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**ORIGINAL
FILED
JUN 3 2009
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA**

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

PJH

CV 09

2469

**EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,**

CIVIL ACTION NO.

Plaintiff,

**COMPLAINT- CIVIL RIGHTS
EMPLOYMENT DISCRIMINATION
42 U.S.C. §§ 12117(a)**

v.

UNITED AIR LINES, INC.,

JURY TRIAL DEMAND

Defendant.

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 on the basis of disability and to provide appropriate relief to charging parties Joel Boswell, Margaret Bucaro, Patricia Hernandez, Mary Price, Rosemary Verga and similarly-situated disabled employees of defendant United Air Lines, Inc. who were adversely affected by such practices. Defendant unlawfully denied the charging parties and similarly-situated disabled employees the reasonable accommodation of reassignment to a vacant position for which they were qualified, and which they needed in order to accommodate their respective disabilities.

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COMPLAINT

JURISDICTION AND VENUE

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2 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1331, 1337, 1343, and
3 1345. This action is authorized and instituted pursuant to Section 107(a) of the Americans with
4 Disabilities Act of 1990 (“ADA”), 42 U.S.C. §12117(a), which incorporates by reference Section
5 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964 (“Title VII”), 42 U.S.C. §2000e-5(f)(1)
6 and (3) and pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a.

7 2. The employment practices alleged to be unlawful were and are now being committed within
8 the state of California, County of San Mateo, which is within the jurisdiction of this court. Similar
9 alleged unlawful employment practices were committed by Defendant throughout the United States.
10

11 **INTRADISTRICT ASSIGNMENT**

12 3. This action is appropriate for assignment to San Francisco/Oakland because the unlawful
13 employment practices alleged which involve Joel Boswell, Patricia Hernandez and Rosemary Verga,
14 were and are being committed in San Mateo County.
15

16 **PARTIES**

17 4. Plaintiff, the Equal Employment Opportunity Commission (EEOC), is the agency of the
18 United States of America charged with the administration, interpretation, and enforcement of Title I
19 of the ADA and is expressly authorized to bring this action by Section 107(a) of the ADA, 42 U.S.C.
20 §12117(a), which incorporates by reference Sections 706(f)(1) and (3) of Title VII, 42 U.S.C.
21 §2000e-5(f)(1) and (3).

22 5. At all relevant times, Defendant United Airlines, Inc. (UAL) has continuously been a
23 Delaware Corporation, doing business in the State of California, in the County of San Mateo, and
24 has continuously had at least fifteen employees.

25 6. At all relevant times, Defendant UAL has continuously been an employer engaged in an
26 industry affecting commerce under Section 101(5) of the ADA, 42 U.S.C. § 12111(5), and Section
27

1 101(7) of the ADA, 42 U.S.C. § 12111(7), which incorporates by reference Sections 701(g) and (h)
2 of Title VII, 42 U.S.C. §§ 2000e(g) and (h).

3 7. At all relevant times, Defendant UAL has been a covered entity under Section 101(2) of the
4 ADA, 42 U.S.C. § 12111(2).

5
6 **STATEMENT OF CLAIMS**

7 8. More than thirty days prior to the institution of this lawsuit, charging parties Joel Boswell,
8 Margaret Bucaro, Patricia Hernandez, Mary Price, Rosemary Verga filed charges with the EEOC
9 alleging violations of Title I of the ADA by Defendant. All conditions precedent to the institution of
10 this lawsuit have been fulfilled.

11 9. Since at least June of 2003, Defendant UAL has engaged in unlawful employment practices
12 at its facilities located nationwide in violation of Section 102(a) and (b)(5)(A) of the ADA, 42
13 U.S.C. § 12112(a) and (b)(5)(A). Specifically Defendant UAL has instituted and maintains policies
14 and practices which fail to accommodate individuals with disabilities and which require disabled
15 employees to compete for reassignment into vacant positions for which they are minimally qualified
16 and to which they need transfer in order to accommodate their respective disabilities.

17 10. The effect of the practices complained of in paragraph 9 above has been to deprive charging
18 parties Joel Boswell, Margaret Bucaro, Patricia Hernandez, Mary Price, Rosemary Verga and
19 similarly-situated disabled employees of equal employment opportunities and otherwise to adversely
20 affect their status as employees because of their respective disabilities.

21 11. The unlawful employment practices complained of in paragraph 9 above were and are
22 intentional.

23 12. The unlawful employment practices complained of in paragraph 9 above were and are done
24 with malice and/or reckless indifference to the federally protected rights of charging parties Joel
25 Boswell, Margaret Bucaro, Patricia Hernandez, Mary Price, Rosemary Verga and similarly-situated
26 disabled employees.

27 //

PRAYER FOR RELIEF

WHEREFORE, the EEOC respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant UAL, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in the conduct described in paragraph 9 above and any employment practice which discriminates on the basis of disability.

B. Order Defendant UAL 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 its past and present unlawful employment practices.

C. Order Defendant UAL to make whole charging parties Joel Boswell, Margaret Bucaro, Patricia Hernandez, Mary Price, Rosemary Verga and similarly-situated disabled employees, by providing appropriate lost income with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including rightful-place hiring and/or reinstatement.

D. Order Defendant UAL to make whole charging parties Joel Boswell, Margaret Bucaro, Patricia Hernandez, Mary Price, Rosemary Verga and similarly-situated disabled employees by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above, including medical expenses, with interest, in amounts to be determined at trial.

E. Order Defendant UAL to make whole charging parties Joel Boswell, Margaret Bucaro, Patricia Hernandez, Mary Price, Rosemary Verga and similarly-situated disabled employees by providing compensation for past and future non-pecuniary losses resulting from the above unlawful employment practices, including pain and suffering, emotional distress, indignity, loss of enjoyment of life, loss of self-esteem, and humiliation, in amounts to be determined at trial.

F. Order Defendant UAL to pay charging parties Joel Boswell, Margaret Bucaro, Patricia Hernandez, Mary Price, Rosemary Verga and similarly-situated disabled employees punitive damages for its malicious and reckless conduct described above, in amounts to be determined at

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trial.

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

H. Award the EEOC its costs in this action.

JURY TRIAL DEMAND


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

Respectfully submitted,

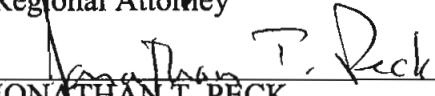
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May 8, 2009



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