

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

EQUAL EMPLOYMENT	)	
OPPORTUNITY COMMISSION,	)	
	)	
Plaintiff,	)	Civil Action No. 1:17-cv-3426
	)	
v.	)	C O M P L A I N T
	)	
ST. VINCENT HOSPITAL AND	)	Jury Trial Demanded
HEALTH CARE CENTER, INC.,	)	
	)	
Defendant.	)	
_____	)	

**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 Latoya Moore. As alleged with greater particularity in paragraph 15 below, Defendant, St. Vincent Hospital and Health Care Center, Inc., refused to provide Moore transfer as a reasonable accommodation into a position she was qualified for.

**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. § 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 Southern District of Indiana.

### **Parties**

3. Plaintiff, the Equal Employment Opportunity 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, St. Vincent Hospital and Health Care Center, Inc., has continuously been doing business in the State of Indiana and the City of Indianapolis, and has continuously had at least 15 employees.

5. At all relevant times, St. Vincent Hospital has continuously been an employer engaged in an industry affecting commerce under Sections 101(5) and (7) of the ADA, 42 U.S.C. §§ 12111(5), (7).

6. At all relevant times St. Vincent Hospital has been a covered entity under Section 101(2) of the ADA, 42 U.S.C. § 12111(2).

### **Administrative Procedures**

7. More than thirty days prior to the institution of this action, Latoya Moore filed a charge with the Commission alleging violations of the ADA by St. Vincent Hospital.

8. On July 28, 2017, the Commission issued to St. Vincent Hospital a Letter of Determination finding reasonable cause to believe that the ADA was violated and inviting St. Vincent Hospital to join with the Commission in informal methods of conciliation to endeavor to eliminate the unlawful employment practices and provide appropriate relief.

9. The Commission engaged in communications with St. Vincent Hospital to provide St. Vincent Hospital the opportunity to remedy the discriminatory practices described in the Letter of Determination.

10. The Commission was unable to secure from St. Vincent Hospital a conciliation agreement acceptable to the Commission.

11. On September 8, 2017, the Commission issued to St. Vincent Hospital a Notice of Failure of Conciliation advising St. Vincent Hospital that the Commission was unable to secure from Defendant a conciliation agreement acceptable to the Commission.

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

## Statement of Claims

13. Since at least October 21, 2015, St. Vincent Hospital has been engaged in unlawful employment practices at its Indianapolis, Indiana, location, in violation of Section 102(a) and (b) of the ADA, 42 U.S.C. § 12112(a) and (b).

14. Latoya Moore is a qualified individual with a disability under Sections 3 and 101(8) of the ADA, 42 U.S.C. §§ 12102 and 12111(8). Briars has impairments, bulging disc, sciatica and pinched nerve, that substantially limit one or more major life activities, including but not limited to lifting and bending and musculoskeletal function.

15. St. Vincent Hospital has violated Section 102(b)(5) of the ADA, 42 U.S.C. § 12112(b)(5), by refusing to provide Latoya Moore reasonable accommodation in the form of transfer to any of several vacant positions for which Moore was qualified to perform the essential functions, with or without accommodation. On or about October 21, 2015, St. Vincent Hospital learned Moore's lifting restrictions due her disabilities were indefinite and, instead of transferring her, placed her involuntarily out of work on Short Term Disability status at reduced pay and terminated her employment.

16. The effect of the practices complained of in Paragraph 15 has been to deprive Moore of equal employment opportunities and otherwise adversely affect her status as an employee because of her disabilities.

17. The unlawful employment practices complained of in Paragraph 15 were and are intentional.

18. The unlawful employment practices complained of in Paragraph 15 were and are done with malice or with reckless indifference to Moore's federally protected rights.

### **Prayer for Relief**

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining St. Vincent Hospital, its officers, agents, servants, employees, attorneys, and all persons in active concert or participation with it, from refusing employees with disabilities transfer to vacant positions for which the employees are qualified.

B. Order St. Vincent Hospital 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 St. Vincent Hospital to make Moore 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 rightful-place hiring.

D. Order St. Vincent Hospital to make Moore whole by providing compensation for past and future pecuniary losses resulting from the unlawful practices complained of in paragraph 15 above, including job-search expenses, late payment expenses, and medical expenses that would have been covered

had St. Vincent Hospital accommodated Moore, in amounts to be determined at trial.

E. Order St. Vincent Hospital to make Moore whole by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 15 above, including emotional pain, suffering, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

F. Order St. Vincent Hospital to pay Moore punitive damages for its malicious and reckless conduct, as described in paragraph 15 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.

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