

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

<b>EQUAL EMPLOYMENT OPPORTUNITY</b>	)	
<b>COMMISSION,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	<b>Civil Action No.</b>
<b>v.</b>	)	
	)	<b>JURY TRIAL DEMANDED</b>
<b>T-MOBILE USA, INC., f/k/a VOICESTREAM</b>	)	
<b>WIRELESS CORP.</b>	)	
	)	
<b>Defendant.</b>	)	

**COMPLAINT**

**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 on the basis of disability and to provide appropriate relief to Jose Lopez, a job applicant who was adversely affected by such practices. The Commission alleges that T-Mobile USA, Inc., f/k/a VoiceStream Wireless Corp., failed to reasonably accommodate Jose Lopez in its job application procedures and failed to hire him because of his disability, blindness, which substantially limits his ability to see.

**JURISDICTION AND VENUE**

1. The 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(f)(1) and (3) of Title VII of the Civil Rights Act of 1964 (“Title VII”), 42

U.S.C. § 2000e-5(f)(1) and (3), and pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the District of Kansas.

### **PARTIES**

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

4. At all relevant times, Defendant T-Mobile USA, Inc., f/k/a VoiceStream Wireless Corp., has continuously been a Delaware Corporation doing business in the State of Kansas and has continuously had at least fifteen (15) employees.

5. At all relevant times, T-Mobile USA, Inc., f/k/a VoiceStream Wireless Corp., has continuously been 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, T-Mobile USA, Inc., f/k/a VoiceStream Wireless Corp., 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, Jose Lopez filed a charge with the Commission alleging violations of Title I of the ADA by T-Mobile USA, Inc.,

f/k/a VoiceStream Wireless Corp. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. In or around February 2002, T-Mobile USA, Inc., f/k/a VoiceStream Wireless Corp., engaged in the following unlawful employment practices from its Lenexa, Kansas facility in violation of Section 102(a) and (b) of Title I of the ADA, 42 U.S.C. § 12112(a) and (b):

(a) T-Mobile USA, Inc., f/k/a VoiceStream Wireless Corp., refused to reasonably accommodate Jose Lopez in its job application process because of his disability, blindness, which substantially limits his ability to see;

(b) T-Mobile USA, Inc., f/k/a VoiceStream Wireless Corp., refused to hire Jose Lopez because of his disability.

9. The effect of these actions by T-Mobile USA, Inc., f/k/a VoiceStream Wireless Corp., has been to deprive Jose Lopez of equal employment opportunities and otherwise adversely affect his status as a job applicant because of his disability.

10. The unlawful employment practices engaged in by T-Mobile USA, Inc., f/k/a VoiceStream Wireless Corp., were intentional.

11. The unlawful employment practices engaged in by T-Mobile USA, Inc., f/k/a VoiceStream Wireless Corp., were done with malice or with reckless indifference to the federally protected rights of Jose Lopez.

**WHEREFORE**, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining T-Mobile USA, Inc., f/k/a VoiceStream Wireless Corp., 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;

B. Order T-Mobile USA, Inc., f/k/a VoiceStream Wireless Corp., to institute and carry out policies, practices, and programs that provide equal employment opportunities for qualified individuals with disabilities, and that eradicate the effects of its past and present unlawful employment practices;

C. Order T-Mobile USA, Inc., f/k/a VoiceStream Wireless Corp., to make Jose Lopez whole, by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to the rightful-place hiring of Jose Lopez;

D. Order T-Mobile USA, Inc., f/k/a VoiceStream Wireless Corp., to make Jose Lopez whole by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 8 and 9 above, including job search expenses, in amounts to be determined at trial;

E. Order T-Mobile USA, Inc., f/k/a VoiceStream Wireless Corp., to make Jose Lopez whole by providing compensation for past and future nonpecuniary losses resulting from the unlawful employment practices described in paragraphs 8 and 9 above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial;

F. Order T-Mobile USA, Inc., f/k/a VoiceStream Wireless Corp., to pay Jose Lopez punitive damages for its malicious and reckless conduct, in amounts to be determined at trial;

G. Grant such further relief as the Court deems necessary and proper in the public interest;

H. Award the Commission its costs incurred in this action.

**JURY TRIAL DEMAND**

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

**DESIGNATION OF PLACE OF TRIAL**

The Commission designates Kansas City, Kansas as the place where this case should be tried.

Respectfully submitted,

ERIC S. DREIBAND  
General Counsel

JAMES L. LEE  
Deputy General Counsel

GWENDOLYN YOUNG REAMS  
Associate General Counsel

/s/ Robert G. Johnson  
ROBERT G. JOHNSON  
Regional Attorney

/s/ Donna L. Harper  
DONNA L. HARPER  
Supervisory Trial Attorney  
U.S. EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION  
St. Louis District Office  
1222 Spruce St., Room 8.100  
St. Louis, MO 63103  
(314) 539-7914  
FAX: (314) 539-7895  
e-mail: bob.johnson@eeoc.gov  
          donna.harper@eeoc.gov

/s/ Andrea G. Baran  
ANDREA G. BARAN                   MO #46520  
Senior Trial Attorney  
U.S. EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION

Kansas City Area Office  
400 State Avenue, Suite 905  
Kansas City, KS 66101  
(913) 551-5848  
FAX: (913) 551-6957  
e-mail: [andrea.baran@eeoc.gov](mailto:andrea.baran@eeoc.gov)