

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION**

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
PLAINTIFF,

v.

WALGREENS, CO.,
DEFENDANT.

CIVIL ACTION
No. 1:22-cv-5357

JURY DEMAND

COMPLAINT

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 (“Title VII”), Title I of the Americans with Disabilities Act of 1990 (“ADA”), and Titles I and V of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex (pregnancy) and disability and to provide appropriate relief to Jane Doe.¹ As alleged with greater particularity below, the defendant, Walgreens, Co.

(“Walgreens”): (1) refused to provide Ms. Doe with a reasonable accommodation for pregnancy-related conditions; (2) refused to provide Ms. Doe with a reasonable accommodation for a disability; (3) refused to provide Ms. Doe with a further reasonable accommodation because she had previously requested a reasonable accommodation for a disability; (4) constructively discharged Ms. Doe because of her pregnancy-related conditions; and (5) constructively discharged Ms. Doe because of her disability.

¹ “Jane Doe” is a pseudonym.

JURISDICTION & 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 Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3), pursuant to the ADA, 42 U.S.C. § 12117(a), which incorporates Title VII by reference, and pursuant to Title I 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 in the State of Louisiana and, therefore, within the jurisdiction and venue of the United States District Court for the Western District of Louisiana pursuant to Title VII, 42 U.S.C. § 2000e-5(f)(3), and pursuant to the ADA, 42 U.S.C. § 12117(a), which incorporates Title VII by reference.

PARTIES

3. The plaintiff, the U.S. Equal Employment Opportunity Commission (the “Commission”), is the agency of the United States of America charged with the administration, interpretation, and enforcement of Title VII and is expressly authorized to bring this action by Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3), and by the ADA, 42 U.S.C. § 12117(a), which incorporates Title VII by reference.

4. At all relevant times, the defendant, Walgreens, has continuously been an entity doing business in the State of Louisiana and has continuously had at least 15 employees.

5. At all relevant times, Walgreens has continuously been an employer engaged in an industry affecting commerce under Title VII, 42 U.S.C. § 2000e(b), (g), and (h), and under the ADA, 42 U.S.C. § 12111(5) and (7).

6. At all relevant times, Walgreens has been a covered entity under the ADA, 42 U.S.C. § 12111(2).

ADMINISTRATIVE PROCEDURES

6. More than 30 days prior to the institution of this action, Ms. Doe filed a charge of discrimination (461-2021-00459) with the Commission alleging violations of Title VII and the ADA by Walgreens.

7. On or about July 25, 2022, the Commission issued to Walgreens a letter of determination (“determination”) finding reasonable cause to believe that Walgreens violated Title VII and the ADA and inviting Walgreens to join with the Commission in informal methods of conciliation to endeavor to eliminate the unlawful employment practices and provide appropriate relief.

8. The Commission engaged in communications with Walgreens to provide the opportunity to remedy the discriminatory practices described in the determination.

9. On or about August 16, 2022, the Commission issued to Walgreens a notice of conciliation failure, advising that the Commission was unable to secure a conciliation agreement acceptable to the Commission.

10. All conditions precedent to the institution of this action have been fulfilled.

STATEMENT OF FACTS

11. On or about September 17, 2020, Walgreens hired Ms. Doe as a customer sales associate at its store on Masonic Drive in Alexandria, Louisiana.

12. Amanda Dixon, the store manager, supervised Ms. Doe.

13. Less than a month after she was hired, Ms. Doe notified Ms. Dixon that she was under the care of a physician because of weakness and asked to be allowed to eat, as needed, while at work.

14. On or about October 27, 2020, Ms. Doe notified Walgreens that she was pregnant.

15. On or about November 1, 2020, Ms. Doe sent Ms. Dixon a text message, which said: “I am to[o] light headed and confused to come back to work[.] I’m pregnant and I struggle with low blood sugar[.] I always go on lunch at 5[.] [Another supervisor] told me I couldn’t[.] I asked could I take a 15 [minute break] just to eat something[.] She said no[.] I asked could I grab my snack to eat until . . . lunch at 6[.] She said no I’m high risk[.] I’m drained[;] my blood sugar is under 40 right now. I have my appointment in the morning[.] I’m not sure if my doctor will let me work. . . . I feel the situation could have been handle[d] differently.”

16. On or about November 1, 2020, Ms. Dixon sent a text message in response, which said: “[Y]ou’ve never explained your situation besides having low blood sugar [S]he could have let you grab a snack but she made the decision not to [W]hen you go to [the] doctor in [the] morning we need something from

[the] doctor with your restrictions and blood sugar issues . . . we need you at work so we can get ready for inventory or this will be job abandonment if no . . . excuse If you want to talk about it, you'll have to come in and talk to me[.]”

17. On or about November 1, 2020, Ms. Doe sent a text message in response, which said: “I’m on my way back [Ms. Dixon.] 😊.” Ms. Doe then returned to the store and finished her shift.

18. On or about November 2, 2020, Ms. Doe provided Walgreens with a doctor’s note, which said: “Due to being a diabetic, please allow patient to have a snack throughout her work day.” Ms. Dixon was, at that point, also aware that Ms. Doe was pregnant.

19. On or about December 2, 2020, at 7:00 AM, Ms. Doe was working with Deanne Robertson, a shift lead.

20. Ms. Doe went to the restroom and noticed that she was spotting.

21. Ms. Doe told Ms. Robertson that she was sick and that she needed to leave. Ms. Robertson told Ms. Doe to stay until Ms. Dixon arrived. Ms. Doe also called her doctor.

22. When Ms. Dixon arrived, Ms. Doe immediately told her that she was spotting and that she needed to leave.

23. Although employees are usually permitted to leave if there is an emergency and although Ms. Dixon and Ms. Robertson could have covered for her, Ms. Dixon nonetheless told Ms. Doe that she could not leave until Ms. Robertson or Ms. Dixon found a replacement for her.

24. Walgreens ordinarily permits employees to leave if they are experiencing an emergency.

25. It is not unusual for the store manager and the shift lead to cover for a customer sales associate when a replacement is unavailable.

26. On or about December 2, 2020, Ms. Dixon told Ms. Doe that she could not find a replacement for her, that Ms. Dixon had hired Ms. Doe before she became pregnant, that Ms. Doe was not a good fit for Walgreens now that she was pregnant, and that Ms. Doe had asked for too many accommodations.

27. On or about December 2, 2020, at 8:19 AM, Ms. Doe's doctor sent Ms. Doe a text message, which said: "Call the office and we will get you to come in to check things out."

28. When Ms. Doe received the text message from her doctor on or about December 2, 2020, she told Ms. Dixon, in light of Ms. Dixon's refusal to approve Ms. Doe's leaving, that she was resigning because she needed to leave to get to her doctor.

29. On or about December 2, 2020, Ms. Doe had a miscarriage.

STATEMENT OF CLAIMS

30. Since at least 2020, Walgreens has engaged in unlawful employment practices in violation of Title VII, 42 U.S.C. § 2000e-2(a).

A. Ms. Doe asked for—and Walgreens refused to provide—temporary leave as a reasonable accommodation for her pregnancy-related conditions, including but not limited to spotting and miscarriage, even

though it provided temporary leave to employees without pregnancy-related conditions who were similar in their ability to work.

B. Walgreens constructively discharged Ms. Doe when it failed to provide Ms. Doe with temporary leave as a reasonable accommodation for pregnancy-related conditions, requiring her to resign to seek immediate medical treatment.

31. Since at least 2020, Walgreens has engaged in unlawful employment practices in violation of the ADA, 42 U.S.C. § 12112.

A. Ms. Doe is a qualified individual with a disability under the ADA, 42 U.S.C. § 12102 and 12111(8). Ms. Doe had impairments, including but not limited to diabetes and hypoglycemia, that substantially limited major life activities, including but not limited to eating, concentrating, and the operation of major bodily functions, including the functions of the digestive, genitourinary, bowel, bladder, neurological, circulatory, cardiovascular, endocrine, and reproductive functions.

B. Ms. Doe asked for—and Walgreens refused to provide—temporary leave as a reasonable accommodation for her disability.

C. Walgreens constructively discharged Ms. Doe when it failed to provide Ms. Doe with temporary leave as a reasonable accommodation for her disability, requiring her to resign to seek immediate medical treatment.

32. Since at least 2020, Walgreens has engaged in unlawful employment practices in violation of the ADA, 42 U.S.C. § 12203. In particular, Walgreens

refused to provide Ms. Doe with temporary leave as a reasonable accommodation for her disability because she had previously engaged in protected activity under the ADA by requesting reasonable accommodation for her disability, including but not limited to diabetes and hypoglycemia.

33. The effect of Walgreens' unlawful employment practices complained of above has been to deprive Ms. Doe of equal employment opportunities and to otherwise adversely affect her status because of sex (pregnancy), in violation of Title VII, and because of disability and because she engaged in protected activity, in violation of the ADA.

34. The unlawful employment practices complained of herein were intentional.

35. Walgreens acted with malice and/or reckless indifference to the federally protected rights of Ms. Doe when it engaged in the unlawful employment practices complained of above.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Walgreens, its officers, agents, servants, employees, attorneys, and all persons in active concert or participation with it, from discriminating against its applicants or employees on the basis of sex (pregnancy), disability, and protected activity.

B. Order Walgreens to institute and carry out policies, practices, and programs that provide equal employment opportunities for applicants

and employees who are pregnant and/or disabled and that eradicate the effects of its past and present unlawful employment practices.

C. Order Walgreens to make Ms. Doe whole, 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, including but not limited to reinstatement and/or front pay.

D. Order Walgreens to post and keep posted the notices required by Title VII, 42 U.S.C. § 2000e-10(a) and by the ADA, 42 U.S.C. § 12115.

E. Order Walgreens to make and preserve all records relevant to the determination of whether unlawful employment practices have been or are being committed, in accordance with Title VII, 42 U.S.C. § 2000e-8(c) and the ADA, 42 U.S.C. § 12117(a).

F. Order Walgreens to make Ms. Doe whole by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above, including job-search and medical expenses, in amounts to be determined at trial.

G. Order Walgreens to make Ms. Doe whole by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of above, including emotional pain and suffering, inconvenience, and humiliation, in amounts to be determined at trial.

H. Order Walgreens to pay punitive damages for its malicious and/or reckless conduct, as described above, in amounts to be determined at trial.

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

J. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by this Complaint that are triable to a jury.

Respectfully submitted,

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Acting General Counsel

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Deputy General Counsel

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/s/ Andrew B. Kingsley

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COUNSEL FOR U.S. EQUAL
EMPLOYMENT OPPORTUNITY
COMMISSION

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

U.S. Equal Employment Opportunity Commission (EEOC)

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Andrew B. Kingsley, U.S. Equal Employment Opportunity Commission, 500 Poydras St., Suite 809, New Orleans, LA 70130. 504-635-2533

DEFENDANTS

Walgreens Co.

County of Residence of First Listed Defendant Rapides (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Main table for Nature of Suit with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, HABES CORPUS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, INTELLECTUAL PROPERTY RIGHTS, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 42 U.S.C. § 2000e-2; 42 U.S.C. § 12112; 42 U.S.C. § 12203

Brief description of cause: Discrimination because of sex, disability, and engaging in protected activity.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

September 27, 2022 /s/ Andrew B. Kingsley

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Louisiana

U.S. Equal Employment Opportunity Commission

Plaintiff(s)

v.

Walgreens, Co.

Defendant(s)

Civil Action No. 1:22-cv-5357

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Walgreens, Co.
108 Wilmot Rd.
Deerfield, IL 60015

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 1:22-cv-5357

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: