

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

_____)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Civil Action No. 0:23-cv-3583
v.)	
)	JURY TRIAL DEMANDED
CITY OF BLAINE, MINNESOTA,)	
)	
Defendant.)	
_____)	

COMPLAINT

Plaintiff United States of America alleges:

1. This action is brought by the United States against the City of Blaine, Minnesota (“Defendant”) to enforce Title I of the Americans with Disabilities Act (“ADA”), as amended, 42 U.S.C. §§ 12111-12117, which incorporates, through 42 U.S.C. § 12117(a), the powers, remedies, and procedures set forth in Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e–17. Title I of the ADA prohibits employment discrimination based on disability, and Complainant is a person with a disability. 42 U.S.C. § 12102(1); 29 C.F.R. § 1630.2(g).

2. Defendant discriminated against Complainant in the terms, conditions, and privileges of his employment in violation Title I of the ADA by requiring him to pay for alcohol/drug testing and evaluation based on his disability, and by discriminating against any other similarly situated employees by requiring the same. 42 U.S.C. § 12112; 29 C.F.R. § 1630.4.

DEFENDANT

3. Defendant is a person within the meaning of 42 U.S.C. §§ 2000e(a), 12111(7), and 29 C.F.R. § 1630.2(c), an employer within the meaning of 42 U.S.C. §§ 2000e(b), 12111(5), and 29 C.F.R. § 1630.2(e), and a covered entity within the meaning of 42 U.S.C. § 12111(2) and 29 C.F.R. § 1630.2(b).

JURISDICTION AND VENUE

4. This Court has jurisdiction over this action under 42 U.S.C. § 12117(a), 42 U.S.C. § 2000e-5(f), and 28 U.S.C. §§ 1331 and 1345.

5. This Court has authority to grant a declaratory judgment as well as further necessary or proper relief based on a declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202, and authority to grant equitable relief and monetary damages pursuant to 42 U.S.C. § 12117(a).

6. Venue is proper under 28 U.S.C. § 1391 because Defendant is located in this judicial district and a substantial part of the events and omissions giving rise to this action occurred in this judicial district.

FACTS

7. Complainant has worked in Defendant's Public Works Department since 2006.

8. Complainant is required to possess a Minnesota Class B commercial driver's license and certification from the U.S. Department of Transportation ("DOT").

9. In 2007, Defendant promoted Complainant to a position supervising approximately four other employees.

10. At all times relevant to this action, Defendant considered Complainant to be a good and valued employee, who received positive performance evaluations, and was not the

subject of any discipline.

11. At all times relevant to this action, Complainant was a person with a disability because he had alcohol use disorder, an impairment that substantially limited one or more of his major life activities, including the operation of major bodily functions, and he had a record of such impairments.

12. Alcohol use disorder substantially limited the operation of Complainant's major bodily functions, such as neurological and brain functions, and substantially limited him in major life activities, including concentrating, thinking, performing manual tasks, and communicating.

13. At all times relevant to this action, Complainant was a qualified individual with a disability because he satisfied the requisite skill, experience, education, and other job-related requirements of the position he held with Defendant and, with or without reasonable accommodation, could perform the essential functions of the position.

14. Defendant has a policy that, for employees who test positive for alcohol misuse or controlled substances use, Defendant is not responsible for any costs associated with an employee's positive test results, including any substance abuse professional ("SAP") evaluations, follow-ups, education, and treatment, and return-to-duty or follow-up testing required by Defendant.

15. Despite the above policy, Defendant pays for testing costs in various contexts, including as part of pre-employment medical exams, after work-related accidents, and random testing of employees.

16. In May 2020, Complainant voluntarily informed Defendant that he intended to take a 28-day leave in order to attend an alcohol treatment program.

17. Complainant's decision to seek alcohol treatment had nothing to do with his employment.

18. This was the first time Defendant learned of Complainant having any potential issue with alcohol use.

19. At all times relevant to this action, Defendant never observed Complainant misusing alcohol.

20. At all times relevant to this action, Defendant did not consider Complainant to have violated any DOT drug or alcohol regulation, and had no knowledge of any such violation by Complainant.

21. Shortly after Defendant learned that Complainant planned to attend an alcohol treatment program, Defendant advised Complainant by email that he must undergo a SAP evaluation within five working days, and provided Complainant with the name of Jerry Peters, Defendant's recommended SAP.

22. Defendant further advised Complainant that he must be removed from all safety-sensitive duties until completing all recommendations from the SAP, pass an observed return-to-duty test with the results being negative for controlled substances and alcohol, and be subject to repeated follow-up testing upon his return to work.

23. Defendant further advised Complainant that he must pay for Defendant's required testing and evaluation, and that Defendant was not financially responsible for any costs associated with Complainant's SAP evaluations, SAP follow-ups, treatment, education, and return-to-duty or follow-up testing.

24. Defendant acknowledged that, at all times relevant to this action, Complainant never had a positive test result for alcohol or substance use of which it was aware.

25. Although Complainant never had a positive test result for alcohol or substance use of which Defendant was aware, Defendant nevertheless required Complainant to pay for his SAP evaluation and testing, even though Defendant's policy states that it is not responsible for such costs when associated with a *positive* test result, and despite Defendant's practice of paying testing costs associated with an employee's positive test results in various contexts, including as part of pre-employment medical exams, after work-related accidents, and random testing of employees.

26. In June 2020, Complainant successfully completed an alcohol treatment program and was discharged.

27. Defendant then told Complainant that he could not return to work until he received a formal evaluation and recommendation from SAP Mr. Peters, to be provided to Defendant.

28. SAP Mr. Peters then spoke with Complainant, and told Complainant to follow the recommendations made by the alcohol treatment program Complainant had attended.

29. SAP Mr. Peters completed a SAP Evaluation and Recommendation Form regarding Complainant that he provided to Defendant, describing that Complainant successfully completed an inpatient alcohol treatment program, was an active participant, and was committed to abstinence.

30. SAP Mr. Peters recommended that Complainant undergo repeated drug and alcohol testing over the course of the next four years, follow the recommendations made by the alcohol treatment program he participated in, and attend weekly Alcoholics Anonymous meetings.

31. In early July 2020, Complainant returned to work for Defendant, on Defendant's

condition that he participate in repeated alcohol and drug testing over the course of the next four years at his own expense to document his health condition.

32. After returning to work, Complainant underwent repeated alcohol and controlled substances tests at Defendant's direction, all of which were negative.

33. Complainant incurred substantial expenses in undergoing repeated testing and evaluation.

34. Complainant found the testing experience to be extremely humiliating, including because it was conducted in a very unprofessional and degrading manner.

35. Complainant was anxious and distressed that he was required to pay for testing that he understood his colleagues were not required to pay for, when he simply chose to be honest with Defendant about his choice to attend an alcohol treatment program.

36. Defendant's actions caused Complainant to suffer emotional distress.

37. On or about August 27, 2020, Complainant filed a timely charge of discrimination with the United States Equal Employment Opportunity Commission (EEOC) alleging that Defendant discriminated against him on the basis of disability.

38. Pursuant to 42 U.S.C. § 2000e-5, incorporated by reference in 42 U.S.C. § 12117(a), the EEOC investigated Complainant's charge and found reasonable cause to believe that Defendant discriminated against him in violation of the ADA.

39. After the EEOC's conciliation efforts failed, the EEOC referred the matter to the United States Department of Justice.

40. All conditions precedent to the filing of this action have been performed.

CAUSE OF ACTION

Violation of Title I of the Americans with Disabilities Act

41. The allegations of the foregoing paragraphs are hereby incorporated by reference.

42. By requiring Complainant, and any other similarly situated employees, to pay for alcohol and drug testing and evaluation based on their disability, Defendant's conduct as described in this Complaint constitutes discrimination on the basis of disability in violation of Title I of ADA, 42 U.S.C. §§ 12111–12117, and its implementing regulation, 29 C.F.R. Part 1630.

43. Defendant's policies and practices deprive Complainant, and any other similarly situated employees with disabilities, of equal employment opportunities, and otherwise adversely affect their status as employees because of their disabilities.

44. As a result of Defendant's discriminatory conduct, Complainant, and any other similarly situated employees, suffered and continues to suffer damages, including emotional distress.

Prayer for Relief

WHEREFORE, the United States prays that this Court:

(a) grant judgment in favor of the United States and declare that Defendant has violated Title I of the ADA, 42 U.S.C. §§ 12111-12117, and its implementing regulations;

(b) enjoin Defendant and its agents, employees, successors and all persons in active concert or participation with it, from engaging in discriminatory employment policies, practices, and procedures that violate Title I of the ADA;

(c) require Defendant to modify its policies, practices, and procedures as necessary to bring its employment practices into compliance with Title I of the ADA and its implementing

regulations;

(d) order Defendant to train its supervisors and human resource staff regarding the requirements of Title I of the ADA;

(e) award all appropriate monetary relief to Complainant, and any other similarly situated employees, to make them whole for any loss suffered as a result of the discrimination alleged in this Complaint, including:

- (i) the value of any costs incurred with interest;
- (ii) compensatory damages, including damages for emotional distress, for injuries suffered as a result of Defendant's failure to comply with the requirements of Title I of the ADA pursuant to and within the statutory limitations of Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a; and

(f) order such other appropriate relief as the interests of justice require, together with the United States' costs and disbursements in this action.

Jury Demand

The United States hereby demands a jury trial pursuant to Rule 38 of the Federal Rules of Civil Procedure and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

For the United States of America

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