

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. \_\_\_\_\_

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

v.

BROOKDALE SENIOR LIVING COMMUNITIES, INC.,

Defendant.

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**COMPLAINT AND JURY TRIAL DEMAND**

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NATURE OF THE ACTION

This is an action under Titles I and V of the Americans With Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101, *et seq.* (“ADA”), and Title I of the Civil Rights Act of 1991, 42 U.S.C. § 1981a, to correct unlawful employment practices on the basis of disability and to provide appropriate relief to Bernadine I. Adams. As alleged with greater particularity below, Plaintiff, the U.S. Equal Employment Opportunity Commission (“Plaintiff,” “EEOC,” or “the Commission”), asserts two claims against Defendant Brookdale Senior Living Communities, Inc. (“Brookdale”). The first claim alleges Brookdale refused to provide any reasonable accommodation of Ms. Adam’s disability. The second claim contends Brookdale discharged Ms. Adams in retaliation for requesting reasonable accommodations and/or for filing a charge of discrimination with the EEOC.

JURISDICTION AND 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 Section 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended (“Title VII”), 42 U.S.C. § 2000e-5(f)(1) and (3), and pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the District of Colorado.

PARTIES

3. Plaintiff EEOC is the agency of the United States of America charged with the administration, interpretation, and enforcement of Titles I and V of the ADA, and is expressly authorized to bring this action by Section 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant Brookdale, a Delaware corporation in good standing with headquarters located at 111 Westwood Place, Suite 400, Brentwood, Tennessee 37027, has continuously been doing business in the State of Colorado, and has continuously had at least fifteen employees.

5. At all relevant times, Brookdale has continuously been an employer in an industry affecting commerce under Section 101(5) of the ADA, 42 U.S.C. § 12111(5), and Section 101(7) of the ADA, 42 U.S.C. § 12111(7), which incorporates by reference Section 701(g) and (h) of Title VII, 42 U.S.C. § 2000e(g) and (h).

6. At all relevant times, Brookdale has been a covered entity under Section 101(2) of the ADA, 42 U.S.C. § 12111(2).

#### STATEMENT OF FACTS

7. More than thirty days prior to the institution of this lawsuit, Ms. Adams filed charges with the Commission alleging violations of the ADA by Brookdale. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. The Commission investigated Ms. Adams' charges of discrimination.

9. Based on evidence adduced during its investigation, the Commission issued a determination finding reasonable cause to believe Brookdale had engaged in certain unlawful employment practices identified in the determination.

10. The Commission's determination letter included an invitation for Brookdale to join with the Commission in an attempt to eliminate the alleged unlawful employment practices through informal methods of conciliation.

11. As part of the conciliation process, the Commission provided Brookdale a proposal detailing the kinds of relief the Commission felt was necessary to eliminate the alleged unlawful employment practices.

12. Prior to institution of this lawsuit, the Commission's representatives attempted to eliminate the unlawful employment practices alleged below and to effect voluntary compliance with the ADA through informal methods of conciliation, conference, and persuasion within the meaning of Section 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference Sections 706(b) and (f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(b) and (f)(1) and (3).

13. Since at least January 25, 2012, if not earlier, and continuing until today, Brookdale has engaged in unlawful employment practices in Colorado in violation of Section 102(a) and (b)(5)(A) of Title I of the ADA, 42 U.S.C. § 12112(a) and (b)(5)(A), and Section 503(a) of Title V of the ADA, 42 U.S.C. § 12203(a).

14. On or about October 5, 2009, Ms. Adams, then a resident of the City of Aurora, Arapahoe County, State of Colorado, was hired by Brookdale as a full-time Licensed Practical Nurse at its Heritage Club Mountain View facility (“Heritage Club”), located at 8101 East Mississippi Avenue, Denver, Colorado 80247.

15. On or about April 5, 2010, Brookdale promoted Ms. Adams to the position of Health and Wellness Director at its Heritage Club facility and increased Ms. Adams’ pay.

16. In June 2010, Ms. Adams received an annual performance review, rating her as “exceptional.”

17. Upon information and belief, in June 2011, Ms. Adams received an annual performance review, rating her as “exceptional.”

18. In July 2011:

- a. Ms. Adams was diagnosed with fibromyalgia; and
- b. Ms. Adams provided Laura Ritter, Brookdale’s Human Resources Manager (“Human Resources Manager Ritter”), with a letter from Ms. Adams’ doctor regarding Ms. Adams’ diagnosis.

19. Ms. Adams’ fibromyalgia substantially limits several of her major life activities, including walking, sitting, sleeping, her ability to care for herself, thinking, and concentrating.

20. In late July or early August 2011, Ms. Adams took a few days off of work due to her

fibromyalgia.

21. On or about December 21, 2011, Ms. Adams went on Family Medical Leave Act (“FMLA”) leave because of her fibromyalgia.

22. On or about January 23, 2012, Ms. Adams returned to work without restrictions but with intermittent FMLA leave orders, if needed, from January 23, 2012, through July 20, 2012.

23. On or about January 25, 2012:

- a. Ms. Adams’ fibromyalgia flared up;
- b. Ms. Adams’ doctor recommended that she work half-time from January 26, 2012, through February 3, 2012;
- c. Ms. Adams met with Susan Reimer, Brookdale’s Executive Director (“Executive Director Reimer”), and Human Resources Manager Ritter;
- d. Brookdale’s manager(s) asked Ms. Adams to continue working from home for the second half of her shift after working the first half of her shift; and
- e. Ms. Adams, sensing that her job was in potential jeopardy, reluctantly agreed to work in violation of her doctor’s orders by working from home after working the half-time shift and also taking work-related telephone calls at home during her intermittent FMLA leave.

24. On or about January 27, 2012:

- a. Ms. Adams was called into a meeting with Executive Director Reimer and Human Resources Manager Ritter;
- b. Brookdale’s manager(s) advised Ms. Adams that Brookdale needed clarification from Ms. Adams’ doctor regarding her restrictions;

- c. Brookdale's managers asked Ms. Adams to sign a medical release authorizing them to speak directly with her physician regarding her fibromyalgia, and Ms. Adams complied with that request;
  - d. Brookdale's manager(s) informed Ms. Adams she would not be working from home until such clarification was received; and
  - e. In response to the aforementioned request by Brookdale, Ms. Adams' doctor provided Brookdale with a Return to Work/School Treatment Verification ("Verification"):
    - i. Stating Ms. Adams would benefit from having the afternoon off during January 26, 2012, through February 3, 2012, and may do "on-call" work from home after 5 p.m. during that same time frame;
    - ii. Asking Brookdale to allow Ms. Adams to have an ergonomic chair with adequate back (lumbar support)/neck/arm/leg support at work; and
    - iii. Requesting Brookdale to provide Ms. Adams a workplace lighting adjustment to reduce fluorescent lighting near her work area.
25. On or about January 30, 2012:
- a. After receiving the Verification from Ms. Adams' doctor, Executive Director Reimer consulted with others within Brookdale, including Human Resource Manager Ritter and Jack Leebron, Brookdale's Vice President, Legal Services ("Vice President Leebron"), regarding placing Ms. Adams on "full FMLA until she is fully released," and "meet[ing] with [Ms. Adams] this am and send[ing] her home with this information;"

- b. Subsequently, Brookdale required Ms. Adams to attend a meeting with Executive Director Reimer and Human Resources Manager Ritter;
- c. Brookdale's manager(s) advised Ms. Adams that Brookdale had received the clarification from Ms. Adams' doctor;
- d. Brookdale's manager(s) advised Ms. Adams that she could no longer work at Brookdale without being totally cleared from restrictions and accommodations, or words to that effect;
- e. Brookdale's manager(s) advised Ms. Adams that the items ordered by her doctor were unreasonable and were causing an undue hardship on other staff, or words to that effect;
- f. Brookdale's manager(s) advised Ms. Adams that she could not return to work until she was able to work full-time with no restrictions or accommodations;
- g. Brookdale's manager(s) instructed Ms. Adams to go home; and
- h. Brookdale placed Ms. Adams on leave with an anticipated return date of February 9, 2012.

26. On this occasion, Brookdale did not discuss with, or propose to, Ms. Adams any other potential, alternative reasonable accommodations.

27. On or about February 2, 2012, Ms. Adams filed Charge No. 541-2012-01205 with the EEOC, alleging Brookdale violated the ADA and retaliated against her when it failed to reasonably accommodate her disability, failed to engage in the interactive process to determine whether her condition could be reasonably accommodated, and would not allow her to return to work unless she was released to return to work full-time and without restrictions.

28. On or about February 12, 2012, Ms. Adams e-mailed to Human Resources Manager Ritter a link to a website describing fibromyalgia, and stated, “thought it might be informative for you to understand a bit of what I’m going through on a daily basis.”

29. On or about February 13, 2012, Ms. Adams advised Executive Director Reimer and Human Resources Manager Ritter after an appointment with her doctor that she would be off work for an estimated one month, whereupon Ms. Adams’ anticipated return date was updated to March 19, 2012.

30. On or about March 8, 2012, Ms. Adams updated Executive Director Reimer and Human Resources Manager Ritter regarding her condition and that her expected return date was March 26, 2012.

31. On or about March 21, 2012:

- a. Ms. Adams advised Executive Director Reimer and Human Resources Manager Ritter that following an appointment with her doctor, it was determined that Ms. Adams was making progress with her disability and her recovery;
- b. Ms. Adams advised Executive Director Reimer and Human Resources Manager Ritter that she was “still not able to return to work without restrictions or accommodations as you requested in our meeting on January 30, 2012;”
- c. Ms. Adams provided Executive Director Reimer and Human Resources Manager Ritter with restrictions from her doctor, which included “unable to lift > 20 lbs.,” “unable to stand or sit for prolonged periods of time,” and that Ms. Adams had “persistent fatigue and weakness requiring at least 1 nap during the day;” and
- d. Ms. Adams requested the following accommodations related to her disability:



- i. “as my doctor previously requested[,] an ergonomic chair to support my legs, arms, neck and back, and the lighting in my office to be adjusted;
  - ii. “a regular fixed work schedule of 8:30a.m.-17:00 p.m.;;” and
  - iii. she be “[a]llowed to park close to an entrance to the facility;”
- e. Executive Director Reimer responded to Ms. Adams the same day, stating, “[b]ased upon these restrictions, you are not able to perform the essential functions of your job;”
- f. Executive Director Reimer responded to Ms. Adams the same day, stating, “[b]ased upon this, we will need to extend your leave but we need to know in writing from your physician what is the duration of time for your restrictions;”
- g. Executive Director Reimer’s response did not set a deadline by which Ms. Adams was to provide Brookdale with her doctor’s written statement of the anticipated duration of her restrictions;
- h. Ms. Adams replied to Executive Director Reimer the same day, stating, “I will contact my doctor and as soon as I receive the letter regarding duration I will get it to you;”
- i. Executive Director Reimer responded to Ms. Adams that, “we will speak to you once we receive it.”

32. On this occasion, Brookdale did not discuss with, or propose to, Ms. Adams any other potential, alternative reasonable accommodations.

33. Seven days later, on or about March 28, 2012, Brookdale, through Executive Director Reimer, discharged Ms. Adams by letter.

34. The termination letter states Ms. Adams was being terminated “because you have failed to engage in the interactive process within reasonable terms.”

35. Brookdale discharged Ms. Adams before she was able to obtain a written statement from her doctor regarding the anticipated duration of her restrictions; Ms. Adams had an appointment with her doctor scheduled for April 5, 2012.

36. On or about April 13, 2012, Ms. Adams filed Charge No. 541-2012-01561 with the EEOC, alleging a violation of the ADA and retaliation when after she filed her first charge on or about February 2, 2012, Brookdale retaliated against her by refusing to allow her to return to work until she was able to work without restrictions or accommodations, and terminating her employment on March 28, 2012.

**FIRST CLAIM FOR RELIEF**

(Discrimination Because of Disability - Failure to Accommodate)  
[Section 102(a) and (b)(5)(A) of Title I of the ADA, as amended,  
42 U.S.C. § 12112(a) and (b)(5)(A)]

37. The EEOC hereby incorporates and re-alleges each and every foregoing paragraph with the same force and effect as if fully set forth herein.

38. Ms. Adams is a disabled person within the meaning of the ADA.

39. Ms. Adams suffers from fibromyalgia.

40. Ms. Adams’ fibromyalgia substantially limits several of her major life activities, including walking, sitting, sleeping, her ability to care for herself, thinking, and concentrating.

41. Ms. Adams is able to perform the essential job functions of Health and Wellness Director - the last position she held and performed successfully, as reflected by her last performance evaluation from Brookdale - at Brookdale’s Heritage Club facility, with or without reasonable accommodations.

42. Since at least January 25, 2012, if not earlier, and continuing until today, Brookdale discriminated, and continues to discriminate, against Ms. Adams, its former employee, in Colorado, because of her disability – fibromyalgia – by not making reasonable accommodations to the known physical limitations of Ms. Adams, an otherwise qualified individual with a disability, in violation of Section 102(a) and (b)(5)(A) of Title I of the ADA, 42 U.S.C. § 12112(a) and (b)(5)(A).

43. The effect of the practices complained of in the paragraphs above has been to deprive Ms. Adams of equal employment opportunities and otherwise adversely affect her status as an employee because of Brookdale’s denial of her multiple and repeated requests for reasonable accommodations based on her disability.

44. The effect of the practices complained of in the paragraphs above has been to deprive Ms. Adams of equal employment opportunities and otherwise adversely affect her status as an employee because of her disability.

45. The unlawful employment practices complained of in the paragraphs above were and are intentional.

46. The unlawful employment practices complained of in the paragraphs above were and are done with malice or with reckless indifference to the federally protected rights of Ms. Adams.

**SECOND CLAIM FOR RELIEF**

**(Retaliation)**

**[Section 503(a) of Title V of the ADA, as amended, 42 U.S.C. § 12203(a)]**

47. EEOC hereby incorporates and re-alleges each and every foregoing paragraph with the same force and effect as if fully set forth herein.

48. Ms. Adams engaged in the following activity protected under the ADA:

- a. Since at least January 27, 2012, if not earlier, she made requests for reasonable accommodation of her disability; and
- b. On or about February 2, 2012, she filed Charge No., 541-2012-01205 with the EEOC.

49. Since at least January 30, 2012, if not earlier, and continuing until today, Brookdale has engaged in unlawful employment practices in Colorado in violation of Section 503(a) of Title V of the ADA, 42 U.S.C. § 12203(a):

- a. By not allowing Ms. Adams to return to work until she could return full-time with no restrictions or need for accommodations; and/or
- b. By discharging Ms. Adams from her employment on or about March 28, 2012.

50. A causal connection exists between Ms. Adams' protected activity and Brookdale's materially adverse actions; *i.e.*, Brookdale discharged Ms. Adams because she requested or required reasonable accommodation and/or because she filed Charge No. 541-2012-01205 with the EEOC.

51. The unlawful employment practices complained of in the paragraphs above were and are intentional.

52. The unlawful employment practices complained of in the paragraphs above were and are done with malice or with reckless indifference to the federally protected rights of Ms. Adams.

#### PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Brookdale, its officers, agents, servants, employees, attorneys, and all persons in active concert or participation with it, from:

- (1) Failing and/or refusing to engage in the interactive process with Ms. Adams;
- (2) Failing and/or refusing to engage in the interactive process with other applicants or employees once they request reasonable accommodation of their disabilities;
- (3) Failing and/or refusing to make reasonable accommodations to the known physical limitations of Ms. Adams;
- (4) Failing and/or refusing to make reasonable accommodations to the known physical or mental limitations of other otherwise qualified individuals with disabilities who are applicants or employees, unless Brookdale can demonstrate that the accommodations would impose undue hardships on the operation of its business;
- (5) Engaging in unlawful retaliatory practices against Ms. Adams for her conduct protected under the ADA; and
- (6) Engaging in unlawful retaliatory practices against other individual for his or her conduct protected under the ADA;

B. Order Brookdale to institute and carry out policies, practices and programs which provide equal employment opportunities for qualified individuals with disabilities, and which eradicate the effects of its past and present unlawful employment practices;

C. Order Brookdale to make whole Ms. Adams by providing appropriate back pay and benefits with pre-judgment 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 engaging in the interactive process with Ms. Adams in good faith or, alternatively, front pay in lieu of reinstatement;

D. Order Brookdale to make whole Ms. Adams by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in the paragraphs above, including but not limited to relocation expenses, job search expenses, lost life insurance policies, lost increase in the value of Ms. Adams' home, and out-of-pocket medical expenses not covered by Brookdale's employee benefit plan, in amounts to be determined at trial;

E. Order Brookdale to make whole Ms. Adams by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in the paragraphs above, including but not limited to emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, humiliation, and injury to reputation, in amounts to be determined at trial;

F. Order Brookdale to pay Ms. Adams punitive damages for its malicious or recklessly indifferent conduct, as described in the paragraphs above, in amounts to be determined at trial;

G. Grant such other and further relief as the Court deems just, necessary, and proper in the public interest; and

H. Award the Commission its costs of this action.

The Commission requests a jury trial on all questions of fact raised by its complaint.

DATED: September 24, 2014.

Respectfully submitted,

P. DAVID LOPEZ  
General Counsel

GWENDOLYN REAMS  
Associate General Counsel

EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION  
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Denver, Colorado 80203

**PLEASE NOTE:**

**For purposes of service upon the EEOC, it is sufficient that pleadings, notices, and court documents be served upon the Trial Attorneys. Duplicate service is not required on the General Counsel and Associate General Counsel in Washington, D.C.**

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**  
 Equal Employment Opportunity Commission

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

**(c)** Attorneys (Firm Name, Address, and Telephone Number)  
 D. Andrew Winston, EEOC, 303 E. 17th Ave., Ste 410, Denver, CO 80203  
 303-866-1361

**DEFENDANTS**  
 Brookdale Senior Living Communities, Inc.

County of Residence of First Listed Defendant Denver, CO  
 (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)

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input checked="" type="checkbox"/> 445 Amer. w/Disabilities Employment <input type="checkbox"/> 446 Amer. w/Disabilities Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
			<b>LABOR</b>	<b>PROPERTY RIGHTS</b>
			<b>IMMIGRATION</b>	<b>SOCIAL SECURITY</b>
				<b>TAX SUITS</b>

**IV. NATURE OF SUIT** (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  
 7 Judge from Appeal to District Magistrate Judgment

**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  
 7 Judge from Appeal to District Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
 Americans With Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101, et seq. & Civil Rights Act of 1991, 42 U.S.C. § 1981a

Brief description of cause:  AP Docket  
 Employment discrimination case alleging violations of the ADA, failure to accommodate and retaliation.

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ \_\_\_\_\_

CHECK YES only if demanded in complaint:  
**JURY DEMAND:**  Yes  No

DATE \_\_\_\_\_ SIGNATURE OF ATTORNEY OF RECORD  
 s/ D. Andrew Winston, Senior Trial Attorney

**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, noting in this section "(see attachment)".

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.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; 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 the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

**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. When the petition for removal is granted, check this box.

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. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

**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**

**Or:**

**"AP Docket"**

**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 dollar amount (in thousands of dollars) 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.

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

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Colorado

Equal Employment Opportunity Commission

Plaintiff

v.

Brookdale Senior Living Communities, Inc.

Defendant

)
)
)
)
)
)
)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Brookdale Senior Living Communities, Inc.
c/o The Corporation Company
1675 Broadway, Suite 1200
Denver, CO 80202

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:

D. Andrew Winston
US EEOC - Denver Field Office
303 E. 17th Ave., Suite 410
Denver, CO 80203

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

Civil Action No. \_\_\_\_\_

**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: