

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

FILED-ED4  
02 JUL 18 AM 11:40  
CLERK  
U.S. DISTRICT COURT

U.S. EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

v.

UNITED AIR LINES, INC.

Defendant.

DOCKETED

JUL 19 2002

02C 5081

COMPLAINT  
JURY DEMAND

JUDGE RONALD GUZMAN  
MAGISTRATE JUDGE LEVIN

NATURE OF THE ACTION

This is an action under Title I of the Americans with Disabilities 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, to correct unlawful employment practices on the basis of disability, and to provide appropriate relief to Robert L. Zackery ("Zackery") and a class of disabled applicants who were adversely affected by such practices. As alleged with greater particularity below, Defendant United Air Lines, Inc. ("Defendant") failed to hire Zackery and a class of disabled applicants, because of their disability, diabetes.

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 Sections 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 and are now being committed within the jurisdiction of the United States District Court for the Northern District of Illinois, Eastern Division.

### **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 Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. Defendant, United Air Lines, Inc., is an airline incorporated in Delaware. At all relevant times, Defendant has continuously been doing business in the State of Illinois and the Township of Elk Grove, and has continuously had at least fifteen (15) employees.

5. At all relevant times, Defendant 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, Defendant 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, Zackery filed a charge with the Commission alleging violations of Title I of the ADA by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. Since at least July 3, 1997, Defendant has engaged in unlawful employment practices in violation of Section 102(a) and 102(b)(5) of Title I of the ADA, 42 U.S.C. §§ 12112(a), (b)(5). Such practices include, but are not limited to, failing to hire Zackery and a class of disabled applicants on account of their disability.

9. The effect of the practices complained of in paragraph 8 above has been to deprive Zackery and a class of disabled applicants of equal employment opportunities and otherwise adversely affect their status as employees because of their disability.

10. The unlawful employment practices complained of in paragraphs 8 and 9 above were intentional.

11. The unlawful employment practices complained of in paragraphs 8 and 9 above were done with malice or with reckless indifference to the federally protected rights of Zackery and a class of disabled applicants.

#### **PRAYER FOR RELIEF**

WHEREFORE, the Commission respectfully prays that this Court:

A. Grant a permanent injunction enjoining Defendant, 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 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 its past and present unlawful employment practices.

C. Order Defendant to make whole Robert L. Zackery, and a class of disabled applicants 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.

D. Order Defendant to make whole Zackery and a class of disabled applicants 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 and medical expenses, in amounts to be determined at trial.

E. Order Defendant to make whole Zackery and a class of disabled applicants by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraphs 8 and 9 above, including pain, suffering, emotional distress, injury to his professional reputation, inconvenience, and mental anguish, in amounts to be determined at trial.

F. Order Defendant to pay Zackery and a class of disabled applicants punitive damages for its malicious and reckless conduct, as described in paragraphs 8 and 9, 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 of this action.

**JURY TRIAL DEMANDED**

The Commission requests a jury trial on all questions of fact raised by the Complaint.

Respectfully submitted,

Nicholas M. Inzeo  
Acting Deputy General Counsel

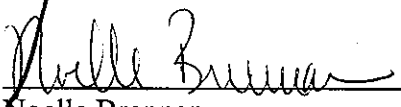
Gwendolyn Young Reams  
Associate General Counsel

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION

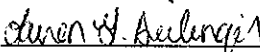
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Regional Attorney



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Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

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Civil Cover SheetCLERK  
U.S. DISTRICT COURT

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the Northern District of Illinois.

**Plaintiff(s): EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION****Defendant(s): UNITED AIR LINES, INC**

County of Residence:

County of Residence:

Plaintiff's Atty: Lauren G. Dreilinger  
Equal Employment Opportunity  
Commission  
500 W. Madison, Suite 2800  
Chicago, IL 60661  
312-353-7303

Defendant's Atty:

Julie E. LaEace  
Seyfarth Shaw  
55 E. Monroe, Suite 4200  
Chicago, IL 60603

**DOCKETED**  
JUL 19 2002**II. Basis of Jurisdiction: 1. U.S. Gov't Plaintiff****02C 5081****III. Citizenship of Principal  
Parties (Diversity Cases Only)**

Plaintiff:- N/A  
Defendant:- N/A

**JUDGE RONALD GUZMAN****MAGISTRATE JUDGE LEVIN****IV. Origin : 1. Original Proceeding****V. Nature of Suit: 442 Employment**

**VI. Cause of Action: Title I of the Americans With Disabilities Act of 1990 ("ADA"), 42  
U.S.C. § 12101 et seq., and Title I of the Civil Rights Act of 1991, 42  
U.S.C. § 1981a, to correct unlawful employment practices on the basis  
of disability.**

**VII. Requested in Complaint**

Class Action: Yes  
Dollar Demand:  
Jury Demand: Yes

**VIII. This case IS NOT a refiling of a previously dismissed case.****Signature: Lauren G. Dreilinger****Date: July 18, 2002**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

Eastern Division

In the Matter of

**EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION**

Plaintiff,

v.

**UNITED AIR LINES, INC.**

Defendant.

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U.S. DISTRICT COURT

Case Number:

**02C 5081**

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

**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

**JUDGE RONALD GUZMAN**

**MAGISTRATE JUDGE LEVIN**

(A)	(B)	<b>DOCKETED</b>
SIGNATURE <i>Lauren Dreilinger</i>	SIGNATURE <i>Noelle C. Brennan</i>	JUL 19 2002
NAME Lauren Dreilinger	NAME Noelle C. Brennan	
FIRM Equal Employment Opportunity Commission	FIRM Equal Employment Opportunity Commission	
STREET ADDRESS 500 W. Madison, Suite 2800	STREET ADDRESS 500 W. Madison, Suite 2800	
CITY/STATE/ZIP Chicago, IL 60661	CITY/STATE/ZIP Chicago, IL 60661	
TELEPHONE NUMBER (312) 353-7303	TELEPHONE NUMBER (312) 353-7582	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) ARDC No. 06274840	IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) ARDC No. 06228901	
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TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
	DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>	
SIGNATURE <i>John C. Hendrickson</i>	SIGNATURE	(D)
NAME John C. Hendrickson	NAME	
FIRM Equal Employment Opportunity Commission	FIRM	
STREET ADDRESS 500 W. Madison, Suite 2800	STREET ADDRESS	
CITY/STATE/ZIP Chicago, IL 60661	CITY/STATE/ZIP	
TELEPHONE NUMBER (312) 353-8551	TELEPHONE NUMBER	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)	IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)	
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TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input type="checkbox"/>	
DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>	DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>	

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