IN THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF ILLINOIS PEORIA DIVISION

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,) CIVIL ACTION NO. 04-1323
Plaintiff,)) COMPLAINT
v.	SEP 2 1 2004
Studley Products, Inc. and Wildwood Industries, Inc.	JOHN M. WATERS, Clerk CENTRAL DISTRICT COURT HIDY TOLAL DEMAND
Defendants) JURY TRIAL DEMAND)

NATURE OF THE ACTION

This is an action under Title I of the Americans with Disabilities Act of 1990 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices. The Equal Employment Opportunity Commission ("EEOC") alleges that Studley Products, Inc. and Wildwood Industries, Inc. failed to accommodate Jerry Barth's 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 Section 107(a) of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12117(a), which incorporates by reference Section 706 and Section 707 of Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. § 2000e-5, and § 20000e-7.
- 2. The employment practices alleged to be unlawful were committed within the State of Illinois.

PARTIES

3. Plaintiff EEOC 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 Section 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference Section 706(f)(1) and (3), 42 U.S.C. § 2000e-5(f)(1) and (3).

- 4. At all relevant times, Studley Products, Inc. ("Studley") was doing business in the State of Illinois and had at least 15 employees.
- 5. At all relevant times, Studley was an employer 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, Studley was a covered entity under Section 101(2) of the ADA, 42 U.S.C. § 12111(2).
- 7. At all relevant times, Wildwood Industries, Inc. ("Wildwood") was doing business in the State of Illinois and continuously had at least 15 employees.
- 8. At all relevant times, Wildwood was an employer 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).
- 9. At all relevant times, Wildwood was a covered entity under Section 101(2) of the ADA, 42 U.S.C. § 12111(2).
- 10. At all relevant times Studley and Wildwood have acted as a single or joint employer of Jerry Barth.

STATEMENT OF CLAIMS

- 11. More than thirty days prior to the institution of this lawsuit, Jerry Barth filed a charge with the EEOC alleging violations of Title I of the ADA by Wildwood. All conditions precedent to the institution of this lawsuit have been fulfilled.
- 12. In 2002 and 2003 Defendants failed to accommodate Jerry Barth, and disciplined and terminated him because of his disability, in violation of Section 102(a) and (b)(5) of Title I of the ADA, 42 U.S.C. § 12112(a) and (b)(5).

- 13. The effect of the practices complained of in paragraph 12 above has been to deprive Jerry Barth of equal employment opportunities and otherwise adversely affect his status as an employee, because of his disability.
- 14. The unlawful employment practices complained of in paragraph 12 above were intentional.
- 15. The unlawful employment practices complained of in paragraph 12 above were done with malice or with reckless indifference to the federally protected rights of Jerry Barth.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

- A. Grant a permanent injunction enjoining each Defendant, its officers, successors, assigns, and all persons in active concert or participation with it from engaging in employment practices which discriminate on the basis of disability.
- B. Order each 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 the unlawful employment practices of each Defendant.
- C. Order each Defendant to make whole Jerry Barth by providing compensation for nonpecuniary losses resulting from the unlawful practices complained of in paragraph 12 above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.
- D. Order each Defendant to pay Jerry Barth punitive damages for its malicious and reckless conduct, as described in paragraph 12 above, in an amount to be determined at trial.
 - E. Grant such further relief as the Court deems necessary and proper in the

public interest.

F. Award the Commission its costs of this action.

JURY TRIAL DEMAND

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

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RECEIVE CEIVEL The JS-44 civil cover sheet and the information 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 Math Auto-Bandel Epik, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THERES EAST ACTIONS OF THE PROJECTION OF THE (b) County of Residence of First Listed Plaintiff County of Residence of First Listed McLean County (EXCEPT IN U.S. PLAINTIFF CASES) (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED. Attorneys (If Known) (c) Attorney's (Firm Name, Address, and Telephone Number) Gordon G. Waldron (312) 353-7525 J. Reed Roseler (309) 673-1681 **Equal Employment Opportunity Commission** Davis and Campbell L.L.C. 500 W. Madison St., Suite 2800 401 Main St., Suite 1600 Chicago, Illinois 60661 Peoria, Illinois 61602-1241 II. BASIS OF JURISDICTION CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff (Place an "X" in One Box Only) and One Box for Defendant) (For Diversity Cases Only) DEF DEF 1 U.S. Government Incorporated or Principal Place

4 □ 3 Federal Question Citizen of This State \Box 1 \Box 4 Plaintiff (U.S. Government Not a Party) of Business In This State ☐ 4 Diversity U.S. Government Citizen of Another State

2 ☐ 2 Incorporated and Principal □ 5 □ 5 (Indicate Citizenship of Parties of Business In Another State Defendant in Item III) Citizen or Subject of a □ 3 □ 3 Foreign Nation □ 6 □6 Foreign Country IV. NATURE OF SUIT (Place an "X" in One Box Only) FORFEITURE/PENALTY CONTRACT BANKRUPTCY OTHER STATUTES TORTS PERSONAL INJURY PERSONAL INJURY ☐ 400 State Reapportionment 110 Insurance 610 Agriculture 422 Appeal 28 USC 158 120 Marine 310 Airplane ☐ 362 Personal Injury 620 Other Food & Drug ☐ 410 Antitrust 130 Miller Act ☐ 315 Airplane Product Med. Malpractice 625 Drug Related Seizure 423 Withdrawal ☐ 430 Banks and Banking 140 Negotiable Instrument Liability ☐ 365 Personal Injury of Property 21 USC 881 28 USC 157 ☐ 450 Commerce/ICC Rates/etc. 150 Recovery of Overpayment 320 Assault, Libel & Product Liability 460 Deportation 630 Liquor Laws PROPERTY RIGHTS & Enforcement of Judgmen Slander 368 Asbestos Personal 640 R.R. & Truck ☐ 470 Racketeer Influenced and 151 Medicare Act ☐ 330 Federal Employers Injury Product 650 Airline Regs. Corrupt Organizations 820 Copyrights Liability 152 Recovery of Defaulted 660 Occupatio ☐ 810 Selective Service 830 Patent 840 Trademark ☐ 340 Marine Student Loans PERSONAL PROPERTY Safety/Health ☐ 850 Securities/Commodities/ ☐ 690 Other (Excl. Veterans) ☐ 345 Marine Product ☐ 370 Other Fraud Exchange ☐ 875 Customer Challenge 153 Recovery of Overpayment of Veteran's Benefits Liability ☐ 371 Truth in Lending SOCIAL SECURITY 350 Motor Vehicle LABOR ☐ 380 Other Personal 12 USC 3410 160 Stockholders' Suits ☐ 355 Motor Vehicle ☐ 891 Agricultural Acts Property Damage ☐ 710 Fair Labor Standards 861 HIA (1395ff) 190 Other Contract Product Liability ☐ 385 Property Damage ☐ 892 Economic Stabilization Act 862 Black Lung (923) 195 Contract Product Liability ☐ 360 Other Personal Injury Product Liability ☐ 893 Environmental Matters 863 DIWC/DIWW (405(g)) 720 Labor/Mgmt. Relations □ 894 Energy Allocation Act
□ 895 Freedom of 864 SSID Title XVI REAL PROPERTY CIVIL RIGHTS PRISONER PETITIONS П 730 Labor/Mgmt.Reporting 865 RSI (405(g)) Information Act 441 Voting 210 Land Condemnation 510 Motions to Vacate & Disclosure Act ☐ 900Appeal of Fee FEDERAL TAX SUITS ination Under X 442 Employment 740 Railway Labor Act 220 Foreclosure Sentence Equal Access to Justice 230 Rent Lease & Ejectment 443 Housing/ Habeas Corpus: 870 Taxes (U.S. Plaintiff 240 Torts to Land Accommodations 530 General ☐ 790 Other Labor Litigation □ 950 Constitutionality of or Defendant) 245 Tort Product Liability ☐ 444 Welfare 535 Death Penalty State Statutes ☐ 440 Other Civil Rights 290 All Other Real Property 540 Mandamus & Other ☐ 791 Empl. Ret. Inc. □ 890 Other Statutory Actions 871 IRS-Third Party 550 Civil Rights Security Act 26 USC 7609 555 Prison Condition V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY) Appeal to District Judge from ☐ 4 Reinstated ☐ 5 \square 2 Transferred from Multidistrict Original Removed from Remanded from another district Magistrate Proceeding State Court Appellate Court Litigation Reopened (specify) Judgment (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. VI. CAUSE OF ACTION Do not cite jurisdictional statutes unless diversity.) This is an action under Title I of the Americans with Disability Act of 1990 (the "ADA"), 42 U.S.C. §12101 et seq., and Title I of the Civil Rights Act of 1991, 42 U.S.C. § 1981a. VII. REQUESTED IN CHECK IF THIS IS A CLASS ACTION DEMAND S CHECK YES only if demanded in complaint: COMPLAINT: UNDER F.R.C.P. 23 JURY DEMAND: X Yes VIII. RELATED CASE(S) (See instructions): JUDGE DOCKET IF ANY NUMBER DATE SIGNATURE OF ATTORNEY OF RECORD 20 104 Waldron FOR OFFICE USE ONLY RECEIPT # AMOUNT APPLYING IFP _ JUDGE _ MAG. JUDGE