

WENDY'S IN TEXAS SUED FOR REFUSING TO HIRE HEARING-IMPAIRED APPLICANT



A franchisee of popular fast-food chain, Wendy's, will be facing a lawsuit for allegedly discriminating against a job applicant with a disability. The U.S. Equal Employment Opportunity Commission (EEOC) recently filed the suit against CTW LLC after a hearing-impaired applicant with suitable qualifications and experience was not hired. The job hopeful had applied for a cooker position at a Wendy's in Killeen, TX. He had previously worked for a different fast-food franchise for more than two years. The man had been interviewed by the restaurant's shift manager and later tried to complete the interview process with the general manager utilizing Texas Relay, a telephonic system for people who are hearing impaired. The man alleges that during this call the general manager stated that "there is really no place for someone we cannot communicate with." The EEOC's lawsuit was filed in the U.S. District Court for the Western District of Texas, Waco Division. It cites a violation of the Americans with Disabilities Act (ADA). The ADA was intended to prevent discrimination against those with disabilities. Employers are likewise required to make reasonable accommodations to employees and applicants with disabilities, provided said accommodations do not create any "undue hardship." In answering questions of hearing-impaired employees, the EEOC states that an employer, upon learning that an applicant has such a disability, should ask the applicant for information to determine if reasonable accommodations can be made. Accommodations can include modifications or amendments such as a sign language interpreter, a text telephone or similar devices, appropriate emergency notification systems (with visual components), written memos and notes, adjusted work areas, assistive software and listening devices, or an



alteration the employee's marginal (or non-essential) job duties. "In these tough economic times, opportunities for employment are at a premium," said Robert A. Canino, regional attorney for the EEOC's Dallas District Office. "Here, [the applicant] had the work experience necessary to do the job and was prepared to contribute his solid work ethic and skills again to the food retail business, but was denied the chance to do so on irrelevant and unlawful grounds." The EEOC is seeking lost wages and compensatory damages for the hearing-impaired man and punitive damages against CTW LLC, as well as injunctive relief. Such relief would entail the creation of policies specifically to prevent and amend any potential discrimination based on a person's disability. The pending lawsuit was filed after the EEOC had first attempted to reach a pre-litigation settlement with the restaurant through the Commission's conciliation process. Joel Clark, a trial attorney for the EEOC, said that "the ADA requires companies to treat disabled persons the same as all other applicants for a job." Clark asserted that the restaurant had "automatically refused" to consider the man for the position based only on his hearing impairment and that it "should not have relied on its own negative, generalized assumptions about [the man's] ability to communicate."