

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JAMES KWON,

Plaintiff,

v.

CHICK-FIL-A OF ORLAND PARK FSU and
CHICK-FIL-A, INC.

Defendant.

CASE NO. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff James Kwon, by his attorneys, brings this action against Chick-fil-A, as follows:

INTRODUCTION

1. Plaintiff James Kwon is a young man who has autism. He enjoys working and has proven himself to be a capable restaurant employee. When James tried to apply for work at Defendants' store located in Orland Park, Illinois, he was blocked from applying due to his disability. Defendants refused to consider him for any job, explicitly citing his disability as the reason.

2. This is an employment discrimination action brought by James Kwon to redress violations of his rights under the Americans with Disabilities Act ("ADA"), 42 U.S.C. §§ 12101 *et seq.*, by Defendants.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 28 U.S.C. §§ 1343(a)(3) and (4).

4. Venue is proper under 28 U.S.C. § 1391(b). Defendant conducts business in this district and the events at issue occurred within this district.

5. All conditions precedent to suit have been met. Plaintiff filed a timely Charge of Discrimination with the Equal Employment Opportunity Commission (“EEOC”).

6. On or about September 29, 2016, the EEOC issued Plaintiff a Notice of Right to Sue. The EEOC’s Notice of Right to Sue is attached as Exhibit 1.

PARTIES

7. Plaintiff James Kwon is a 25- year-old resident of Orland Park, Illinois.

8. Defendant Chick-fil-A is a multinational corporation headquartered in Atlanta, Georgia.

9. Defendant Chick-fil-A of Orland Park FSU operates a franchise restaurant located in Orland Park, Illinois.

FACTS

10. James Kwon has autism.

11. As part of a work study program, James worked at a Bakers Square restaurant in the fall and winter of 2013.

12. James’ job duties at Bakers Square included cleaning menus, cleaning windows and entry doors, vacuuming and sweeping floors, busing and cleaning tables and booths, taking out the garbage, and cleaning walls and ledges.

13. James performed his job duties diligently and capably, as stated by his supervisor at Bakers Square.

14. James' employment with Bakers Square ended when his work study program came to its natural end.

15. Thereafter, James worked with a job coach with the goal of landing a full-time job.

16. James and his job coach visited the Chick-fil-A restaurant at Orland Park, in or around the summer of 2014, with the goal of James applying for a job similar to the one he had at Baker's Square. However, the branch manager of the restaurant was unavailable at the time.

17. James' job coach later returned to the Chick-fil-A restaurant at Orland Park and met with the branch manager, Laura Sanchez. The job coach explained the type of work that James had done for Bakers Square, and the fact that James had capably performed his duties.

18. The branch manager responded that Chick-fil-A was not interested in hiring people with disabilities. When the job coach reiterated that she thought James would do a good job, the branch manager stated that people with disabilities would not be able to succeed at Chick-fil-A.

19. Because of the branch manager's statements, James did not complete a formal employment application to work at Chick-fil-A.

COUNT I: VIOLATION OF TITLE I OF THE ADA

20. Each of the above paragraphs setting forth factual allegations is incorporated as if fully restated herein.

21. The ADA prohibits discrimination by an employer against a qualified individual with a disability in the terms and conditions of employment, including hiring. 42 U.S.C. § 12112(a); 29 C.F.R. § 1630.4(a)(ii).

22. Plaintiff is a person with a disability under the ADA because he has autism.

23. At all times relevant to this Complaint, Plaintiff was a qualified individual because he had the skill and ability to perform the essential functions of the positions for which he sought to apply.

24. Chick-fil-A of Orland Park FSU discriminated against Plaintiff in violation of the ADA when, through its manager, it:

- a. stated it would not hire any person with a disability;
- b. failed to make an individualized assessment of Plaintiff's ability to perform the essential functions of the job;
- c. failed to examine whether a reasonable accommodation would address any concerns about Plaintiff's ability to perform the essential functions of the job; and
- d. failed to hire Plaintiff.

25. Defendant Chick-fil-A, Inc. maintains a direct and close relationship with its franchisees, including Chick-fil-A of Orland Park FSU.

26. By virtue of its direct and close relationship with Chick-fil-A of Orland Park FSU, Chick-fil-A, Inc. was a co-employer with its franchisee.

27. The above described unlawful employment practices were intentional, and Defendants acted with malice and reckless indifference to Plaintiff's federally protected rights.

28. As a result of Defendants' unlawful actions, Plaintiff suffered injuries including, but not limited to, lost wages and emotional distress.

WHEREFORE, Plaintiff James Kwon respectfully requests that this Honorable Court:

- A. Award Plaintiff the value of compensation and benefits he lost and will continue to lose in the future as a result of Defendants' unlawful conduct;
- B. Award back pay with interest;
- C. Award compensatory damages;
- D. Award punitive damages;
- E. Award reasonable attorneys' fees and costs; and
- F. Grant such additional relief as the Court deems just and proper.

PLAINTIFF DEMANDS TRIAL BY JURY.

Dated: December 23, 2016

RESPECTFULLY SUBMITTED,

/s/ Jin-Ho Chung
One of the Attorneys for Plaintiff

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