

## **Federal Court Allows U.S. Equal Employment Opportunity Commission (EEOC) Disability Case to Proceed, Denying United Parcel Service's Appeal**

Article By:

U.S. Equal Employment Opportunity Commission

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### ***Decision Important to Issue of Identifying Victims of Discrimination in Class Cases, Federal Agency Says***

A federal district court has denied United Parcel Service's (UPS) motion to appeal an earlier ruling in favor of the U.S. Equal Employment Opportunity Commission (EEOC), the agency announced today. The contested ruling allowed the Commission's disability discrimination case to proceed to the discovery phase. (*EEOC, et al., v. United Parcel Service, Inc.*, No. 09-cv-05291 (N.D. Ill. June 11, 2013).)

In its suit, originally filed in 2009, the EEOC alleged that UPS violated the Americans with Disabilities Act (ADA) by allowing only 12-month leaves of absence, failing to provide disabled employees with further reasonable accommodations for their disabilities, and firing them if they exceeded those parameters. UPS moved to dismiss the EEOC's complaint, arguing, in part, that the EEOC did not provide enough information about unidentified UPS employees for whom EEOC was seeking relief. The court initially agreed and dismissed the EEOC's complaint but allowed the EEOC to file an amended complaint.

The EEOC went on to file two amended complaints, both of which the court dismissed at UPS's request, finding that the EEOC still had not alleged adequate factual information with respect to the unidentified class members. The EEOC did not identify by name more than two of its class members in any of its complaints.

After the EEOC filed a motion to appeal the court's dismissal of its case, the court, on its own, reconsidered its earlier decisions and held that the most recent EEOC complaint indeed satisfied the legal requirements. UPS then filed its motion seeking permission to appeal the court's ruling.

Yesterday Judge Robert M. Dow, Jr. denied the UPS motion to appeal, stating that an appeal would not "'materially advance the ultimate termination' of this litigation." Rather, the court found that immediate further litigation at the trial court level would speed up the proceedings. The court also said that it "remains confident of the correctness of its January 11 ruling" which allowed EEOC's case to proceed even though the Commission did not have complete information on all possible victims of

discrimination at the time of filing its lawsuit.

According to EEOC Chicago Regional Attorney John Hendrickson, the long-running proceedings have been closely watched by representatives of both employers and employees because of their impact upon how EEOC may litigate class cases challenging systemic discrimination in the work place. "Yesterday's decision affirms the court's prior ruling that the EEOC can pursue claims of employment discrimination on behalf of persons whose identities may not be known at the outset of the case," he said.

"For everyone who has been wondering about the impact of the Supreme Court's decision in *Iqbal v. Ashcroft* and other decisions regarding EEOC class cases, Judge Dow's ruling will put a significant issue to rest-at least in this jurisdiction," Hendrickson added. "It is clear, once again, that EEOC need not specifically identify every single victim of discrimination for whom it may seek relief when it files a complaint in federal district court. That may sound like a mere technical point, but for those of us who litigate those cases-it makes a difference, it's important." In the *Iqbal* case, 129 S.Ct 1937 (2009), the Supreme Court held that complaints must have enough specificity to present a plausible case for relief.

According to its website, UPS, a multi-billion dollar corporation, is the world's largest package delivery company and a leading global provider of specialized transportation and logistics services.

In addition to Hendrickson, the EEOC attorneys working on the case are Supervisory Trial Attorney Diane Smason and trial attorneys Aaron DeCamp, Deborah Hamilton, and Jeanne B. Szromba.

The EEOC's Chicago District Office is responsible for processing charges of discrimination, administrative enforcement and the conduct of agency litigation in Illinois, Wisconsin, Minnesota, Iowa and North and South Dakota, with Area Offices in Milwaukee and Minneapolis.

The EEOC is responsible for enforcing federal laws prohibiting employment discrimination. Further information about the EEOC is available on its website at [www.eeoc.go](http://www.eeoc.go)

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