

ATTORNEYS FOR PLAINTIFF

Defendant.

## JURY TRIAL DEMAND

## AMENDED COMPLAINT - PAGE 1

## 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 Section 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) ("Title VII"), 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 committed within the jurisdiction of the United States District Court for the District of Idaho.

## 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).

4. At all relevant times, defendant Hollywood Entertainment Corporation has continuously been doing business in the State of Idaho and has continuously had at least 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, Suzanne Yorgensen 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 November 25, 2001, defendant has engaged in unlawful employment practices at its Idaho Falls facility, in violation of Sections 102(a) of Title I of the ADA, 42 U.S.C. § 12112(a). Suzanne Yorgensen is disabled under the ADA in that she is hearing impaired. The defendant discriminated against Mrs. Yorgensen, a qualified individual with a disability, when it failed to promote her and forced her to constructively discharge, all because of her disability in violation of Sections 102(a) of the ADA.

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

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

#### PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining defendant, its officers, agents, successors, assigns, and all persons in active concert or participation with it, from unlawfully failing to provide equal employment opportunities to employees with disabilities and to accommodate employees' disabilities, and any other 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 Suzanne Yorgensen by providing appropriate back pay 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 Suzanne Yorgensen by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 8 above, including past and future out-of-pocket losses, in amounts to be determined at trial.

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

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

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

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

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

DATED this 9th day of March, 2005.

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