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Ms. Carol Boisvert
Northrop Grumman
755 Dedham Street
Canton, Ma 02021

February 18, 2004

Hand Delivered

Re: Request for “Reasonable Accommodations” under the Massachusetts Fair Employment Practice Law.

Introduction

In September 1999, I was hired by Mr. Mike Perlmutter (Fibersense, now Northrop Grumman) as a Software Test Engineer. A position I still hold today.

As many of my co-worker know, I had a liver illness (Primary Biliary Cirrhosis, a terminal illness) that set in motion the need for me to receive a liver transplant.

I received my lifesaving (orthotopic) liver transplant on September 5, 1997.

Since the liver transplants, I have been on immunosuppressant therapy, which in the words of one of my transplant doctors ⁽¹⁾ “...has some unpleasant and sometimes debilitating side effects...” Immunosuppressant therapy is a lifetime treatment used to prevent rejection of my transplanted liver.

I also suffered a stroke in 1995 (due to my Primary Biliary Cirrhosis illness). The stroke was a bleeder in the right hemisphere of my brain. This stroke left me with muscle weakness and touch deficit on my left side and in my left leg. The resulting muscle weakness and touch deficit does causes me difficulties in walking. I also have trouble keeping my balance while walking or standing. Due to these after effects of the stroke, I need to use a cane to aid me in walking, standing, and maintaining my balance.

Because of the immunosuppressant therapy, I am also under treatment for hypertension, a side effect of this therapy. Also, on a daily bases, I am dealing with the problems of general fatigue, tremors and headaches, a few of the debilitating side effects of the immunosuppressant therapy and other medication I need to take.

During my hiring process, I informed all individuals who interviewed me I had suffered a stroke and I had

¹ “To Whom it May Concern” letter dated February 14, 2003, by W. David Lewis, M.D. Director of Liver Transplantation, Lahey Clinic, Burlington, Ma. A copy of this letter was transmitted to Ms. Carol Boisvert, HR at Northrop Grumman, Canton Ma by David Higgs on or about February 14, 2003.

received a liver transplant. I also informed those same individuals I was, on a daily bases, dealing with the side effects of the stroke and liver transplant, post-transplant recovery, the the medication I have to take daily..

During the first few years of my employment at Fibersense, a number of reasonable accommodations in the work place were made available to me in response to my medical condition.

These reasonable accommodations, in time, allowed me to fully perform the essential functions of my employment position on a (near) 40 hours/week employment schedule.

Some of the reasonable accommodations I was receiving ended, without notice, when Fibersense was purchased by Northrop Grumman.

Handicap Status

Based on my medical history and my on going medical conditions, I am a “handicapped” employee, under the Massachusetts Fair Employment Practice Law, as defined by the Massachusetts Commission Against Discrimination.

Request for “Reasonable Accommodations”

Under the provisions of the Massachusetts Fair Employment Practice Law, as defined by the Massachusetts Commission Against Discrimination, I am writing to formally requesting that Northrop Grumman provide me with the following “Reasonable Accommodations” in my work place. I am making this request for reasonable accommodations so that I can continual to perform the essential functions of my employment position and be on site 32+ hours/week..

I am requesting the following reasonable accommodations from Northrop Grumman:

1. Essential Function Job Description

In previous letters to you (or copied sent to you by the receiver) (^{2 3}), I have asked you to supply me with a copy of my job description and my employment responsibilities. You did not respond to my request for my job description and employment responsibilities in my first letter. You did provide me with the NG T422 job description in response to my second letter.

In my reply to your e-mail message (⁴), I replied (by e-mail) “In my view, the T422 does offer a full and accurate description of the sum total of the tasks and functions I perform daily for Northrop Grumman. I also noted the total lack of any reference, direct or indirect, to any of the s/w engineering activities that are on my plate daily in this job description.”

After re-reading my reply, I meant to write “.. In my view, the T422 does **NOT** offer a full and accurate description of the sum total of the tasks and functions I perform daily for Northrop Grumman.”

As a reasonable accommodation, I am requesting a job description that is a true and accurate description of the essential functions of my employment position at Northrop Grumman. I suggest this job description should meets (as a minimum) the Massachusetts Commission Against Discrimination, Guidelines: Employment Discrimination of the Basis of Handicap – Chapter 151B definition, namely:

2 Letter dated December 8, 2003 to Dick Murphy (cc Faith Ball), Northrop Grumman, Canton Mass, from David L. Higgs

3 Letter dated January 28, 2004 to Carol Boisvert, Northrop Grumman, Canton Mass, from David L. Higgs

4 Northrop Grumman Internal E-mail from Carol Boisvert to David L. Higgs, Dated February 2, 2004 @ 2:36 pm.

“Job Descriptions – Job descriptions should include only those functions that the employee may reasonably be expected to perform during his/her employmentEmployers should periodically review job descriptions, as the nature of the job may change over time.”

2. Modifying Work Schedules

If not already recognized as a reasonable accommodation I am now receiving from Northrop Grumman, I request the ability to set my own work hours (Flex Time). This would includes the ability to set the day or days of the week I will not be on site due to medical reasons (appointments with my health care gives or other health related needs) as an reasonable accommodation.

3. Work Place Environment

Being on immunosuppressant therapy means my immunity system is suppressed to prevent rejection of my transplanted liver. Because my immune system is suppressed, I am at greater risk of contacting illnesses and it takes me longer to recover from an illness than other individuals (example: my need to take a total of 8 week medial leave of absent last winter/spring due to Bronchitis).

My only defense against contacting an illnesses is to limit (within reason) my exposure to situations that could put me at increase risk of being exposed to individual who are infected or who are already ill.

Currently, my office (and main work location) is located in a full office (full hight walls with a door) where I am the only occupant. I believe this accommodation has been a reasonable balance between my need to limit my exposure to work place health risks and my daily need to interact with my co-workers. I request that this configuration in my office assignment continues as an reasonable accommodation.

4. Obtaining or Modifying Adaptive Job Equipment or Devices

In previous letters to you (or copied sent to you by the receiver) (⁵ ⁶), I have asked you if my employment position requires me to be (in effect) “..standing at a test console every day writing test software..” As of this date, you have not afforded me a written response to this question as I have requested.

The standard configuration of test stations (in Canton) requires one to be standing when using the test station. This include writing and debugging test software on the station.. The test station keyboard and display (CRT) are not mounted in any configuration that approximates an office installation of the same equipment.

Due to my combine medical condition, I find it very difficult (and sometimes painful) to stand on my feet for any extended periods of time. I am requesting a reasonable accommodation that will limit the time duration I am expected to spend “..standing at a test console ... writing test software...”or the means to (temporally) re-configure the test station I am working with such that the keyboard and display (CRT) can be used in a normal office siting position as an reasonable accommodation.

5. Modifying Methods of Supervision

I am asking for the restructuring of my work place such that all my work assignments flow down to me through one individual (such as my supervisor or a gate keeper) as a reasonable accommodation.

6. Permitting Performance of Job Functions at Alternative Locations

Since my first year of employment with Fibersense, I held the reasonable accommodation of working at home,

5 Letter dated December 8, 2003 to Dick Murphy (cc Faith Ball), Northrop Grumman, Canton Mass, from David L. Higgs

6 Letter dated January 28, 2004 to Carol Boisvert, Northrop Grumman, Canton Mass, from David L. Higgs

with the approval of my supervisor, on test software development and related documentation from time to time.

I believe this reasonable accommodation allowed me to maintain (on average) a 40 hours/week employment schedule without harming my general health.

I am asking that this reasonable accommodation of working at home, from time to time (which was terminated last year without noticed), be restored as a reasonable accommodation..

7. Employment Status

At the end of my first year of employment (with Fibersense), as a reasonable accommodation, I became a full time employee working (a minimum of) 32 hours per week by agreement.

Last year, under Northrop Grumman, my employment status changed from a full time status to a part time status without notice.

I am asking that my full time employment status (working, as a minimum, 32 hours per week by agreement) be restored as an reasonable accommodation.

Thank you

David L. Higgs