

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

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DEFENDANTS

WAL-MART STORES, INC.

S.I.R.P.R.

(b) County of Residence of First Listed

County of Residence of First Listed ALPENA

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(C) Attorney's (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

Dale Price (P55578), Equal Employment Opportunity Commission, 477 Michigan Avenue, Room 865, Detroit, MI 48226 (313) 226-7808

Gordon J. Quist U.S. District Judge

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question, 4 Diversity

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business, Incorporated and Principal of Business in Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, SOCIAL SECURITY, FEDERAL TAX SUITS, BANKRUPTCY, OTHER STATUTES.

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from another district, 6 Multi district Litigation, 7 Judge from Magistrate

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause.)

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

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23, DEMAND, JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY: JUDGE, DOCKET NUMBER

DATE, SIGNATURE OF ATTORNEY OF RECORD

Handwritten date 9/28/05 and signature Dale Price

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

- Yes
- No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

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, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes :

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

05 SEP 90 PM 12:55
CLY

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Civil Action No.:

1:89CV00676

Plaintiff,

HONORABLE

Gordon J. Quist
U.S. District Judge

v.

COMPLAINT
AND JURY TRIAL DEMAND

WAL-MART STORES INC.,

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


ADELE RAPPORPORT (P44833)
Regional Attorney

ROBERT DAWKINS (P38289)

DALE PRICE (P55578)
Trial Attorney

DATED: **SEP 28 2005**

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

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