

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 Sections 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) and (3) and pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The unlawful employment practices alleged herein were committed within the judicial district of this Court.

PARTIES

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

4. At all relevant times, Defendant, Wal-Mart Stores, Inc. (“Defendant”) has continuously been a corporation organized under the laws of the State of Delaware doing business within the State of Maryland, and has continuously had at least fifteen 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. § 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 has been 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, Ms. Crocamo 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. Ms. Crocamo has at all times relevant been a qualified individual with a disability within the meaning of the ADA. As a result of sustaining a gunshot wound, Ms. Crocamo suffered permanent damage to her spinal cord, resulting in weakness of the lower extremities, hypertonicity (spasticity) of the lower extremities, chronic pain related to spinal nerve damage, muscle hypertonicity and abnormal gait requiring the use of a cane as an assistive device, sensory deficits which increase fall risk, and reduced range of motion of the right lower extremity.

9. Ms. Crocamo began working for Defendant as a Pharmacy Technician in July, 1993 and remained in this position throughout her employment. Ms. Crocamo was at all relevant times physically capable and willing to perform all essential functions of her position, with or without reasonable accommodation. At no time did Ms. Crocamo fail or refuse to perform any function of her job as Defendant requested.

10. At least since April 8, 2003 and continuing to the present, Defendant has engaged in unlawful conduct at its Abington, Maryland store, Store #2009, in violation of Sections 102(a), 102(b)(5)(a) and 102(b)(5)(b) of Title I of the ADA, 42 U.S.C. Section 12112(a), 12112(b)(5)(a) and 12112(b)(5)(b). The practices include declaring Ms. Crocamo incapable of

performing her position with or without a reasonable accommodation, despite her successful job performance throughout her employment, denying her a reasonable accommodation, and on July 18, 2003, unlawfully discharging her because of her disability.

11. As a direct and proximate result of these violations of her rights under the ADA, Ms. Crocamo has suffered damages in the form of expenses for job searches, expenses incurred due to the loss of health insurance, and other past pecuniary losses. In addition, she has suffered emotional pain, suffering, inconvenience, mental anguish, embarrassment, frustration, humiliation, and loss of enjoyment of life.

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

13. The unlawful employment practices complained of herein were, and are being, done with malice or with reckless indifference to the federally protected rights of Ms. Crocamo.

14. The unlawful employment practices complained of herein have caused Ms. Crocamo to suffer economic injuries, including but not limited to lost wages, as well as nonpecuniary injuries.

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 refusing to accommodate and from illegally terminating individuals who are disabled within the meaning of the ADA, and any other employment practice which discriminates 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 Ms. Crocamo by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices.
- D. Order Defendant to reinstate Ms. Crocamo or to make her whole by providing her with front pay, in amounts to be determined at trial, to eradicate the effects of Defendant's unlawful employment practices.
- E. Order Defendant to make whole Ms. Crocamo by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above, in amounts to be determined at trial.
- F. Order Defendant to make whole Ms. Crocamo by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of above, including but not limited to emotional and mental anguish, pain and suffering, humiliation, loss of enjoyment of life, and devastation in amounts to be determined at trial.
- G. Order Defendant to pay Ms. Crocamo punitive damages for its malicious and reckless conduct, as described hercinabove, in amounts to be determined at trial.

- H. Grant such further legal or equitable relief, including injunctive relief, as the Court deems necessary and proper in the public interest.
- I. Award the Commission its costs of this action.

JURY TRIAL DEMAND

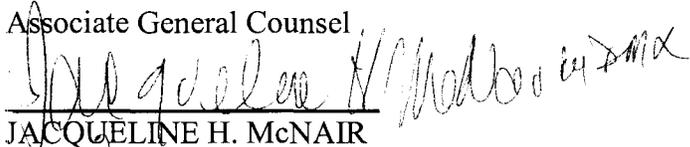
The Commission hereby requests a jury trial on all questions of fact raised by its Complaint.

Respectfully submitted,

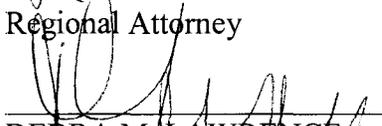
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