JS 44 11/99 CIVIL COVER SHEET COUNTY IN WHICH THIS ACTION AROSE: ALPENA 1 9 5 CV U 6 7 6

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

I. (a) PLAINTIFFS	art for the purpose of h	mating the civil do	ocket silee	DEFENDANT	S	<i>S.</i> !&
U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION				WAL-MART	STORES, INC.	S.I.P.P.P.
(b) County of Residence of First Listed				1 -	ONDEMNATION CASES, USE	LPENA THE LOCATION OF THE
(C) Attorney's (Firm Name	, Address, and Telephone	Number)		Attorneys (If Kno	wn)	
Dale Price (P55578), Commission, 477 M MI 48226 (313) 220	lichigan Avenue, F				Gor U.S	don J. Quist 5. District Judge
II. BASIS OF JURISD	ICTION (Place an "X" in (One Box Only)		ENSHIP OF PR	INCIPAL PARTIES (P	lace an "X" in One Box for Plaintiff
1 U.S. Government		ent Not a Party)	Citizer	PLA	1 Incorporated or of Business 2 2 Incorporated a	and One Box for Defendant) PLA DEF r Principal Place 4 4 In This State nd Principal 5 5 In Another State
	in Item 111)			n or Subject of a eign Country	3 3 Foreign Nation	6 6
IV. NATURE OF SUI		One Box Only)	FORF	EITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance☐ 120 Marine☐ 130 Miller Act☐ 140 Negotiable Instrument☐ 150 Recovery of	1 1 0 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument PERSONAL INJURY 3 1 0 Airplane 3 15 Airplane Product Liability	PERSONAL INJUI 362 Personal Injui Med. Malpracti Personal InV Product Lia ilii	RY 61 ry- 62 ice 62	0 Agriculture 20 Other Food & Drug 25 Drug Related Seizure of Property 21: 881	□ 422 Appeal 28 USC 158 □ 423 Withdrawal 28 USC 157	☐ 400 State Reapportionment ☐ 41 0 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce/ICC ☐ 460 Deportation
Overpayment and Enforcement of Judgment	320 Assault Libel And Slander 330 Federal Employers'	368 Asbestos Persolajury Product Liability PERSONAL PROPEF 370 Other Fraud 371 Truth in Lendin 380 Other Personal Property Dama 385 Property Dama Product Liability	onal	10 R.R. & Truck	PROPERTY RIGHTS	470 Racketeer Influenced & Corrupt Organizations
152 Recovery of Defaulted Student Loans (Excl. Veterans) 153 Recovery of Overpayment	aulted Liability 340 Marine 345 Marine Product			☐ 820 Copyrights ☐ 830 Patent ☐ 840 Trademark	☐ 810 Selective Service ☐ 850 Secu rities/Com mod ities/ Exchange ☐ 875 Customer Challenge	
of Veteran's Benefits 160 Stockholders' Suits 190 Other Contract 195 Contract Product Liability	☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury			0 Fair Labor Standards Act 0 Labor/Mgmt.	SOCIAL SECURITY B61 H IA (1 395ff) B62 Black Lung (923)	12 LISC 3410 3 891 Agricultural Acts 892 Economic Stabilization Act
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIO	ONS 73	Relations O Labor/Mgmt. Reporting	☐ 864 SSID Title XVI ☐ 865 RSI (405(g))	☐ 894 Energy Allocation Act ☐ 895 Freedom of Information Act
☐ 210 Land Condemnation☐ 220 Foreclosure☐ 230 Rent Lease & Electment☐	☐ 441 Voting ☑ 442 Employment ☐ 443 Housing/	☐ 51 0 Motions to Vac Sentence Habeas Corpus:		& Disclosure Act 40 Railway Labor Act	FEDERAL TAX SUITS	900 Appeal of Fee Determination Under Equal Access to Justice
☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐	Accommodations 444 Welfare 440 Other Civil Rights	☐ 530 General ☐ 535 Death Penalty ☐ 540 Mandamus & Oti ☐ 550 Civil Rights ☐ 555 Prison Condition	ner 🛭 79	90 Other Labor Litigation 91 Empl. Ret. Inc. Security Act	□ 870 Taxes (U.S. Plaintiff or Defendant) □ 871 IRS-Third Party 26 USC 7609	☐ 950 Constitutionality of State Statutes ☐ 890 Other Statutory Actions
V. ORIGIN Original 2 F Proceeding S	State Court /	Remanded from Appellate Court	4 Reins	anoth tated 5 (specifi	Litigation	
	Title I of the American	ns With Disabilitie				1991 to correct unlawful
VII. REQUESTED IN COMPLAINT:	CHECK IF THIS UNDER F.R.C.	IS A CLASS ACTION	O N \$D	EMAND	CHECK YES only JURY DEMAND:	y if demanded in complaint: Yes No
VIII. RELATED CASE IF ANY	(See E(S) instructions):	JUDGE		,	DOCKET NUMBER	

SIGNATURE OF ATTORNEY OF RECORD

9/28/05

DATE

PURSUANT TO LOCAL RULE 83.11

1.	Is this a case that has been previously dismissed?	Yes
If yes, giv	ve the following information:	≥ No
Court:		
Case No.:		
2.	Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)	Yes No
If yes, giv	ve the following information:	
Court:		
Case No.:	•	
Judge:		
Notes :		
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IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN NORTHERN DIVISION

05 STP 30 PM 12: 55

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

V.

Civil Action No.:

L 5040676

Plaintiff,

HONORABLE

Gordon J. Quist U.S. District Judge

COMPLAINT

WAL-MART STORES INC., AND J

AND JURY TRIAL DEMAND

Defendant.

NATURE OF THE ACTION

This is an action under Title I of 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 make whole Linda Keyes ("Keyes"). The Equal Employment Opportunity Commission alleges that Defendant Wal-Mart Stores Inc. violated the Americans with Disabilities Act ("ADA") when it failed to reasonably accommodate Keyes, a qualified individual with a disability, depression.

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, as amended, 42 U.S.C. Section 1981(a).

2. The employment practices hereafter alleged to be unlawful were committed in the Western District of Michigan, Southern Division.

PARTIES

- 3. The 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 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 Inc., was doing business in the State of Michigan and the County of Alpena, and has continuously had at least fifteen (15) employees.
- 5. At all relevant times, Defendant Wal-Mart Stores Inc., was continuously engaged in an industry affecting commerce within the meaning of 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 Section 701(g) and (h) of Title VII, 42 U.S.C. § 2000e(g) and (h).
- 6. At all relevant times, Defendant Wal-Mart Stores Inc., was a covered entity under Section 101(2) of the ADA, 42 U.S.C. § 12111(2).

STATEMENT OF CLAIMS

- 7. More than thirty (30) days prior to the institution of this lawsuit, Keyes' filed a charge with the Commission alleging violations of Title I of the ADA by Defendant Wal-Mart Stores Inc. All conditions precedent to the institution of this lawsuit have been fulfilled.
- 8. Beginning in March 2001, Defendant Wal-Mart Stores Inc., engaged in unlawful employment practices in violation of the ADA Sections 102(a), 102(b)(5)(A) and 102(b)(5)(B), 42

U.S.C. §§ 12112(a), 12112(b)(5)(A) and 12112(b)(5)(B). The Defendant's practices include, but are not limited to, failing to reasonably accommodate Keyes' need to work a certain amount of hours, which was necessary because of her disability.

- 9. Keyes is a qualified individual with a disability who was able to perform the essential functions of her position with or without a reasonable accommodation.
- 10. The effect of the above-mentioned unlawful employment practices has been to deprive Keyes of equal employment opportunities because of her disability.
 - 11. The above-mentioned unlawful employment practices were intentional.
 - 12. The effect of the above-mentioned unlawful employment practices has been to cause Keyes to suffer a loss of enjoyment of life.
- 13. The unlawful employment practices complained of above were committed with malice and a reckless indifference to Keyes federally protected rights.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

- A. GRANT a permanent injunction enjoining Defendant Wal-Mart Stores, Inc., its officers, successors, assigns and all persons in active concert or participation with it, from engaging in any unlawful employment practice which discriminates on the basis of disability;
- B. ORDER Defendant Wal-Mart Stores, Inc., to institute and carry out policies, practices, and programs which provide equal employment opportunities for individuals with disabilities, and which eradicate the effects of its past and present unlawful employment practices;
- C. ORDER Defendant Wal-Mart Stores, Inc., to provide training to its employees regarding disability discrimination and the ADA's requirement to provide a reasonable

accommodation to disabled employees;

D. ORDER Defendant Wal-Mart Stores Inc., to make whole Keyes by providing him

with appropriate lost earnings and benefits, with pre-judgment interest, in amounts to be proven at

trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment

practices;

E. GRANT a permanent injunction enjoining Defendant Employer to revise and modify

its employment application consistent with the ADA.

F. ORDER Defendant Wal-Mart Stores, Inc., to make whole Keyes by providing

compensation for past and future nonpecuniary losses resulting from the unlawful practices

complained of in paragraph 8 above, in amounts to be proven at trial.

G. ORDER Defendant Wal-Mart Stores, Inc., to pay Keyes punitive damages for the

malicious or reckless conduct described in paragraph 8 above, in amounts to be proven at trial.

H. GRANT the Commission its costs in this action; and

I. GRANT such further relief as the Court deems necessary and proper.

Respectfully submitted,

JAMES L. LEE

Deputy General Counsel

GWENDOLYN YOUNG REAMS

Associate General Counsel

DATED: **SEP 2 8 2005**

ADELE RAPPOR/II (P44833)

Regional Attorney

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DALE PRICE (P55578)

Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION Patrick V. McNamara Building 477 Michigan Avenue, Room 865 Detroit, Michigan 48226 (313) 226-5670