employment practices;
- C. Order UPS to make whole Thomas by providing appropriate back pay with pre-judgment interest, in amounts to be proved at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including rightful-place reinstatement of Thomas;
- D. Order Defendant to make whole Thomas by providing compensation for non-pecuniary losses, including emotional pain, suffering, loss of enjoyment of life and humiliation;
- E. Order Defendant to pay Thomas punitive damages for its malicious and/or reckless conduct, in an amount to be determined at trial;
- F. Order Defendant and its successors to reasonably accommodate disabled employees by reassignment when necessary;
- G. Grant such further relief as the Court deems necessary and proper; and
- H. Grant the Commission its costs in this action.

**JURY TRIAL DEMAND**

The Commission requests a jury trial on all issues of fact raised by its Complaint.

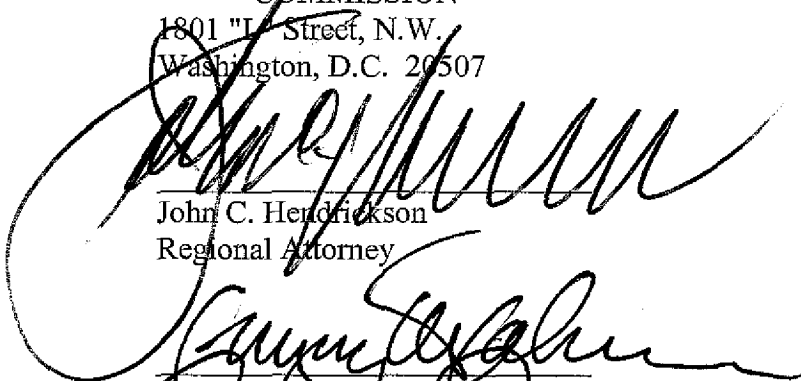
Respectfully submitted,

NICHOLAS M. INZEO  
Acting Deputy General Counsel

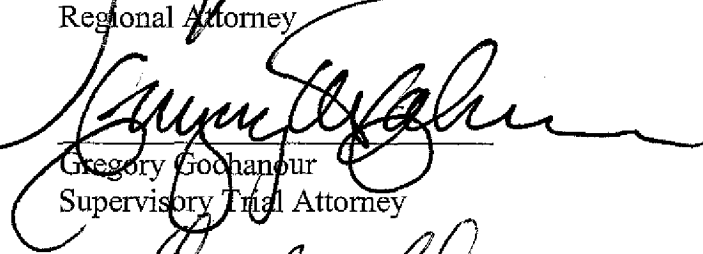
GWENDOLYN YOUNG REAMS  
Assistant General Counsel

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION

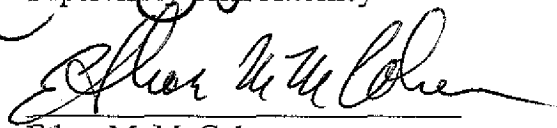
1801 "L" Street, N.W.  
Washington, D.C. 20507



John C. Hendrickson  
Regional Attorney



Gregory Gochanour  
Supervisory Trial Attorney



Ethan M. M. Cohen  
Trial Attorney

Ethan M. M. Cohen  
A.R.D.C. No. 6206781  
EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION  
500 West Madison Street, Suite 2800  
Chicago, Illinois 60661  
(312) 353-7568

*CAJ*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

**JUDGE AMY ST. EVE**

**Civil Cover Sheet**

**MAGISTRATE JUDGE KEYS**

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the Northern District of Illinois.

**Plaintiff(s): United States Equal Employment  
Opportunity Commission**

**Defendant(s): United Parcel Service**

**DOCKET**

County of Residence:

County of Residence:

**SEP 05 2002**

Plaintiff's Atty: **Ethan Cohen  
EEOC  
500 W. Madison, Suite 2800  
(312) 353-7568**

Defendant's Atty:

**02C 6305**

**II. Basis of Jurisdiction: 1. U.S. Gov't Plaintiff**

**III. Citizenship of Principal  
Parties (Diversity Cases Only)**

Plaintiff: - N/A  
Defendant: - N/A

**FILED-EDS  
02 SEP -5 AM 9:14  
CLERK  
U.S. DISTRICT COURT**

**IV. Origin : 1. Original Proceeding**

**V. Nature of Suit: 442 Employment**

**VI. Cause of Action: 28 U.S.C. Sections 451, 1331, 1337, 1343 and 1345. Failure to  
accommodate in violation of the Americans with Disabilities Act.**

**VII. Requested in Complaint**

Class Action: **No**  
Dollar Demand:  
Jury Demand: **Yes**

**VIII. This case IS NOT a refiling of a previously dismissed case.**

**Signature:** *Ethan Cohen*

**Date:** *9/4/02*

*1-2*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

In the Matter of Equal Employment Opportunity Commission ("EEOC") v. United Parcel Service

JUDGE AMY ST. EVE

Case Number

**020 6303**

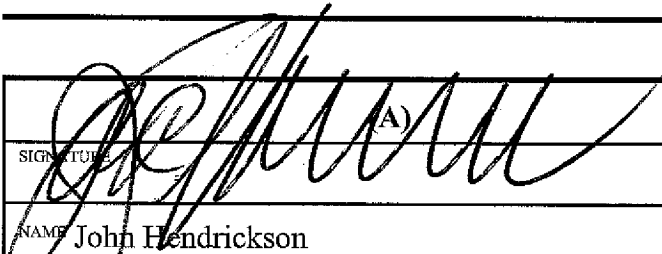
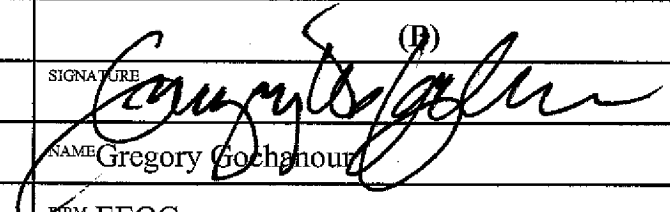
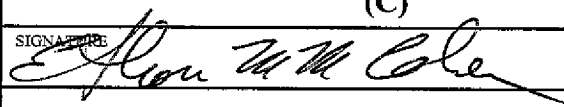
MAGISTRATE JUDGE KEYS

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR:  
Plaintiff, EEOC

**DOCKETED**

SEP 05 2002

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CLERK  
U.S. DISTRICT COURT

<p align="center"><b>(A)</b></p>		<p align="center"><b>(B)</b></p>	
SIGNATURE 		SIGNATURE 	
NAME John Hendrickson		NAME Gregory Gochanour	
FIRM EEOC		FIRM EEOC	
STREET ADDRESS 500 W. Madison, Suite 2800		STREET ADDRESS 500 W. Madison, Suite 2800	
CITY/STATE/ZIP Chicago, IL 60661		CITY/STATE/ZIP Chicago, IL 60661	
TELEPHONE NUMBER (312) 353-8551		TELEPHONE NUMBER (312) 886-9124	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) A.R.D.C. No. 01187589		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) A.R.D.C. No. 06210804	
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		DESIGNATED AS LOCAL COUNSEL?	YES <input type="checkbox"/> NO <input type="checkbox"/>
<p align="center"><b>(C)</b></p>		<p align="center"><b>(D)</b></p>	
SIGNATURE 		SIGNATURE	
NAME Ethan M. M. Cohen		NAME	
FIRM EEOC		FIRM	
STREET ADDRESS 500 W. Madison, Suite 2800		STREET ADDRESS	
CITY/STATE/ZIP Chicago, IL 60661		CITY/STATE/ZIP	
TELEPHONE NUMBER (312) 353-7568		TELEPHONE NUMBER	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) A.R.D.C. No. 06206781		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)	
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TRIAL ATTORNEY?	YES <input type="checkbox"/> NO <input type="checkbox"/>	TRIAL ATTORNEY?	YES <input type="checkbox"/> NO <input type="checkbox"/>
DESIGNATED AS LOCAL COUNSEL?	YES <input type="checkbox"/> NO <input type="checkbox"/>	DESIGNATED AS LOCAL COUNSEL?	YES <input type="checkbox"/> NO <input type="checkbox"/>