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U.S. DISTRICT COURT
EASTERN DISTRICT OF LA
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LORETTA G. WHYTE
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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff	*	CIVIL ACTION
	*	NO. 05-0844
VERSUS	*	SECT."B"; MAG.-4
LESON CHEVROLET COMPANY, INC., Defendant		

COMPLAINT FOR INTERVENTION

NOW INTO COURT, through undersigned counsel, comes Robert White, seeking to intervene in the above captioned and entitled matter, and has contemporaneously filed the within motion to allow the filing of the Complaint of Intervention on the following grounds, to-wit:

1.

The above numbered and entitled cause is an action by the United States Equal Employment Opportunity Commission for violations of the Americans with Disabilities Act of 1990, and Title I of the Civil Rights Act of 1991 to correct discriminatory and unlawful employment practices committed by Leson Chevrolet Company, Inc., (hereinafter referred to as "Leson Chevrolet").

Fee _____
 Process _____
 Dktd _____
 CtRmDep _____
 Doc. No. _____

2.

Jurisdiction of this Court is proper pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343, and 1345. The above filed 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 Sections 705(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 pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a.

3.

The above described violations and unlawful employment practices resulted from the actions of Leson Chevrolet against intervenor, Robert White, who sought employment with Leson Chevrolet.

4.

Intervenor, Robert White, was and is the aggrieved party for which action and prosecution has been made by the U.S. Equal Employment Opportunity Commission.

5.

At all relevant times, defendant, Leson Chevrolet, has continuously been doing business within the State of Louisiana, and has continuously had at least fifteen employees.

6.

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. § 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).

7.

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

8.

More than thirty days prior to the institution of the lawsuit, intervenor, Robert White, filed a charge with the EEOC alleging violations of Title I of the ADA by the defendant, Leson Chevrolet. All conditions precedent to the institution of this lawsuit by the EEOC have been fulfilled, and intervenor, Robert White, has pursued the proper administrative processes required herein.

9.

Since at least October 2003, defendant, Leson Chevrolet, has engaged in unlawful employment practices at its location in New Orleans, Louisiana, in violation of Section 102(a) of Title I of the ADA, 42 U.S.C. § 12112(a). Defendant, Leson Chevrolet, rejected intervenor, Robert White, for hire as a car salesperson, because of his disability, monocular vision. Intervenor, Robert White, at all relevant times was able to perform the essential job functions of the car salesperson position, with or without reasonable accommodation.

10.

Since at least November 2002, defendant, Leson Chevrolet, has engaged in unlawful employment practices at its location in New Orleans, Louisiana, in violation of Sections 102(a) and (d) of Title I of the ADA, 42 U.S.C. § 12112(a) and (d). Defendant, Leson Chevrolet, asked potential employees unlawful pre-employment disability-related inquiries. Defendant, Leson Chevrolet's, employment application reads as follows: "Do you have any physical limitations that preclude you from performing work for which you are being considered?" and, if yes, "what can be done to accommodate your limitation?"

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 with reckless indifference to the federally protected rights of intervenor, Robert White, and the class of potential employees subjected to unlawful pre-employment disability-related inquiries.

13.

Complainant, U.S. Equal Employment Opportunity Commission, has prayed for relief on behalf of the Commission, and, intervenor, Robert White, is entitled to recover damages as itemized below and shall take precedence and priority over the claims of complainant, and on any judgment of settlement rendered.

14.

Intervenor, Robert White, itemizes his damages as back pay and/or wages; front pay and/or wages; past and future pecuniary losses; and past and future non-pecuniary losses including emotional distress, mental anguish, pain and suffering, humiliation, loss of enjoyment of life, all of which damages will be appropriate and sufficient to compensate intervenor in a full amount to be determined by the trier-of-fact.

15.

As a result of the malicious and/or reckless and/or intentional conduct of the defendant, Leson Chevrolet, intervenor, Robert White, is entitled to recover punitive damages in an appropriate amount to be determined by the trier-of-fact.

16.

Intervenor, Robert White, is also entitled to recover attorneys' fees, all judicial interest, and all legal or equitable relief as this Court deems necessary and proper, as well as all costs incurred in this matter.

17.

By the filing of this Complaint of Intervention, intervenor suggests that the progress of the principal action will not be delayed.

18.

If intervenor, Robert White, is not allowed to assert his intervention, intervenor, Robert White, will be impaired and/or impeded in his ability to protect his interests.

19.

In accordance with Rules 38 and 39 of the Federal Rules of Civil Procedure, intervenor, Robert White, is entitled to and requests a trial by jury on all issues raised in the complaint and in this intervention.

WHEREFORE, premises considered, Intervenor prays that this Complaint of Intervention be filed, and that it thus be permitted to become a party to this suit, and that the United States Equal Employment Opportunity Commission and Leson Chevrolet Company, Inc. be duly cited to appear and answer this Complaint of Intervention, and after all legal delays and due proceedings had, that there be judgment in favor of intervenor and against defendant, Leson Chevrolet, in a full and true sum sufficient to compensate intervenor, Robert White, for all damages prayed for, punitive damages, attorneys' fees, court costs, and judicial interest, and for all general and equitable relief. Intervenor further prays for trial by jury.

Respectfully submitted:

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PLEASE SERVE:

**U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION**

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LESON CHEVROLET COMPANY, INC.

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