

SEP 29 2003

U.S. DISTRICT COURT
CLERK

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

FILED-EDS

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
WHITEHALL HOTEL, Ltd.)
)
Defendant.)

03C 6851
CIVIL ACTION NO.

COMPLAINT
JUDGE JOHN W DARRAH

MAGISTRATE JUDGE ASHMAN

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 Whitehall Hotel, Ltd. failed to accommodate Eric Olden's disability and solicited from him and other applicants information about their disabilities, prior to making them an offer of employment.

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

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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, Whitehall Hotel. Ltd (“Defendant”) was continuously doing business in the State of Illinois and continuously had at least 15 employees.

5. At all relevant times, Defendant had 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 was 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, Eric Olden filed a charge with the EEOC alleging violations of Title I of the ADA by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. In 2001 Defendant failed to accommodate Eric Olden, in violation of Section 102(b)(5) of Title I of the ADA, 42 U.S.C. § 12112(b)(5).

9. The effect of the practices complained of in paragraph 8 above has been to deprive Eric Olden of equal employment opportunities and otherwise adversely affect his status as an employee, because of his disabilities.

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

11. The unlawful employment practices complained of in paragraph 8 above were done with malice or with reckless indifference to the federally protected rights of Eric Olden.

12. Since at least 1999 Defendant has engaged in a pattern or practice of soliciting from applicants information concerning their disabilities, prior to making them an offer of

employment, in violation of Section 102(d)(2) of Title I of the ADA, 42 U.S.C. § 12112(d)(2).

13. The effect of the practices complained of in paragraph 12 above has been to deprive Eric Olden of equal employment opportunities and otherwise adversely affect his status as an employee, because of his disabilities, and to interfere with the employment opportunities of and adversely affect other applicants.

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 Eric Olden and other applicants.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining 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 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 Defendant.

C. Order Defendant to make whole Eric Olden by providing compensation for pecuniary losses resulting from the unlawful employment practices described in paragraph 8 above, in amounts to be determined at trial.

D. Order Defendant to make whole Eric Olden by providing compensation for nonpecuniary 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.

E. Order Defendant to pay Eric Olden punitive damages for its malicious and reckless conduct, as described in paragraph 8 above, in an amount to be determined at trial.

G. Order Defendant, because of the unlawful practices complained of in paragraph 8 above, to make whole Eric Olden by providing him appropriate back pay with pre-judgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of the unlawful employment practices, including but not limited to rightful place reinstatement of Eric Olden;

H. Order Defendant to make whole Eric Olden and adversely affected applicants by providing them compensation for pecuniary losses resulting from the unlawful employment practices described in paragraph 12 above, in amounts to be determined at trial.

I. Order Defendant to make whole Eric Olden and adversely affected applicants 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.

J. Order Defendant to pay Eric Olden and adversely affected applicants punitive damages for its malicious and reckless conduct, as described in paragraph 12 above, in an amount to be determined at trial.

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

L. Award the Commission its costs of this action.

JURY TRIAL DEMAND

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

ERIC DREIBAND
General Counsel

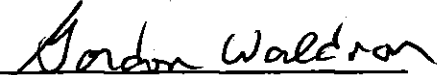
GWENDOLYN YOUNG REAMS
Associate General Counsel

Equal Employment Opportunity Commission
1800 L Street, N.W.
Washington, DC 20507



John Hendrickson
Regional Attorney

Greg Gochanour
Supervisory Trial Attorney


Gordon Waldron
Senior Trial Attorney
Equal Employment Opportunity Commission
Chicago District Office
500 W. Madison St., Suite 500
Chicago, Illinois 60661
(312) 353-7525

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

DOCKETED

SEP 29 2003

Civil Cover Sheet

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): U.S. Equal Employment
Opportunity Commission**

Defendant(s): Whitehall Hotel, Ltd.

County of Residence:

County of Residence: Cook

Plaintiff's Atty: Gordon G. Waldron
Equal Employment Opportunity
Commission
500 W. Madison Street, Suite
2800 Chicago, Illinois 60661
(312) 353-7525

Defendant's Atty:

03C 6851

JUDGE JOHN W. DARRAH

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

MAGISTRATE JUDGE ASHMAN

III. Citizenship of Principal
Parties (Diversity Cases Only)

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

IV. Origin : 1. Original Proceeding

V. Nature of Suit: 442 Employment

VI. Cause of Action: 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, 42 U.S.C. § 1981a, to correct unlawful employment practices on the basis of disability.

VII. Requested in Complaint

Class Action: No
Dollar Demand:
Jury Demand: Yes

VIII. This case IS NOT a refileing of a previously dismissed case.

Signature: Gordon Waldron 9/29/03

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

DOCKETED

SEP 29 2003

In the Matter of

EASTERN DIVISION

U.S. Equal Employment Opportunity Commission,
v. Plaintiff,
Whitehall Hotel, Ltd.,
Defendant.

03C 6851
Case Number:

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR
U.S. Equal Employment Opportunity Commission, Plaintiff

JUDGE JOHN W DARRAH
MAGISTRATE JUDGE ASHMAN

| | | | |
|--|------------------------------|--|------------------------------|
| (A) | | (B) | |
| SIGNATURE <i>Gordon G. Waldron</i> | | SIGNATURE <i>Gregory M. Gochanour</i> | |
| NAME Gordon G. Waldron | | NAME Gregory M. Gochanour | |
| FIRM Equal Employment Opportunity Commission | | FIRM Equal Employment Opportunity Commission | |
| STREET ADDRESS 500 W. Madison St., Suite 2800 | | STREET ADDRESS 500 W. Madison St., Suite 2800 | |
| CITY/STATE/ZIP Chicago, Illinois 60661 | | CITY/STATE/ZIP Chicago, Illinois 60661 | |
| TELEPHONE NUMBER (312) 353-7525 | FAX NUMBER (312) 353-8555 | TELEPHONE NUMBER (312) 886-9124 | FAX NUMBER (312) 353-8555 |
| E-MAIL ADDRESS gordon.waldron@eeoc.gov | | E-MAIL ADDRESS gregory.gochanour@eeoc.gov | |
| IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) ARDC No. 02920646 | | IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) ARDC No. 06210804 | |
| MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> | | MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> | |
| TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> | | TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> | |
| | | DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/> | |
| (C) | | (D) | |
| SIGNATURE <i>John C. Hendrickson</i> | | SIGNATURE | |
| NAME John C. Hendrickson | | NAME | |
| FIRM Equal Employment Opportunity Commission | | FIRM | |
| STREET ADDRESS 500 W. Madison St., Suite 2800 | | STREET ADDRESS | |
| CITY/STATE/ZIP Chicago, Illinois 60661 | | CITY/STATE/ZIP | |
| TELEPHONE NUMBER (312) 353-8551 | FAX NUMBER (312) 353-8555 | TELEPHONE NUMBER | FAX NUMBER |
| E-MAIL ADDRESS john.hendrickson@eeoc.gov | | E-MAIL ADDRESS | |
| IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) ARDC No. 01187589 | | IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) | |
| MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> | | MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input type="checkbox"/> | |
| TRIAL ATTORNEY? YES <input checked="" 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"/> | |

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U.S. DISTRICT COURT

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