

The U.S. Equal Employment Opportunity Commission

FOR IMMEDIATE RELEASE
May 6, 2005

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EEOC WINS \$8 MILLION JURY VERDICT FOR BLIND WORKER IN DISABILITY BIAS CASE AGAINST ECHOSTAR

DENVER - After a three-day trial, a 12-person jury returned an \$8 million verdict in federal court today for the U.S. Equal Employment Opportunity Commission (EEOC) in a lawsuit alleging that EchoStar Communications Corp. (EchoStar) violated the Americans with Disabilities Act of 1990 (ADA) when it refused to provide a reasonable accommodation to Dale Alton, a qualified blind employee. EchoStar, based in Englewood, Colorado, is a provider of advanced digital television services.

The jury verdict awards \$2,000 in back pay, \$5,000 in compensatory damages, and \$8 million in punitive damages for Mr. Alton. In the trial, presided over by Judge Richard P. Matsch, the plaintiffs alleged the following:

- EchoStar failed to accommodate Mr. Alton in the application process;
- EchoStar failed to accommodate Mr. Alton in the job by never trying to install adaptive software;
- EchoStar denied Mr. Alton an employment opportunity because of his disability or because of the need to provide him an accommodation; and
- EchoStar violated a section of the ADA when it failed to use a proper testing device to determine an applicant's skills.

"This verdict should remind employers that refusing to abide by the law in accommodating individuals with disabilities can be costly," said Joseph Mitchell, Regional Attorney of the EEOC's Denver District Office. "Many individuals with disabilities, such as Dale Alton, are ready, eager and able to work. All they need is the opportunity to do the job without discriminatory barriers based on myths, fears and stereotypes. Employers must remember that disability does not mean inability."

In the trial, the plaintiffs presented evidence that Mr. Alton, who is blind, applied for a customer service representative job at EchoStar in 1999. Prior to applying, Mr. Alton had completed training at the Colorado Center for the Blind for that very type of position. Blind individuals can perform the customer service representative job by using a computer program called JAWS (Job Access With Speech), which translates text into speech. A blind customer service rep uses a split headset, in which he hears the JAWS voice in one ear, and the customer conversation in the other ear. Using JAWS, people with vision impairments can process written language at 400 to 700 words per minute, which is faster than many sighted individuals read. At trial, the plaintiffs' expert, Nelson Reiser, demonstrated to the jury how JAWS works.

When Mr. Alton first went to EchoStar to apply, EchoStar told him it would not do him any good to put in an application because they were not set up to handle blind people. However, after receiving a copy of his charge of discrimination, EchoStar invited Mr. Alton back and put him through a sham interview process that included a Braille test, which was longer and more difficult than the test given sighted people, and a Windows skill test that consisted of a person giving him directions on how to access icons, such as "move to the left, move down, now click."

Much of the testimony related to whether, if EchoStar had tried to install JAWS in 1999, it could have worked. EchoStar asserted that JAWS could not have worked because of the complexity of the software environment. Contrary evidence presented by plaintiffs reflected that, in 1999, numerous employers in Denver such as Norwest Bank, American Express, Big Brothers/Big Sisters, and MCI had installed JAWS and employed blind customer service representatives at their call centers.

Dale Gaar, Mr. Alton's private lawyer, said, "This verdict is very rewarding because it has the potential for opening thousands of customer service representative jobs to qualified blind people around the country."

According to its web site, www.echostar.com, "EchoStar Communications Corporation (Nasdaq:DISH) serves more than 11.2 million satellite TV customers through its DISH Network(TM), and is a leading U.S. provider of advanced digital television services. DISH Network's services include hundreds of video and audio channels, Interactive TV, HDTV, sports and international programming, together with professional installation and 24-hour customer service. EchoStar has been a leader for 25 years in satellite TV equipment sales and support worldwide. EchoStar is included in the Nasdaq-100 Index (NDX) and is a Fortune 500 company."

EEOC is the federal agency responsible for enforcing the federal statutes which prohibit employment discrimination, including Title VII of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, sex, national origin, or religion; the Americans with Disabilities Act (ADA), which prohibits job discrimination based on the existence or perception of a disability; the Age Discrimination in Employment Act, which prohibits discrimination against persons age 40 and over; and the Equal Pay Act (EPA), which prohibits wage discrimination based on sex. The EEOC's Denver District Office, located at 303 East 17th Avenue, Suite 510, in Denver, enforces the anti-discrimination laws in Colorado, Montana, Nebraska, North Dakota, South Dakota, and Wyoming. Further information about the Commission is available on its web site at www.eeoc.gov.

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