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**EQUAL EMPLOYMENT OPPORTUNITY
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, NORTHERN DIVISION

Equal Employment Opportunity
Commission,

Plaintiff,

v.

Autoliv A S P, a Utah corporation,

Defendant.

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) CIV
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) **COMPLAINT**
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) (Jury Demanded)
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)
) **Judge Ted Stewart**
) **DECK TYPE: Civil**
) **DATE STAMP: 09/29/2003 @ 10:56:10**
) **CASE NUMBER: 1:03CV00110 TS**
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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 Judy Holt Day ("Ms. Day") who was adversely affected by such practices. As alleged with greater particularity below, the Commission

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DISTRICT COURT
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DISTRICT OF UTAH
BY: _____
DEPUTY CLERK

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alleges Defendant Autoliv A S P (“Defendant” or “Autoliv”) discriminated against Ms. Day on the basis of her disability by denying her a reasonable accommodation, denying her reassignment because of her disability and terminating her because of her disability, in violation of Section 102 of the ADA, 42 U.S.C. §12112(a). Also as alleged with more particularity below, Ms. Day’s disability includes impairments to her cervical spine and her right arm.

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 42 U.S.C. Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964 (“Title VII”), §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 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 Utah.

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 act on by

Section 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference Sections 706(f)(1) of Title VII, 42 U.S.C. § 2000e-5(f)(1).

4. At all relevant times, Defendant Autoliv has continuously been a Utah corporation doing business in the State of Utah, and has continuously had at least fifteen (15) employees.

5. At all relevant times, Defendant Autoliv 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 Autoliv 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, Ms. Day filed a charge with the Commission alleging violations of Title I of the ADA by Defendant Autoliv. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. Since at least March 2000, Defendant Autoliv has engaged in unlawful employment practices at its Utah facilities, in violation of Section 102 of Title I of the ADA, 42 U.S.C. 42 U.S.C. § 12112(a). These unlawful employment practices include but are not limited to the following:

- a. Autoliv denied Ms. Day reassignment to another position because of her disability;
- b. Autoliv refused to provide Ms. Day a reasonable accommodation ;
- c. Autoliv maintains a policy and/or practice of denying reassignment as a reasonable accommodation to qualified individuals with disabilities; and
- d. Autoliv terminated Ms. Day's employment because of her disability.

9. The effect of the practices complained of in paragraph 8 (a)-(d) above have been to deprive Ms. Day 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 (a)-(d) above were and are intentional.

11. The unlawful employment practices complained of in paragraph 8 (a)-(d) above were and are done with malice or with reckless indifference to the federally protected rights of Ms. day.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Autoliv, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging

in disability discrimination and any other employment practice which discriminates on the basis of disability.

B. Order Defendant Autoliv 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 Autoliv to make whole Ms. Day, by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to rightful place reinstatement of Ms. Day or, in the alternative, frontpay.

D. Order Defendant Autoliv to make whole Ms. Day by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 8 (a)-(d) above, including medical expenses not covered by Autoliv's employee benefit plan, in amounts to be determined at trial.

E. Order Defendant Autoliv to make whole Ms. Day by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 8 (a)-(d) above, including emotional pain, suffering, inconvenience, loss of enjoyment of life and humiliation, in amounts to be determined at trial.

F. Order Defendant Autoliv to pay Ms. Day punitive damages for its malicious and

reckless conduct, as described in paragraph 8 (a)-(d) above, in amounts to be determined at trial.

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

H. 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.

RESPECTFULLY SUBMITTED this 26th day of September, 2003.

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