

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	
Plaintiff,)	
)	Civil Action No.
v.)	
)	
SHARP MANUFACTURING)	
COMPANY OF AMERICA,)	COMPLAINT
A DIVISION OF SHARP ELECTRONICS)	
CORPORATION,)	JURY TRIAL DEMANDED
)	
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 the Charging Party, Delores Vaughn. The Commission alleges that the Defendant failed to provide Ms. Vaughn with a reasonable accommodation and discharged her because of her disability, osteoarthritis.

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, 42 U.S.C. §1981a.

2. The unlawful employment practices alleged below were and are now being committed in the Western District of Tennessee, Western Division.

PARTIES

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

4. At all relevant times, Defendant, Sharp Manufacturing Company of America, (hereinafter referred to as “Employer” “Defendant” or “Sharp”) has been and is now a corporation doing business in the State of Tennessee and has continuously had and does now have at least fifteen (15) employees. Defendant employer is a company engaged in the manufacture of a variety of products including, among other things, facsimile machines, microwave ovens and solar modules

5. At all relevant times, Defendant Employer has continuously been an employer engaged in an industry affecting commerce within the meaning of §101(5) of the ADA, 42 U.S.C. §12111(5), and Section 107(7) of the ADA, 42 U.S.C. §12117(a), 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 Employer 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 (30) days prior to the institution of this lawsuit, Delores Vaughn filed a charge with the Commission alleging a violation of Title I of the ADA by Defendant

Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. The Commission alleges that Delores Vaughn is a qualified individual with a disability under the definition of the Americans with Disabilities Act. She has osteoarthritis and as a result of her condition she is substantially limited in the major life activity of standing and walking.

9. Charging Party started working for Defendant in 1993 as an assembler. She was initially placed as a temporary worker through a temporary agency. She assembled televisions on an assembly line. Her job duties included plugging up the speakers and putting the backs on the televisions. She sat at one station and used a stool while performing her job duties. Charging Party was hired on as a casual in 1994 and in 1996, she became a permanent assembler in the Microwave Oven Production Department. After Defendant instituted an ergonomic policy, requiring workers to rotate from station to station, Charging Party continued to use a stool while she moved from station to station. Other workers also used a stool while working in that department.

10. In the winter of 2003, Ms. Vaughn was moved to a part of the assembly line that required constant standing. She asked her manager to place her back to her original position because the constant standing caused her severe pain and swelling. Her request was denied. Hoping to find a sitting position, Ms. Vaughn requested a transfer to the Solar Production Department. Once there, however, she learned that she would not be able to perform the duties of her new job while seated. She attempted to perform the job while standing, but the pain was too great.

11. Ms. Vaughn then contacted the company nurse and the manager of safety and

environment in May of 2004. She told them about the limitation in her ability to stand and her need to use a stool while working. As requested by the company officials, she followed up with medical documentation. She also requested a transfer back to a vacant position in the Microwave Oven Production Department so she could use a stool, as she had done for several years in the past. Thereafter, Charging Party was told to clock out pending an investigation of her situation. Her badge was taken and she was not allowed on the premises after she was sent home. Charging Party was not reassigned to her old position. Instead, she was terminated on or around June 11, 2006. Her separation notice stated that she was: "Physically unable to maintain industrial employment."

12. The effect of these practices complained of above has been to deprive Ms. Vaughn of equal employment opportunities and otherwise adversely affect her status as an employee because Defendant Employer failed to provide her with a reasonable accommodation and discharged her because she is disabled, as defined by the ADA.

13. The unlawful employment practices complained of above were and are intentional.

14. Defendant Sharp, at all relevant times, has been acting with malice or reckless indifference to the federally protected rights of Delores Vaughn in violation of the ADA, 42 U.S.C. §12101 *et seq.*

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully prays that this Court:

A. Grant a permanent injunction enjoining the Defendant Sharp, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in any employment practice which discriminates on the basis of disability.

B. Order Defendant to institute and carry out policies, practices and programs which provide equal employment opportunities for qualified individuals with disabilities, and which eradicate the effects of past and present unlawful employment practices.

C. Order Defendant Sharp to make whole Delores Vaughn by providing her with appropriate back pay with prejudgment interest, in amounts to be proved at trial, reinstatement with a reasonable accommodation and other affirmative relief necessary to eradicate the effects of its unlawful employment practices.

D. Order Defendant Sharp to make whole Delores Vaughn by providing compensation for nonpecuniary losses, including emotional pain, suffering, inconvenience and mental anguish in amounts to be proven at trial.

E. Order Defendant Sharp to pay punitive damages for its malicious and/or reckless conduct, in an amount to be determined at trial.

F. Grant such further relief as the Court deems necessary and proper; and,

G. Award the Commission its costs in this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact, raised by the Complaint.

Respectfully submitted,

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