

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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EQUAL EMPLOYMENT OPPORTUNITY )	)	<b>CIVIL ACTION NO. 04 CV 02409</b>
COMMISSION, )	)	
)	)	
Plaintiff, )	)	<b><u>COMPLAINT</u></b>
)	)	
v. )	)	<b>JURY TRIAL DEMAND</b>
)	)	
TEAMSTERS LOCAL 804, )	)	<b>ECF CASE</b>
)	)	
Defendant )	)	<b>JUDGE SWAIN</b>
_____ )	)	

**NATURE OF THE ACTION**

This is an action under Title I of the Americans with Disabilities Act of 1990 (“ADA”), 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 the Charging Party (“John Doe”), a qualified individual with a disability (“AIDS”) who was adversely affected by such practices. As alleged with greater particularity below, the Equal Employment Opportunity Commission (“the Commission”) alleges that Defendant, Teamsters Local 804 (“Local 804”), subjected John Doe to discrimination on the basis of his disability by disclosing the fact that he has AIDS to his co-workers.

**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 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. §2000e-5(f)(1) and (3), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981A.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Southern District of New York.

**PARTIES**

3. Plaintiff, 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 Section 706(f)(1) and (3) of Title VII, 42 U.S.C. §2000e-5(f)(1) and (3).

4. At all relevant times, Defendant Local 804 has continuously been a labor organization that represents, among other workers, United Parcel Service (“UPS”) employees in the city of New York, and has continuously had at least 15 employees and 7500 members.

5. At all relevant times, Defendant Local 804 has continuously been a labor organization engaged in an industry affecting commerce under Section 101(7) of the ADA, 42 U.S.C. §12111(7), which incorporates by reference Sections 701(d) and (e) of Title VII, 42 U.S.C. §§ 2000e(d) and (e).

6. At all relevant times, Defendant Local 804 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, John Doe filed a charge with the Commission alleging violations of Title I of the ADA by Defendant Local 804. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. John Doe is HIV positive and suffers from AIDS. As such, he is a qualified individual with a disability pursuant to Title I of the ADA.

9. John Doe was hired by UPS in 1989 as a driver. By virtue of his employment, John Doe has been, at all relevant times, a member of Local 804.

10. In approximately 1995, John Doe requested and was provided a transfer to an indoor position (return clerk), as a reasonable accommodation. John Doe continues to be employed with UPS in the position of return clerk.

11. Since at least April 2001, Defendant Local 804 has engaged in unlawful employment practices at UPS' facilities located in New York, New York, in violation of Section 102 of Title I of the ADA, 42 U.S.C. §12112 (d) et seq. These practices include but are not limited to the unauthorized disclosure of information required to be kept confidential by the ADA. Specifically, Local 804 divulged confidential information about John Doe's medical condition to his co-workers.

17. The effect of the practices complained of in paragraph 11 above has been to deprive John Doe of equal employment opportunities and otherwise adversely affect his status as an employee, because of his disability.

18. The unlawful employment practices complained of in paragraph 11 above were intentional.

19. The unlawful employment practices complained of in paragraph 11 above were done with malice or with reckless indifference to the federally protected rights of John Doe.

### **PRAYER FOR RELIEF**

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Local 804, its officers, successors, assigns, and all persons in active concert or participation with them, from engaging in

any employment practice which discriminates on the basis of disability.

B. Order Defendant Local 804 to institute and carry out policies, practices, and programs which provide equal employment opportunities for qualified individuals with disabilities, and which provide affirmative relief necessary to eradicate the effects of its unlawful employment practices.

C. Order Defendant Local 804 to make John Doe whole, by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial.

D. Order Defendant Local 804 to make John Doe whole by providing compensation for past and future nonpecuniary losses resulting from the unlawful employment practices described in paragraph 11 above, including but not limited to emotional pain, suffering and inconvenience, in amounts to be determined at trial.

E. Order Defendant Local 804 to pay John Doe punitive damages for its malicious and reckless conduct described in paragraph 11 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.

Respectfully submitted,

Dated: March 26, 2004  
New York, NY

Eric S. Dreiband  
General Counsel

James L. Lee  
Deputy General Counsel

Gwendolyn Y. Reams  
Associate General Counsel

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION  
1801 L Street, N.W.  
Washington, D.C. 20507

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Katherine E. Bissell (KB 1831)  
Regional Attorney

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Elizabeth Grossman (EG 2478)  
Supervisory Trial Attorney

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Adela P. Santos (AS 4429)  
Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION  
New York District Office  
33 Whitehall Street, 5<sup>th</sup> Floor  
New York, NY 10004-2112  
(212) 336-3695  
(212) 336-3623 (Fax No.)