

FILED

FEB 27 2002

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

DAVID W. DANIEL, CLERK  
US DISTRICT COURT, EDNC  
BY 47 DEP. CLERK

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

v.

SAMPSON-BLADEN OIL CO., INC.,

Defendant.

CIVIL ACTION NO.

5:02-CV-129-BD(3)

COMPLAINT

JURY TRIAL DEMANDED

NATURE OF THE ACTION

This is an action under Title I of the Americans with Disabilities Act of 1990 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of disability and to provide appropriate relief to Royal J. Katzenberger who was adversely affected by such practices. The Commission alleges that Defendant, Sampson-Bladen Oil Co., discriminated against Mr. Katzenberger, a qualified individual who is HIV positive, by disclosing confidential information concerning his medical condition or history, subjecting him to discriminatory terms and conditions of employment because of his disability, and discharging him because he is an individual with a disability.

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 ("Title VII"), 42

U.S.C. §2000(e)-5(f)(1) and (3), and pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Eastern District of North Carolina.

### 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. At all relevant times, Defendant, Sampson-Bladen Oil Co. ("Defendant" or "Sampson-Bladen Oil"), has continuously been a North Carolina corporation doing business in Hope Mills, North Carolina and has continuously had at least fifteen 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, Royal Katzenberger filed a charge with the Commission alleging violations of Title I of the ADA by Defendant

Sampson-Bladen Oil. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. Since at least May 15, 2000, Sampson-Bladen Oil has engaged in unlawful employment practices at its Hope Mills, North Carolina facility by discriminating against a qualified individual with a disability, in violation of Sections 102(a) and (d) of Title I of the ADA, 42 U.S.C. §§12112(a) and (d). More specifically, Sampson-Bladen Oil unlawfully disclosed the confidential medical information or history of Royal Katzenberger (who is HIV-positive), subjected Royal Katzenberger to discriminatory terms and conditions of employment, and discharged Royal Katzenberger because he is an individual with a disability.

9. The effect of the practices complained of in paragraph 8 above has been to deprive Royal Katzenberger of equal employment opportunities and to otherwise adversely affect his employment status because of his disability.

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

11. The unlawful employment practices complained of in paragraph 8 above were done with malice or with reckless indifference to the federally protected rights of Royal Katzenberger.

#### PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Sampson-Bladen Oil Co., its officers, successors, assigns, and all persons in active concert or participation with it, from subjecting qualified individuals with a disability to discriminatory terms and conditions of

employment, discharging employees because of they are individuals with a disability, and from any other employment practice which discriminates on the basis of disability.

B. Order Defendant to institute and carry out policies, practices, and programs that 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 treat information regarding employees' medical conditions and histories as confidential medical records and grant a permanent injunction enjoining Defendant from disclosing such information except in accordance with Section 102(d) of Title I of the ADA, 42 U.S.C. §§12112(d).

D. Order Defendant to make whole Royal Katzenberger by providing him with appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of Defendant's unlawful employment practices, including but not limited to reinstatement of Royal Katzenberger or, in the alternative, an award of front pay.

E. Order Defendant to make whole Royal Katzenberger by providing compensation for past and future pecuniary losses resulting from the unlawful practices complained of in paragraph 8 above, including but not limited to medical expenses that would have been covered by Defendant's employee benefit plan, in amounts to be determined at trial.

F. Order Defendant to make whole Royal Katzenberger by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraph 8 above, including but not limited to emotional pain, suffering, inconvenience, loss of enjoyment of life, humiliation, loss of self-esteem, and loss of civil rights, in amounts to be

determined at trial.

G. Order Defendant to pay Royal Katzenberger punitive damages for its malicious and reckless conduct, as described in paragraph 8 above, in amounts to be determined at trial.

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

I. Award the Commission its costs of this action.

JURY TRIAL DEMAND


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

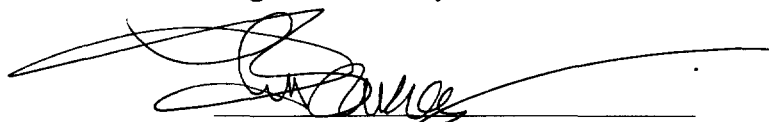
DATED this 27<sup>th</sup> day of February 2002.

Respectfully submitted,

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Associate General Counsel

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A handwritten signature in cursive script, reading "Kerith Cohen", written in black ink on a white background.

KERITH COHEN

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