

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

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	:
EQUAL EMPLOYMENT OPPORTUNITY	:
COMMISSION,	:
	:
Plaintiff,	:
	:
-against-	:
	:
PRINCETON HEALTHCARE SYSTEM,	:
	:
Defendant.	:
	:
-----X	

Civil Action No.
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 based on disability and to provide relief to Scott Satow (Charging Party) and a class of employees and former employees of Princeton HealthCare System at 253 Witherspoon Street, Princeton, New Jersey 08540, who were covered by the ADA and who were adversely affected by such practices. As alleged with greater particularity below, Defendant Princeton HealthCare System (Defendant) discriminated against Charging Party and a class of employees and former employees covered by the ADA by strictly enforcing blanket leave policies without granting

requests for leave as a reasonable accommodation, thereby terminating Charging Party and members of the class.

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 (ADA), 42 U.S.C. § 12117(a), which incorporates by reference §§ 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 were committed within the jurisdiction of the United States District Court for the District of New Jersey.

PARTIES

3. Plaintiff, Equal Employment Opportunity Commission (EEOC), 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).

4. At all relevant times, Defendant has continuously been a corporation doing business in the State of New Jersey and has continuously employed at least fifteen employees.

5. At all relevant times, Defendant 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. §§ 2000-e(g) and (h).

6. At all relevant times, Defendant 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 the lawsuit, Charge No. 524-2007-01127 was filed with EEOC. Also more than thirty days prior to the institution of the lawsuit, Charging Party filed Charge No. 524-2009-00174 with EEOC. All conditions precedent to the institution of this lawsuit were fulfilled.

8. Since at least January, 2006, Defendant has engaged in unlawful employment practices in violation of Section 102 of the ADA, 42 U.S.C. § 12112, as outlined below:

- a. Charging Party Satow and the class of employees and former employees have disabilities within the meaning of the ADA, 42 USC § 12102(2), and are qualified individuals with disabilities under the ADA, 42 U.S.C. § 12111(8), who sought leave as a reasonable accommodation from Defendant related to their disabilities;
- b. At all relevant times, Defendant has had and continues to have policies that provide for progressive discipline for employees who have absences, that provide that an employee ineligible for leave under the Family Medical Leave Act (FMLA) will be terminated from employment if the employee cannot return to work after seven consecutive calendar days of absence, and that provide that an employee who has exhausted leave under the FMLA and who has not returned to work at the end of such leave will be considered to have voluntarily resigned;
- c. At all relevant times, Defendant has uniformly applied and continues to uniformly apply its policies, has not and does not engage in the interactive process with qualified individuals with disabilities who request sick leave related to their disabilities, and thus has failed to grant reasonable accommodations to Charging Party and a class of employees and former employees who are covered by the ADA, resulting in its termination of Charging Party and a class of employees and former employees who are covered by the ADA;
- d. Charging Party was employed as an Accounts Payable Supervisor by Defendant from April 2007 until February 2008, when Defendant terminated him pursuant to its policies;

- e. Charging Party is and was qualified for the position of Accounts Payable Supervisor, and is a qualified individual with a disability under the ADA;
- f. Charging Party requested leave from Defendant to seek medical treatment for his disability;
- g. Defendant did not engage in the interactive process with Charging Party, claimed that he was not eligible for leave under Defendant's policies, denied his request for leave, refused to grant him a reasonable accommodation, and terminated his employment.

9. The effect of the practices complained of above have been to deprive Charging Party and a class of employees and former employees covered by the ADA of equal employment opportunities and otherwise adversely affected their status as employees because of their disabilities.

10. The effect of the practices complained of above has been to inflict emotional pain, suffering, and inconvenience upon Charging Party and a class of employees and former employees covered by the ADA.

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

12. The unlawful employment practices complained of above were done with malice and reckless disregard for Charging Party's and the class of employees and former employees' covered by the ADA federally protected rights, in violation of 42 U.S.C. § 12101 et seq.

PRAYER FOR RELIEF

Wherefore, EEOC respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant, 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 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 to make whole Charging Party and a class of employees and former employees covered by the ADA 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 frontpay and reinstatement.

D. Order Defendant to make whole Charging Party and a class of employees and former employees covered by the ADA by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices complained of above, including but not limited to any job search expenses, and medical expenses not covered by the Defendant's employee benefit plan, and other pecuniary losses, in amounts to be determined at trial.

E. Order Defendant to make whole Charging Party and a class of employees and former employees covered by the ADA by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of above, including pain and suffering, emotional distress, indignity, inconvenience, loss of enjoyment of life, loss of self-esteem, and humiliation, in amounts to be determined at trial.

F. Order Defendant to pay Charging Party and a class of employees and former employees covered by the ADA punitive damages for its malicious and reckless conduct, as described above, in an amount to be determined at trial.

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

H. Award EEOC its costs of this action.

JURY TRIAL DEMAND

EEOC requests a jury trial on all questions of fact raised by this Complaint.

Dated: August 11, 2010
Newark, New Jersey

Respectfully submitted,

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General Counsel

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EQUAL EMPLOYMENT
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