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FILED

JUN -1 PM 12:59

RICHARD W. LITNER, JR.
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MOX

8 Attorney for Plaintiff
9 ROB DELSMAN

E-filing

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

SBA

12 ROB DELSMAN,
13 Plaintiff,

CV 09 Case No.: 2414

14 v.

15 GENERAL ELECTRIC COMPANY,
16 Defendant.

COMPLAINT FOR
1. DISCRIMINATION AND
RETALIATION IN
VIOLATION OF THE ADA;
2. DISCRIMINATION AND
RETALIATION IN VIOLATION
OF CALIFORNIA FEHA

JURY TRIAL DEMANDED

17
18 Plaintiff, ROB DELSMAN, ("DELSMAN"), complains and alleges as follows:

19 **JURISDICTION**

20 1. This Court has subject-matter jurisdiction over this federal question action
21 under 28 U.S.C. §1331 and §1343 because it seeks, inter alia, damages under The
22 Americans with Disabilities Act, of 1990, ("ADA"), as amended. Further,
23 jurisdiction is proper based upon the complete diversity of the parties.

24 2. Plaintiff has exhausted his pre-filing federal and state law remedies, by
25 filing and serving complaints with the United States EEOC and California DFEH, and
26 has received Notices of Right to Sue for these claims.

27 3. The Right to Sue Notice from the EEOC on each claim under the ADA

1 alleged below was received by plaintiff on or after March 3, 2009, and this action is
2 filed within 90 days of said receipt.

3 **VENUE**

4 4. This Court is a proper venue for this action under 28 U.S.C. §1391 because
5 the claims alleged herein arose within this District, plaintiff resides in this District,
6 defendant is a foreign corporation incorporated and with its principal offices located
7 outside of California, and defendant does business in and is found in this District.

8 **THE PARTIES**

9 5. During all times relevant to this Complaint, plaintiff DELSMAN was and
10 is a United States citizen, residing in Eureka, California.

11 6. During all times relevant, defendant GENERAL ELECTRIC COMPANY
12 (“GE”), is a New York corporation with its main offices in Schenectady, New York.

13 **EXHAUSTION OF REMEDIES**

14 7. On or about March 21, 2006, plaintiff filed EEOC charge number 550-
15 2006-00267 against GE, alleging discrimination for failure to provide reasonable
16 accommodations, harassment by plaintiff’s supervisor, and exhaustion of GE’s
17 internal remedies. A copy of EEOC charge No. 550-2006-00267 is attached as
18 Exhibit A, and incorporated herein.

19 8. EEOC charge No. 550-2006-00267 was cross-filed with the DFEH, which
20 issued a Right to Sue letter on March 28, 2006, which, by operation of law, was tolled
21 until the issuance of the EEOC Right to Sue letter, as alleged above in paragraph 3.

22 9. On or about July 5, 2006, plaintiff filed EEOC charge No. 550-2006-
23 01395 against GE, alleging retaliation in violation of the ADA and the FEHA, and
24 exhaustion of GE’s internal remedies. A copy of EEOC charge No. 550-2006-01395
25 is attached as Exhibit B, and incorporated herein.

26 10. EEOC charge No. 550-2006-01395 was cross-filed with the DFEH,
27 which issued a Right to Sue letter on July 12, 2006, which, by operation of law, was

1 tolled until the issuance and receipt of the EEOC Right to Sue letter, as alleged above
2 in paragraph 3.

3 11. On or about January 25, 2008, plaintiff filed EEOC charge number 550-
4 2006-01218 against GE, amending and supplementing and alleging continuation of
5 the discrimination charged in No. 550-2006-00267, the retaliation charged in 550-
6 2006-01385, the harassment by plaintiff's supervisor, and exhaustion of GE's internal
7 remedies, which continued through and including February 10, 2007, when plaintiff
8 was discharged because of illegal retaliation in violation of the ADA and FEHA .
9 A copy of EEOC charge No. 550-2006-01218 is attached as Exhibit C, and
10 incorporated herein.

11 12. EEOC charge No. 550-2006-01218 was cross-filed with the DFEH,
12 which issued a Right to Sue letter, which, by operation of law, was tolled until the
13 issuance of the EEOC Right to Sue letters, as alleged above in paragraph 3.

14 PLAINTIFF'S DISABILITY

15 13. Prior to 2006, plaintiff was significantly injured serving his country in
16 the first Gulf War of 1990-1991.

17 14. Following plaintiff's injuries in the Gulf War, over the ensuing 10-15
18 years, plaintiff rehabilitated himself to being a fully productive working citizen.

19 15. Plaintiff began working for GE on or about 1996.

20 16. By approximately 2005, plaintiff's medical condition and physical
21 disabilities had become worse, and by 2006, plaintiff required accommodations due
22 to his medical condition/disability from one or more of the following, or
23 combinations and/or co-morbidities thereof, which substantially limited one or more
24 of plaintiff's major life activities and/or caused GE to regard plaintiff as such:

- 25 a. Arthritis;
- 26 b. Chronic pain;
- 27 c. Complex Regional Pain Syndrome;

- d. Sleep disorder;
- e. Hearing Impediments;
- f. Back Impairment;
- g. Neck Impairment;

all of which was known to GE at all times relevant to this action.

17. Plaintiff requested GE for accommodations of these medical conditions, disabilities starting approximately in 2006.

18. GE intentionally, knowingly, maliciously and/or recklessly, with intent to injure plaintiff, discriminated against, harassed and retaliated against plaintiff, failed to provide reasonable accommodations, and failed to participate in a good faith interactive process to determine effective accommodations, in response to plaintiff's requests.

**FIRST CLAIM
VIOLATION OF ADA**

19. Plaintiff realleges and incorporates par. 1-18 above, and Exhibits A, B and C.

20. Defendant's acts and omissions are a legal cause of discrimination, harassment and retaliation, in violation of the ADA, and are a legal cause of injury and damage to plaintiff.

**SECOND CLAIM
VIOLATION OF CALIFORNIA FEHA**

21. Plaintiff realleges and incorporates paragraphs 1-20 above.

22. Defendant's acts and omissions as alleged above are a legal cause of discrimination, harassment, and retaliation in violation of the FEHA, and are a legal cause of injury and damage to plaintiff.

WHEREFORE, plaintiff prays for relief as set forth below.

1 **PRAYER**

2 Plaintiff prays for Judgment his favor against defendant as follows:

- 3 1. For compensatory damages, in excess of \$1,000,000;
4 2. For punitive damages in an amount in excess of \$1,000,000.00;
5 3. For all relief available under the ADA and FEHA, including but not limited to,
6 prejudgment interest, litigation costs and attorneys' fees.
7 4. For any other relief as the Court may find just and reasonable.

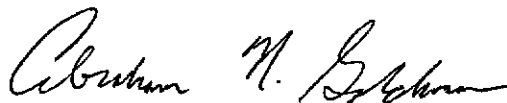
8
9 **JURY TRIAL DEMANDED**

10 Plaintiff demands a jury trial.

11
12 Respectfully submitted,

ABRAHAM N. GOLDMAN & ASSOCIATES, LTD.

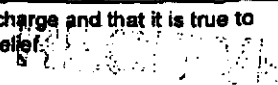
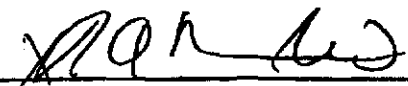
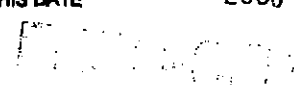
13
14 Dated: May 29, 2009



15
16 Abraham N. Goldman,
Attorney for Plaintiff
17 ROB DELSMAN



EEOC Form 5 (5/01)

CHARGE OF DISCRIMINATION		Charge Presented To: Agency(ies) Charge No(s):	
This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	
		550-2006-00267	
California Department Of Fair Employment & Housing and EEOC <i>State or local Agency, if any</i>			
Name (Indicate Mr., Ms., Mrs.) Mr. Rob Delsman		Home Phone No. (Incl Area Code) (707) 441-9495	Date of Birth 07-23-1958
Street Address City, State and ZIP Code 3809 Little Fairfield St., Eureka, CA 95503			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name GENERAL ELECTRIC CO		No. Employees, Members 500 or More	Phone No. (Include Area Code) (916) 339-4521
Street Address City, State and ZIP Code 4608 Roseville Rd, Suite 112, N Highlands, CA 95660			
Name		No. Employees, Members	Phone No. (Include Area Code)
Street Address City, State and ZIP Code			
DISCRIMINATION BASED ON (Check appropriate box(es))			DATE(S) DISCRIMINATION TOOK PLACE
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input checked="" type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify below.)			Earliest Latest 03-09-2006 <input type="checkbox"/> CONTINUING ACTION
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):			
<p>I was hired by Respondent in 1996. My current job title is Automation Specialist. From June 2005 to the present, I have requested reasonable accommodations from my employer. To date, none have been provided. From June 2005 to the present, I have been harassed by my supervisor, Scott Laflaur (Branch Manager). For example, he has unduly criticized my work performance and pressured me to resign. In December 2005, I complained to Peter Cavanaugh (GE Ombudsman) about the discrimination. To date, I have not seen any action taken on my complaint.</p> <p>Respondent gave no reasons for its actions.</p> <p>I believe that I have been discriminated against in violation of the Americans with Disabilities Act of 1990, as amended.</p>			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - When necessary for State and Local Agency Requirements	
I declare under penalty of perjury that the above is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
Date X 3/13/06		SIGNATURE OF COMPLAINANT 	
Charging Party Signature 		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year) MAR 21 2006 	



EEOC Form 5 (5/61)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):

FEPA
 EEOC

550-2006-01395

California Department of Fair Employment and Housing

and EEOC

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

Mr. Rob Delsman

Home Phone No. (Incl Area Code)

(707) 441-9495

Date of Birth

07-23-1958

Street Address

City, State and ZIP Code

3809 Little Fairfield St., Eureka, CA 95503

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

GENERAL ELECTRIC CO.

No. Employees, Members

500 or More

Phone No. (Include Area Code)

(916) 338-4521

Street Address

City, State and ZIP Code

4608 Roseville Road, Suite 112, North Highlands, CA 95660

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

RACE COLOR SEX RELIGION NATIONAL ORIGIN
 RETALIATION AGE DISABILITY OTHER (Specify below.)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

07-05-2006

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)).

I began working for Respondent in 1996. My current job title is Automation Specialist. On March 9, 2006, I filed EEOC charge (No. 550-2006-00267), against Respondent, alleging denial of reasonable accommodation under ADA. Since filing this EEOC charge, Respondent has retaliated against me in that they have subjected me to different terms and conditions of employment. I live in Eureka, California and Respondent's office is located over 300 miles away, in North Highlands, California. Since March 10, 2006, Respondent changed my job description, adding "regular attendance" in the office as a job requirement. Respondent has instructed me to report to the North Highlands office three days a week. Manager Mr. Scott Lefleur informed me that if I did not quit, he would simply make me commute to the North Highlands office three days a week at my own expense until I did quit. Respondent then informed me that they will no longer pay my travel expenses to work. My direct company phone status has also been altered, preventing customers from directly contacting me and thus denying me business and income. I have also been denied a performance review in accordance with company policy and procedure. I complained about these different terms and conditions of employment to Human Resources Manager Mr. Brad Greene, and Regional Manager Mr. Jim Hibberd. No corrective actions were taken.

Respondent's stated reasons for my new terms and conditions of employment were business necessity.

I believe I have been retaliated against by Respondent for engaging in protected activity.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY -- When necessary for State and Local Agency Requirements

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that I understand the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

07/05/06

Date

[Handwritten Signature]

Charging Party Signature

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

RECEIVED
JUL 05 2006
EEOC-SFDO



EEOC Form 605 (1/07)

<p align="center">CHARGE OF DISCRIMINATION</p> <p align="center"><small>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</small></p>	<p>Charge Presented To: Agency(ies) Charge No.(s)</p> <p><input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC 550-2006-01218</p>
--	---

California Department Of Fair Employment & Housing and EEOC
State or Local Agency, if any

Name (include title, if any)	Home Phone (incl. Area Code)	Date of Birth
Mr. Robert A. Delsman	XXXXXXXXXX	

Street Address	City, State and ZIP Code
3809 Little Fairfield Street, Eureka, CA 95503	

Named is the Employer, Labor Organization, Employees of Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than one, list in new PARTICULARS below.)

Name	No. Employees/ Members	Phone No. (include Area Code)
GENERAL ELECTRIC CORPORATION	500 or More	(916) 339-4525

Street Address	City, State and ZIP Code
4508 Roseville, North Highlands, CA 95680	

Name	No. Employees/ Members	Phone No. (include Area Code)

Street Address	City, State and ZIP Code

<p>DISCRIMINATION BASED ON (Check appropriate box(es).)</p> <p><input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN</p> <p><input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify below)</p>	<p>DATE(S) DISCRIMINATION TOOK PLACE</p> <p>Earliest: _____ Latest: 02-10-2007</p> <p><input type="checkbox"/> CONTINUING ACTION</p>
---	---

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s).)

I filed 2 EEOC charges (#550-2006-00287 & #550-2008-01385) alleging disability discrimination (lack of reasonable accommodations, disparate terms and conditions, and harassment) and retaliation. These mistreatments continued until my discharge on or around 02/10/2007.

I believe Respondent has retaliated against me in violation of the Americans with Disabilities Act of 1990, as amended.

I report this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

1/12/08 [Signature]
Date Charging Party Signature

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is to the best of my knowledge, information and belief true and correct.
SIGNATURE OF COMPLAINANT

RECEIVED

JAN 25 2008

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year) **EEOC-SFDO**