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U.S. DISTRICT COURT

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DISTRICT OF UTAH

BY: _____
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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

<p>EQUAL EMPLOYMENT OPPORTUNITY COMMISSION Plaintiffs,</p> <p>vs.</p> <p>C.R. ENGLAND, INC. Defendant,</p> <hr/> <p>WALTER WATSON Plaintiff in Intervention,</p> <p>vs.</p> <p>C.R. ENGLAND, INC. Defendant,</p>	<p>COMPLAINT IN INTERVENTION</p> <p>Civil No: 2:06cv811 BJS</p> <p>Judge: Bruce S. Jenkins Magistrate:</p>
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Plaintiff in Intervention, Walter Watson, by and through his counsel, Russell T. Monahan, hereby complains against the Defendant, C.R. England, for cause of action as follows:

GENERAL ALLEGATIONS

1. This action is brought pursuant to the Americans With Disabilities Act of 1990 (ADA), 42 U.S.C. §12101, et. seq. for employment discrimination. Jurisdiction is specifically conferred upon this Court under and by virtue of 42 U.S.C. § 2000e(5) and §12117. Equitable and other relief are also sought under 42 U.S.C. § 2000e5(g).

Jurisdiction is also conferred upon this Court under and by virtue of 28 U.S.C. §§ 1331, 1343 and 42 U.S.C. §§1981 et. seq.

2. Plaintiff in Intervention, Walt Watson (hereinafter Plaintiff Watson) is a resident of the State of Alabama.

3. Defendant, C.R. England (hereinafter Defendant England), is a Utah Corporation, and during the relevant times, doing business in the County of Salt Lake, State of Utah and has at least 15 employees.

4. Plaintiff, Equal Employment Opportunity Commission (hereinafter Plaintiff EEOC) is an agency of the United States of America charged with enforcement under the ADA.

5. Venue is proper in the Central Division under 28 U.S.C. § 1391(b) in that a substantial part of the events or omissions giving rise to Plaintiff Watson's claims occurred in such District.

6. On or about August 18, 2003, Plaintiff filed a complaint with the EEOC alleging discrimination because of his disability and retaliation.

7. On or about September 15, 2004, Plaintiff EEOC issued a determination finding that Defendant England had violated Plaintiff's Watson's rights under the ADA.

8. On or about September 25, 2006, Plaintiff EEOC filed a complaint in the United States District Court for the State of Utah alleging that Defendant England violated the ADA when Defendant England discriminated against Plaintiff Watson.

9. All administrative prerequisites have been satisfied prior to filing this Complaint.

10. Defendant England provides trucking services throughout the United States to such clients as:

- A. Vlastic Foods International, Inc.
- B. Coca-Cola USA, Inc.
- C. Tropicana Juices
- D. Unilever

Defendant England is thus engaged in an industry affecting interstate commerce.

11. Plaintiff Watson is a qualified person with a disability under the ADA.

12. In the fall of 2002, Plaintiff Watson was recruited to work for Defendant England by a fellow driver.

13. In November 2002, Plaintiff Watson began driving for Defendant England.

14. At or near the end of November or the beginning of December, 2002, Plaintiff Watson had a meeting with Defendant England's Human Resource Office to discuss the performance of another driver.

15. During the November meeting, after being informed that the meeting was confidential, Plaintiff Watson informed Defendant England's H.R. of his medical condition.

16. During the November meeting, Plaintiff Watson saw a recruitment notice from Defendant England seeking truck driving trainers.

17. In late January 2003, Plaintiff Watson applied for a position of trainer with Defendant England.

18. On or about January 31, 2003, Plaintiff Watson's application for trainer was approved and Plaintiff Watson was assigned to begin training class on or about February 3, 2003.

FIRST CAUSE OF ACTION

DISCRIMINATION

19. Plaintiff incorporates by reference paragraphs 1-18 of this Complaint as if specifically set forth herein.

20. Since January 31, 2003, Defendant England discriminated against Plaintiff Watson as follows:

A. Coercing Plaintiff Watson into disclosing his medical condition to trainees and fellow employees.

- B. Requiring trainees to sign releases acknowledging Plaintiff Watson's medical condition before permitting Plaintiff Watson to train them.
- C. Discouraging and preventing trainees from training with Plaintiff Watson because of his medical condition.
- D. Purposely misdirecting Plaintiff Watson on load pick-ups so as to harass and discourage Plaintiff Watson from continuing his employment with Defendant England.
- E. Unlawfully discharging Plaintiff Watson because of his disability.

21. The foregoing actions constitute discrimination and unlawful employment practices under the Americans With Disabilities Act.

22. As a direct and proximate result of Defendant England's, wrongful conduct, Plaintiff Watson unlawfully suffered pecuniary and compensatory damages.

23. Plaintiff Watson is entitled to compensation from Defendant England for back pay, front pay, pain, suffering, humiliation and emotional distress, and other past and future pecuniary losses.

24. Plaintiff Watson and Plaintiff EEOC are entitled to affirmative injunctive relief prohibiting Defendant England from discriminating against individuals on the basis of their disability status in the future.

25. The actions of Defendant England were willful and wanton and were done with reckless indifference to Plaintiff Watson's federally protected rights.

26. Plaintiff Watson is entitled to punitive damages in an amount to be determined at trial.

27. Plaintiff Watson is entitled to reasonable attorney's fees and costs of court.
28. Plaintiff EEOC is entitled costs.

SECOND CAUSE OF ACTION

DENIAL OF REASONABLE ACCOMMODATION

29. Plaintiff Watson incorporates by reference paragraphs 1-28 of this Complaint as if specifically set forth herein.

30. The foregoing acts of Defendant England as stated in Plaintiffs' First Cause of Action were negligent.

31. While employed by Defendant England, Plaintiff Watson informed Defendant England that Plaintiff Watson needed time off to see a medical care provider.

32. Plaintiff Watson's request was a reasonable accommodation for Plaintiff Watson's disability.

33. When Plaintiff Watson took the needed time off, Defendant England terminated Plaintiff Watson.

34. Defendant England terminated Plaintiff Watson without warning Plaintiff Watson that Defendant England would terminate Plaintiff Watson if he took the time off for the medical care.

35. The foregoing actions constitute a denial of a reasonable accommodation and unlawful employment practices under the Americans With Disabilities Act.

36. As a direct and proximate result of the Defendant England's, wrongful conduct, Plaintiff Watson unlawfully suffered pecuniary and compensatory damages.

37. Plaintiff Watson is entitled to compensation from Defendant England for back pay, front pay, pain, suffering, humiliation and emotional distress, and other past and future pecuniary losses.

38. Plaintiff Watson and Plaintiff EEOC are entitled to affirmative injunctive relief prohibiting Defendant England from discriminating against individuals on the basis of their disability status in the future.

39. The actions of Defendant England were willful and wanton and were done with reckless indifference to Plaintiff Watson's federally protected rights.

40. Plaintiff Watson is entitled to punitive damages in an amount to be determined at trial.

41. Plaintiff Watson is entitled to reasonable attorney's fees and costs of court.

42. Plaintiff EEOC is entitled to costs.

THIRD CAUSE OF ACTION

RETALIATION

43. Plaintiff Watson incorporates by reference paragraphs 1-41 of this Complaint as if specifically set forth herein.

44. The foregoing acts of Defendant England as stated in Plaintiffs' First and Second Causes of Action were negligent.

45. After learning Plaintiff Watson intended to exercise his federally protected rights under the ADA, Defendant England took the following actions:

A. Disseminating defamatory and untrue statements to potential employers of Plaintiff Watson.

B. Asserting false monetary claims against Plaintiff Watson.

46. Defendant England's actions were in retaliation of Plaintiff's exercise of his rights under the Americans With Disabilities Act.

47. As a direct and proximate result of Defendant England's wrongful conduct, Plaintiff Watson unlawfully suffered pecuniary and compensatory damages.

48. Plaintiff Watson is entitled to compensation from Defendant England for back pay, front pay, pain, suffering, humiliation and emotional distress, and other past and future pecuniary losses.

49. Plaintiff Watson and Plaintiff EEOC are entitled to affirmative injunctive relief prohibiting Defendant England from discriminating against individuals on the basis of their disability status in the future.

50. The actions of Defendant England were willful and wanton and were done with reckless indifference to Plaintiff Watson's federally protected rights.

51. Plaintiff Watson is entitled to punitive damages in an amount to be determined at trial.

52. Plaintiff Watson is entitled to reasonable attorney's fees and costs of court.

53. Plaintiff EEOC is entitled costs.

FOURTH CAUSE OF ACTION

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

54. Plaintiff Watson incorporates by reference paragraphs 1-51 of this Complaint as if specifically set forth herein.

55. The foregoing acts of Defendant England as stated in Plaintiffs' First Second, and Third Causes of Action were negligent.

56. The foregoing acts of Defendant England were done for the purpose of inflicting emotional distress upon Plaintiff Watson.

57. A reasonable person would have known that, by taking the actions described above, the actions would result in the infliction of emotional distress.

58. Defendant England's actions are of such a nature as to be considered outrageous and intolerable in that they offend against the generally accepted standards of decency and morality.

59. As a direct and proximate result of Defendant England's actions, Plaintiff Watson suffered severe emotional distress and anguish all to his general damages in an amount to be determined at trial.

60. The acts of Defendant England were willful, wanton, malicious, and in reckless disregard of Plaintiff's rights and Plaintiff is entitled to punitive damages in an amount to be determined at trial.

FIFTH CAUSE OF ACTION

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

61. Plaintiff Watson incorporates by reference paragraphs 1 through 57 of his Complaint as if specifically set forth herein.

62. The foregoing acts of Defendant England as stated in Plaintiffs' First Second, Third and Fourth Causes of Action were negligent.

63. A reasonable person would have known that the actions described above, would result in the infliction of emotional distress.

64. Defendant England's actions are of such a nature as to be considered outrageous and intolerable in that they offend against the generally accepted standards of decency and morality.

65. As a direct and proximate result of the actions of Defendant England, Plaintiff Watson suffered severe emotional distress and anguish all to his general damages in an amount to be determined at trial.

SIXTH CAUSE OF ACTION

INVASION OF PRIVACY

66. Plaintiff Watson incorporates by reference paragraphs 1 through 65 of this Complaint as if specifically set forth herein.

67. The foregoing acts of Defendant England as stated in Plaintiffs' First Second, Third, Fourth and Fifth Causes of Action were negligent.

68. Defendant England's disclosure and forced disclosure of Plaintiff Watson medical condition constitute an invasion of Plaintiff Watson's rights to privacy.

69. The disclosure was highly offensive and objectionable to Plaintiff Watson and a person of normal sensibilities.

70. As a direct and proximate result of Defendant England's actions, Plaintiff Watson suffered severe emotional distress and anguish all to his general damages in an amount to be determined at trial.

71. The acts of Defendant England were willful, wanton, malicious, and in reckless disregard of Plaintiff's rights and Plaintiff is entitled to punitive damages in an amount to be determined at trial.

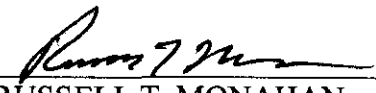
WHEREFORE, Plaintiff Watson prays for relief and judgment against Defendant England as more particularly set forth herein.

1. For front and back pay for Plaintiff Watson in an amount to be determined at trial, plus interest thereon at the appropriate legal rate.
2. For direct past and future pecuniary losses that Plaintiff Watson may show in an amount to be determined at trial.
3. For general damages for Plaintiff Watson's emotional distress, humiliation, pain, suffering and loss of privacy in such amount as may be determined at trial.
4. For punitive damages in such amount as may be determined at trial.
5. For injunctive relief prohibiting Defendant from violating the Americans With Disabilities Act.
6. For interest, costs of court and a reasonable attorney's fee for Plaintiff Watson.
7. For costs and fees for Plaintiff EEOC.
8. For such other and further relief as the Court may deem fitting and proper in the premises.

JURY DEMAND

Plaintiff Watson demands a jury trial.

DATED: March 22, 2007



RUSSELL T. MONAHAN
Attorney For Plaintiff

CERTIFICATE OF SERVICE

STATE OF UTAH)
)
) :SS
COUNTY OF SALT LAKE)

RUSSELL T. MONAHAN, being duly sworn, says:

That he is the attorney for Plaintiff, and that he served the attached **COMPLAINT** upon:

Mary Jo O'Neill
Michelle G. Marshall
Sally C. Shanley
Equal Employment Opportunity Commission (AZ)
Phoenix District Office
3300 N. Central Ave, Suite 690
Phoenix, AZ 85012-1848

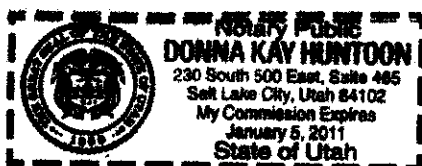
Stephen J. Sorenson
U.S. Attorney's Office
185 South State Street, #400
Salt Lake City, UT 84111

Michael Blue
Scott A. Hagen
Equal Employment Opportunity Commission (AZ)
Phoenix District Office
3300 N. Central Ave, Suite 690
Phoenix, AZ 85012-1848

by placing a true and correct copy thereof in an envelope and depositing the same, sealed, with first-class postage prepaid thereon, in the United States mail in Salt Lake City, Utah on Thursday, March 22, 2007.


RUSSELL T. MONAHAN

SUBSCRIBED AND SWORN TO before me on Thursday, March 22, 2007.




NOTARY PUBLIC