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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff

v.

NATIONAL RAILROAD PASSENGER  
CORPORATION, d/b/a AMTRAK,

Defendant.

CIVIL ACTION NO.

COMPLAINT

JURY TRIAL DEMAND

NATURE OF THE ACTION

This is an action under Title I of the Americans with Disabilities Act, as amended by the ADA Amendments Act of 2008, 42 U.S.C. § 12101 *et. seq.*, (“ADA” and “ADAAA”) to correct unlawful employment practices on the basis of disability and to provide appropriate relief to Shawn Moe, who was adversely affected by such practices. The Equal Employment Opportunity Commission alleges that National Railroad Passenger Corporation, d/b/a Amtrak, (“Defendant” or “Amtrak”) discriminated against Mr. Moe, a qualified individual with a disability, when it failed to hire Mr. Moe for a Machinist Journeyman position on the basis of Mr. Moe’s disability.

JURISDICTION AND VENUE

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2 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337,  
3 1343 and 1345. This action is authorized and instituted pursuant to Section 107(a) of the  
4 Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12117(a), which incorporates by  
5 reference Sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §  
6 2000e-5(f)(1) and (3) ("Title VII"), and pursuant to Section 102 of the Civil Rights Act of 1991,  
7 42 U.S.C. § 1981a.

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9 2. The employment practices alleged to be unlawful were committed within the  
10 jurisdiction of the United States District Court for the Western District of Washington.

11 PARTIES

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13 3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is  
14 the agency of the United States of America charged with the administration, interpretation and  
15 enforcement of Title I of the ADA and is expressly authorized to bring this action by Section  
16 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference Sections 706(f)(1)  
17 and (3) of Title VII, 42 U.S.C. 2000e-5(f)(1).

18 4. At all relevant times, Defendant has continuously been doing business in the State  
19 of Washington and has continuously had at least 15 employees.

20  
21 5. At all relevant times, Defendant has continuously been an employer engaged in an  
22 industry affecting commerce under Section 101(5) of the ADA, 42 U.S.C. § 12111(5), and  
23 Section 101(7) of the ADA, 42 U.S.C. § 12111(7), which incorporates by reference Sections  
24 701(g) and (h) of Title VII, 42 U.S.C. §§ 2000e(g) and (h).



1 discriminated against Shawn Moe when it failed to hire him for a Machinist Journeyman position  
2 located in Seattle, Washington because of his disability, in violation of Sections 102(a) and  
3 102(b)(6) of the ADA.

4 14. Mr. Moe is qualified for the Machinist Journeyman position because he had  
5 previously been a locomotive mechanic for over two years, a position that is substantially similar  
6 to the Machinist Journeyman position at Amtrak, and had performed all of the essential functions  
7 of such similar job successfully and without any accommodation.  
8

9 15. Mr. Moe is an individual with a disability. Mr. Moe has epilepsy, a neurological  
10 disorder, which has caused him to experience three seizures in his lifetime. Mr. Moe's epilepsy  
11 substantially limits the operation of his neurological system, a major life activity involving a  
12 major bodily function.

13 16. Mr. Moe has a record of a disability, that being epilepsy, a neurological disorder,  
14 which has caused him to experience three seizures in his lifetime. Mr. Moe's epilepsy  
15 substantially limits the operation of his neurological system, a major life activity involving a  
16 major bodily function. Mr. Moe's epilepsy is controlled by medication and regular visits to his  
17 neurologist.  
18

19 17. Mr. Moe applied for a Machinist Journeyman position with Amtrak in Seattle,  
20 Washington in April 2013.

21 18. On May 29, 2013, Amtrak offered Mr. Moe the position, effective June 10, 2013,  
22 contingent upon successful completion of a background check and post-offer medical  
23 examination.  
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1           19.     On June 3, 2013, Mr. Moe completed the post-offer medical examination. During  
2 the examination, Mr. Moe disclosed he has epilepsy for which he takes medication. Defendant's  
3 contracted medical examiner concluded that Mr. Moe met all medical standards required for the  
4 position, but referred the case to Defendant's Corporate Medical Services Department for a  
5 review of its epilepsy requirements.

6           20.     On June 7, 2013, Defendant's Corporate Medical Services Department requested  
7 that Mr. Moe provide additional information from his neurologist regarding Mr. Moe's medical  
8 condition and its impact on Mr. Moe's ability to perform the activities required for the Machinist  
9 Journeyman position.

10           21.     On June 10, 2013, Defendant received information from Mr. Moe's neurologist  
11 regarding Mr. Moe's medical condition and his assessment that Mr. Moe can perform all the  
12 duties and responsibilities of the Machinist Journeyman position, including work on machinery  
13 and at heights. Mr. Moe's neurologist also informed Defendant that Mr. Moe was compliant  
14 with taking medication and that the risk of experiencing another seizure at work was highly  
15 unlikely.

16           22.     On August 14, 2013, Amtrak rescinded its conditional offer to Mr. Moe.  
17 Defendant made the decision not to hire Mr. Moe on the basis of disability.

18           23.     In addition, Defendant regarded Mr. Moe as disabled in that it denied him  
19 employment because of an actual or perceived impairment that is not both transitory and minor.

20           24.     The effect of the practices complained of in paragraph 13-23 above has been to  
21 deprive Mr. Moe of equal employment opportunities and otherwise adversely affect his status as  
22 an employee.  
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25. The unlawful employment practices complained of in paragraph 13-23 above were and are intentional.

26. The unlawful employment practices complained of in paragraphs 13-23 above were done with malice or with reckless indifference to the federally protected rights of Shawn Moe.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant, its officers, agents, successors, assigns, and all persons in active concert or participation with it, from unlawfully failing to provide equal employment opportunities to applicants for employment and employees with disabilities and to accommodate applicants’ and employees’ disabilities, and any other employment practice which discriminates on the basis of disability.

B. Order Defendant 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 to make whole Mr. Moe by providing appropriate back pay with interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices.

D. Order Defendant to make whole Mr. Moe by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 13-23 above, including past and future out-of-pocket losses, in amounts to be determined at trial.

E. Order Defendant to make whole Mr. Moe by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraphs 13-23 above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

F. Order Defendant to pay Mr. Moe punitive damages for its malicious and reckless conduct, as described in paragraphs 13-23 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.

DATED this 11th day of August, 2015.

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