

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

HOSANNA-TABOR EVANGELICAL
LUTHERAN CHURCH AND SCHOOL,

Defendant.

Case: 2:07-cv-14124
Assigned To: Duggan, Patrick J
Referral Judge: Pepe, Steven D
Filed: 09-28-2007 At 03:13 PM
CMP: EEOC V. HOSANNA TABOR EVAN LUT
HERAN (NH)

COMPLAINT AND JURY
TRIAL DEMAND

NATURE OF THE ACTION

This is an action under Title I of the Americans with Disabilities Act of 1990 ("ADA") and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of retaliation and to make whole Cheryl Perich ("Perich"). The Equal Employment Opportunity Commission ("Commission") alleges that the Defendant, Hosanna-Tabor Evangelical Lutheran Church and School discharged Perich in retaliation for threatening to file an ADA lawsuit.

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 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, as amended, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Eastern District of Michigan, Southern 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 Sections 107(a) and 503(c) of the ADA, 42 U.S.C. §§ 12117(a) and 12203(c), 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, the Defendant Hosanna-Tabor Evangelical Lutheran Church and School (the "Employer") has been a Michigan corporation doing business in the State of Michigan and City of Redford, and has continuously had at least (15) employees.

5. At all relevant times the Defendant Employer 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, the Defendant Employer 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 (30) days prior to the institution of this lawsuit, Perich filed a charge with the Commission alleging violations of Title I of the ADA by the Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. Since at least February 22, 2005, the Defendant Employer has engaged in unlawful employment practices at its Redford, Michigan facility in violation of Section 503(a) of the ADA, 42 U.S.C. § 12203(a). These practices include terminating Perich's employment in retaliation for threatening to file an ADA lawsuit against Defendant Employer.

9. The effect of the practices complained of in paragraph 8 above has been to deprive Perich of equal employment opportunities and otherwise adversely affect her status as an employee because she asserted her rights under the ADA.

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

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

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

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

B. Order Defendant Employer 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 Employer to make whole Perich by providing her with appropriate lost earnings and benefits, with prejudgment interest, in amounts to be proven at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices including, but not limited to, reinstating Perich to the position from which she was terminated with

pay and benefits equal to that which she would have attained had she not been terminated, or providing Perich with appropriate front pay in lieu of reinstatement.

D.. Order Defendant to make whole Perich 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 Employer to make whole Perich by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 8 above, in amounts to be determined at trial.

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

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

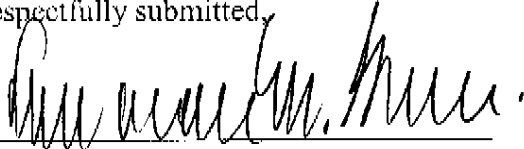
H. Award the Commission its costs of this action.

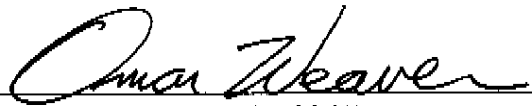
JURY TRIAL DEMAND

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

Respectfully submitted,

Dated: September 28, 2007


DEBORAH M. BARNO (P44525)
Supervisory Trial Attorney


OMAR WEAVER (P58861)
Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

DETROIT FIELD OFFICE
Patrick V. McNamara Federal Building
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Detroit, MI 48226
(313) 226-3407

This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of filing pleadings or other papers as required by law, except as otherwise provided by the rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of filing pleadings or other papers as required by law, except as otherwise provided by the rules of court. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

PLAINTIFFS EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (b) County of Residence of First Listed Plaintiff _____ (EXCEPT IN U.S. PLAINTIFF CASES) (c) Attorney's (Firm Name, Address, and Telephone Number) Omar Weaver (P58861), Trial Attorney Equal Employment Opportunity Commission 477 Michigan Avenue, Room 865, Detroit, MI 48226 (313) 226-3407	DEFENDANTS HOSANNA-TABOR EVANGELICAL LUTHERAN CHURCH County of Residence of First Listed Defendant <u>Wayne</u> (INITIAL PLAINTIFF CASES ONLY) Case: 2:07-cv-14124 Assigned To: Duggan, Patrick J Referral Judge: Pepe, Steven D Filed: 09-28-2007 At 03:13 PM CMP: EEOC V. HOSANNA TABOR EVAN LUTHERAN (NH)
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II. BASIS OF JURISDICTION (Select One Box Only) ☒ 1 U.S. Government Plaintiff ☐ 2 U.S. Government Defendant ☐ 3 Federal Question (U.S. Government Not a Party) ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)		III. CITIZENSHIP OF PARTIES (Select One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only) <table style="width: 100%;"> <tr> <td style="width: 33%;">Citizen of This State</td> <td style="width: 33%;">PTF DEF</td> <td style="width: 33%;">Incorporated or Principal Place of Business In This State</td> </tr> <tr> <td></td> <td>☐ 1 ☐ 1</td> <td>☐ 4 ☐ 4</td> </tr> <tr> <td>Citizen of Another State</td> <td>☐ 2 ☐ 2</td> <td>Incorporated and Principal Place of Business In Another State</td> </tr> <tr> <td></td> <td></td> <td>☐ 5 ☐ 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td>☐ 3 ☐ 3</td> <td>Foreign Nation</td> </tr> <tr> <td></td> <td></td> <td>☐ 6 ☐ 6</td> </tr> </table>		Citizen of This State	PTF DEF	Incorporated or Principal Place of Business In This State		☐ 1 ☐ 1	☐ 4 ☐ 4	Citizen of Another State	☐ 2 ☐ 2	Incorporated and Principal Place of Business In Another State			☐ 5 ☐ 5	Citizen or Subject of a Foreign Country	☐ 3 ☐ 3	Foreign Nation			☐ 6 ☐ 6
Citizen of This State	PTF DEF	Incorporated or Principal Place of Business In This State																			
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Citizen or Subject of a Foreign Country	☐ 3 ☐ 3	Foreign Nation																			
		☐ 6 ☐ 6																			

IV. NATURE OF SUIT (Select One Box Only)				
CONTRACT ☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	TORTS PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury PERSONAL INJURY ☐ 362 Personal Injury - Med. Malpractice ☐ 365 Personal Injury - Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	FORFEITURE/PENALTY ☐ 610 Agriculture ☐ 620 Other Food & Drug ☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 630 Liquor Laws ☐ 640 R.R. & Truck ☐ 650 Airline Regs. ☐ 660 Occupational Safety/Health ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Mgmt. Relations ☐ 730 Labor/Mgmt Reporting & Disclosure Act ☐ 740 Railway Labor Act ☐ 790 Other Labor Litigation ☐ 791 Empl. Ret. Inc. Security Act	BANKRUPTCY ☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 840 Trademark SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609	OTHER STATUTES ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit ☐ 490 Cable/Sat TV ☐ 810 Selective Service ☐ 850 Securities/Commodities/Exchange ☐ 875 Customer Challenge 12 USC 3410 ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 892 Economic Stabilization Act ☐ 893 Environmental Matters ☐ 894 Energy Allocation Act ☐ 895 Freedom of Information Act ☐ 900 Appeal of Fee Determination Under Access to Justice ☐ 950 Constitutionality of State Statutes
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 444 Welfare ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 440 Other Civil Rights	PRISONER PETITIONS ☐ 510 Motions to Vacate Sentence Habeas Corpus: ☐ 530 General ☐ 535 Death Penalty ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition		

V. ORIGIN (Select One Box Only)						
☒ 1 Original Proceeding	☐ 2 Removed from State Court	☐ 3 Remanded from Appellate Court	☐ 4 Reinstated or Reopened	☐ 5 Transferred from another district (specify)	☐ 6 Multidistrict Litigation	☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Title I of the American with Disabilities Act of 1990 and Title of the Civil Rights Act of 1991 Brief description of cause: To correct unlawful employment practices on the basis of disability

VII. REQUESTED IN COMPLAINT:	☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$ _____ CHECK YES only if demanded in complaint: JURY DEMAND: ☒ Yes ☐ No
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VIII. RELATED CASE(S) IF ANY	(See instructions): JUDGE _____	DOCKET NUMBER _____
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DATE September 28, 2007	SIGNATURE OF ATTORNEY OF RECORD
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RECEIPT # _____	AMOUNT _____	APPLYING JFF _____	JUDGE _____
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MAG. JUDGE

TO LOCAL RULE 83.11

Is this a case that has been previously dismissed?

☐ Yes

☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ Yes

☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes :
