

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

FILED

APR 14 2004

U. S. DISTRICT COURT
EASTERN DISTRICT OF MO
ST. LOUIS

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

APRIA HEALTHCARE GROUP, INC.,

Defendant.

04CV00443AGF

COMPLAINT
Jury Trial Demanded

COMPLAINT

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 a former employee, Charging Party in Charge Number 280A201197 ("the Charging Party"), who was adversely affected by such practices. The Commission alleges that Apria Healthcare Group, Inc. ("Apria") failed to make reasonable accommodations and terminated the Charging Party, a quality assurance coordinator, because of her disability, bipolar disorder.

JURISDICTION AND VENUE

1. The 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. § 2000e-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 Missouri, Eastern Division.

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 Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant Apria has continuously been a Delaware Corporation doing business in the State of Missouri and has continuously had at least fifteen (15) employees.

5. At all relevant times, Defendant Apria has continuously been an employer 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 Apria 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, the Charging Party filed a charge with the Commission alleging violations of Title I of the ADA by Defendant

Apria. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. Since at least January, 2001, Defendant Apria engaged in unlawful employment practices at its St. Louis, Missouri location, in violation of Section 102(a) and (b) of Title I of the ADA, 42 U.S.C. § 12112(a) and (b), by terminating the Charging Party because of her disability on or about February 25, 2002.

9. The effect of these actions by Defendant Apria has been to deprive the Charging Party of equal employment opportunities and otherwise adversely affect her status as an employee because of her disability.

10. The unlawful employment practices engaged in by Defendant Apria were done with malice or reckless indifference to the federally protected rights of the Charging Party.

WHEREFORE, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Apria, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in any employment practice that discriminates on the basis of disability;

B. Order Defendant Apria to institute and carry out policies, practices, and programs that provide equal employment opportunities for qualified individuals with disabilities, and that eradicate the effects of its past and present unlawful employment practices;

C. Order Defendant Apria to make the Charging Party whole, 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 reinstatement of the Charging Party;

D. Order Defendant Apria to make the Charging Party whole by providing

compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 8 above in amounts to be determined at trial;

E. Order Defendant Apria to make the Charging Party whole by providing compensation for past and future nonpecuniary losses resulting from the unlawful employment practices described in paragraph 8 above, including compensation for emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial;

F. Order Defendant Apria to pay the Charging Party punitive damages for its malicious and reckless conduct, 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 incurred in this action.

JURY TRIAL DEMANDED

The Commission requests a jury trial on all questions of fact raised in its Complaint.

Respectfully submitted,

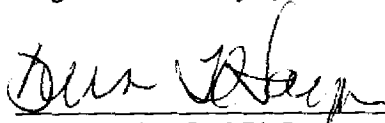
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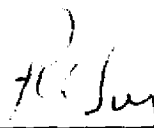
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