

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

|                                                                                  |   |                          |
|----------------------------------------------------------------------------------|---|--------------------------|
| <b>EQUAL EMPLOYMENT OPPORTUNITY<br/>COMMISSION,</b>                              | § |                          |
|                                                                                  | § |                          |
|                                                                                  | § |                          |
| <b>Plaintiff,</b>                                                                | § |                          |
|                                                                                  | § |                          |
| <b>v.</b>                                                                        | § | <b>Civil Action No.</b>  |
|                                                                                  | § |                          |
| <b>FAMOUS CHICKEN OF SHREVEPORT, LLC<br/>d/b/a POPEYE’S CHICKEN AND BISCUITS</b> | § |                          |
|                                                                                  | § | <b>COMPLAINT AND</b>     |
|                                                                                  | § | <b>JURY TRIAL DEMAND</b> |
|                                                                                  | § |                          |
| <b>Defendant.</b>                                                                | § |                          |
|                                                                                  | § |                          |

**NATURE OF THE ACTION**

This is an action under Title I of the Americans with Disabilities Act of 1990 to correct unlawful employment practices on the basis of disability and to provide appropriate relief to Noah Crawford who was adversely affected by such practices. The Equal Employment Opportunity Commission (the “Commission”) alleges that Defendant, Famous Chicken of Shreveport, L.L.C. d/b/a Popeye’s Chicken and Biscuits (“Defendant”) discriminated against Noah Crawford in violation of the Americans with Disabilities Act, as amended, by subjecting him to a pre-employment, disability-related inquiry and failing or refusing to hire him because of his disability, Human Immunodeficiency Virus (HIV).

**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”), as amended, 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 committed within the jurisdiction of the United States District Court for the Eastern District of Texas, Tyler Division.

### **PARTIES**

3. Plaintiff, the Commission, is the agency of the United States of America charged with the administration, interpretation and enforcement of Title I of the ADA, as amended, 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 doing business in the State of Texas and the City of Longview, and has continuously had at least fifteen (15) 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, as amended, 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, Defendant has been a covered entity under Section 101(2) of the ADA, as amended, 42 U.S.C. § 12111(2).

### **STATEMENT OF CLAIMS**

7. More than thirty days prior to the institution of this lawsuit, Noah Crawford filed a charge with the Commission alleging violations of Title I of the ADA, as amended, by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. At all relevant times, Noah Crawford has been and is a qualified person with a disability and is covered by Title I of the ADA, as amended, 42 U.S.C. §§ 12101 *et seq.*

9. As more specifically described below, in or around October 2011, Defendant engaged in an unlawful employment practice at its Longview, Texas location, in violation of Title I of the ADA, as amended, 42 U.S.C. §§ 12101 *et seq.* The unlawful practice was to discriminate against Noah Crawford by subjecting him to a pre-employment, disability-related inquiry and failing or refusing to hire him because of his disability, Human Immunodeficiency Virus (HIV), in violation of 42 U.S.C. §§12112(a) and (d)(2), as amended.

a. Crawford was diagnosed with Human Immunodeficiency Virus (HIV) in or around July 2011. Due to his HIV, Crawford has been substantially limited in the major life activity of immune system functioning. HIV is a condition that is incurable and permanent.

b. Crawford submitted an application for a position with Defendant on or about October 11, 2011 in response to a hiring advertisement by Defendant's Longview, Texas restaurant. In response to the question on the application: "Job Applying For?" Crawford wrote, "Management/Any." In response to the question on the application, "Reason For Leaving" his most recent job, Crawford wrote, "Medical."

c. At the time of his personal application, Crawford was interviewed by Defendant and asked to disclose the "medical" condition referenced. When Crawford stated that he has HIV, he was immediately informed that he could not work for the Defendant given his condition.

d. Crawford was qualified for employment with the Defendant based on his work background, experience and abilities.

e. Despite his qualifications and application efforts, Crawford was denied hire when Defendant unlawfully failed or refused to hire Crawford because of his disability, Human Immunodeficiency Virus (HIV), in violation of 42 U.S.C. § 12112(a), as amended.

10. The effect of the practice complained of in paragraph 9 above has been to deprive Noah Crawford of equal employment opportunities and to otherwise adversely affect his status as an applicant for employment because of his disability.

11. The unlawful employment practice complained of in paragraph 9 above was intentional.

12. The unlawful employment practice complained of in paragraph 9 above was done with malice or with reckless indifference to the federally protected rights of Noah Crawford.

#### **PRAYER FOR RELIEF**

Wherefore, the Commission 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 discriminating against any qualified employees, because of their disability, by: (1) failing to hire qualified employees because of their disability; and (2) engaging in 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 Noah Crawford, by providing appropriate back pay with prejudgment 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 Noah Crawford, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practice described in paragraph 9-12 above, including, but not limited to, relocation expenses, and job search expenses, in amounts to be determined at trial;

E. Order Defendant to make whole Noah Crawford, by providing compensation for past and future non-pecuniary losses resulting from the unlawful practice complained of in paragraphs 9-12 above, including, but not limited to, emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial;

F. Order Defendant to pay Noah Crawford punitive damages for its malice or reckless indifference, as described in paragraphs 9-12 above, in amounts to be determined at trial;

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

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,

P. DAVID LOPEZ  
General Counsel

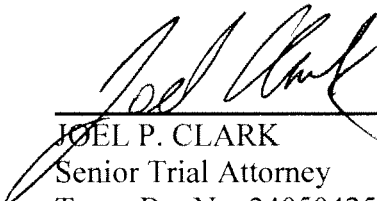
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