

FEB 22 1999

WESTERN DIVISION

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JAMES W. McCORMACK
CLERK OF COURT

U.S.C. §§451, 1331, 1337, 1343, and 1345. This is an action 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 unlawful employment practices alleged below were and are now being committed in the Eastern District of Arkansas, Western Division.

PARTIES

3. Plaintiff, Equal Employment Opportunity Commission (the "Commission") is an 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 Section 706(f)(1) of Title VII, 42 U.S.C. §2000e-5(f)(1).

4. At all relevant times, Defendant, Landers Auto Sales, Inc., a subsidiary of United Auto Group, Inc. ("Defendant Employer"), was a corporation doing business in the State of Arkansas and has continuously had at least twenty five (25) employees.

5. At all relevant times, Defendant Employer has

continuously been and is now an employer engaged in an industry affecting commerce within the meaning of 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. The Defendant Employer, Landers Auto Sales, Inc., is a covered entity under Section 101(2) of the ADA, 42 U.S.C. §12111(2).

STATEMENT OF CLAIMS

7. More than thirty (30) days prior to the institution of this lawsuit, Steven Hart, filed a charge with the Commission alleging violations of Title I of the ADA by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. Since at least January 1, 1998, Defendant Employer has engaged in unlawful employment practices in violation of the ADA Sections 102(a), 102(b) (1), 42 U.S.C. §§12112(a) and 12112(b) (1) at its Benton, Arkansas facilities. These unlawful practices include, but are not limited to Defendant's failure to provide reasonable accommodations to its facilities, demoting Mr. Hart from the position of Wholesale Sales manager (a management position in its Wholesale Parts Warehouse), retaliating against Mr. Hart after

he engaged in protected activity and commingling medical and non-medical personnel information.

9. Steven Hart was employed by Defendant as Parts Manager since 1992. In July of 1997, Mr. Hart was in an accident that resulted in quadriplegia. Prior to returning to work in February of 1998, Mr. Hart requested accommodations to Defendant's facilities to make the workplace accessible. Mr. Hart is in a wheelchair. Mr. Hart made additional requests for accommodations after he returned to work. Defendant ignored his requests until he complained and filed a charge of discrimination.

10. On or about June 8, 1998, Defendant demoted Steven Hart from the position of manager in its Wholesale Parts Warehouse. Mr. Hart was placed in the position in February of 1998, the warehouse started up operations in March of 1998. After a brief period as manager of the Wholesale Parts Warehouse, Mr. Hart was removed from the position and stripped of any management or supervisory responsibilities because of his disability.

11. Steven Hart was subjected to retaliation for engaging in protected activity. The protected activity was seeking reasonable accommodations, complaining to Defendant about his demotion, and filing a charge of discrimination with the EEOC.

12. Defendant commingled medical and non-medical information in its personnel files.

13. The practices alleged above have effectively deprived Steven Hart, of equal employment opportunities and adversely affected his status as an employee because of Defendant Employer's actions.

14. The unlawful employment practices complained of above were intentional.

15. Defendant Employer at all relevant times has been acting with malice or reckless indifference to the federally protected rights of Steven Hart, in violation of the ADA, 42 U.S.C. §12101 et seq.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully prays that this Court:

A. Grant a permanent injunction enjoining the Defendant Employer, 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 or retaliation for engaging in protected activity.

B. Order Defendant Employer to institute and carry out policies, practices and programs which provide equal employment opportunities for qualified individuals with disabilities and other individuals covered by the ADA, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Employer to make whole Steven Hart, by providing appropriate back pay with interest, in an amount to be proved at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to, reinstatement to his rightful place.

D. Order Defendant Employer to make whole Steven Hart, by providing compensation for past and future pecuniary losses, including but not limited to, relocation expenses, job search expenses and medical expenses incurred by Steven Hart, due to the actions of Defendant Employer.

E. Order Defendant Employer to make whole Steven Hart, by providing compensation for non-pecuniary losses, including emotional pain, suffering, loss of enjoyment of life, humiliation, inconvenience, mental anguish, and embarrassment, in amounts to be determined at trial.

F. Order Defendant Employer to pay Steven Hart, punitive damages for its malicious and/or reckless conduct, in an amount to be determined at trial.

G. Order Defendant Employer to segregate medical and non-medical personnel data as required by Section 102(d)(3)(B. & C.) of the ADA.

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

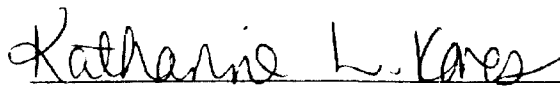
I. Award the Commission its costs in this action.

JURY TRIAL DEMAND

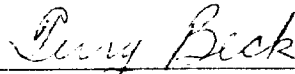
The Commission requests a jury trial on all questions of fact raised by its complaint.

C. GREGORY STEWART
General Counsel

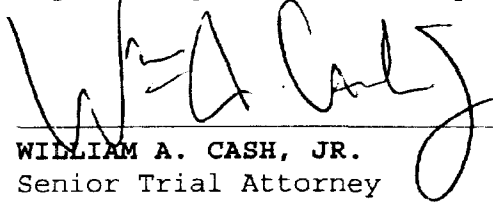
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