IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

DOCKETED AUG 0 9 2002

JEROME MILES, by his next friend SHARI YOUNG,

Plaintiffs,

KFC OF AMERICA, INC., d/b/a KENTUCKY FRIED CHICKEN,

v.

Defendant.



Jury Trial Requested

MAGISTRATE JUDGE ASHMAN

COMPLAINT

NOW COMES Plaintiffs, JEROME MILES, by his next friend SHARI YOUNG, by and through their attorneys, LISA KANE & ASSOCIATES, P.C., and complaining of Defendant, KFC OF AMERICA, INC., d/b/a KENTUCKY FRIED CHICKEN, states as follows:

PRELIMINARY STATEMENT

1. This is an action seeking redress for the violation of rights guaranteed to Plaintiff
JEROME MILES under the Americans With Disabilities Act of 1990 ("ADA"), as amended, 42
U.S.C. § 12101 et seq. Plaintiffs seek mandatory injunctive relief and damages to redress
Defendant's discriminatory employment practices.

JURISDICTIONAL STATEMENT

2. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1343(a)(3) and (4) and 28 U.S.C. § 1331 to secure protection of and to redress deprivation of rights secured by 42 U.S.C. § 12117. Plaintiffs seek declaratory relief pursuant to 28 U.S.C. § 2201 and 2202.

VENUE

3. Venue is proper under 28 U.S.C. § 1391 (b)(1) and (2).

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PARTIES

4. Plaintiff JEROME MILES is a mentally retarded United States citizen, aged 41 years old, who resides in Chicago, Illinois. Plaintiff SHARI YOUNG is a United States citizen, aged 42 years old, who resides in Chicago, Illinois. SHARI YOUNG is the sister of JEROME MILES and remains qualified to act as his representative in this action.

5. Defendant, KFC OF AMERICA, INC., d/b/a KENTUCKY FRIED CHICKEN, is a corporation properly recognized and sanctioned by the laws of the State of Illinois, which has continuously, and does now employ more than fifteen employees and is engaged in an industry that affects commerce. Defendant is an employer for purposes of 42 U.S.C. § 12101 et seq.

PROCEDURE

6. Plaintiff JEROME MILES filed a Charge of Discrimination with the Equal Employment Opportunity Commission ("EEOC") on June 28, 2002. The EEOC issued Plaintiff a Notice of Right to Sue on July 11, 2002, which was received on July 18, 2002. The Notice of Right to Sue entitles Plaintiff to initiate a civil action in the appropriate forum within ninety (90) days of the receipt of said Notice. Plaintiff initiated this action within said ninety (90) day period.

COUNT I – ADA DISABILITY DISCRIMINATION

- 7. Paragraphs one (1) through six (6) are incorporated by reference as if fully set out herein.
- 8. Plaintiff JEROME MILES ("MILES") has been mentally retarded since birth, which primarily hinders his ability to understand information. Plaintiff MILES can follow directions with clear and simple communication.
- 9. At all times relevant to this action, Plaintiff MILES suffered from a mental impairment that substantially limited him in multiple major life activities, including but not limited

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to, learning, within the meaning of § 12102(2)(c) of the ADA.

- 10. At all times relevant to this action, Plaintiff MILES had a perceived mental impairment that substantially limited him in multiple major life activities, including but not limited to, learning, within the meaning of § 12102(2)(c) of the ADA.
- 11. On July 20, 2001, Defendant hired Plaintiff MILES into an entry-level position at its restaurant located at 1617 East 95th Street, Chicago, Illinois.
- 12. Plaintiff MILES was hired through the Illinois Mental Program, and a representative of this program spoke with the restaurant's head manager and Defendant's regional manager about Plaintiff MILES' disability and his ability to perform basic duties.
- 13. Plaintiff MILES has performed to Defendant's reasonable satisfaction at all times throughout his employment with Defendant.
- 14. Beginning in February 2002, Plaintiff MILES has been subjected to a continuous course of threats, comments, insults, ridicule, and harassment based on his actual or perceived disability, including but not limited to:
 - a. Female managers and coworkers demanded that Plaintiff MILES give them money. After Plaintiff MILES refused to do so, managers required that he punch out hours before his shift was over and leave early.
 - b. Managers yelled and cursed at Plaintiff MILES on a regular basis without any provocation by Plaintiff MILES.
 - c. Managers refused to provide Plaintiff MILES with breaks until the end of his shift, while similarly situated non-disabled employees receive breaks throughout their shifts.
 - 15. On June 10, 2002, Manager Stephanie Raglin asked Plaintiff MILES for \$20. When

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Plaintiff MILES refused to give Manager Raglin this money, Raglin told Plaintiff MILES to punch out and go home.

- 16. When Plaintiff MILES returned home, Plaintiff SHARI YOUNG ("YOUNG") contacted the restaurant and Manager Octavia Bolden cursed at her. From 10:00 a.m. to 10:00 p.m. on June 10th, managers at the restaurant called Plaintiffs' home and made threatening comments to their family. These threats did not end until Plaintiffs' brother told Manager Raglin that the restaurant was discriminating against Plaintiff MILES because of his disability.
- 17. On June 11th, Plaintiff YOUNG advised Defendant's regional manager, John Malloy, of the threats made by the managers and the misconduct directed at Plaintiff MILES' actual or perceived disability. Malloy stated that he would speak to the employees at the restaurant.
 - 18. Malloy never contacted Plaintiffs regarding the June 11th complaint.
- 19. When Plaintiff MILES returned to work on June 12th, Managers Raglin and Bolden continued to make threatening comments concerning Plaintiff YOUNG. Plaintiff MILES was sent home after less than an hour at the restaurant.
- 20. After Plaintiff MILES was sent home on June 12th, Defendant failed to advise Plaintiff MILES of his next work day.
- 21. On June 25, 2002, Plaintiff MILES was constructively discharged due to the harassing conditions at the restaurant and Defendant's failure to correct such harassment, as he had no real choice but to quit.
- 22. As a direct and proximate result of the aforementioned discriminatory acts of Defendant, Plaintiff MILES has endured adverse terms and conditions of his employment with Defendant in the form of disparate treatment compared to non-disabled employees, a hostile work environment created based on his actual or perceived disability, and being constructively discharged.

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23. The aforementioned acts of Defendant constitute unlawful discrimination against Plaintiff MILES because of his actual or perceived disability, in violation of the provisions of Title I of the ADA, as amended, 42 U.S.C. § 12101 et seq.

24. As a direct and proximate result of the above alleged willful and reckless acts or omissions of Defendant, Plaintiff MILES has suffered damages, including but not limited to, lost and foregone wages and benefits, and physical and emotional harm.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

- A. Declare the conduct of the Defendant to violate rights guaranteed to Plaintiff MILES under appropriate federal law;
- B. Grant a permanent injunction restraining Defendant, its officers, successors, assigns, and all other persons in active concert or participation with them, from engaging in any employment practices which unlawfully discriminates on the basis of disability;
- C. Order Defendant to make whole JEROME MILES by providing the affirmative relief necessary to eradicate the effects of the Defendant's unlawful practices;
- D. Grant Plaintiff MILES any consequential, compensatory, punitive and any other damages that the Court may deem appropriate;
 - E. Grant Plaintiff MILES his attorney's fees, costs, and disbursements; and
- F. Grant Plaintiff MILES such further relief as the Court deems necessary and proper in the public interest.

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JURY TRIAL DEMAND

25. Plaintiffs request a jury trial on all issues of fact and law raised by the allegations in this Complaint.

Respectfully submitted, JEROME MILES, by his next friend SHARI YOUNG, Plaintiffs,

By:

Lisa Kane, Attorney for Plaintiff

LISA KANE & ASSOCIATES Attorneys for Plaintiff 120 South LaSalle Street, Suite 1420 Chicago, IL 60603 (312) 606-0383 Attorney Code No. 06203093 Case: 1:02-cv-05677 Document #: 1 Filed: 08/09/02 Page 7 of 11 PageID #:7

Verification

I, Jerome Miles, declare under penalty of perjury that the foregoing is true and correct. Executed on July 31, 2002.

Jerome Miles

I, Shari Young, declare under penalty of perjury that the foregoing is true and correct. Executed on July 31, 2002.

Shari Young

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	N	NOTICE OF RIC		TO SUE	
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(See the	additional information attache	d to this form)			
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JS 44 (Rev. 07/88)

CIVIL COVER SHEET



The IS-44 chil cover sheet and the information contained herein neither replace nor supplement the filling and service of pleadings or other papers as required by law, except as provided by focal sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

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Case: 1:02-cv-05677 Document #: 1 Filed: 08/09/02 Page 10 of 11 PageID #:10

TED STATES DISTRICT CO T NORTHERN DISTRICT OF ILLINOIS

DOCKETED
AUG 0 9 2002

In the Matter of

JEROME MILES, by his next friend SHARI YOUNG,

V.

E-MAIL ADDRESS

MEMBER OF TRIAL BAR?

DESIGNATED AS LOCAL COUNSEL?

TRIAL ATTORNEY?

IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 06256274

YES

YES

YES

X

X

X

KFC OF AMERICA, INC., d/b/a KENTUCKY FRIED CHICKEN

se Number: 02C 5677

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR JUDGE LINDBERG

JEROME MILES, by his next friend SHARI YOUNG

		MAGISTRATE JUDGE ASHMA (B) SIGNATURE NAME Janice A. Wegner FIRM Lisa Kane & Associates, P.C, STREET ADDRESS 120 South LaSalle Street, #1420 CITY/STATE/ZIP Chicago, Illinois 60603 GO-0765 TELEPHONE NUMBER 312-606-0383 FAX NUMBER 312-606-076 E-MAIL ADDRESS IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 06200062 MEMBER OF TRIAL BAR? YES NO X				
(A)						
SIGNATURE						
NAME Lisa Kane		NAME Janice A. Wegner	100	<u>e)</u>	(2)(2)	
FIRM Lisa Kane & Associates, P	.C.	Lisa Kane & Associates, P.C	3,1.		35	
STREET ADDRESS 120 South LaSalle	Street, #1420	STREET ADDRESS 120 South LaSalle St	P.C, P.C, P.C, P.C, P.C, P.C, P.C, P.C,	\sim	700.	
CITY/STATE/ZIP Chicago, Illinois 60	503		1		<u>ග</u>	
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TRIAL ATTORNEY?	YES X NO	TRIAL ATTORNEY?	YES		МО	X
		DESIGNATED AS LOCAL COUNSEL?	YES		МО	X
(C)		(D)				
SIGNATURE (Kelvarius +	mark)	SIGNATURE John John				
NAME Zacharias C Leonard	,	NAME Kevin Vodak				
FIRM Lisa Kane & Associates, P	.C.	FIRM Lisa Kane & Associates, P.C	•			
STREET ADDRESS 120 South LaSalle	Street, #1420	STREET ADDRESS 120 South LaSalle Str	reet, #	1420		
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E-MAIL ADDRESS

MEMBER OF TRIAL BAR?

DESIGNATED AS LOCAL COUNSEL?

TRIAL ATTORNEY?

IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 06270773

YES

X

X

X

Case: 1:02-cv-05677 Document #: 1 Filed: 08/09/02 Page 11 of 11 PageID #:11

U. TED STATES DISTRICT COUNT NORTHERN DISTRICT OF ILLINOIS

DOCKETED

In the Matter of

AUG 0 9 2002

JEROME MILES, by his next friend SHARI YOUNG,

KFC OF AMERICA, INC., d/b/a KENTUCKY FRIED CHICKEN



APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNOCES HORE

JEROME MILES, by his next friend SHARI YOUNG

MAGISTRATE JUDGE ASHMAN

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NAME Perrence F. Canela					NAME		,	
FIRM Lisa Kane & Associates, F	P.C.			·	FIRM		nel y	
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TRIAL ATTORNEY?	YES	X	NO		TRIAL ATTORNEY?	YES	Ои	
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