

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

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

FORD MOTOR COMPANY and
VISTEON CORPORATION,

Defendants.

CIVIL ACTION NO. 00-74344

HON. JOHN CORBETT O'MEARA

FIRST AMENDED COMPLAINT
AND JURY TRIAL DEMAND

FILED

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COURT CLERK
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NATURE OF 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 Charging Parties Linda Crider and Karen Martin (f/k/a Karen Halucha) and other similarly situated individuals who were adversely affected by such practices. As alleged with greater particularity in paragraphs 19 and 20 below, the Commission alleges that Defendants Ford Motor Company and Visteon Corporation made unlawful medical inquiries of Crider, Martin and other similarly situated job applicants. Defendants Ford Motor Company and Visteon Corporation also subjected Crider and other similarly situated job applicants to pre-employment medical examinations prior to extending them an offer of employment. Further, Defendant Ford Motor Company failed to hire Martin because of her disability (Systemic Lupus Erythematosus).

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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, 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 Eastern District of Michigan, Southern 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 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 Ford Motor Company (“Ford”), a Delaware corporation, has been doing business in the State of Michigan and the Cities of Sterling Heights and Plymouth, and has continuously had at least fifteen (15) employees.

5. At all relevant times, the Defendant Visteon Corporation (“Visteon”), a Delaware corporation, has been doing business in the State of Michigan and the Cities of Sterling Heights and Plymouth, and has continuously had at least fifteen (15) employees.

6. At all relevant times up to the period of June 30, 2000, Ford was the parent company of its subsidiary, Visteon.

7. At all relevant times up to the period of June 30, 2000, Ford operated and conducted business at its Sheldon Road Plant in Plymouth, Michigan under and/or using the name "Visteon."

8. On or about June 30, 2000, Ford spun-off Visteon, thereby making Visteon an independent corporate entity.

9. On or about June 30, 2000, Ford's Sheldon Road plant in Plymouth, Michigan and its Sterling Heights, Michigan plant commenced operations as the independent corporate entity "Visteon" and continued the business of producing automotive systems and components similar to those previously manufactured at these facilities when owned by Ford.

10. Despite Ford's corporate spin-off of Visteon, all employees at Visteon at the time of the spin-off on or about June 30, 2000, remain Ford employees.

11. To date, the majority of Ford salaried and non-salaried employees working at the Visteon plants referenced in paragraph 9, prior to the corporate spin-off, remain employed at these Visteon plants.

12. At all relevant times, Defendant Ford has continuously been engaged in an industry affecting commerce within the meaning of Section 101(5) of the ADA, 42 U.S.C. § 12111(5), and Section 107(7) of the ADA, 42 U.S.C. § 12117(7), which incorporates by reference Sections 701(g) and (h) of Title VII, 42 U.S.C. § 2000e (g) and (h).

13. At all relevant times, Defendant Visteon has continuously been engaged in an industry affecting commerce within the meaning of Section 101(5) of the ADA, 42 U.S.C. § 12111(5), and Section 107(7) of the ADA, 42 U.S.C. § 12117(7), which incorporates by

reference Sections 701(g) and (h) of Title VII, 42 U.S.C. § 2000e (g) and (h).

14. At all relevant times, Defendant Ford has been a covered entity under Section 101(2) of the ADA, 42 U.S.C. § 12111(2).

15. At all relevant times, Defendant Visteon has been a covered entity under Section 101(2) of the ADA, 42 U.S.C. § 12111(2).

STATEMENT OF CLAIMS

16. More than thirty (30) days prior to the institution of this lawsuit, Charging Parties Linda Crider (“Crider”) and Karen Martin (f/k/a Karen Halucha) (“Martin”) each filed a Charge of Discrimination with the Commission alleging violations of Title I of the ADA by Defendant Ford. All conditions precedent to the institution of this lawsuit have been fulfilled.

17. Defendant Ford had notice of the Charge filed by Martin.

18. Defendants Ford and Visteon had notice of the Charge filed by Crider.

19. Since at least April 1995, Defendants Ford and Visteon have engaged in unlawful practices in violation of the ADA Section 102(d)(2)(A) at its facilities, including but not limited to, its Sterling Heights, Michigan plant and its Sheldon Road plant in Plymouth, Michigan.

These practices include, but are not limited to, the following:

- (a) requesting, pre-offer, that Crider and other similarly situated job applicants disclose their “handicapped” status on the Supplemental Data Form attached to Defendants’ employment application;
- (b) conducting pre-offer physical/medical examinations of Crider and other similarly situated job applicants;
- (c) refusing to hire Crider and other similarly situated job applicants based on information gathered and/or obtained during the unlawful pre-employment

medical inquiries and examinations referred to in sub-paragraphs (a) and (b) above.

20. Since at least April 1995, Defendant Ford has engaged in unlawful employment practices in violation of ADA Section 102(a), when it failed to hire Martin because of her disability. Specifically, Ford revoked an offer of employment to Martin for a production position after learning of her medical condition during a post-offer medical examination. Defendant Ford revoked its employment offer to Martin despite the fact that she was a qualified individual with a disability and could have performed the essential functions of the job with or without reasonable accommodation and without posing a direct threat.

21. The effect of the unlawful employment practices complained of in paragraphs 19 and 20 has been to deprive Crider, Martin and other similarly situated individuals of equal employment opportunities and otherwise adversely affect their status as applicants for employment.

22. The unlawful employment practices complained of in paragraphs 19 and 20 were and are intentional.

23. The unlawful employment practices complained of in paragraphs 19 and 20 were done with malice or with reckless indifference to the federally protected rights of Crider, Martin and other similarly situated individuals.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

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

B. Order Defendants Ford and Visteon 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 Defendants Ford and Visteon to stop making unlawful pre-offer medical inquiries of job applicants by either discontinuing use of its Supplemental Data Form or, in the alternative, ensuring that this form complies with the ADA;

D. Order Defendants Ford and Visteon to stop conducting medical/physical examinations of job applicants until after it has extended an offer of employment;

E Order Defendants Ford and Visteon to make whole Crider, Martin and other similarly situated individuals by hiring them into entry-level production positions retroactive to the date they were denied hire by Ford and/or Visteon, and providing them with appropriate lost earnings, seniority and benefits, with pre-judgment interest, in amounts to be proven at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices.

F. Order Defendants Ford and Visteon to pay punitive damages for its malicious and reckless conduct, as described in paragraphs 19 and 20 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

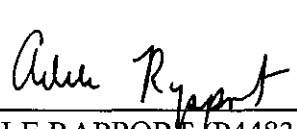
The Commission requests a jury trial on all questions of fact raised in this lawsuit.

Respectfully submitted,

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Dated: October 13, 2000


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