

**The Commonwealth of Massachusetts  
Commission Against Discrimination  
One Ashburton Place , Boston, MA 02108  
Phone: (617) 994-6000 Fax: (617) 994-6024**

**AUG 05 2004**

**- DISMISSAL and NOTIFICATION of RIGHTS -**

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<b>To:</b> David L Higgs 1269 Pleasant Street Weymouth, MA 02189	<b>Case:</b> David L Higgs v. Northrop Grumman Corporation <b>MCAD Docket Number:</b> 04BEM01326 <b>EEOC Number:</b> 16CA401649 <b>Investigator:</b> Jessica Thrall
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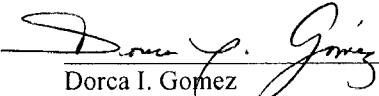
Your complaint has been dismissed for the following reasons:

- ☐ The facts alleged fail to state a claim under any of the statutes the Commission enforces.
- ☐ Respondent employs less than the required number of employees.
- ☐ Your complaint was not timely filed with the Commission, i.e. you waited too long after the date(s) of the alleged discrimination to file. Because it was filed outside the time limit prescribed by law, the Commission cannot investigate your allegations.
- ☐ You failed to provide requested information, failed or refused to appear or to be available for necessary interviews/conference, or otherwise refused to cooperate to the extent that the Commission has been unable to resolve your complaint. You have had more than 30 days in which to respond to our written request.
- ☐ The Commission's efforts to locate you have been unsuccessful. You have had at least 30 days in which to respond to a notice sent to your last known address.
- ☐ The Respondent has made a reasonable settlement, offering full relief for the harm you alleged. 30 days have expired since you received actual notice of this settlement offer.
- ☒ The Commission issues the following determination. Based upon the Commission's investigation, the Commission is unable to conclude that the information obtained establishes a violation of the statutes. This does not certify that the Respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this complaint.

☐ Other (briefly state)

**- NOTICE of APPEAL -**

If you wish to appeal the dismissal of your complaint and believe that the above stated reason for dismissal is incorrect, you may appeal to this Commission within 10 days after receipt of this notice. You or your attorney must make your appeal of the dismissal in writing to the appeals clerk of this Commission. **Attention: Nancy To.** All employment complaints, where applicable, were filed by the MCAD with the Equal Employment Opportunity Commission. Our finding, which will be forwarded to its area office, JFK Federal Building, Boston, MA will be given substantial weight provided that such findings are in accordance with the requirements of Title VII of the Civil Rights Act of 1964, the ADEA, and/or the ADA, as amended.

  
Dorca I. Gomez  
Investigating Commissioner

8/5/04  
Date

Cc:  
Kevin Wilson  
Northrop Grumman  
PO Box 1897  
Baltimore, MD 21203

## MEMORANDUM

TO: CASE FILE  
Higgs v. Northrop Grumman  
04-BEM-01326  
EEOC NO: 16CA401649  
Number of Employees : 25+  
FROM: Jessica P. Thrall  
RE: RECOMMENDATION FOR DISMISSAL OF COMPLAINT

### ISSUE(S) INVESTIGATED:

Whether Complainant was discriminated against on the basis of his disability (liver transplant, stroke) in violation of M.G.L. Chapter 151B, s4 Paragraph 16 and the Americans with Disabilities Act.

### RECOMMENDATION:


Complainant was originally employed by Fibersense, which was bought by Northrop Grumman in December 2002. During his employment with Fibersense, Complainant requested and received the following accommodations: modified work schedule (including work at home), modified work area, and modifications to the manner in which he performed his duties. At all times, Complainant was employed as a Software Test Engineer. Complainant remains employed.


After Northrop Grumman acquired Fibersense in December of 2002, it is undisputed that none of the accommodations were altered **except** that Complainant was no longer permitted to work from home. Respondent states, and Complainant does not dispute, that he failed to fill out the required paperwork that could authorize him to work from home.

In February 2004, Complainant wrote a letter to the Human Resources Department requesting documented proof of the accommodations he was presently receiving. To date, the Respondent has not provided the Complainant with this request. Additionally, Complainant states that he has not received a copy of his job description.

Investigation reveals that the Complainant has failed to articulate a prima facie case of disability discrimination. Complainant has failed to articulate that he has suffered an adverse employment action. Complainant maintains his employment, and has not alleged that he has been subjected to any disciplinary action, harassment, failure to accommodate, disparate treatment or any other form of discrimination.

Respondent has articulated legitimate, non-discriminatory business reasons for its actions. Complainant has not provided any evidence to substantiate that Respondent's reasons are pre-textual. For the above-mentioned reasons, it is recommended that this case be dismissed for Lack of Probable Cause.

  
Jessica P. Thrall  
Investigator

  
Jean A. Clanton  
Supervisor