

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**CEDRICK JACKSON**

**PLAINTIFF**

**v.**

**CASE NO.** 4:22cv89-GHD-JMV

**BRAR SUBWAYS, LLC**

**DEFENDANT  
(JURY TRIAL DEMANDED)**

**COMPLAINT**

Plaintiff Cedrick Jackson worked as a sandwich artist at a Subway restaurant owned by Defendant Brar Subways, LLC, in Cleveland, Mississippi. On or around March 2, 2022, Mr. Jackson informed his supervisor that he was nauseated by a medication he was taking and needed to use the restroom. On March 4, 2022, Mr. Jackson’s supervisor asked about the medical condition that had caused him to feel sick. Mr. Jackson told her that he was HIV positive. The supervisor immediately terminated his employment because of his HIV status. Brar’s discriminatory treatment and termination of Mr. Jackson violated the Rehabilitation Act (Rehab Act) and the Americans with Disabilities Act (ADA). For these reasons, COMES NOW THE PLAINTIFF and alleges as follows.

**PARTIES**

1. Brar Subways, LLC (“Brar”) is a Mississippi corporation with its principal address at 1652 Highway 1 South, Greenville, Mississippi 38701.
2. Brar is a recipient of federal financial assistance.
3. Brar is subject to § 504 of the Rehab Act.
4. Brar employs fifteen (15) or more persons.
5. Brar is an “employer” as defined by the ADA.
6. Plaintiff Cedrick Jackson is an adult resident of Mississippi.

7. Mr. Jackson is a former “employee” of Brar as defined by the ADA.

JURISDICTION

8. Jurisdiction is proper in this honorable Court under 28 U.S.C. § 1331 because this claim arises under federal law, specifically the ADA.

VENUE

9. Venue is proper in this honorable Court under 28 U.S.C. § 1391 because all of the underlying events at issue were located in and around Bolivar County, Mississippi.

EXHAUSTION

10. Plaintiff’s employment ended on March 4, 2022.

11. Plaintiff filed a charge of discrimination with the Equal Employment Opportunity Commission (Charge No. 423-2022-00731) on March 14, 2022. Exhibit 1.

12. This charge was filed within one hundred and eighty (180) days of the events alleged in that charge.

13. The charge alleged that Mr. McGee was terminated in violation of the ADA.

14. On May 3, 2022, the EEOC issued a notice of right to sue to the Plaintiff. Exhibit 2.

15. Plaintiff brings this action within ninety (90) days of his receipt of that right-to-sue notice.

16. Plaintiff has met the timeliness and administrative exhaustion requirements of the ADA to bring this suit.

FACTS

17. Mr. Jackson has been diagnosed with the human immunodeficiency virus (HIV).

18. Mr. Jackson’s HIV substantially interferes with, among other things, Mr. Jackson’s reproductive and immune system functions.

19. Mr. Jackson is disabled as defined by the Rehab Act and the ADA.
20. In January 2022, Brar hired Mr. Jackson as a sandwich artist.
21. Danielle Johnson was the store manager at the Brar Subway restaurant where Mr. Jackson was employed.
22. Ms. Johnson was Mr. Jackson's direct supervisor.
23. Lisa Williams was the general manager for the Brar Subway restaurant where Mr. Jackson was employed.
24. Ms. Williams' position as general manager was higher in Brar's chain-of-command than Ms. Johnson's position as store manager.
25. During Mr. Jackson's initial job interview, Ms. Johnson alluded to negative rumors about Mr. Jackson by telling him "as long as you know how to keep work and personal life separate it will be fine" or words to that effect.
26. On or about February 2, 2022, Mr. Jackson received an award from Ms. Johnson.
27. On or about February 2, 2022, Ms. Johnson placed Mr. Jackson's name on a list of "gold star" employees and hung the list on a wall in the restaurant.
28. Mr. Jackson's award and placement on the list of gold star employees was based on his strong performance at work and picking up additional shifts at the restaurant.
29. In the weeks preceding and following February 2, 2022, Mr. Jackson worked seven days a week on multiple occasions.
30. On or about March 2, 2022, Mr. Jackson felt nauseated at work.
31. Mr. Jackson then told Ms. Johnson that he needed to go to the restroom.
32. Mr. Jackson did not use the restroom more frequently than other employees prior to feeling nauseous on or about March 2, 2022.

33. Ms. Johnson did not express concern with the frequency of Mr. Jackson bathroom use.
34. When Mr. Jackson returned from the restroom, Ms. Johnson asked what was wrong.
35. Mr. Jackson replied to Ms. Johnson's question by telling her that his nausea was a side effect of a medication he was taking.
36. At that point, Ms. Johnson stated that she already "knew what was going on" with Mr. Jackson or words to that effect.
37. Mr. Jackson replied that he "knew that his coworkers would tell" Ms. Johnson or words to that effect.
38. Mr. Jackson was concerned that Ms. Johnson suspected his HIV status.
39. Mr. Jackson worked a full shift on or about March 3, 2022, without any performance issues.
40. On or about March 4, 2022, Ms. Johnson called Mr. Jackson and asked him to explain rumors she heard about the medical condition that he treated with the medication that caused him to feel nauseated on or about March 2, 2022.
41. This was an unlawful request for medical information in violation of the Rehab Act and the ADA.
42. Ms. Johnson stated that she was trying to figure out whether Mr. Jackson could still work at the restaurant.
43. Mr. Jackson responded to Ms. Johnson's inquiry by telling her that he was HIV positive.
44. Mr. Jackson felt pressured to disclose his HIV status by Ms. Johnson's comment that she was deciding if he could still work at the restaurant.
45. Ms. Johnson asked Mr. Jackson how he contracted HIV.

46. Immediately after Mr. Jackson confirmed his HIV status, Ms. Johnson terminated his employment.
47. Mr. Jackson's employment was terminated on or about March 4, 2022.
48. Prior to his termination, Mr. Jackson did not receive any disciplinary write-ups regarding his work performance.
49. Prior to his termination, Mr. Jackson did not receive any verbal warnings regarding his work performance.
50. Ms. Johnson was aware of Mr. Jackson's ability to perform his essential job functions before asking about his underlying medical condition.
51. Ms. Johnson did not express dissatisfaction with Mr. Jackson's ability to perform essential job functions prior to his termination.
52. Ms. Johnson's questions about Mr. Jackson's underlying medical condition were not job-related or connected with business necessity.
53. Ms. Johnson's questions regarding how Mr. Jackson contracted HIV were not job-related or connected with business necessity.
54. After terminating Mr. Jackson's employment, Ms. Johnson called Ms. Williams, the general manager.
55. Ms. Williams handed the phone to Mr. Jackson to speak with Ms. Williams..
56. Ms. Williams confirmed that Mr. Jackson's employment was terminated.
57. Ms. Williams told Mr. Jackson that he was terminated because he was HIV-positive.
58. Ms. Williams informed Mr. Jackson that his HIV status was an issue because he worked around knives and with customers' food.

59. On or about March 4, 2022, the date Mr. Jackson was terminated, Ms. Johnson did not communicate to Mr. Jackson that his termination was because of his restroom use.
60. On or about March 4, 2022, the date Mr. Jackson was terminated, Ms. Williams did not communicate to Mr. Jackson that his termination was because of his restroom use.
61. Brar terminated Mr. Jackson because of Mr. Jackson's disability.
62. Brar terminated Mr. Jackson because it regarded Mr. Jackson as disabled.
63. Brar terminated Mr. Jackson because of Mr. Jackson's record of disability.

### CAUSES OF ACTION

#### COUNT I: DISCRIMINATORY TERMINATION UNDER THE REHAB ACT

64. Plaintiff incorporates all allegations set forth in all other sections of this complaint.
65. Per the Rehab Act, Defendant is prohibited from discriminating against an employee because that employee is disabled.
66. This is defined as having a disability, having a record of disability, or being regarded as having a disability.
67. Here, Defendant terminated Plaintiff because of his disability.
68. Alternatively, Defendant terminated Plaintiff because Defendant regarded Plaintiff as having a disability.
69. Alternatively, Defendant terminated Plaintiff because Plaintiff had a record of disability.
70. With this discriminatory termination, Defendant violated the Rehab Act.
71. In doing so, Defendant harmed Plaintiff.

#### COUNT II: PROHIBITED MEDICAL INQUIRY UNDER THE REHAB ACT

72. Plaintiff incorporates all allegations set forth in all other sections of this complaint.

73. The Rehab Act prohibits a recipient of federal financial assistance from inquiring about an employee's disability status unless that inquiry is job-related and consistent with business necessity.

74. Mr. Jackson's HIV status is a disability under the Rehab Act.

75. Ms. Johnson inquired into the nature and severity of Mr. Jackson's disability.

76. Ms. Williams inquired into the nature and severity of Mr. Jackson's disability.

77. Some or all of Ms. Johnson's inquiries were not job-related or consistent with business necessity.

78. Some or all of Ms. Williams's inquiries were not job-related or consistent with business necessity.

79. By making prohibited inquiries, Defendant violated the Rehab Act.

80. In doing so, Defendant harmed Plaintiff.

### COUNT III: DISCRIMINATORY TERMINATION UNDER THE ADA

81. Plaintiff incorporates all allegations set forth in all other sections of this complaint.

82. Per Title I of the ADA, Defendant is prohibited from discriminating against an employee because that employee is disabled.

83. This is defined as having a disability, having a record of disability, or being regarded as having a disability.

84. Here, Defendant terminated Plaintiff because of his disability.

85. Alternatively, Defendant terminated Plaintiff because Defendant regarded Plaintiff as having a disability.

86. Alternatively, Defendant terminated Plaintiff because Plaintiff had a record of disability.

87. With this discriminatory termination, Defendant violated the ADA.

88. In doing so, Defendant harmed Plaintiff.

COUNT IV: PROHIBITED MEDICAL INQUIRY UNDER THE ADA

89. Plaintiff incorporates all allegations set forth in all other sections of this complaint.

90. Title I of the ADA prohibits “inquiries of an employee as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless such... inquiry is shown to be job-related and consistent with business necessity.”

91. Mr. Jackson’s HIV status is a disability under the ADA.

92. Ms. Johnson inquired into the nature and severity of Mr. Jackson’s disability.

93. Ms. Williams inquired into the nature and severity of Mr. Jackson’s disability.

94. Some or all of Ms. Johnson’s inquiries were not job-related or consistent with business necessity.

95. Some or all of Ms. Williams’s inquiries were not job-related or consistent with business necessity.

96. By making prohibited inquiries, Defendant violated the ADA.

97. In doing so, Defendant harmed Plaintiff.

REMEDIES

98. Plaintiff seeks all remedies available, including but not limited to the following:

- a. Back pay;
- b. Reinstatement and/or front pay, as appropriate;
- c. Compensatory damages for emotional distress and any other non-pecuniary harms flowing from Defendant’s unlawful actions;
- d. Consequential damages and any other pecuniary harms flowing from Defendant’s unlawful actions;

- e. Punitive damages commensurate with the misconduct and necessary to deter future violations of the law;
- f. Pre- and post-judgment interest;
- g. Attorney fees;
- h. Costs;
- i. An injunction curing Defendant's unlawful actions and prohibiting any future similar actions;
- j. Notice given to all employees regarding the violations found by this Court, and notifying such employees of the order entered proscribing any future similar violations;
- k. Any other equitable relief as this honorable Court deems appropriate.
- l. A final judgment declaring that Defendant's treatment of Plaintiff was unlawful; and/or,
- m. Any other relief available under any applicable principle of law or equity.

Respectfully submitted on June 15, 2022,

CEDRICK JACKSON, Plaintiff

BY: */s/ Jay Kucia*  
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