

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Civil Action No. 04 CV 01711 ADM/AJB

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

COMPLAINT OF INTERVENER

PARK NICOLLET HEALTH SERVICES
f/k/a HEALTHSYSTEM MINNESOTA
d/b/a PARK NICOLLET CLINIC,

(Jury Trial Demand)

Defendant,

and

DR. ALISON LAFRENCE,

Intervener.

Intervener Dr. Alison LaFrence for her claim against Park Nicollet Health Services f/k/a HealthSystem Minnesota d/b/a Park Nicollet Clinic, ("Park Nicollet" or "Defendant") states and alleges as follows:

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 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. Supplemental Jurisdiction

with respect to Count II is invoked pursuant to 28 U.S.C. §1367.

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 District of Minnesota.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (“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 Sections 706(f)(1) and (3) of Title VII, 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. Plaintiff Intervener, Dr. LaFrence is an individual who resides in Dakota County, Minnesota.

5. At all relevant times, Defendant, Park Nicollet has been a provider of health services in the State of Minnesota, and has continuously had at least 15 employees.

6. At all relevant times, Park Nicollet 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).

7. At all relevant times, Park Nicollet has been a covered entity under Section 101(2) of the ADA, 42 U.S.C. § 12111(2).

STATEMENT OF CLAIMS

COUNT I

8. More than 30 days prior to the institution of this lawsuit, Dr. Alison LaFrence filed a charge with the EEOC alleging violations of Title I of the ADA by Park Nicollet, which also was filed with the Minnesota Department of Human rights under a work sharing agreement between the departments. All conditions precedent to the institution of this lawsuit have been fulfilled.

9. Dr. LaFrence is a physician certified in the specialty of family practice. She is a qualified individual with a disability caused by viral encephalitis.

10. Since at least on or about September, 1999, Park Nicollet has engaged in unlawful employment practices at its Shakopee, Minnesota Clinic in violation of Section 102(a) and (b) of the ADA, 42 U.S.C. § 12112(a) and (b)(5), as follows:

(a) Defendant failed to provide reasonable accommodations to Dr. LaFrence which would have permitted her to perform the essential functions of her position as a family practitioner; and

(b) On or about April 18, 2000, Defendant terminated Dr. LaFrence's employment because of her disability.

11. The effect of the practices complained of in Paragraph 10 above has been to deprive Dr. LaFrence of equal employment opportunities because of disability.

12. The unlawful employment practices complained of in Paragraph 10 above were and are intentional.

13. The unlawful employment practices complained of in Paragraph 10 above were and are done with malice or with reckless indifference to Dr. LaFrence's federally-protected rights.

COUNT II

Dr. LaFrence realleges the allegations set forth above and further states and alleges as follows:

14. Park Nicollet engaged in unfair employment practices at its Shakopee, Minnesota clinic in violation of Minn. Stat. § 363A.08, subds. 2 and 6 as follows:

- (a) Park Nicollet failed to provide reasonable accommodations to Dr. LaFrence which would have permitted her to perform the essential functions of her position as a family practitioner;
- (b) On or about April 18, 2000, Defendant terminated Dr. LaFrence's employment because of her disability.

15. The unlawful employment practices complained of in paragraph 14 above were and are intentional.

16. The unlawful employment practices complained of in paragraph 14 above were done with deliberate disregard for Dr. LaFrence's rights protected under the Minnesota Human Rights Act.

PRAYER FOR RELIEF

Wherefore, Dr. LaFrence respectfully requests that this court:

A. Grant a permanent injunction enjoining Park Nicollet and its officers, successors, and assigns, and all persons in active concert or participation with them, from failing and refusing to provide reasonable accommodations to disabled individuals; and from terminating individuals with disabilities in violation of the ADA;

B. Order Park Nicollet 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 Park Nicollet to make Dr. LaFrence whole by providing appropriate back pay, front pay, pre-judgment interest and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including, but not limited to, reinstatement of Dr. LaFrence into her position as family practitioner, with appropriate accommodations as necessary to enable her to perform the essential functions of the job;

D. Order Park Nicollet to make Dr. LaFrence whole by providing compensation for past and future pecuniary losses resulting from the unlawful practices complained of in Paragraphs 10 and 14 above, including, but not limited to, job search expenses;

E. Order Park Nicollet to make Dr. LaFrence whole by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained on in Paragraphs 10 and 14 above, including

emotional pain, suffering, mental anguish and suffering, injury to professional reputation, loss of enjoyment of life, and humiliation;

F. Order Park Nicollet to pay Dr. LaFrence compensatory damages in an amount of three times the actual damages sustained;

G. Order Park Nicollet to pay Dr. LaFrence punitive damages for its malicious and reckless conduct, as described in Paragraphs 10 and 14 above, in an amount to be determined at trial;

H. Order Park Nicollet to pay a civil penalty to the State of Minnesota in an amount to be determined at trial;

I. Order Park Nicollet to pay Dr. LaFrence's costs and attorney fees;

J. Grant such further relief as the court deems necessary and proper in the public interest; and

K. Award the EEOC its costs of this action.

JURY TRIAL DEMANDED

Intervener requests a jury trial on all questions of fact raised by her complaint.

MANSFIELD, TANICK & COHEN, P.A.

Date: July 29, 2004.

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