

Division.

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

4. At all relevant times, Defendant, Mothers Work, Inc. has continuously been a Delaware Corporation doing business in the State of Texas and the City of San Antonio, and has continuously had at least fifteen (15) employees.

5. At all relevant times, Defendant, Mothers Work, Inc., 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, Mothers Work, Inc., 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, Monica E. Sarfaty filed a charge with the Commission alleging violations of Title I of the ADA by Defendant, Mothers Work, Inc. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. At all relevant times, Monica E. Sarfaty has been and is a qualified person with a disability and is covered by Title I of the ADA, 42 U.S.C. §§ 12101 et seq.

9. On or about October 31, 2003 Defendant, Mothers Work, Inc., engaged in unlawful

employment practices at its San Antonio, Texas location, in violation of Title I of the ADA, 42 U.S.C. §§ 12101 *et seq.* More specifically, on or about October 31, 2003:

- (a) Defendant discharged Monica Sarfaty from her position as a Regional Manager because she was a qualified individual with a disability as defined by the ADA; and
- (b) Defendants discharged Monica Sarfaty from her position of Regional Manager while out on an approved medical leave of absence.

10. The effect of the practices complained of in paragraph 9 above has been to deprive Ms. Sarfaty of equal employment opportunities and to otherwise adversely affect her status as an employee because of her disability.

11. The unlawful employment practices complained of in paragraph 9 above were intentional.

12. The unlawful employment practices complained of in paragraph 9 above were done with malice or with reckless indifference to the federally protected rights of Monica E. Sarfaty.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant, Mothers Work, Inc., its officers, successors, assigns, and all persons in active concert or participation with it, from discriminating against any qualified employees, because of their disabilities, by failing to provide reasonable accommodations; by terminating qualified individuals because of their disability; and/or engaging in any other employment practice which discriminates on the basis of disability;

B. Order Defendant, Mothers Work, Inc., 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 its past and present unlawful employment practices, including but not limited to posting notices regarding its compliance with the ADA;

C. Order Defendant, Mothers Work, Inc., to make whole Monica E. Sarfaty by providing appropriate back pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to reinstatement of Monica E. Sarfaty, or front pay in lieu thereof;

D. Order Defendant, Mothers Work, Inc., to make whole Monica E. Sarfaty by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 9, including, but not limited to, relocation expenses, job search expenses, and medical expenses, in amounts to be determined at trial;

E. Order Defendant, Mothers Work, Inc., to make whole Monica E. Sarfaty by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraph 9 above, including, but not limited to, emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial;

F. Order Defendant, Mothers Work, Inc., to pay Monica E. Sarfaty punitive damages for its malicious and reckless conduct, as described in paragraph 9 above, in amounts to be determined at trial;

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

H. Award the Commission its costs.

JURY TRIAL DEMAND

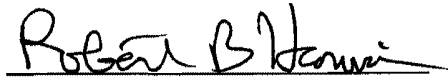
The Commission requests a jury trial on all questions of fact raised by its complaint.

Respectfully submitted,

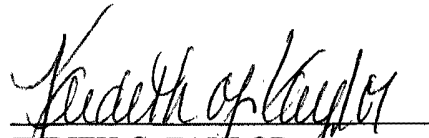
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