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12 **UNITED STATES DISTRICT COURT**
13 **WESTERN DISTRICT OF WASHINGTON**
14

15 **EQUAL EMPLOYMENT OPPORTUNITY**
16 **COMMISSION,**

17 Plaintiff,

18 v.

19 **UNITED AIR LINES, INC.,**

20 Defendant.

Civil Action No.

21 **COMPLAINT**

Civil Rights - Employment
Discrimination

22 **DEMAND FOR JURY TRIAL**

23 **NATURE OF THE ACTION**

24 This is an action under Title I of the Americans with Disabilities Act of 1990 and
25 Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the
26 basis of disability and to provide appropriate relief to Charging Parties Janet Lawhead,
27 Maria Lovell and Shelly Kia, and similarly situated individuals who were adversely
28 affected by such practices. Defendant United Airlines, Inc. discriminated against
Charging Parties Lawhead, Lovell and Kia and similarly situated disabled individuals
when it ceased and refused to reasonably accommodate them with work schedules of

COMPLAINT FOR DISCRIMINATION

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1 less than thirty hours, and required them to be able to work a minimum of thirty hours
2 per week. This failure to accommodate resulted in the forced termination and/or
3 preclusion of the employment relationship of Charging Parties Lawhead, Lovell and
4 Kia, and other qualified individuals with disabilities, with Defendant United Airlines,
5 Inc.

6 JURISDICTION AND VENUE

7 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1331,
8 1337, 1343, and 1345. This action is authorized and instituted pursuant to Section 107(a)
9 of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. §12117(a), which
10 incorporates by reference Sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of
11 1964 ("Title VII"), 42 U.S.C. § 2000e-5(f)(1) and (3) and pursuant to Section 102 of the
12 Civil Rights Act of 1991, 42 U.S.C. §1981a.

13 2. The employment practices alleged to be unlawful were committed against
14 Charging Party Lawhead within the jurisdiction of the United States District Court for
15 the Western District of Washington, establishing the Western District of Washington as
16 an appropriate venue. The employment practices alleged to be unlawful were
17 committed against Charging Parties Lovell and Kia in the District of Hawaii, and similar
18 alleged unlawful employment practices were committed by Defendant against similarly
19 situated disabled individuals throughout the United States.

20 PARTIES

21 3. Plaintiff, the Equal Employment Opportunity Commission ("Plaintiff
22 Commission"), is the agency of the United States of America charged with the
23 administration, interpretation and enforcement of Title I of the ADA and is expressly
24 authorized to bring this action by Section 107(a) of the ADA, 42 U.S.C. §12117(a), which
25 incorporates by reference Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. §2000e-5(f)(1).

26 4. Defendant United Airlines, Inc. (hereinafter "Defendant United") is a
27 Delaware corporation, doing business at all relevant times in the State of Washington, in
28 the County of King, and has continuously had at least 15 employees.

5. At all relevant times, Defendant United has continuously been 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 United 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, Charging Parties Janet Lawhead, Maria Lovell and Shelly Kia (“Charging Parties”) filed charges with Plaintiff Commission alleging violations of Title I of the ADA by Defendant United. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. Since at least on or about April 1, 2003, Defendant United has engaged in unlawful employment practices in violation of Section 102 of Title I of the ADA, 42 U.S.C. §12112(a). These practices have included but are not limited to failure to provide reasonable accommodation to Charging Parties and similarly situated individuals, resulting in some cases, including those of Charging Parties, in the termination of their employment relationship with Defendant United. These employment practices included Defendant United's rescission of work schedules of less than thirty hours per week, which had previously been provided to Charging Parties, and/or could have been provided to Charging Parties and similarly situated individuals as reasonable accommodation of their disabilities. Instead, Defendant United required that all such individuals work a minimum of thirty hours per week.

9. The effect of the actions complained of in paragraph 8 above has been to deprive Charging Parties and similarly situated individuals of equal employment opportunities and otherwise adversely affect their status as employees because of their disabilities.

10. The unlawful employment practices complained of in paragraph 8 above were intentional.

11. The unlawful employment practices complained of in paragraph 8 above were done with malice or with reckless indifference to the federally protected rights of Charging Parties and similarly situated individuals.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns, and all persons in active concert or participation with it, from failing to accommodate qualified employees' disabilities, terminating the employment of individuals with disabilities because of their disabilities, and engaging any other 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 its past and present unlawful employment practices.

C. Order Defendant to make whole Charging Parties and similarly situated individuals by providing appropriate back pay and benefits with prejudgment interest, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to reinstatement and/or front pay and other appropriate relief to be determined at trial.

D. Order Defendant to make whole Charging Parties and similarly situated individuals by providing compensation for past pecuniary losses resulting from the unlawful employment practices described above, including out-of-pocket medical expenses and costs associated with job search, in an amount to be determined at trial.

E. Order Defendant to make whole Charging Parties and similarly situated individuals by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of above including, but not limited to, emotional pain and suffering, mental anguish, inconvenience, loss of enjoyment of life and humiliation, in amounts to be determined at trial.

1 F. Order Defendant to pay Charging Parties and similarly situated
2 individuals punitive damages for the malicious and reckless conduct described above,
3 in amounts to be determined at trial.

4 G. Grant such further relief as the Court may deem just and proper in the
5 public interest.

6 H. Award the Commission its costs of this action.

7 **DEMAND FOR JURY TRIAL**

8 Pursuant to the provisions of Federal Rule of Civil Procedure 38(b), Plaintiff
9 hereby demands a jury trial.

10 Dated: 28 September 2006

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