

- 5) At all relevant times, Defendant has continuously been a Wisconsin corporation doing business in the State of Missouri and the City of North Kansas City, and has continuously had at least 15 employees.
- 6) At all relevant times, Defendant has been a covered entity under Section 101(2) of the ADA, 42 U.S.C. § 12111(2).
- 7) More than 30 days prior to the institution of this lawsuit, Plaintiff Delores Anderson filed a charge with the EEOC alleging violation of the ADA by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.
- 8) Since at least January 1, 1997, Defendant has engaged in unlawful employment practices at its North Kansas City, Missouri facility, in violation of the ADA. Defendant hired and promptly fired Plaintiff due to the fact she was disabled, as that term is defined by the ADA.
- 9) In November, 1996, Plaintiff applied for employment at Woodbridge.
- 10) In late December, 1996, Anderson was asked by Woodbridge to undergo a physical examination at the office of the company doctor—Occupational Medicine Associates (“OMA”).
- 11) Plaintiff reported for a medical examination to OMA on December 27, 1996.
- 12) The examination OMA conducted included a test (called a neurometry test).
- 13) Woodbridge contended the neurometry test was designed to identify persons who were at risk for repetitive stress injuries.
- 14) The neurometry test did not show that Plaintiff was at risk for repetitive stress injuries.

- 15) The doctor's note on the OMA form did note, however, that Plaintiff had filed a previous worker's compensation claim and that she might have a "condition which may result in increase chance of development of carpal tunnel."
- 16) OMA did not identify any restrictions on Anderson's ability to work.
- 17) After her medical examination, an employee of OMA called Woodbridge and told someone there that Plaintiff was "fine."
- 18) Consequently, Plaintiff was hired by Woodbridge and put to work.
- 19) Plaintiff was able to perform the essential functions of her job at Woodbridge.
- 20) Plaintiff had no physical problems doing her job as an inspector at Woodbridge.
- 21) OMA sent the results of Plaintiff's physical to employees at Woodbridge, including, but not limited to, Randy Haffee, manager of human resources.
- 22) After Haffee received Plaintiff's medical information, he saw the doctor's notation that several years earlier Plaintiff had reported a worker's compensation claim.
- 23) After Haffee received the report on Plaintiff, he called Dr. Carl Foster, an employee of OMA.
- 24) Woodbridge asked Dr. Foster to have an EMG test conducted on Anderson.
- 25) Haffee's decision to request an EMG test was not based on Plaintiff's work performance, since she was performing her job satisfactorily.
- 26) An EMG test is a test which tests for carpal tunnel.
- 27) Plaintiff was then asked to report to Dr. Harold Joe Pryor on January 8, 1997 for an examination at 9:15 a.m.
- 28) Dr. Pryor is not employed by OMA.

- 29) Dr. Pryor frequently tested Woodbridge employees for carpal tunnel syndrome, but had never before tested a Woodbridge job applicant for carpal tunnel syndrome.
- 30) Plaintiff reported to Dr. Pryor at 9:15 a.m. on January 8, 1997. Plaintiff was tested by Dr. Pryor.
- 31) Plaintiff told Dr. Pryor that she had no symptoms of carpal tunnel in her hands.
- 32) Dr. Pryor nevertheless opined after testing Plaintiff that “the median nerve sensory and motor latencies are prolonged across the wrists bilaterally, consistent with the presence of bilateral median nerve entrapment neuropathies and carpal tunnel syndrome.”
- 33) Dr. Pryor faxed his report on Plaintiff to Dr. Carl Foster at 10:10 a.m. on January 8, 1997.
- 34) After reviewing the report, Dr. Foster wrote a letter on January 8, 1997 to Roseann Ramsburg at Woodbridge in which he said he reviewed Dr. Pryor’s report, that it confirmed carpal tunnel syndrome and that it was his opinion that any repetitive motion would put Plaintiff at “increased risk for further deterioration of her problems referable to her wrists.”
- 35) Dr. Foster faxed the letter to Woodbridge on January 8, 1997.
- 36) On January 9, 1997, Randy Haffey, Woodbridge manager of human resources, advised Plaintiff that based on the test results, they would have to let her go.
- 37) He wrote a letter to Plaintiff confirming that fact on January 17, 1997.
- 38) Woodbridge terminated Plaintiff’s employment because she was regarded as disabled and had a record of a disability.
- 39) Anderson was an individual with a disability, in that she:

- a) Was regarded as having a physical impairment that substantially limited one or more of her major life activities; and
- b) Plaintiff had a record of such an impairment.

40) Woodbrige discriminated against Plaintiff because of her disability by:

- a) Terminating her employment; and
- b) Not making or discussing with Plaintiff the possibility of reasonable accommodations to the physical limitations which Woodbridge believed she had; and
- c) Conducting a medical examination which
 - i) Was not performed on all job applicants; and
 - ii) Was conducted after the commencement of employment duties; and
 - iii) Performing such an examination when the inquiry was not job-related or consistent with business necessity; and
 - iv) Not treating the results of the examination as confidential.

41) The unlawful employment practice complained of was intentional.

42) The unlawful employment practices complained of were and are done with malice or with reckless indifference to the federally protected rights of Plaintiff.

43) As a direct and proximate result of defendant's unlawful acts, Plaintiff has suffered:

- a) Economic loss in the form of lost wages and lost benefits ;
- b) Vocational-Professional losses in the form of a detrimental job record, loss of employment, career damage, a diminished career potential, future pecuniary losses; and

- c) Emotional pain, suffering, inconvenience, loss of enjoyment of life and mental distress in the form of embarrassment, humiliation and anxiety.

WHEREFORE, Plaintiff respectfully prays that the judgment and finding of this Court be as follows:

- A) Declaring that defendant's actions constitute disability discrimination and retaliation in violation of the Americans with Disabilities Act.
- B) That a permanent injunction should issue prohibiting defendant from discriminating or retaliating against Plaintiff or others similarly situated; and
- C) Awarding Plaintiff's damages, including, but not limited to, backpay, interest on backpay, reinstatement or future pecuniary losses, damages for emotional pain, suffering, inconvenience, mental anguish and loss of enjoyment of life, and
- D) Awarding punitive damages in an amount sufficient to punish and deter defendant and others similarly situated from like conduct in the future; and
- E) Awarding plaintiff the costs and disbursements of this action, including reasonable attorney's fees, expert witness fees, other expenses, attorney's fees and costs; and
- F) Retaining full jurisdiction over this action to assure full compliance with the orders of this Court and with applicable law and requiring defendant to file such reports as the Court deems necessary to evaluate compliance; and
- G) Granting such additional relief as the court deems just and proper.

JURY TRIAL DEMAND

Plaintiff hereby demands a trial by jury on all issues so triable.

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ATTORNEY FOR DELORES ANDERSON

CERTIFICATE OF SERVICE

This certifies that a copy of the above was sent by email on 7/6/99 to Barbara Seely at Barbara.Seely@EEOC.gov to Jerry Short at Jerry.Short@usdoj.gov and to Rowdy Meeks at rum@sonnenschein.com.

S/ Lee J. Hollis