



**Jurisdiction**

3. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331 and 1367.

**Parties**

4. Intervenors Dorothea Huschka and Eric Madigan are deaf residents of Texas who are qualified persons with a disability covered by Title I of the ADA, 42 U.S.C. §§ 12101 *et. seq.*, and by the Texas law prohibiting disability-based discrimination in employment, Texas Labor Code § 21.001 *et. seq.* Both are persons aggrieved within the meaning of 42 U.S.C. § 2000e-5(f)(1), which is incorporated into the Americans with Disabilities Act at 42 U.S.C. §12117(a).

**TEXAS COMMISSION ON HUMAN RIGHTS ACT**

5. Intervenors reincorporate each of the foregoing paragraphs as if fully set forth herein.

6. Within one hundred and eighty days of the discrimination they experienced, Intervenors dual-filed charges of discrimination with the Austin Human Rights Commission and the E.E.O.C. alleging violations by Defendant of the Texas law prohibiting disability-based discrimination in employment. On October 20, 2004, the Texas Workforce Commission issued each a notice of his right to file a civil action. Intervenors filed their Motion to Intervene and Complaint in Intervention within sixty days of the issuance of these notices. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. At all relevant times, Dorothea Huschka and Eric Madigan have been and are persons with disabilities, as defined by § 21.002(6) of the Texas Labor Code, and are therefore protected from discrimination by Texas Labor Code § 21.001 *et. seq.*

8. At all relevant times, Spherion Corporation is and has been both an employer and an employment agency, as defined by §21.002(8) and §21.002(9) of the Texas Labor Code.

9. In or about May 2003, Defendant Spherion engaged in unlawful employment practices at its Austin, Texas location, in violation of Texas Labor Code § 21.001 *et. seq.* These practices include the following:

- a. Failing to or refusing to hire an individual or discriminating in any other manner against an individual in connection with compensation or the terms, conditions, or privileges of employment because of disability, in violation of Texas Labor Code § 21.051(1);
- b. Limiting, segregating, or classifying an applicant for employment in a manner that would deprive or tend to deprive an individual of any employment opportunity or adversely affect in any other manner the status of an employee because of disability, in violation of Texas Labor Code § 21.051(2);
- c. Failing to or refusing to refer for employment or discriminating in any other manner against an individual because of disability, in violation of Texas Labor Code § 21.052(1);
- d. Classifying or referring an individual for employment on the basis of disability, in violation of Texas Labor Code § 21.052(2);
- e. Failing or refusing to make a reasonable workplace accommodation to a known physical or mental limitation of an otherwise qualified individual with a disability who is an applicant for employment, in violation of Texas Labor Code §21.128;

10. As a direct, proximate, and reasonably foreseeable result of these practices, both Ms. Huschka and Mr. Madigan have suffered damages, and are therefore entitled to the full range of remedies requested below.

5. Declare that Defendant violated the Americans with Disabilities Act and Texas state law by discriminating against Intervenors in the ways detailed above;
6. Permanently enjoin Defendant from further acts of disability-based discrimination that violate the Americans with Disabilities Act and/or the Texas state law prohibiting disability-based discrimination in employment;
7. 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 its past and present unlawful employment practices;
8. Order that Defendant pay reasonable attorney's fees, all expert witness fees, and all costs incurred in the preparation and prosecution of this action as permitted by federal and state law; and
9. Order that Defendant pay pre-judgment and post-judgment interest as allowed by law, and such additional and further relief that this Court deems just and proper.

Respectfully submitted,

ADVOCACY, INCORPORATED

By: 

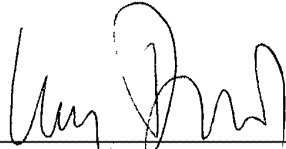
\_\_\_\_\_  
LUCY D. WOOD  
State Bar No. 24013780  
BRIAN EAST  
State Bar Number 06360800  
7800 Shoal Creek Blvd., Suite 142-S  
Austin, Texas 78757  
(512) 454-4816 (Phone)  
(512) 302-4936 (Fax)

**CERTIFICATE OF SERVICE**

I hereby certify that on this 2<sup>nd</sup> day of December, 2004, I sent a true and correct copy of the foregoing by certified mail, return receipt requested to:

Judith G. Taylor, Supervisory Trial Attorney  
Jennie Randall, Trial Attorney  
Equal Employment Opportunity Commission  
5410 Fredericksburg Road, Suite 200  
San Antonio, Texas 78229-3555

Scott McLaughlin  
Seyfarth Shaw, LLP  
700 Louisiana St., Suite 3700  
Houston, Texas 77002

  
\_\_\_\_\_  
Lucy D. Wood