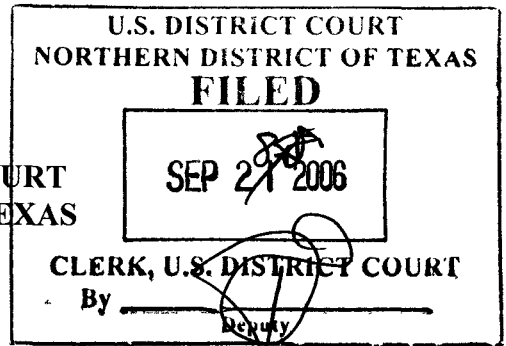


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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION



ORIGINAL

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
SPRING VALLEY UNITED )  
METHODIST CHURCH )  
 )  
Defendant. )  
\_\_\_\_\_ )

CIVIL ACTION NO.

**3-06 CV 1785-R**

COMPLAINT

(JURY DEMANDED)

COMPLAINT

This is an action under Title I of the Americans with Disabilities Act of 1990 to correct unlawful employment practices on the basis of disability and to provide appropriate relief to Audrey Durante, who was adversely affected by such practices. The Equal Employment Opportunity Commission ("Commission") alleges that the Defendant, Spring Valley United Methodist Church, violated the Americans with Disabilities Act by terminating Ms. Durante from her positions as a Preschool Teacher and Nursery Worker based on her perceived disability.

**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 107(a) of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12117(a), which incorporates by reference §§706(f)(1),(3) and 707(a) of Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. §2000e-5(f)(1),(3) and 2000e-6(a), and pursuant to §102 of the Civil Rights Act of 1991,

42 U.S.C. § 1981A.

2. The employment policies and practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Northern District of Texas, Dallas Division.

### **PARTIES**

3. Plaintiff, the Equal Employment Opportunity 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 § 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference §§ 706(f)(1),(3) and 707(a) of Title VII, 42 U.S.C. § 2000e-5(f)(1),(3) and 2000e-6(a).

4. At all relevant times, Defendant, Spring Valley United Methodist Church, has continuously been and is now doing business in the State of Texas and has continuously had at least fifteen employees.

5. At all relevant times, Defendant has continuously been an employer engaged in an industry affecting commerce under § 101(5) of the ADA, 42 U.S.C. § 12111(5), and § 101(7) of the ADA, 42 U.S.C. § 12111(7), which incorporates by reference §§ 701(g) and (h) of Title VII, 42 U.S.C. §§ 2000e-(g) and (h).

6. At all relevant times, Defendant has been a covered entity under § 101(2) of the ADA, 42 U.S.C. § 12111(2).

### **STATEMENT OF CLAIMS**

7. More than 30 days prior to the institution of this lawsuit, Audrey Durante filed a charge of discrimination with the Commission alleging violation of Title I of the ADA by the

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

8. The Defendant, Spring Valley United Methodist Church, has engaged in unlawful employment practices, in violation of § 102 of Title I of the ADA, 42 U.S.C. § 12112, by terminating Audrey Durante from her positions as a Preschool Teacher and Nursery worker or because Defendant regarded Ms. Durante as disabled, based on her hearing impairment.

9. The effect of the practices complained of in paragraph 8, above, has been to deprive Audrey Durante of equal employment opportunities and has otherwise adversely affected her status as an employee.

10. The unlawful policies and practices complained of in paragraph 8, above, were committed intentionally.

11. The unlawful policies and practices complained of in paragraph 8, above, were committed with malice or with reckless indifference to the federally protected rights of Audrey Durante.

### **PRAYER FOR RELIEF**

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction ensuring compliance with the ADA, and enjoining Defendant, Spring Valley United Methodist Church, 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 or perceived disability.

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

C. Order the Defendant to make whole Audrey Durante by providing appropriate back pay with prejudgment interest, in amounts to be proved at trial, and other affirmative relief necessary to eradicate the effects of the Defendant's unlawful employment practices, including but not limited to rightful place reinstatement of Ms. Durante and/or front pay.

D. Order the Defendant to make whole Audrey Durante by providing compensation for past and future non-pecuniary losses resulting from the unlawful employment practices described in paragraph 8 above, including but not limited to emotional pain, suffering, inconvenience, humiliation, mental anguish, and loss of enjoyment of life, in amounts to be determined at trial.

E. Order the Defendant to pay Audrey Durante punitive damages for its malicious conduct or reckless indifference described in paragraph 8, 10, and 11 above, in an amount 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 in this action.

### **JURY TRIAL DEMAND**

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

Respectfully submitted,

RONALD COOPER  
General Counsel

JAMES LEE  
Deputy General Counsel

GWENDOLYN REAMS  
Associate General Counsel



ROBERT A. CANINO  
Regional Attorney  
Oklahoma State Bar No. 011782

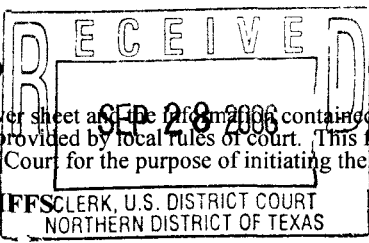
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EQUAL EMPLOYMENT OPPORTUNITY  
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CIVIL COVER SHEET

The JS-44 civil cover sheet and form contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS: U.S. Equal Employment Opportunity Commission
(b) County of Residence of First Listed Plaintiff: (EXCEPT IN U.S. PLAINTIFF CASES)
(c) Attorney's (Firm Name, Address, and Telephone Number): Suzanne M. Anderson, Supervisory Trial Attorney, EEOC-Dallas District Office, 207 South Houston St., 3rd Floor, Dallas, TX 75202 (214) 253-2746

DEFENDANTS: SPRING VALLEY UNITED METHODIST CHURCH
County of Residence of First Listed Defendant: (IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED
Attorneys (If Known): 3-06 CV 1785 - R

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
X 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State 1 1
Citizen of Another State 2 2
Citizen or Subject of a Foreign Country 3 3
Incorporated or Principal Place of Business In This State PTF DEF 4 4
Incorporated and Principal Place of Business In Another State 5 5
Foreign Nation 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)
Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, SOCIAL SECURITY, FEDERAL TAX SUITS, BANKRUPTCY, OTHER STATUTES. Includes various legal categories like 110 Insurance, 210 Land Condemnation, 310 Airplane, 441 Voting, 610 Agriculture, etc.

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)
X 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation
7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
Spring Valley United Methodist Church violated the Americans with Disabilities Act by terminating Audrey Durante from her position as a Preschool Teacher and Nursery Worker based on her perceived disability

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint JURY DEMAND: X Yes [ ] No

VIII. RELATED CASE(S) IF ANY (See instructions) JUDGE DOCKET NUMBER

DATE: 9/28/04 SIGNATURE OF ATTORNEY OF RECORD: [Signature]

FOR OFFICE USE ONLY: RECEIPT # AMOUNT APPLYING IFP JUDGE MAG JUDGE