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DAVID W. DANIEL, CLERK
US DISTRICT COURT, EDNC
BY  DEP. CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
WAL-MART STORES, INC.,)
)
Defendant.)
_____)

CIVIL ACTION NO. 5:01-CV-90-80
(3)

COMPLAINT
JURY TRIAL DEMANDED

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 provide appropriate relief to Craig P. Smith who was adversely affected by such practices. The Commission alleges that Defendant, Wal-Mart Stores, Inc., discriminated against Mr. Smith, a qualified applicant, by refusing to hire him for employment.

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 Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. §2000(e)-5(f)(1) and (3), and pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981.

2. The employment practices alleged to be unlawful were committed within the

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jurisdiction of United States District Court for the Eastern District of North Carolina.

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).

4. At all relevant times, Defendant, Wal-Mart Stores, Inc. ("Defendant" or "Wal-Mart"), has continuously been a Delaware corporation doing business in Hope Mills, North Carolina 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, Craig P. Smith filed charges with the Commission alleging violations of Title I of the ADA by Defendant Wal-Mart. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. Since at least July 1, 1998, Wal-Mart has continuously engaged in unlawful employment practices at its Hope Mills, North Carolina facility by discriminating against a

qualified applicant because of his disability, in violation of Section 102(a) of Title I of the ADA, 42 U.S.C. §12112(a). More specifically, Wal-Mart has refused to hire Craig P. Smith, a qualified deaf applicant.

9. The effect of the practices complained of in paragraph 8 above has been to deprive Craig P. Smith of equal employment opportunities and to otherwise adversely affect his status as an applicant for employment because of his disability.

10. The unlawful employment practices complained of in paragraphs 8 and 9 above were intentional.

11. The unlawful employment practices complained of in paragraphs 8 and 9 above were done with malice or with reckless indifference to the federally protected rights of Craig P. Smith.

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 failing and refusing to hire qualified applicants for employment because of their disability and from any other employment practice which discriminates on the basis of disability.

B. Order Defendant to institute and carry out policies, practices, and programs that 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 Craig P. Smith by providing him with appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other

affirmative relief necessary to eradicate the effects of Defendant's unlawful employment practices, including but not limited to rightful place hiring of Craig P. Smith or, in the alternative, an award of front pay.

D. Order Defendant to make whole Craig P. Smith by providing compensation for past and future pecuniary and non-pecuniary losses resulting from the unlawful practices complained of above, including but not limited to emotional pain, suffering, inconvenience, loss of enjoyment of life, humiliation, loss of self-esteem, and loss of civil rights, in amounts to be determined at trial.

E. Order Defendant to pay Craig P. Smith punitive damages for its malicious and reckless conduct, as described above, in amounts to be determined at trial.

F. Grant such further relief as the Court deems necessary and proper in the public interest.

G. Award the Commission its costs of this action.

JURY TRIAL DEMAND

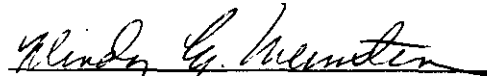
The Commission requests a jury trial on all questions of fact raised by its complaint.


DATED this 2nd day of February, 2001.

Respectfully submitted,

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