

EEOC Sues Toys “R” Us for ADA Discrimination

By former Associate Ethan Don

The Equal Employment Opportunity Commission (EEOC) took a rare action on March 12, 2013, filing suit against Toys “R” Us under the Americans with Disabilities Act (ADA) for failure to provide a reasonable accommodation to, and failure to hire, a profoundly deaf job applicant. The statistics highlight how rare this suit really is: In 2012, the EEOC received 99,412 charges alleging some form of employment discrimination. Of those 99,412 charges, the EEOC brought merit suits in just 122 cases. Only 45 involved ADA claims.

According to the complaint, the EEOC alleged these facts: Shakirra Thomas (Ms. Thomas) is profoundly deaf. When she was called to a group interview for a position at a Toys “R” Us store in Columbia, Maryland her mother informed the store of Ms. Thomas’ disability and requested an interpreter throughout the hiring process. Toys “R” Us refused to provide an interpreter but it allowed Ms. Thomas to provide her own interpreter at her own expense. Ms. Thomas attended the interview with her mother acting as the interpreter. In the weeks that followed the interview, Ms. Thomas’s mother tried to follow-up with Toys “R” Us to check on the status of Ms. Thomas’s application. The store never responded to her and Ms. Thomas was not hired for the position.

The EEOC alleged that Ms. Thomas was qualified for the position she sought and was capable of performing the essential functions of the job with or without accommodation and that Toys “R” Us violated the ADA when it failed to provide Ms. Thomas an interpreter during the interview process and again when it failed to hire Ms. Thomas because she was deaf. The EEOC further alleged that Toys “R” Us acted intentionally in discriminating against Ms. Thomas and did so with malice and reckless indifference to her federally protected rights.

As a result of apparently not providing a simple accommodation, Toys “R” Us now finds itself facing a public federal lawsuit, in which legal fees alone could exceed the costs of an interpreter for an interview.