

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

**EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION,)
and RODNEY GRAVES,)**

Plaintiffs,)

vs.)

Case No.: 04-1084-CV-W-HFS

**UMB FINANCIAL CORPORATION,)
d/b/a UMB BANK,)
(Serve Registered Agent:)
John C. Pauls)
1010 Grand Blvd.)
Kansas City, MO 64141-9946),)**

WITH JURY DEMAND

and)

**UMB BANK, N.A.,)
(Serve Registered Agent:)
John C. Pauls)
1010 Grand Blvd.)
Kansas City, MO 64141-9946),)**

Defendants.)

COMPLAINT

Plaintiff Rodney Graves (Plaintiff) states the following as his causes of action against Defendants UMB Financial Corporation d/b/a UMB Bank and UMB Bank, N.A.

JURISDICTION AND VENUE

1. Plaintiff is an individual who resides in Kansas City, Jackson County, Missouri.
2. Defendant UMB Financial Corporation d/b/a UMB Bank is a corporation organized under the laws of the State of Missouri who transacts business in the State of Missouri.
3. Defendant UMB Bank, N.A. is a corporation organized under the laws of the State

of Missouri who transacts business in the State of Missouri.

4. Plaintiff asserts these claims pursuant to the Americans with Disabilities Act (ADA), 42 U.S.C. § 12101, et seq., and the Missouri Human Rights Act at § 213.010 et seq., of the Missouri Revised Statutes. Plaintiff invokes the jurisdiction of the Court pursuant to 28 U.S.C. § 1331 and the doctrine of pendent jurisdiction.

5. Venue is proper because Defendants reside in the Western District of Missouri within the meaning of 28 § 1391 (b) and (c) and because the discriminatory actions occurred in Kansas City, Jackson County, Missouri in the Western District of Missouri.

6. Plaintiff filed a timely Charge of Discrimination with the Equal Employment Opportunity Commission and with the Missouri Commission of Human Rights alleging that Defendants engaged in discriminatory actions that are being raised in this lawsuit, or alternatively, the allegations of Plaintiff's lawsuit would have arisen from the investigation of Plaintiff's Charge of Discrimination.

7. Right-to-sue letters have been issued from the Equal Employment Opportunity Commission and from the Missouri Commission on Human Rights and this action is being brought within ninety (90) days from the issuance of such right-to-sue letters.

8. Plaintiff has fulfilled all conditions precedent to the bringing of this claim and has duly exhausted all administrative procedures in accordance with the law prior to instituting this lawsuit.

COUNT I
VIOLATIONS OF THE AMERICANS WITH DISABILITIES ACT

9. Plaintiff incorporates by reference the allegations contained in paragraphs 1-8 into

Count I of his Complaint.

10. Plaintiff is quadriplegic and suffers from a disability, was perceived as suffering from a disability, and has a record of a disability, all within the meaning of the ADA and its accompanying regulations. Plaintiff had, presently has, and was perceived and/or regarded to have a physical impairment which substantially limits one or more of life's major life activities.

11. Plaintiff applied for a position as a Customer Service/Sales Representative with Defendants beginning in May 2002.

12. Plaintiff was able to perform the essential functions of the Customer Service/Sales Representative position with reasonable accommodation or without any accommodation.

13. Instead of hiring Plaintiff as a Customer Service/Sales Representative, Defendants informed Plaintiff that Defendants believed Plaintiff should apply for a position in Defendants' Service Department, rather than Defendants' Sales Department.

14. On December 3, 2002, Plaintiff learned that Defendants chose not to hire Plaintiff for any position with Defendants.

15. Defendants did not hire Plaintiff for a Customer Service/Sales Representative position or any other position for which he was qualified because of his disability, his perceived disability, and/or his record of disability and instead hired other non-disabled individuals.

16. Defendants' employees and management were acting within the course and scope of their employment at all relevant times herein.

17. As a direct result of the discriminatory and unlawful acts of Defendants, Plaintiff has been caused to suffer and sustain damages, including, but not limited to, loss of past and future wages and benefits, emotional distress, humiliation and suffering, mental anguish, a detrimental

employment record, and other non-pecuniary losses.

18. The conduct of Defendants, through its employees and agents, was intentional, malicious, in conscious disregard for the rights of Plaintiff and others similarly situated, and reflected a conscious indifference to Plaintiff's federally protected rights, entitling Plaintiff to an award of punitive damages.

19. Plaintiff is entitled to recover all of his costs, expenses, expert witness fees, and attorneys' fees incurred in this matter as well as other appropriate equitable relief.

WHEREFORE, Plaintiff prays for judgment against the Defendants for actual damages, compensatory damages, and punitive damages, all costs, expenses, expert witness fees and attorneys' fees incurred herein, reinstatement, appropriate equitable relief, for interest at the highest lawful rate, and for such other relief as the Court deems just and proper.

COUNT II
VIOLATIONS OF THE MISSOURI HUMAN RIGHTS ACT

20. Plaintiff incorporates by reference the allegations contained in paragraphs 1-19 into Count II of his Complaint.

21. Plaintiff is handicapped, was regarded as and had a record of a handicap, within the meaning of the Missouri Human Rights Act, Mo. Rev. Stat. § 213.055.

22. Defendants' actions as alleged in Count I also constitute violations of Mo. Rev. Stat. § 213.055.

23. As a direct result of the discriminatory and unlawful acts of Defendants, Plaintiff has been caused to suffer and sustain damages, including, but not limited to, loss of past and future wages and benefits, emotional distress, humiliation and suffering, mental anguish, a detrimental

I hereby certify that a true and correct copy of the foregoing was electronically filed and mailed this 3rd day of December, 2004, to the following:

Eric S. Dreiband, General Counsel
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s/Kristi L. Kingston
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