

MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

NATIONAL FEDERATION OF THE BLIND

200 East Wells Street,

At Jernigan Place:

Baltimore, MD 21230

ROGER SULLIVAN

Warren, PA

Case No.:

COMPLAINT

*individually and on behalf of all
other similarly situated individuals,*

Complainants,

v.

NATIONAL TELECOMMUTING INSTITUTE

225 Friend Street, Suite #401

Boston, MA 02114

Respondent

COMPLAINT OF EMPLOYMENT DISCRIMINATION

Nature of the Action

1. The National Federation of the Blind (NFB) brings this Class Complaint, on behalf of itself; its members; its member, Roger Sullivan; and all those similarly situated against National Telecommuting Institute (NTI) for violations of Massachusetts law and the Americans with Disabilities Act. In specific, Complainants assert that NTI operates employment programs that unlawfully discriminate against individuals who are blind or visually impaired.

Jurisdiction

2. The Massachusetts Commission Against Discrimination (Commission) has jurisdiction to investigate and pursue this matter pursuant to M.G.L.C. 151B et seq.

The Parties

3. Founded in 1940, the National Federation of the Blind is the leading civil rights organization of blind and low vision individuals in the United States with affiliates in all fifty states, the District of Columbia, and Puerto Rico. The NFB advocates for the rights of the blind in all walks of life including in the area of employment. Especially during the COVID-19 Pandemic, many members of the Federation have pursued “work at home” opportunities.

4. Roger Sullivan is a member of the NFB and hails from Warren, Pennsylvania, and he is legally blind. His disability substantially limits him in the major life activity of seeing.

5. Many members of the NFB have disabilities in addition to blindness such as hearing impairments, speech impairments, manual dexterity impairments, and others.

6. National Telecommuting Institute is an employer with more than fifteen employees and participates in the federal, AbilityOne Program authorized by the Javitz Wagner O'Day Act. Said Act requires that at least seventy-five percent of all labor must be performed by individuals with disabilities.

7. NTI operates "NTI at Home" which employs individuals with disabilities with NTI's partners in work from home customer service and related jobs.

Relevant Facts

8. During the Spring of 2020, Roger Sullivan was seeking employment from home especially due to the health risks posed by the COVID-19 Pandemic.

9. Sullivan has the requisite computer and other skills to perform customer service type work from home.

10. Because of his disability, he employs assistive technology to access his computer and thus access the required software and websites.

11. Specifically, he uses screen reading technology like JAWS for Windows that converts text into synthetic speech.

12. At some point during the Spring of 2020, Sullivan discovered NTI and its work from home program where he would potentially receive some training and then be placed at entities like John Hancock, the IRS, AAA/VForce, Walgreens, Federal Student Aid, Meijer and many others.

13. During various times in June 2020, Sullivan completed all of the pre-interview requirements for applying for a position with NTI. NTI then scheduled an interview for June 26, 2020.

14. On June 26, 2020, Sullivan did in fact have a telephonic interview with NTI. At said interview, NTI's representative informed him that there would be no position available to him because none of the software that Sullivan would be required to use is accessible with screen reading technology. As a result, the employment process halted, and Sullivan was denied employment by NTI.

15. NTI maintains a practice of unlawfully barring virtually all blind, low vision, other persons with disabilities who use screen reading and other assistive technology from seeking employment with NTI.

16. As part of its FAQ's regarding its Work at Home Program, NTI's website states:

Q. What if I need special accommodation to work, even from home?

A. For now, the jobs available cannot accommodate screen enlargers over 2X magnification, screen readers such as JAWS, voice recognition software such as DragonSpeak, or relay services. NTI is working with our employers to change this.

See www.ntiathome.org/before-you-register.

17. The language contained in Paragraph 15 supra is current as of this date and was exactly the same in June of 2020 when Sullivan applied with NTI. Upon information and belief, this exact same language has been on NTI's website since at least 2018.

18. Apparently, NTI has made no demonstrable effort to eliminate the access barriers faced by blind and low vision applicants thus prohibiting countless blind, low vision, other individuals with disabilities from throughout the United States from seeking employment through NTI.

19. Upon information and belief, NTI jobs pay anywhere from \$9.00 an hour to \$16.00 an hour and can range from part-time to full-time.

20. As a direct and proximate result of NTI's conduct as described above, Sullivan and others similarly situated are severely damaged, in that (among other things), they experience and will continue to experience significant pecuniary losses (including lost pay and benefits), lost earning capacity, mental anguish and emotional distress as manifested by a variety of objective physical and emotional symptoms, and the loss of life's enjoyment.

Violations of Law

21. Complainants incorporate by reference Paragraphs 1-19.

22. NTI's ongoing practice of discouraging and, in effect, prohibiting all blind, low vision, and others with disabilities who use screen reading and other assistive technology from seeking and securing employment with NTI violates both Massachusetts Law and Title I of the Americans with Disabilities Act. M.G.L.C. §151B et seq and 42 U.S.C. §12112 et seq.

23. Sullivan is a qualified individual with a disability in that he met all prerequisites for employment with NTI prior to his scheduled interview.

24. NTI's refusal to employ Sullivan because of his need to use screen reading software is a materially adverse employment action which unlawfully discriminates against Sullivan on the basis of his disability in violation of Massachusetts Law and Title I of the ADA. M.G.L.C. §151B et seq and 42 U.S.C. §12112 et seq.

25. With respect to Sullivan and all others similarly situated, NTI fails to provide reasonable accommodations by refusing to enter into a process to identify how to eliminate access barriers to its employment positions and by refusing to place any individuals who employ many common forms of assistive technology such as screen readers, dictation programs, and others used by the

blind, low vision, and others with disabilities in violation of Massachusetts Law and Title I of the ADA. M.G.L.C. §151B et seq and 42 U.S.C. §12112(b)(5)(A).

26. With respect to Sullivan, NTI failed to provide reasonable accommodations when it flatly refused to explore or consider, in any way, possible accommodations through use of screen reading software in violation of Massachusetts Law and Title I of the ADA. M.G.L.C. §151B et seq and 42 U.S.C. §12112(b)(5)(A).

Relief Requested

27. Complainants respectfully request that this Commission cross-file this Complaint with the Equal Employment Opportunity Commission.

28. Complainants further request that this Commission find that NTI has violated Massachusetts Law in that the above-described practices and policies unlawfully discriminate against the blind, low vision, and others with disabilities.

29. Additionally, Complainants request that this Commission enter an injunction ordering NTI to cease violating Massachusetts Law by ensuring that all of its employment positions and placements allow the blind, low vision, and others with disabilities to use screen readers and other assistive technology so that the blind, low vision, and others with disabilities are able to access the same information as those without disabilities and to do so at the same time with the same ease of use and convenience.

30. With respect to Complainant Sullivan, the Commission should award him all relief due under law including lost wages, front pay, compensatory damages, punitive damages, all applicable interest, and such other relief deemed just and proper by this Commission.

31. This Commission should order NTI to hire Sullivan and provide all reasonable

accommodations including full access to employment with screen readers and other assistive technology.

32. With respect to all complainants, award attorney fees and costs as authorized by law.

33. Complainants ask this Commission to order such other relief it deems proper and lawful and in the public interest.

I verify that the allegations contained herein are true and accurate to the best of my knowledge and belief.

Respectfully submitted, this 21st Day of April, 2021

A handwritten signature in cursive script that reads "Scott C. LaBarre".

Scott C. LaBarre
General Counsel of the National Federation of the Blind

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