

IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Honorable John Corbett O'Meara  
Magistrate Judge R. Steven Whalen

Plaintiff,

Civil Action No.: ~~03-71387~~ 03-73187

v.

NABI BIOPHARMACEUTICALS,

Defendant.

**F I L E D**  
FEB 11 2005  
CLERK'S OFFICE  
DETROIT

**SETTLEMENT AGREEMENT**

1. Plaintiff, the United States Equal Employment Opportunity Commission (the "Commission" or the "EEOC") commenced this action styled EEOC v. Nabi Biopharmaceuticals, Case No. 03-71387 on August 22, 2003, in the United States District Court for the Eastern District of Michigan, Southern Division, alleging that the Defendant, Nabi Biopharmaceuticals ("Nabi") discharged and failed to reasonably accommodate Charging Party, Vanessa Turner, in violation of the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12101 et seq.

2. As a result of settlement discussions, the Commission, Vanessa Turner, and Nabi (the "Parties") have resolved their differences and have agreed that this action should be settled, and the action dismissed with prejudice. It is the intent of the parties that this Settlement Agreement be a final and binding settlement in full disposition of any and all claims alleged or which could have been alleged in the Complaint against Nabi or in the Charge of Discrimination filed by Turner, Charge No. 230-A2-00500.

### NON-ADMISSION

3. This Agreement, being entered into by the Commission and Nabi, shall not be construed as an admission by Nabi of any violation of the ADA or any other law, rule or regulation dealing with or in connection with equal employment opportunity.

### NON-DISCRIMINATION

4. Nabi, its officers, agents, employees, successors, assigns and all persons in active concert or participation with them or any of them will comply with the provisions of the ADA, 42 U.S.C. § 12101 et seq., with regard to disability discrimination and reasonable accommodation.

5. Nabi, its officers, agents, employees, successors, assigns and all persons in active concert or participation with them will make an individualized assessment of an applicant's or employee's ability to work with or without reasonable accommodation pre- and post-offer and before making a termination or other tangible, adverse employment decision. Nabi will engage in an interactive process with the disabled employee to explore possible accommodations. Nabi will not automatically terminate an employee who is on medical leave because of the expiration of that leave period without, upon request by the employee, making an individualized assessment of whether the employee is able to work with or without a reasonable accommodation. Before terminating an employee on medical leave because of expiration of that leave, Nabi will advise the employee that they may request the company to consider granting an extension of leave, and Nabi will provide the employee contact information where they may make such a request. Nabi also will make an individualized assessment of whether it would be an undue hardship to extend leave until the employee is able to return to work, and will so extend leave where it does not constitute an undue hardship.

### NON-RETALIATION

6. Nabi will not take any action against any person which constitutes intimidation, retaliation, harassment, or interference with the exercise of such person's rights under the ADA because of the filing of the Charge of Discrimination by Vanessa Turner, which forms the basis for the present case, or because such person gave testimony or assistance or participated in any manner in any investigation or proceeding in connection with this case under the ADA.

### MONETARY COMPENSATION

7. Nabi will, within five (5) days of the expiration of a seven (7) day revocation period after execution of this Agreement and a separate General Release by Vanessa Turner, pay Vanessa Turner Twenty Six Thousand (\$26,000.00) Dollars. This amount represents payment in concept for back pay and accrued interest. Nabi also will pay Five Hundred (\$500.00) Dollars for the review of the General Release by counsel retained by Vanessa Turner. Nabi will issue a W-2 form for the backpay amount in the ordinary course of business. This monetary compensation shall be paid in a check made payable to Vanessa Turner 18404 Mark Twain, Detroit, MI 48237. Nabi will mail this payment to Vanessa Turner by overnight mail within five (5) days of the expiration of a seven (7) day revocation period following execution of this Settlement Agreement and a separate General Release by Ms. Turner. Nabi will mail copies of the check and of the overnight mail receipt to Adele Rapport, Regional Attorney, 477 Michigan Avenue, Suite 865, Detroit, Michigan 48226. The Commission will have the right to monitor compliance with this paragraph through inspection of all documents relating to said disbursement, including but not limited to, a copy of the check, check stub, return receipt, letters, and any other documents evidencing payment hereunder.

8. Nabi enters into this Agreement in consideration for and on condition that Vanessa Turner

execute a separate General Release in the form provided to her.

### **TRAINING AND/OR EDUCATIONAL PROGRAMS**

9. Nabi will provide a mandatory training program to all management, supervisory, and human resources personnel who are responsible for making decisions regarding return to work or workplace accommodations to employees at Nabi's biomedical centers. That training program will focus on the requirements of the federal equal employment opportunity laws, including the Americans With Disabilities Act of 1990, as amended. The training will include information and discussion regarding the ADA requirement that employers must conduct an individual assessment of an applicant's ability to perform the essential functions of the job, with or without reasonable accommodation, before disqualifying such individuals from employment. This training shall also discuss the duty of reasonable accommodation for employees with disabilities and the interactive process. The first training session will commence within six (6) months of the execution of this Agreement. The training program described herein shall be completed within three (3) years of the execution of this Settlement Agreement. Nabi will retain signed rosters of attendees containing the dates of the training and will provide copies to the EEOC consistent with Paragraph 11 below.

### **POSTING OF NOTICE**

10. Nabi shall post a copy of the Notice attached as Exhibit A in a conspicuous location at its headquarters where employee notices are posted. The notice shall be posted for three (3) years from the date this Settlement Agreement is executed if the posted notice become defaced, marred or otherwise made unreadable, Nabi shall post a readable copy of the notice as soon as practical

thereafter.

### **REPORTING**

11. Six months after execution of this Agreement and on the second and third anniversary of the entry of this Agreement, Nabi will submit to the Commission a report of the steps it has taken to comply with this Agreement. Nabi's report pursuant to this paragraph shall be submitted to Adele Rapport, Regional Attorney, EEOC, Detroit District Office, 477 Michigan Avenue, Suite 856, Patrick V. McNamara Building, Detroit, Michigan 48226. The reporting obligations under this paragraph shall cease after Nabi submits the report due on or about the third year anniversary of the entry of this Agreement.

12. The parties further agree that they may request the Court to exercise all available, equitable powers, including injunctive relief, to enforce this Agreement. The parties also agree that either of them may request a hearing for the purpose of reviewing any party's compliance with this Agreement and/or ordering appropriate relief to determine whether the parties have complied with the terms of this Agreement. Prior to seeking review by the Court, the parties agree to engage in a good faith effort to resolve any dispute concerning compliance with the Agreement. Any party seeking court review of a matter shall be required to give ten (10) days notice to the other parties before moving for such review.

### **COURT COSTS AND ATTORNEYS FEES**

13. Each party shall bear its own court costs and attorney fees.

### **MISCELLANEOUS**

14. If any provision(s) of this Agreement is found to be unlawful, only the specific provision(s)

in question shall be affected and the other provisions will remain in full force and effect.

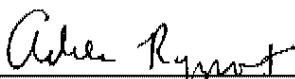
15. The terms of this Agreement shall be binding upon the present and future owners, office, directors, employees, creditors, agents, trustees, administrators, successors, representatives, and assigns of Nabi, and on all present and future agents, directors, Commissioners, or officers of the EEOC.

16. This Agreement constitutes the entire agreement and commitments of the parties. Any modifications to this Agreement must be mutually agreed upon and memorialized in a writing signed by Nabi and the Commission.

17. When this Agreement requires or permits the submission any documents by Nabi to the Commission, if not otherwise indicated in the Agreement, they shall be mailed to Adele Rapport, Regional Attorney, EEOC, Detroit District Office, Patrick V. McNamara Federal Building, 477 Michigan Avenue, Room 865, Detroit, MI 48226.

IN WITNESS WHEREOF, this Agreement has been executed by the Parties as of this 21 day of December, 2004.

For the Equal Employment Opportunity Commission:

  
\_\_\_\_\_  
Adele Rapport (P44833)  
Regional Attorney

12/22/04  
\_\_\_\_\_  
DATE

Stanley Pitts (P33519)  
Supervisory Trial Attorney

Dale Price (P55578)  
Trial Attorney

Attorneys for Plaintiff  
Detroit District Office  
Patrick V. McNamara Federal Building  
477 Michigan Avenue, Room 865  
Detroit, MI 48226

For Nabi:

By: Richard Clark <sup>By DP</sup>  
(consent by e-mail, attached)

12-23-04

DATED

Its: SVP Administration and CAO

IT IS SO ORDERED:

[Signature]

HONORABLE

February 11, 2005

DATE

## **EXHIBIT A**

### **NOTICE TO ALL EMPLOYEES**

This Notice is being posted to inform you of your rights guaranteed by federal law under the Americans With Disabilities Act, 42 U.S.C. § 12101 et seq. ("ADA"). The ADA prohibits discrimination against any employee on the basis of disability with regard to any term or condition of employment including hiring, layoff, recall, promotion, discharge, pay and fringe benefits or in retaliation for the opposition to unlawful employment practices. Nabi's corporate policies and procedures prohibit discrimination in any way against employees.

The United States Equal Employment Opportunity Commission is the federal agency which investigates charges of unlawful employment discrimination and, if necessary, files lawsuits in federal court to enforce the anti-discrimination provisions of the ADA. Any employee who believes that he/she is the victim of discrimination or retaliation has the legal right to file a charge of discrimination with the U.S. Equal Employment Opportunity Commission.

Nabi supports and will comply with this federal law in all respects. Nabi will not take any action against any employees because they have exercised their rights under the ADA.

Dated

Nabi Biopharmaceuticals



Dec-22-2004 01:23pm


From=EEOC DETROIT DISTRICT OFC

313 228 6684

T-740 P.008/008 F-965

Attorneys for Plaintiff  
Detroit District Office  
Patrick V. McNamara Federal Building  
477 Michigan Avenue, Room 865  
Detroit, MI 48226

For Nabi:

By:   
Richard Clark  
SVP Administration, and CAO  
Its: \_\_\_\_\_

12-23-04  
DATED

IT IS SO ORDERED:

\_\_\_\_\_  
HONORABLE

\_\_\_\_\_  
DATE