

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
FILED

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WESTERN DISTRICT OF LOUISIANA
SHREVEPORT, LOUISIANA

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

v.

CONAGRA POULTRY COMPANY,

Defendant.

CV00-2186 M

CIVIL ACTION NO.

JUDGE JAMES
MAGISTRATE JUDGE KIRK

COMPLAINT

JURY TRIAL DEMAND

NATURE OF THE ACTION

This is an action under 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 Donna Ebarb ("Ebarb") who was adversely affected by such practices. The U.S. Equal Employment Opportunity Commission alleges that Donna Ebarb, a qualified individual with a disability, was not accommodated by ConAgra Poultry Company ("ConAgra" or "Defendant"), because of her having a disability, an amputated leg and was constructively discharged from her position as an Entry Clerk by the Defendant. As alleged with greater particularity in paragraphs 8 and 9 below, Donna Ebarb was denied an accommodation which she needed to assist her in performing the essential functions of her job and constructively discharged. Defendant has violated the ADA by its refusal to accommodate Donna Ebarb.

(1)

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. Sec. 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. Sec. 12117(a), which incorporates by reference Sections 706(f)(1) and (3), of Title VII of the Civil Rights Act of 1964 (Title VII), 42 U.S.C. Sec. 2000e-5(f)(1) and (3), and pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. Sec. 1981A.

2. The employment practices alleged to be unlawful were and are now being committed within the jurisdiction of the United States District Court for the Western District of Louisiana, Monroe Division.

PARTIES

3. Plaintiff, the U.S. 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. Sec. 12117(a), which incorporates by reference Sections 706(f)(1) and (3), and Section 707 of Title VII, 42 U.S.C. Sections 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant, ConAgra Poultry Company, has continuously been a Delaware Corporation doing business in the State of Louisiana and has continuously had at least 15 employees.

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

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

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

STATEMENT OF CLAIMS

7. More than thirty days prior to the institution of this lawsuit, Donna Ebarb filed a charge with the Commission alleging violations of Title I of the ADA by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. Since at least July 22, 1996, Defendant has engaged in unlawful employment practices at its Farmerville, Louisiana facility, in violation of Sections 102(a), (b)(1) and (b)(5)(A) of Title I of the ADA, 42 U.S.C. Section 12112(a) and (b)(1) and (b)(5)(A) in that on several occasions Donna Ebarb, a leg amputee, requested accommodations to assist her in performing the essential functions of her job. Defendant ignored Donna Ebarb's requests and thus failed to accommodate her because of her disability.

9. After her requests for accommodations, the Defendant Employer constructively discharged Donna Ebarb by making her working conditions so intolerable that she was forced to resign.

10. The effect of the practices complained of in paragraphs 8 and 9 above has been to deprive Donna Ebarb of equal employment opportunities and otherwise adversely affect her status as an employee because of her disability.

11. The unlawful employment practices complained of in paragraphs 8 and 9 above were intentional.

12. The unlawful employment practices complained of in paragraphs 8 and 9 above were done with malice or reckless indifference to the federally protected rights of Donna Ebarb.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

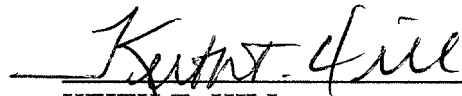
- A. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in disability discrimination and any other employment practices which discriminate on the basis of disability.
- B. Order Defendant to institute and carry out policies, practices, and programs which provide equal employment opportunities for qualified individuals with disabilities, and which eradicate the effects of its past and present unlawful employment practices.
- C. Order Defendant to make whole Donna Ebarb by providing the appropriate affirmative relief necessary to eradicate the effects of its unlawful employment practices, including, but not limited to appropriate back pay, rightful place reinstatement or front pay.
- D. Order Defendant to make whole Donna Ebarb by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraphs 8 and 9 above, including, but not limited to, emotional pain, suffering, inconvenience, loss of enjoyment of life, lowered self esteem and humiliation, in amounts to be determined at trial.
- E. Order Defendant to pay Donna Ebarb punitive damages for its malicious and reckless conduct, as described in paragraphs 8 and 9 above, in amounts to be determined at trial.
- F. Grant such further relief as the Court deems necessary and proper in the public interest.
- G. Award the Commission its cost of this action.

JURY TRIAL DEMAND

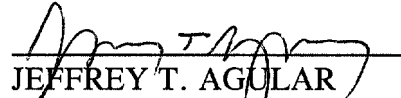
The Commission requests a jury trial on all questions of fact raised by its complaint.

Respectfully submitted,

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General Counsel



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No Bar Roll No. Assigned



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