

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE**

UNITED STATES EQUAL EMPLOYMENT)	
OPPORTUNITY COMMISSION,)	
)	
Plaintiff)	
)	
and)	
)	
)	
SEAN STANLEY)	COMPLAINT: 3-05-1027
)	
Plaintiff-Intervenor)	JURY DEMAND
)	
-v.-)	
)	
PAPA JOHN'S USA, INC.,)	
)	
Defendant.)	

COMPLAINT IN INTERVENTION

1. Plaintiff Sean Stanley, by counsel, brings this action against the Defendant Papa John's USA, Inc. d/b/a Papa John's Pizza for Defendant's intentional and unlawful discrimination against the plaintiff resulting in failure to hire plaintiff, or in the alternative wrongful termination of the plaintiff because of his disability. Plaintiff also brings a claim of intentional unlawful discrimination for failure to hire, or in the alternative wrongful termination in violation of the Tennessee Handicapped Discrimination Act and Tennessee public policy. Plaintiff demands a jury trial as to all issues of fact raised in his Complaint.

2. This action seeks equitable relief, back pay, front pay, compensatory damages, punitive damages, costs, expert witness fees, and attorney fees for intentional unlawful discrimination and wrongful termination based on disability.

JURISDICTION AND VENUE

3. This action arises under the Americans with Disabilities Act. (“ADA”), 42 U.S.C. §12101 et seq. and the Tennessee Handicapped Discrimination Act (“THA”), T.C.A. § 8-50-103(a).

4. Jurisdiction over the federal claim set forth in this complaint is invoked pursuant to 42 U.S.C. § 12117 and 28 U.S.C. §§ 1331, 1337, 1343. Jurisdiction over the state law claim set forth in this Complaint is invoked pursuant to this Court’s supplemental jurisdiction as provided in 28 U.S.C. § 1367.

5. Within 300 days of the adverse action taken against plaintiff by defendant, plaintiff filed charges of employment discrimination with the Equal Employment Opportunity Commission. Plaintiff filed this action within a timely manner.

6. Venue for this action properly lies in the United States District Court for the Middle District of Tennessee at Nashville pursuant to 28 U.S.C. § 1391 because the events giving rise to these claims occurred in this judicial district. Further, the defendant can be found and transacts business in this judicial district.

7. Equitable relief, including but not limited to back pay and front pay, is sought pursuant to 42 U.S.C. § 12117. Compensatory and punitive damages are sought pursuant to 42 U.S.C. § 1981a. Costs and attorney’s fees, and expert witness fees are sought pursuant to 42 U.S.C. § 12205.

PARTIES

8. Plaintiff is an adult male citizen of the United States who resides in Davidson County, Tennessee. Plaintiff is disabled and uses a wheelchair. Plaintiff suffers from muscular dystrophy, a degenerative nerve disease.

9. Defendant Papa John's USA, Inc. is a foreign corporation doing business in Tennessee with its principal place of business located in Louisville, Kentucky. Defendant transacts business within the Middle District of Tennessee and has several locations. Defendant is an employer as defined by the Americans with Disabilities Act, 42 U.S.C. § 12111.

CLAIMS FOR RELIEF - ADA, THA

10. Defendant, by and through its agent, engaged in unlawful policies and practices in violation of 42 U.S.C. § 12112 et seq., and T.C.A. § 8-50-103(a) by intentionally and willfully discriminating against the plaintiff because of his disability commencing in or about May 12, 2004. These unlawful practices include failure to hire Sean Stanley because of his disability, or in the alternative wrongful termination because of his disability.

11. Defendant employs over 500 employees.

12. In May 2004, plaintiff went for a job interview with the store manager, Glen Larkins, at the defendant's Lebanon Pike location in Nashville after receiving information from a current employee of said location that defendant was hiring at that location because they were understaffed.

13. During the interview Mr. Larkins discussed the job duties with plaintiff which included "in store" work in the form of taking phone orders and folding pizza boxes. Mr. Larkins determined plaintiff could perform the essential functions of the job for "in store" work in this capacity.

14. Following the interview, Plaintiff was provided a copy of the employee handbook. Plaintiff was told to call the store at the beginning of the next week to get his work schedule. The hiring manager set up a work station toward the back of the store so that plaintiff would not be in the "flow of traffic" while performing his job duties.

15. Mr. Larkins met with his district supervisor, Mr. Adams, regarding the hiring of Mr. Stanley. When Mr. Adams learned of Mr. Stanley's disability, Mr. Adams told Mr. Larkins not to hire Mr. Stanley.

16. Plaintiff called the store at the beginning of the next week as instructed by Mr. Larkins but was told by Mr. Larkins that plaintiff would not be able to work for the defendant because they were no longer hiring new employees even though they were severely understaffed.

17. When questioned as to why he was hired for the position a few days prior, Mr. Larkins told Mr. Stanley that he was sorry but the only explanation he could give was that he was instructed by his boss to tell him this information.

18. Within a few days after plaintiff was told that he would not be hired for the position, even though they were severely understaffed, the defendant hired two additional workers to perform "in store" tasks at the Lebanon Pike location. Over the next few months defendant hired several additional "in store" employees at the Lebanon Pike location.

19. Defendant intentionally do not hire Mr. Stanley, or in the alternative, wrongfully terminated Mr. Stanley because of his disability in violation of his protected rights under federal and state law.

20. As a direct and proximate result of the defendant's intention and willful conduct, plaintiff has suffered lost income and emotional damages, including embarrassment and humiliation.

WHEREFORE, plaintiff demands judgment against Papa John's USA, Inc. in the amount of \$300,000 in actual and compensatory damages and \$300,000 in punitive damages. Plaintiff requests judgment for back pay, front pay, costs incurred in this action, including a reasonable attorney's fee and expert witness fees. Plaintiff requests that this Court enjoin defendants from

any further conduct constituting discrimination on the basis of disability. In addition, plaintiff requests such other and further relief as this Court may determine just and proper.

Respectfully Submitted,

s/ Cody Allison

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