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5 ATTORNEYS FOR PLAINTIFF

9 UNITED STATES DISTRICT COURT
 10 FOR THE DISTRICT OF IDAHO

11 CIV 04-478-8-LMB

12 EQUAL EMPLOYMENT OPPORTUNITY
 13 COMMISSION,

13 Plaintiff,

14 v.

15 HOLLYWOOD ENTERTAINMENT
 16 CORPORATION,

17 Defendant.

CIVIL ACTION NO.

COMPLAINT

JURY TRIAL DEMAND

18 NATURE OF THE ACTION

19 This is an action under Title I of the Americans with Disabilities Act of 1990 and Title I of
 20 the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of disability and
 21 to provide appropriate relief to Suzanne Yorgensen, who was adversely affected by such practices.
 22 The Equal Employment Opportunity Commission alleges that Hollywood Entertainment Corporation
 23 ("defendant" or "Hollywood Video"), discriminated against Mrs. Yorgensen, a qualified individual
 24 with a disability, when it failed to promote her and forced her to constructively discharge, all because
 25 of her disability.
 26
 27

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 Seattle District Office
 Federal Office Building
 909 First Avenue, Suite 400
 Seattle, Washington 98104-1061
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JURISDICTION AND VENUE

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2 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343
3 and 1345. This action is authorized and instituted pursuant to Section 107(a) of the Americans with
4 Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12117(a), which incorporates by reference Section
5 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5(f)(1) and (3)
6 ("Title VII"), and pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

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

PARTIES

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10 3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the
11 agency of the United States of America charged with the administration, interpretation and
12 enforcement of Title I of the ADA and is expressly authorized to bring this action by Section 107(a)
13 of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference Sections 706(f)(1) and (3) of
14 Title VII, 42 U.S.C. 2000e-5(f)(1).

15 4. At all relevant times, defendant Hollywood Entertainment Corporation has
16 continuously been doing business in the State of Idaho and has continuously had at least 15
17 employees.

18 5. At all relevant times, defendant has continuously been an employer engaged in an
19 industry affecting commerce under Section 101(5) of the ADA, 42 U.S.C. § 12111(5), and Section
20 101(7) of the ADA, 42 U.S.C. § 12111(7), which incorporates by reference Sections 701(g) and (h) of
21 Title VII, 42 U.S.C. §§ 2000e(g) and (h).

22 6. At all relevant times, defendant has been a covered entity under Section 101(2) of the
23 ADA, 42 U.S.C. § 12111(2).

STATEMENT OF CLAIMS

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25 7. More than thirty days prior to the institution of this lawsuit, Suzanne Yorgensen filed a
26 charge with the Commission alleging violations of Title I of the ADA by defendant. All conditions
27 precedent to the institution of this lawsuit have been fulfilled.

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1 8. Since at least November 25, 2001, defendant has engaged in unlawful employment
2 practices at its Boise area facilities, in violation of Sections 102(a) of Title I of the ADA, 42 U.S.C. §
3 12112(a). Suzanne Yorgensen is disabled under the ADA in that she is hearing impaired. The
4 defendant discriminated against Mrs. Yorgensen, a qualified individual with a disability, when it
5 failed to promote her and forced her to constructively discharge, all because of her disability in
6 violation of Sections 102(a) of the ADA.

7 9. The effect of the practices complained of in paragraph 8 above has been to deprive
8 Mrs. Yorgensen of equal employment opportunities and otherwise adversely affect her status as an
9 employee, because of her disability.

10 10. The unlawful employment practices complained of in paragraph 8 above were and are
11 intentional.

12 PRAYER FOR RELIEF

13 Wherefore, the Commission respectfully requests that this Court:

14 A. Grant a permanent injunction enjoining defendant, its officers, agents, successors,
15 assigns, and all persons in active concert or participation with it, from unlawfully failing to provide
16 equal employment opportunities to employees with disabilities and to accommodate employees'
17 disabilities, and any other employment practice which discriminates on the basis of disability.

18 B. Order defendant to institute and carry out policies, practices, and programs which
19 provide equal employment opportunities for qualified individuals with disabilities, and which
20 eradicate the effects of its past and present unlawful employment practices.

21 C. Order defendant to make whole Suzanne Yorgensen by providing appropriate back pay
22 with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary
23 to eradicate the effects of its unlawful employment practices.

24 D. Order defendant to make whole Suzanne Yorgensen by providing compensation for
25 past and future pecuniary losses resulting from the unlawful employment practices described in
26 paragraph 8 above, including past and future out-of-pocket losses, in amounts to be determined at
27 trial.

1 E. Order defendant to make whole Suzanne Yorgensen by providing compensation for
2 past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraph
3 8 above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and
4 humiliation, in amounts to be determined at trial.

5 F. Order defendant to pay Suzanne Yorgensen punitive damages for its malicious and
6 reckless conduct, as described in paragraph 8 above in amounts to be determined at trial.

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

8 H. Award the Commission its costs of this action.

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JURY TRIAL DEMAND

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

DATED this 21st day of September, 2004.

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Regional Attorney

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General Counsel

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The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Equal Employment Opportunity Commission
909 First Avenue, Suite 400
Seattle, WA 98104-1061

(b) County of Residence of First Listed Plaintiff King
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Kathryn Olsen, Supervisory Trial Attorney
EEOC, 909 First Ave., Suite 400
Seattle, WA 98104 (206) 220-6893

DEFENDANTS

Hollywood Entertainment Corporation
c/o National Registered Agents
1423 Tyrrell Lane
Boise, ID 83706

County of Residence of First Listed Benneek
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (if known)

CIV 04-478-E-LMB

SI

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 ☐ 1 DEF Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4 DEF
Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES | |
|---|--|--|--|---|--|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 151 Unemployment Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury | PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1995) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 400 State Accomplishment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 420 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 610 Selective Service <input type="checkbox"/> 650 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 898 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fed. Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions |
| REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Easement <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts in Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Other Civil Rights | PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Hobbs Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition | | | |

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Action taken under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of race and to provide appropriate relief.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE 1/21/04 SIGNATURE OF ATTORNEY OF RECORD Kathryn Olsen

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____