

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND  
NORTHERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )  
Baltimore District Office )  
10 S. Howard Street, 3rd Floor )  
Baltimore, Maryland 21201 )

Plaintiff, )

v. )

Civil Action No. )

NORTH AMERICA AVIATION )  
SERVICES BA, INC. )  
d/b/a NAAS )  
7071 ELM ROAD )  
Baltimore, Maryland 21240 )

C O M P L A I N T

JURY TRIAL DEMAND )

NORTH AMERICA AVIATION )  
SERVICES, INC. )  
d/b/a NAAS )  
2714 Grand Avenue )  
Bellmore, New York 11710 )

Defendants. )

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NATURE OF THE ACTION

This is an action under Title I and Title V of the Americans with Disabilities Act of 1990 (the ADA) 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 Robert Berchini, who was adversely affected by such practices. The Commission alleges that Mr. Berchini was terminated because of his disability, Hepatitis C, and Interferon treatment for Hepatitis C, and because he opposed actions made unlawful by the ADA. The Commission also alleges that Defendants failed to

provide a necessary reasonable accommodation to Mr. Berchini by denying his requests for intermittent unpaid sick leave.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. Sections 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. Section 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. Sections 2000e-5(f)(1) and (3), and pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. Section 1981A.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the District of Maryland.

PARTIES

3. Plaintiff, Equal Employment Opportunity Commission ("the Commission"), is an 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) of Title VII, 42 U.S.C. Section 2000e-5(f)(1).

4. At all relevant times, Defendant North America Aviation Services BA, Inc., has continuously been a Maryland corporation, doing business in the State of Maryland and the City of Baltimore and has continuously had at least fifteen employees.

5. At all relevant times, Defendant North America Aviation Services BA, Inc., has continuously been an employer engaged in an industry affecting commerce within the meaning of 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 North America Aviation Services BA, Inc., has been a covered entity within the meaning of Section 101(2) of the ADA, 42 U.S.C. §1211(2).

7. At all relevant times, Defendant North America Aviation Services, Inc., has continuously been a New York corporation, doing business in the State of Maryland and the City of Baltimore and has continuously had at least fifteen employees.

8. At all relevant times, Defendant North America Aviation Services, Inc., has continuously been an employer engaged in an industry affecting commerce within the meaning of 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).

9. At all relevant times, Defendant North America Aviation Services, Inc., has been a covered entity within the meaning of Section 101(2) of the ADA, 42 U.S.C. §1211(2).

STATEMENT OF CLAIMS

10. More than thirty days prior to the institution of this lawsuit, Robert Berchini 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.

11. Since at least September 2001 through January 2002, Defendants engaged in unlawful employment practices at its facility at the Baltimore-Washington International Airport, in violation of Sections 102(a) and 102(b)(5)(A) of Title I of the ADA, 42 U.S.C. Sections 12112(a) and 12112(b)(5)(A), and in violation of Title V of the ADA, Section 503(a), 42 U.S.C. § 12203(a). The practices include the following:

- a. refusing to provide a reasonable accommodation to allow Mr. Berchini to take intermittent, unpaid sick leave during the course of his Interferon treatments;
- b. subjecting Mr. Berchini to discipline because he opposed acts and practices made unlawful by the ADA;
- c. terminating Mr. Berchini because of his disability; and
- d. terminating Mr. Berchini because he opposed acts and practices made unlawful by the ADA.

12. The effect of the practices complained of above has been to deprive Mr. Berchini, a qualified individual with a disability, of equal employment opportunities and otherwise adversely affect his status as an employee, because of his disability and because he engaged in protected activity.

13. As a direct and proximate result of these violations of his rights under the ADA, Mr. Berchini has suffered damages in the form of past pecuniary losses. In addition he has suffered emotional pain, suffering, inconvenience, mental anguish, embarrassment, frustration, humiliation, and loss of enjoyment of life.

14. The unlawful employment practices complained of above were intentional.

15. The unlawful employment practices complained of in paragraph 11 above were done with malice or with reckless indifference to the federally protected rights of Mr. Berchini.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendants, their officers, successors, assigns and all persons in active concert or participation with them, from engaging in any employment practice which discriminates on the basis of a disability;

B. Order Defendants 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 their past and present unlawful employment practices;

C. Order Defendants to make whole Mr. Berchini by providing appropriate backpay with prejudgment interest, in amounts to be proven at trial, and other affirmative relief necessary to eradicate the effects of their unlawful employment practices;

D. Order Defendants to implement non-discriminatory, objective, written policies and practices regarding the terms and conditions of employment and sign and conspicuously post, for a designated period of time, a notice to all employees that sets forth the remedial action required by the Court and inform all employees that they will not discriminate against any employee because of a disability, including that they will comply with all aspects of the ADA and that they will not take any action against employees because they have exercised their rights under that statute;

E. Order Defendants to make whole Mr. Berchini by providing compensation for past pecuniary losses, in amounts to be proven at trial;

F. Order Defendants to make whole Mr. Berchini by providing compensation for non-pecuniary losses including emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, embarrassment, frustration, and humiliation, in amounts to be proven at trial;

G. Order Defendant to pay Mr. Berchini punitive damages for their callous indifference to his federally protected right to be free from discrimination based on disability in the workplace;

H. Grant such further relief as the Court deems necessary and proper; and

I. Award the Commission its costs in this action.

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

Respectfully submitted,  
GWENDOLYN YOUNG REAMS  
Associate General Counsel

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GERALD S. KIEL  
Regional Attorney

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DEBRA M. LAWRENCE  
Supervisory Trial Attorney

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