John Dan Bumphus, Jr., Pro Se
221 South Myrtle
Edwardsville, Illinois 62025-1510
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UNITED STATES FEDERAL DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF ILLINOIS

JOHN DAN BUMPHUS, JR., PRO SE,

Plaintiff,

vs.

UNIQUE PERSONNEL CONSULTANTS, KRISTA FINDLAY, JENNIFER KATHERINE YATES-WELLER, OF HENNESSY AND ROACH, P.C., HENNESSY AND ROACH, P.C., ANDREW G. TOENNIES, AND SYNERGY COVERAGE SOLUTIONS L.L.C.

Defendants

Case No.: 16-312-SMY-DGW

FIRST EMPLOYMENT DISCRIMINATION COMPLAINT FOR DAMAGES UNDER TITLE VII, THE AMERICANS WITH DISABILITIES ACT, THE GENETIC INFORMATION NONDISCRIMINATION ACT, THE AGE DISCRIMINATION IN EMPLOYMENT ACT, UNLAWFUL DISCHARGE FROM EMPLOYMENT, RETALIATION, AND THE INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

EMPLOYMENT

DISCRIMINATION COMPLAINT

Plaintiff brings a complaint against UniQue Personnel Consultants, Inc., Krista Findlay, Jennifer Katherine Yates-Weller, of Hennessy & Roach, P.C., Hennessy & Roach, P.C., Andrew G. Toennies, and Synergy Coverage Solutions, L.L.C., for discrimination as set forth below.

Plaintiff DOES NOT demand a jury trial.

I. PARTIES

Name and Address of Plaintiff:

1. Plaintiff John Dan Bumphus, Jr., resides at 221 South Myrtle, Edwardsville, Illinois, 62025-1510.

Name and Address of Defendants:

1. Defendant UniQue Personnel Consultants Inc.'s, corporate address is 217 W. Clay, Troy, IL, 62294-1162.
2. Defendant Krista Findlay is the Human Resources Manager/office agent for UniQue Personnel Consultants Inc.'s Glen Carbon, Illinois, office at 19 Junction Dr., Glen Carbon, Illinois 62034.

3. Defendant Jennifer Katherine Yates-Weller is a partner and associate attorney at the law firm of Hennessy & Roach, P.C., with her branch office located at 415 North 10th Street, Suite 200, St. Louis, MO 63101.
4. Defendant Hennessy & Roach, P.C., is a seven-office multistate law firm with its main corporate office located at 140 S. Dearborn, 7th Floor, Chicago, IL 60603.
5. Defendant Attorney Andrew G. Toennies is an associate attorney working with the law firm of Lashly & Baer, P.C., 714 Locust. St. Louis, Missouri 63101.
6. Defendant Synergy Coverage Solutions, L.L.C., is a Workers' Compensation Insurance entity with their main office located at 217 South Tryon Street, Charlotte, NC 28202.

The plaintiff was employed, but is no longer employed by the defendant UniQue Personnel Consultants, Inc. The alleged discrimination began on or about July 13, 2015.

II. JURISDICTION

1. Jurisdiction over this claim is based on 28 U.S.C. Section 1331. Plaintiff alleges that the defendants discriminated against Plaintiff because of Plaintiff's:
   Race (Title VII of the Civil Rights Act of 1967, as amended, 42 U.S.C. Section 2000e-5)
   Age (The Age Discrimination in Employment Act, 29 U.S.C. Section 621)
   Disability (The Americans with Disabilities Act, 42 U.S.C. Section 12101)
   Genetic Information (Genetic Information Nondiscrimination Act, Pub. L. 110-233, 122 Stat. 881, enacted May 21, 2008)
2. Plaintiff has filed a joint charge before the United States Equal Employment Opportunity Commission (EEOC) and the Illinois Department of Human Rights (IDHR) relating to this claim of employment discrimination.
3. Plaintiff's Right to Sue Notice from the EEOC was received on or about December 23, 2015.

III. STATEMENT OF LEGAL CLAIM

Plaintiff is entitled to relief in this action because:

1. My name is John Dan Bumphus, Jr.
2. My address is 221 S. Myrtle, Edwardsville, Illinois, 62025-1510.
3. My phone number is (480) 232-3350.
4. I am 61 year-old, disabled, African-American male.
5. From June 21, 2015 to July 2, 2015, I worked full time in a third shift position for the Defendant UniQue Personnel Consultants as an operator on the Production Wiring Rework Tables, at the YAZAKI Warehouse in Edwardsville, Illinois.
6. From July 5, 2015, through July 10, 2015, I was promoted, and began working full time in a third shift position for the Defendant UniQue Personnel Consultants as a lead product coordinator, or "LPC", entrusted in the immediate overview of running a rework table, at the YAZAKI Warehouse in Edwardsville, Illinois.
7. From July 13, 2015, through July 16, 2015, I worked full time in a second shift position for the Defendant UniQue Personnel Consultants as a lead product coordinator, or "LPC", entrusted in the immediate overview of running one to three rework tables, at the YAZAKI Warehouse in Edwardsville, Illinois.
8. Years before and during my June 11, 2015, initial interview for employment at Defendant UniQue Personnel Consultants, of Glen Carbon, Illinois, I had been officially designated and acknowledged, by way of the Social Security Administration, to be a disabled person living with the history of having had the generalized anxiety disorder psychological symptoms of a Post-Traumatic Stress Disorder (PTSD). As of January 20, 2015, it was noted in my Axis III Diagnosis, by my treating psychiatrist Mirza Baig, M.D., of Centerstone, in Alton, Illinois, that the acute medical conditions and physical disorders I live with, which might impact on my psyche, include mild obesity, sleep apnea, heart attack, ruptured aorta, hypertension, spinal stenosis, hernia surgery on the right side, and problems with my kidney function.
9. On July 14, 2015, while working as a second shift LPC, I received a reasonable accommodation by telephone from Defendant Krista Findlay the Human Resources Manager/office agent for Defendant UniQue Personnel Consultants' Glen Carbon, Illinois, office regarding an unscheduled overtime assignment which consisted of a forced repeat performance of a Production Wiring Rework Table operator

task, of the loading of a large, and somewhat awkward, car component into the designated crates, due to the fact that I have a rod and two pins in my lower back, from a 2006 spinal fusion surgery, and the bending, straining, and lifting was causing discomfort to my back at the point which I perceived to be the (L4-5) point of that surgery.

10. On July 17, 2015, Defendant Krista Findlay the Human Resources Manager/office agent for Defendant UniQue Personnel Consultants' Glen Carbon, Illinois, office, abruptly rescinded, without explanation, the aforementioned reasonable accommodation granted to me three days earlier. I, at that time presented Defendant Krista Findlay with personal and private medical documentation which I had obtained that morning from my primary care physician, David Yablonsky, D.O., of Associated Physicians Group, in Maryville, Illinois, in an effort to point out for her the "anterior and posterior fusion instrumentation" within my L4-5 vertebrae, along with presenting her a copy of my 2014 book "Necessary Candor", wherein I underlined and discussed with her the passages in pages 80 & 81 which acknowledged my ongoing psychological treatment, as a disabled employee, for having had the generalized anxiety disorder psychological symptoms of a Post-Traumatic Stress Disorder (PTSD). Nevertheless, Defendant Krista Findlay thereby unlawfully dismissed me from employment with Defendant UniQue Personnel Consultants, Inc., due to my reasonable accommodation request, with the caveat that unless I present to her, a signed physician's statement, "on their office stationary", which medically substantiated my back-pain claims, my complaints "cannot be officially considered by corporate".

11. On July 23, 2015, I presented, to Defendant Krista Findlay the Human Resources Manager/office agent for Defendant UniQue Personnel Consultants' Glen Carbon, Illinois, a signed and written statement from Associated Physician's Group in Edwardsville, IL, which requested that I, John Bumphus, be exempted from mandatory overtime that requires heavy lifting. Upon receipt of the statement, Defendant Krista Findlay said that she would "pass it on to corporate", and get back to me with their position "by the end of the day". Later that afternoon, Defendant Krista Findlay notified me that the statement "would be placed in my file", and offered no further comment.

12. I have no disciplinary records for my entire employment with Defendant UniQue Personnel Consultants.

13. On July 28, 2015, I presented a filed 6-page informal discrimination complaint to the Defendant UniQue Personnel Consultants' Glen Carbon, Illinois office. I also presented individual sealed-envelope copies of the complaint to Defendant Krista Findlay, Dana Felton, and Donna May. I have received no response or comment regarding my informal complaint from Defendant UniQue Personnel Consultants, Defendant Krista Findlay, or either of the two other recipients of that written communication.

14. On August 6, 2015, I filed a federal joint EEOC/Illinois Department of Human Rights Charge of Discrimination, which stated in its content my belief that I had been discriminated against based on my disability, in that I was granted, and then subsequently denied, as a disabled employee with a medical history of Post-Traumatic Stress Disorder (PTSD), a reasonable accommodation, before subsequently being discharged, and then terminated from employment, in violation of my civil rights under The Americans with Disabilities Act as amended.

15. On August 14, 2015, the I filed an Illinois Workers' Compensation Commission claim #15WC027577, I personally hand-delivered and presented another of complaint letter to David Scheibel, Defendant UniQue Personnel Consultants, Inc., corporate "workers' compensation specialist", at the UniQue Personnel corporate offices in Troy, Illinois. This letter of complaint detailed how, that aside from the Defendant UniQue Personnel Consultants' Glen Carbon, Illinois, office's August 13, 2015, declination, failure and refusal to accept, and/or assist me in the proper filing of my notice of workplace injury, that the Defendants' corporation was also blatantly in clear violation of 820 ILCS 305 Section 6(a): Workplace Notice, as well.

16. On September 9, 2015, the Defendant UniQue Personnel Consultants, through their attorney Defendant Andrew G. Toennies, of Lashly & Baer, P.C., of St. Louis, Missouri, knowingly filed a false statement in response to my August 6, 2015 joint EEOC/Illinois Department of Human Rights Charge of Discrimination, wherein defendant UniQue Personnel Consultants "Supervising Consultant" Krista Findlay falsely declared that I had "indicated on his (my) application that he (I) had no physical restrictions, whereas there is, clearly, no such indication whatsoever in any of my June 11, 2015, job application paperwork documentation.

17. On November 23, 2015, I was victimized, and illegally bullied as an unrepresented, disabled, injured worker with a medical history of Post-Traumatic Stress Disorder, in what was a jointly undertaken criminal conspiracy activity, pursuant to Section 1 B1.3(a)(1)(b) (Relevant Conduct (*Factors that Determine the Guideline Range*)) of the Judiciary and Judicial Procedure Standards of the United States Sentencing Commission (28 U.S.C. Section 994(a)), which was orchestrated, and perpetrated, by Defendant Attorney Jennifer Katherine Yates-Weller #2795, who is of, and is a partner with Defendant Hennessy & Roach, P.C., of St. Louis, Missouri, on behalf of Defendant UniQue Personnel Consultants, and also on behalf of their Workers' Compensation insurer, Defendant Synergy Coverage Solutions L.L.C., as she knowingly created, presented, fraudulently signed and personally affirmed for Proof of Service as an attorney, two (2) forged Subpoenas Duces Tecum, under the auspices and in clear violation of Chapter II §7030.50-Subpoena Practice, 50 ILLINOIS ADMINISTRATIVE CODE, Illinois Workers' Compensation Rules Governing Practice by U.S. Mail, to myself, to Dr. Yablonsky at Associated Physicians Group in Edwardsville, Illinois, and to Dr. Baig at Wellspring Resources in Alton, Illinois which is now known as Centerstone, in an effort to illicitly gain unauthorized access to my personal medical records, so as to attempt to avoid the payment of my Illinois Workers' Compensation benefits, and under Section §17-3. Forgery, of the Illinois Compiled Statutes, which recognizes forgery as a Class 3 felony.

Based on the foregoing, I, John D. Bumphus, Jr., hereby allege that the collective Defendants have discriminated against me based on my:

Race (Title VII of the Civil Rights Act of 1967, as amended, 42 U.S.C. Section 2000e-5)

Age (The Age Discrimination in Employment Act, 29 U.S.C. Section 621)

Disability (The Americans with Disabilities Act, 42 U.S.C. Section 12101)

Genetic Information (Genetic Information Nondiscrimination Act, Pub. L. 110-233, 122 Stat. 881, enacted May 21, 2008), and are culpable for having also committed against me the torts of

Unlawful Discharge from Employment,

Retaliation, and

The Intentional Infliction of Emotional Distress, with malice and reckless indifference.

IV. FACTS IN SUPPORT OF CLAIM

1. The Plaintiff has been, years before his June 11, 2015 initial interview for employment began at UniQue Personnel Consultants of Glen Carbon, Illinois, officially designated and acknowledged, by way of the Social Security Administration, to be a disabled person living with the history of having had the generalized anxiety disorder psychological symptoms of a Post-Traumatic Stress Disorder (PTSD). As of January 20, 2015, five months before he became employed by the respondent, it was noted in his Axis III Diagnosis, by his treating psychiatrist Mirza Baig, M.D., of Centerstone/Wellspring Resources in Alton, Illinois, that the acute medical conditions and physical disorders he lives with, which might impact on his psyche, include mild obesity, sleep apnea, heart attack, ruptured aorta, hypertension, spinal stenosis, hernia surgery on the right side, and problems with his kidney function.
2. When the plaintiff initially interviewed for employment (on June 11, 2015) with Defendant UniQue Personnel Consultants, he personally informed the interviewer that he did not want to work at any job which did not pay at least $10 per hour. On the morning of June 17, 2015, the plaintiff was telephonically contacted by UniQue on June 17, 2015, and after having been criminal background screened, checked and researched by Precise Hire, of McKinney, Texas, before then being subsequently drug screened by Defendant UniQue Personnel Consultants at their Glen Carbon, Illinois office, he was offered a position which paid him $10.50 per hour, which was working as an operator on the 3rd shift Production Wiring Rework Tables, at the YAZAKI Warehouse in Edwardsville, Illinois.
3. On June 21, 2015, which was the plaintiff's very first night of employment for Defendant UniQue Personnel Consultants at the YAZAKI Warehouse in Edwardsville, Illinois, he spoke directly to the Defendant UniQue Personnel's On Site Coordinator, Dana Felton, and informed her that if his "crew" of two people was not keeping up with the pace of production with the other tables loading one particularly large, and somewhat awkward, car component into the designated crates, it was because he has a rod and two pins in his lower back, due to a 2006 spinal fusion surgery, and that the bending, straining, and lifting was causing discomfort to his back at the point which he perceived to be the (L4-5) point of that surgery.
4. On July 2, 2015, after having worked though the first nine days of employment at a productive pace, on Production Wiring Rework Table tasks which did not cause discomfort to his (L4-5) spinal area, the plaintiff was informed by Defendant UniQue Personnel Consultants Shift Supervisor "Darron", that since he was "already getting paid for it" (at the rate of $10.50 per hour), the beginning of his next (third) work week (beginning July 5, 2015), would be spent training to be a lead product coordinator, or "LPC". Accordingly, during that third week of working the 3rd shift at the YAZAKI Warehouse in Edwardsville, Illinois for Defendant UniQue Personnel Consultants, from Sunday night, July 5, 2015, until Friday morning, July 10, 2015, the plaintiff successfully accomplished the functioning

requirements of LPC training without any excessive or intrusive job-pace restrictive accommodations. The requirements of his LPC training did not at any time require that he resume the initial bending, straining, and lifting task which had caused the discomfort to his back during his inaugural June 21, 2015, working shift as an operator on the Production Wiring Rework Tables, at the YAZAKI Warehouse in Edwardsville, Illinois.

5. On Sunday, July 12, 2015, in anticipation of beginning his fourth week of working the 3rd shift at the Yazaki warehouse in Edwardsville, IL for UniQue Personnel Consultants, the plaintiff arrived at the job-site shortly after 10 p.m. After waiting a while, and not getting in to the warehouse, he called and left a message for UniQue Personnel Yakazi Site Coordinator Dana Felton on her personal cellphone number. Shortly thereafter, Coordinator Felton returned his call and informed him that the 3rd shift had been dropped as of Friday, July 10, 2015, and that "someone should have called" him with that information after he had picked up his check at the Unique office that day. After the plaintiff inquired as what that occurrence would do to his employment status, Ms. Felton informed him that he could move to either 1st or 2nd shift at the Yazaki warehouse. When he asked if it would be at the same rate of pay ($10.50 per hour), Ms. Felton stated that the rate he was currently receiving included a 50 cent shift differential, which would be reduced to $10.25 for the 2nd shift, and to $10.00 per hour for 1st shift. The plaintiff then told her that I would prefer the 2nd shift 25 cent reduction, and then asked if it would be for the same LPC training. She informed him that it would be, and that he would be continuing his development as an LPC at Yazaki.

6. On July 13, 2015, at the end of the plaintiff's first 2nd shift tour of working, as an LPC at the Yazaki warehouse in Edwardsville, IL for UniQue Personnel Consultants, after having stood upright, and on his feet the entire shift, he was confronted by UniQue Personnel 2nd Shift Supervisory employee Donna May, who abruptly greeted him with, "Welcome to 2nd shift, we've got mandatory overtime here!" No one during his brief relationship with UniQue, or at the Yazaki warehouse, had ever said anything to him about mandatory overtime being a requirement of employment. Nevertheless, he acquiesced and initially assisted in the collective tasks of completing some uncompleted after-hours crate loading left over by another crew. However, after about an hour of pushing himself, while doing the same sort of Production Wiring Rework Table tasks of bending, straining, and lifting the exact same component car part which had caused the discomfort to his back during his inaugural, June 21, 2015, 3rd shift tour at the warehouse, he subjectively felt that a clear and absolute return of his lower back pain, which he noted in the region near the site of his 2006 spinal fusion surgery, indicated that he should stop immediately. He spoke directly to 2nd shift UniQue Personnel Consultants' Supervisor Donna May, and informed her of the conversation regarding his back which he had with 3rd shift UniQue Personnel Consultants' Supervisor Dana Felton on his initial, June 21, 2015 night of 3rd shift work at Yazaki. Supervisor Donna May was not pleased that he was leaving, and she informed the plaintiff that she

"would have to talk this over with (Supervisor) Dana (Felton)". The plaintiff's reply was, "That sounds fair."

7. The next morning, Tuesday, July 14, 2015, after not getting his former UniQue Personnel Consultants 3rd Shift Supervisor Dana Felton by her cellphone, the plaintiff called the Glen Carbon, IL, office of UniQue Personnel Consultants and spoke with "Jamie", to whom he expressed his mandatory-overtime, lower-back-pain, dilemma. Jamie directly referred him to Krista Findlay, to whom I also retold the story of the previous night's event. Krista Findlay right then and there informed the plaintiff that she knew nothing of any UniQue employee ever being forced into ANY "mandatory overtime" situation, and that for anyone to push at him to "work through" an acknowledged pain from a previous surgery was, also "unacceptable". Ms. Findlay then assured him that she would "speak with" Dana, and then went on to assure him that regarding having to explain his back-pain issue, that "it won't happen again".

8. During the plaintiff's sole week of 2nd shift LPC work at the Yazaki warehouse for UniQue Personnel Consultants, beginning Monday, July 13, 2015, he serviced and audited one table on Monday, two tables on Tuesday, July 14, 2015, three tables on Wednesday, July 15, 2015, and two tables again on Thursday, July 16, 2015. On Tuesday and Wednesday, the plaintiff stayed after shift to ensure the correctness of his table auditing sheets. At the end of the evening on Thursday, July 16, 2015, however, a part was actually misplaced from one of the cartons and into another one. The "hunting down" of the "lost part" took over an hour for the plaintiff, and the YAZAKI warehouse contact person/table supervisor, "Dan" to effectively locate. As he was then and subsequently preparing to gather his belongings for his departure from work, he was once again confronted by UniQue Personnel Consultants 2nd shift Supervisor Donna May, who once again intimidatingly attempted to taunt and question him about the validity of his 2006 spinal-fusion surgery, lower back condition, as to if he was leaving his fellow employees again while there was mandatory overtime to do.

9. On July 14, 2015, while working as a second shift LPC, at the YAZAKI warehouse, in Edwardsville, Illinois, the plaintiff received a reasonable accommodation by telephone from Krista Findlay, the Human Resources Manager/office agent for respondent UniQue Personnel Consultants' Glen Carbon, Illinois, office, regarding an unscheduled overtime assignment which consisted of a forced repeat performance of a Production Wiring Rework Table operator task, which was the loading of a large, and somewhat awkward, car component into the designated crates, due to the fact that the plaintiff has a rod and two pins in his lower back, from a 2006 spinal fusion surgery, and the bending, straining, and lifting was causing discomfort to his back at the point which he perceived to be the (L4-5) point of that surgery.

10. On July 17, 2015, Krista Findlay, the Human Resources Manager/office agent for respondent UniQue Personnel Consultants' Glen Carbon, Illinois, office, abruptly rescinded, without explanation, the

aforementioned reasonable accommodation granted to the plaintiff just three days earlier. The plaintiff, at that time, presented Krista Findlay with personal and private medical documentation which he had requested and obtained that very morning from his primary care physician, David Yablonsky, D.O., of Associated Physicians Group, in Maryville, Illinois, in an effort to point out, for her, the "anterior and posterior fusion instrumentation" within his L4-5 vertebrae, along with presenting her a copy of his 2014 book "Necessary Candor", wherein he underlined and discussed with her the passages in pages 80 & 81 which acknowledged his ongoing psychological treatment, as a disabled employee, for having had the generalized anxiety disorder psychological symptoms of a Post-Traumatic Stress Disorder (PTSD). Nevertheless, Krista Findlay thereby unlawfully dismissed the plaintiff from employment with Defendant UniQue Personnel Consultants, with the caveat that unless he present to her, a signed physician's statement, "on their office stationary", which medically substantiated his claims, his complaints "cannot be officially considered by corporate". On Thursday morning, July 23, 2015, the plaintiff presented to Krista Findlay of respondent UniQue Personnel Consultants, a signed and written statement from Associated Physician's Group in Edwardsville, IL, which requested that the plaintiff, John Bumphus, be exempted from mandatory overtime that involves heavy lifting. Upon receipt of the statement, Ms. Findlay said that she would "pass it on to corporate", and get back with the plaintiff, with their position "by the end of the day". Later that afternoon, Ms. Findlay notified him that the statement "would be placed in (his) file", and offered no further comment.

11. The plaintiff suffered an immediate, incomprehensible, severe emotional shock on July 17, 2015, as an appropriate, reasonable-person response to the unexplained arbitrary reversal of the July 14, 20015, reasonable accommodation afforded him, before being summarily dismissed from employment by Respondent UniQue Personnel Consultants' Human Resources Manager/office agent Krista Findlay, which has resulted in a mental-mental injury, caused by the overt, unreasonable, unlawful exacerbation and torment of his existing, medically-acknowledged, posttraumatic stress disorder psychological condition.

12. On August 6, 2015, the plaintiff filed an EEOC/Illinois Department of Human Rights Charge of Discrimination, which stated in its content his belief that he had been discriminated against based on his disability, in that he was granted, and then subsequently denied, as a disabled employee with a history of Post-Traumatic Stress Disorder (PTSD), a reasonable accommodation before subsequently being discharged and then terminated from employment in violation of his civil rights under The Americans with Disabilities Act as amended. In a September 9, 2015 filing by the Defendant here of their "PETITION STATEMENT OF UNIQUE PERSONNEL CONSULTANTS, INC. TO NOTICE OF CHARGE OF DISCRIMINATION FILED BY JOHN BUMPHUS" prepared in response to the plaintiff's EEOC charge, which was presented to the IllinoisDepartment of Human Rights, by attorney Defendant Andrew G. Toennies, of Lashly & Baer, P.C., of St. Louis, Missouri, Defendant UniQue

Personnel Consultants "Supervising Consultant" Defendant Krista Findlay falsely and deliberately declared that the plaintiff had "indicated on his application that he had no physical restrictions", whereas there is, clearly, no such indication whatsoever in any of his June 11, 2015, job application paperwork documentation.

13. On November 23, 2015, the plaintiff was victimized, and illegally bullied as an unrepresented, disabled, injured worker with a medical history of Post-Traumatic Stress Disorder, in what was a jointly undertaken criminal conspiracy activity, pursuant to Section 1 B1.3(a)(1)(b) (Relevant Conduct (*Factors that Determine the Guideline Range*)) of the Judiciary and Judicial Procedure Standards of the United States Sentencing Commission (28 U.S.C. Section 994(a)), which was orchestrated, and perpetrated, by respondent Attorney Jennifer Katherine Yates-Weller #2795, who is of, and is a partner with Defendant Hennessy & Roach, P.C., of St. Louis, Missouri, on behalf of respondent UniQue Personnel Consultants, and also on behalf of their Workers' Compensation insurer, Synergy Coverage Solutions L.L.C., as she knowingly created, presented, fraudulently signed and personally affirmed for Proof of Service as an attorney, two (2) forged Subpoenas Duces Tecum, under the auspices and in clear violation of Chapter II §7030.50-Subpoena Practice, 50 ILLINOIS ADMINISTRATIVE CODE, Illinois Workers' Compensation Rules Governing Practice by U.S. Mail, to myself, to Dr. Yablonsky at Associated Physicians Group in Edwardsville, Illinois, and to Dr. Baig at Wellspring Resources in Alton, Illinois which is now known as Centerstone, in an effort to illicitly gain unauthorized access to my personal medical records, so as to attempt to avoid and delay the payment of my Illinois Workers' Compensation benefits, and under Section §17-3. Forgery, of the Illinois Compiled Statutes, which recognizes forgery as a Class 3 felony.

V. REQUEST FOR RELIEF

Based on the foregoing, Plaintiff seeks the following relief:

a. An award of back pay
b. Costs of suit
c. An award of money damages
d. Punitive damages

Signed on: March 22, 2016 _____
(date) Signature of Petitioner

221 S. MYRTLE

Street Address

John D. Bumphus Jr.

Printed Name

EDWARDSVILLE, IL 62025-150

City, State, Zip

JDB054

Signature of Attorney (if any)

A1

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JOHN [illegible]AN BUMPHUS, JR.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No.: 3:16-cv-00312-SMY-DGW
	)	
UNIQUE PERSONNEL CONSULTANTS, KRISTA FINDLAY, JENNIFER KATHERINE YATES-WELLER, OF HENNESSY AND ROACH, P.C., ANDREW G. TOENNIES, and SYNERGY COVERAGE SOLUTIONS, LLC,	)	
	)	
Defendants.	)	

DEFENDANT UNIQUE PERSONNEL CONSULTANTS' AMENDED RESPONSE TO REQUEST #6 OF PLAINTIFF'S FIRST SET OF REQUESTS FOR ADMISSION

Now comes Defendant, UNIQUE PERSONNEL CONSULTANTS ("UniQue" or "Defendant"), by and through its attorneys, Gordon & Rees, LLP, and for its amended response to Plaintiff's First Set of Requests for Admission states as follows:

PRELIMINARY STATEMENT

Defendant hereby amends its response to Request for Admission No. 6 pursuant to Magistrate Judge Stephen C. Williams' Order dated December 29, 2016 (Dkt. No. 78). Defendant maintains all previous preliminary statements and general objections made in its initial responses to Plaintiff's First Set of Requests for Admission.

AMENDED RESPONSE TO REQUESTS FOR ADMISSION

6. Admit that on July 17, 2015, your Glen Carbon, Illinois, Human Resources manager/office agent Krista Findlay personally received, from the hand of John Bumphus a copy of his autobiographical 2014 book, "Necessary Candor", wherein John Bumphus pointed out, to her, with a yellow hi-light marker, the passage on pages 80 and 81 which read, "I am now, by way of the Social Security Administration, officially designated and acknowledged as a psychologically disabled person due to my experiences as an employee with the TIMEC Corporation. Yes, I am a person who has actually and officially been rendered disabled by

racism in the American workplace. I am still in treatment for the post-traumatic emotional stress disorder symptoms purposely inflicted upon me by those within the TIMEC Company, Inc.."

ORIGINAL RESPONSE: **Defendant objects to this Request as it violates Fed. R. Civ. P. 36(a)(2) insofar as it contains more than one matter and each matter is not separately stated. Defendant also objects to this Request as it seeks a legal conclusion and further objects to the characterization of Plaintiff as "disabled," on the bases that said characterization is argumentative and improper, and on the additional basis that whether a claimed affliction actually constitutes an impairment under the Americans with Disabilities Act ("ADA") is a determination of law and is thus a legal conclusion and inappropriate. Subject to, and without waiving, these objections, Defendant states that John Bumphus handed Krista Findlay a copy of a book entitled "Necessary Candor"; Defendant denies the remaining allegations contained in Request No. 6.**

AMENDED RESPONSE: **Defendant objects to this Request as it violates Fed. R. Civ. P. 36(a)(2) insofar as it contains more than one matter and each matter is not separately stated. Defendant also objects to this Request as it seeks a legal conclusion and further objects to the characterization of Plaintiff as "disabled," on the bases that said characterization is argumentative and improper, and on the additional basis that whether a claimed affliction actually constitutes an impairment under the Americans with Disabilities Act ("ADA") is a determination of law and is thus a legal conclusion and inappropriate. Subject to, and without waiving, these objections, Defendant states that John Bumphus handed Krista Findlay a copy of a book entitled "Necessary Candor." and that the following passage in this book, found on pages 80 and 81 therein, was highlighted with yellow marker:**

"I am now, by way of the Social Security Administration, officially designated and acknowledged as a psychologically disabled person due to my experiences as an employee with the TIMEC Corporation. Yes, I am a person who has actually and officially been rendered disabled by racism in the American workplace. I am still in treatment for the post-traumatic emotional stress disorder symptoms purposely inflicted upon me by those within the TIMEC Company, Inc."

Defendant denies the remaining allegations contained in Request No. 6.

Dated: January 12, 2017

Respectfully submitted,

GORDON & REES, LLP

By: /s/ J. Hayes Ryan
One of the Attorneys for Defendant UniQue Personnel Consultants

J. Hayes Ryan (ARDC # 6274197)
Gordon & Rees LLP
One North Franklin, Suite 800
Chicago, Illinois 60606
(312) 565-1400 (Telephone)
(312) 565-6511 (Facsimile)

A1

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JOHN DAN BUMPHUS, JR.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No.: 3:16-cv-00312-SMY-DGW
	)	
UNIQUE PERSONNEL CONSULTANTS, KRISTA FINDLAY, JENNIFER KATHERINE YATES-WELLER, OF HENNESSY AND ROACH, P.C., ANDREW G. TOENNIES, and SYNERGY COVERAGE SOLUTIONS, LLC,	)	
	)	
Defendants.	)	

DEFENDANT UNIQUE PERSONNEL CONSULTANTS' AMENDED RESPONSE TO REQUEST #6 OF PLAINTIFF'S FIRST SET OF REQUESTS FOR ADMISSION

Now comes Defendant, UNIQUE PERSONNEL CONSULTANTS ("UniQue" or "Defendant"), by and through its attorneys, Gordon & Rees, LLP, and for its amended response to Plaintiff's First Set of Requests for Admission states as follows:

PRELIMINARY STATEMENT

Defendant hereby amends its response to Request for Admission No. 6 pursuant to Magistrate Judge Stephen C. Williams' Order dated December 29, 2016 (Dkt. No. 78). Defendant maintains all previous preliminary statements and general objections made in its initial responses to Plaintiff's First Set of Requests for Admission.

AMENDED RESPONSE TO REQUESTS FOR ADMISSION

6. Admit that on July 17, 2015, your Glen Carbon, Illinois, Human Resources manager/office agent Krista Findlay personally received, from the hand of John Bumphus a copy of his autobiographical 2014 book, "Necessary Candor", wherein John Bumphus pointed out, to her, with a yellow hi-light marker, the passage on pages 80 and 81 which read, "I am now, by way of the Social Security Administration, officially designated and acknowledged as a psychologically disabled person due to my experiences as an employee with the TIMEC Corporation. Yes, I am a person who has actually and officially been rendered disabled by

racism in the American workplace. I am still in treatment for the post-traumatic emotional stress disorder symptoms purposely inflicted upon me by those within the TIMEC Company, Inc.,"

ORIGINAL RESPONSE: **Defendant objects to this Request as it violates Fed. R. Civ. P. 36(a)(2) insofar as it contains more than one matter and each matter is not separately stated. Defendant also objects to this Request as it seeks a legal conclusion and further objects to the characterization of Plaintiff as "disabled," on the bases that said characterization is argumentative and improper, and on the additional basis that whether a claimed affliction actually constitutes an impairment under the Americans with Disabilities Act ("ADA") is a determination of law and is thus a legal conclusion and inappropriate. Subject to, and without waiving, these objections, Defendant states that John Bumphus handed Krista Findlay a copy of a book entitled "Necessary Candor"; Defendant denies the remaining allegations contained in Request No. 6.**

AMENDED RESPONSE: **Defendant objects to this Request as it violates Fed. R. Civ. P. 36(a)(2) insofar as it contains more than one matter and each matter is not separately stated. Defendant also objects to this Request as it seeks a legal conclusion and further objects to the characterization of Plaintiff as "disabled," on the bases that said characterization is argumentative and improper, and on the additional basis that whether a claimed affliction actually constitutes an impairment under the Americans with Disabilities Act ("ADA") is a determination of law and is thus a legal conclusion and inappropriate. Subject to, and without waiving, these objections, Defendant states that John Bumphus handed Krista Findlay a copy of a book entitled "Necessary Candor," and that the following passage in this book, found on pages 80 and 81 therein, was highlighted with yellow marker:**

"I am now, by way of the Social Security Administration, officially designated and acknowledged as a psychologically disabled person due to my experiences as an employee with the TIMEC Corporation. Yes, I am a person who has actually and officially been rendered disabled by racism in the American workplace. I am still in treatment for the post-traumatic emotional stress disorder symptoms purposely inflicted upon me by those within the TIMEC Company, Inc."

Defendant denies the remaining allegations contained in Request No. 6.

Dated: January 12, 2017

Respectfully submitted,

GORDON & REES, LLP

By: /s/ J. Hayes Ryan
One of the Attorneys for Defendant UniQue Personnel Consultants

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B

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JOHN DAN BUMPHUS, JR.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**Case No. 16-CV-312-SMY-SCW**
	)	
UNIQUE PERSONNEL CONSULTANTS, et al.,	)	
	)	
	)	
Defendants.	)	

MEMORANDUM AND ORDER

YANDLE, District Judge:

Pending before the Court are the motions to dismiss filed by Defendants Synergy Coverage Solutions, L.L.C. (Doc. 13), Jennifer Katherine Yates Weller and Hennessy & Roach, P.C. (Doc. 23), Andrew Toennies (Doc. 26), and UniQue Personnel Consultants, Inc. (Doc. 38). Plaintiff filed responses to each motion (Docs. 25, 27, 37 and 42). For the reasons discussed below, the motions filed at Docs. 13, 23 and 26 are **GRANTED** in their entirety; the motion filed at Doc. 38 is **GRANTED** in part and **DENIED** in part.

Plaintiff John Bumphus filed the instant lawsuit *pro se* against UniQue Personnel Consultants, Inc., ("Unique"), Krista Findlay, Jennifer Katherine Yates-Weller, Hennessy & Roach, P.C., ("Hennessy & Roach"), Andrew G. Toennies, and Synergy Coverage Solutions, L.L.C. ("Synergy") alleging violations of Title VII of the Civil Rights Act ("Title VII"), the Age Discrimination in Employment Act ("ADEA"), the Americans with Disabilities Act ("ADA"), the Genetic Information Nondiscrimination Act ("GINA"), and asserting unlawful discharge

from employment, retaliation, and intentional infliction of emotional distress under Illinois state law (Doc. 2).

The Complaint

Plaintiff John Bumphus sets forth the following facts and allegations in his Complaint. Bumphus suffers from symptoms of PTSD and "acute medical conditions and physical disorders," including "mild obesity, sleep apnea, heart attack, ruptured aorta, hypertension, spinal stenosis, hernia surgery on the right side and problems with [my] kidney function." *Id.* at ¶ 8. On June 21, 2015, he began his employment with Defendant UniQue as a machine operator, working the third shift. He was promoted to lead product coordinator on July 5, 2015. The third shift was subsequently discontinued and Bumphus worked as a lead product coordinator on the second shift from July 13, 2015 until July 16, 2015.

On July 14, 2015, Bumphus was given an unscheduled overtime assignment, which he was told was mandatory for second shift workers. The assignment involved work that caused Bumphus back pain, so he received a reasonable accommodation from Krista Findlay, UniQue's human resources manager. Before speaking with Findlay, Bumphus also spoke to his supervisors, Donna May and Dana Felton.

On July 17, 2015, Findlay rescinded the work accommodation. In response, Bumphus provided her with medical documentation and a copy of "*Necessary Candor,*" a book that Bumphus authored and that recounts many of his physical difficulties. Findlay advised Bumphus that in order to have the accommodation reinstated, he needed to submit a signed statement on a physician's stationery. He was terminated around this time.

On July 23, 2015, Bumphus produced a statement from his doctor's office, requesting that he be exempted from mandatory overtime that required heavy lifting. Findlay stated that she

would "pass it on to corporate" and would let him know of their decision by the end of the day. Findlay did not follow up with Bumphus that day. Bumphus submitted a written complaint to UniQue on July 28, 2015, and provided copies to Findlay, May and Felton.

On August 6, 2015, Bumphus filed a Charge of Discrimination with the Illinois Department of Human Rights ("IDHR") and the U.S. Equal Employment Opportunity Commission ("EEOC"), asserting disability discrimination in violation of the Americans with Disabilities Act against UniQue (Doc. 38-1).[1] Bumphus received a Notice of Right to Sue from the EEOC on or about December 23, 2015.

On August 17, 2015, Bumphus filed a Worker's Compensation action against UniQue. Defendant Jennifer Katherine Yates-Weller, who is associated with Defendant Hennessy & Roach, was the attorney for Defendant Synergy, UniQue's Worker's Compensation insurer. On November 23, 2015, Yates-Weller issued subpoenas *duces tecum* to two medical offices. Bumphus alleges that she did so fraudulently, in furtherance of a conspiracy, and in violation of the law governing the issuance of subpoenas.

Bumphus invokes the Court's federal question jurisdiction under 28 U.S.C. Section 1331, and asserts the defendants are liable for violations of Title VII of the Civil Rights Act of 1967, the Age Discrimination in Employment Act, the American with Disabilities Act, the Genetic Information Nondiscrimination Act, and for unlawfully discharging him and subjecting him to the intentional infliction of emotional distress under Illinois law.

[1] Pursuant to Federal Rule of Evidence 201, the Court takes judicial notice of Plaintiff's EEOC/IDHR Charge of Discrimination (Nos. 161216-010 (IDHR) 560-2015-01744 (EEOC)).

Discussion

Defendants Synergy, Yates-Weller, Hennessey & Roach, and Toennies

A motion brought pursuant to Federal Rule of Civil Procedure 12(b)(1) challenges a district court's subject-matter jurisdiction over the action in question. Fed. R. Civ. P. 12(b)(1). It is "fundamental that if a court is without jurisdiction of the subject matter it is without power to adjudicate and the case [must] be properly disposed of only by dismissal of the complaint for lack of jurisdiction." *Stewart v. United States,* 199 F.2d 517, 519 (7th Cir. 1952).

Moreover, a court's lack of subject-matter jurisdiction is a defense that cannot be waived. *United States v. Cotton,* 535 U.S. 625, 630 (2002). If subject-matter jurisdiction is challenged, the party seeking to invoke jurisdiction bears the burden of supporting his or her jurisdictional allegations by "competent proof." *Grafon Corp. v. Hausermann,* 602 F.2d 781,783 (7th Cir. 1979). "'Competent proof'...has been interpreted to mean a preponderance of the evidence or proof to a reasonable probability that jurisdiction exists." *NLFC, Inc. v. Devcom Mid-America, Inc.,* 45 F.3d 231, 237 (7th Cir. 1995). Defendants Synergy, Yates-Weller, Hennessey & Roach, and Toennies each assert that this Court lacks subject matter jurisdiction over Plaintiff's claims and that dismissal is required under *F.R.C.P.* 12(b)(1).

Synergy argues that the numerous federal employment statutes Bumphus cites in his Complaint do not apply to it as the only allegation Bumphus makes against it is that its attorney "illegally" issued subpoenas while defending a Workers Comp claim. Synergy's point is well taken.

While Bumphus' asserts the defendants collectively violated Title VII of the Civil Rights Act of 1967, the Age Discrimination in Employment Act, the American with Disabilities Act,

and the Genetic Information Nondiscrimination Act, he does so only in conclusory fashion. His Complaint is devoid of any allegations connecting Synergy's conduct in issuing subpoenas to these statutes. As such, the Complaint fails to invoke this Court's subject matter jurisdiction as to Plaintiff's claims against Synergy, and Synergy's Motion to Dismiss (Doc. 13) must be GRANTED pursuant to F.R.C.P. 12(b)(1).

Likewise, this Court lacks subject matter jurisdiction over the claims asserted against Defendants Yates-Weller, Hennessy & Roach. In his Complaint, Plaintiff alleges:

> " On November 23, 2015, the plaintiff was victimized, and illegally bullied as an unrepresented, disabled, injured worker with a medical history of Post-Trawnatic Stress Disorder, in what was a jointly undertaken criminal conspiracy activity, pursuant to Section 1 Bl.3(a)(1)(b)...of the Judiciary and Judicial Procedure Standards of the United States Sentencing Commission (28 U.S.C. Section 994(a)), which was orchestrated, and perpetrated, by respondent Attorney Jennifer Katherine Yates-Weller #2795, who is of, and is a partner with Defendant Hennessy & Roach, P.C., of St. Louis, Missouri, on behalf of respondent UniQue Personnel Consultants, and also on behalf of their Workers' Compensation insurer, Synergy Coverage Solutions L.L.C., as she knowingly created, presented, fraudulently signed and personally affirmed for Proof of Service as an attorney, two (2) forged Subpoenas Duces Tecum, under the auspices and in clear violation of Chapter II§7030.50-Subpoena Practice, 50 ILLINOIS ADMINISTRATIVE CODE, Illinois Workers' Compensation Rules Governing Practice by U.S. Mail, to myself, to Dr. Yablonsky at Associated Physicians Group in Edwardsville, Illinois, and to Dr. Baig at Wellspring Resources in Alton, Illinois which is now known as Centerstone, in an effort to illicitly gain unauthorized access to my personal medical records, so as to attempt to avoid and delay the payment of my Illinois Workers' Compensation benefits, and under Section §17-3. Forgery, of the Illinois Compiled Statutes, which recognizes forgery as a Class 3 felony." (Doc. 2, page 11, paragraph 13).

These allegations fail to implicate the protections of Title VII of the Civil Rights Act of 1967, the Age Discrimination in Employment Act, the American with Disabilities Act, and the Genetic Information Nondiscrimination Act, and therefore fail to invoke subject matter jurisdiction. Accordingly, the Motion to Dismiss filed by Defendants Yates-Waller and Hennessey & Roach (Doc. 23) is also **GRANTED** pursuant to Rule 12(b)(1).

As to Defendant Toennies, an attorney who defended UniQue on Plaintiff's EEOC charge, Plaintiff alleges only that he "... falsely and deliberately declared that the plaintiff had 'indicated on his application that he had no physical restrictions.'" (Doc. 2, page 11, paragraph 12). There are no allegations that Toennies or his law firm employed Plaintiff, or subjected Plaintiff to an adverse employment action based on his race, age, disability, or genetic information.

Again, Plaintiff merely asserts that the defendants collectively violated the federal statutes in question, which is insufficient to invoke federal question jurisdiction. Because this Court lacks subject matter jurisdiction as to Plaintiff's asserted claims against Defendant Toennies, his Motion to Dismiss (Doc. 26) is GRANTED pursuant to Rule 12(b)(1).

Defendants UniQue Personnel Consultants, Inc. and Krista Findlay

When deciding a motion to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure, the Court accepts as true all facts alleged in the Complaint and construes all reasonable inferences in favor of the plaintiff. *Savory v. Lyons,* 469 F.3d 667, 670 (7th Cir. 2006). To state a claim upon which relief may be granted, a Complaint must contain a "short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). "Detailed factual allegations" are not required, but the plaintiff must allege facts that when "accepted as true ... state a claim to relief that is plausible on its face." *Ashcroft v. Iqbal,* 556 U.S. 662, 678, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009) (quoting *Bell Atlantic Corp. v. Twombly,* 550 U.S. 544, 555, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007).

"A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Iqbal,* 556 U.S. at 678, 129 S.Ct. 1937. The pleading standard for a *pro se* plaintiff is

"considerably relaxed." *Luevano v. Wal-Mart Stores*, 722 F.3d 1014, 1027 (7th Cir. 2013) (citations omitted).

In support of their motion, Defendants UniQue and Findlay argue:

(1) By filing an EEOC charge that only claimed discrimination based on disability, Bumphus has forfeited his right to pursue relief under Title VII, ADEA, and GINA;
(2) Bumphus has failed to set forth the elements of an ADA claim;
(3) Because the federal discrimination statutes do not provide for individual liability, Defendant Findlay must be dismissed;
(4) The dismissal of the federal claims extinguishes any basis for jurisdiction over the state claims; or, alternatively,
(5) The state law causes of action should also be dismissed for failing to state claims;
(6) Because Bumphus, who has been found indigent, fails to state a claim upon which relief may be granted and his suit is frivolous, dismissal is proper pursuant to 28 U.S.C. § 1915(e)(2)(B);
(7) Due to a previous substantial judgment in his favor, Bumphus is not indigent.

In response, Bumphus submitted an accounting of his health history and his interactions with Defendants. Though his response is voluminous, it is minimally responsive to Defendants' legal arguments.

As an initial matter, the Court dismisses the claims against Findlay for violations of Title VII, the ADA, the ADEA, and GINA. It is well-settled that Title VII, the ADA, and ADEA do not impose liability upon individual employees, but rather employers. *Williams v. Banning*, 72 F.3d 552 (7th Cir. 1995)(discussing principle in regard to Title VII and ADA claims); *Horwitz v. Bd. of Educ. of Avoca Sch. Dist. No. 37*, 260 F.3d 602, 610 (7th Cir. 2001)("We have suggested that there is no individual liability under the ADEA. *See Matthews v. Rollins Hudig Hall Co.*, 72 F.3d 50, 52 n. 2 (7th Cir.1995); *Thelen v. Marc's Big Boy Corp.*, 64 F.3d 264, 267 n. 2 (7th Cir.1995)."). Therefore, Findlay cannot be held individually liable under these statutes. Relatedly, because GINA incorporates Title VII's definition of "employer" (42 U.S.C. §

2000ff(2)(B)(i)), the Court finds that it also prohibits the imposition of individual liability. Accordingly, Plaintiff's claims against Defendant Krista Findlay are **DISMISSED with prejudice** for failure to state a claim on which relief may be granted.

Failure to Exhaust

Ordinarily, a plaintiff may only pursue a federal discrimination claim that was asserted in an EEOC charge. However, a plaintiff may bring a claim not included in his EEOC charge if the claim is "like or reasonably related" to the EEOC charge and can reasonably be expected to grow out of an EEOC investigation of the charge. *Sitar v. Indiana Dept. of Transp.,* 344 F.3d 720, 726 (7th Cir.2003), *citing Jenkins,* 538 F.2d 164, 167 (7th Cir.1976) (*en banc*). "The EEOC charge and the complaint must, at a minimum, describe the *same conduct* and implicate the *same individuals." Kersting v. Wal-Mart Stores,* 250 F.3d 1109, 1118 (7th Cir. 2001)(internal citation omitted) (emphasis in original).

Bumphus's EEOC charge (Doc. 38-1) alleges only a violation of his rights under the ADA. It does not mention race, age, or genetic information, and concludes "I believe that I have been discriminated against based on my disability in that I was denied a reasonable accommodation and then terminated in violation of my civil rights under The Americans with Disabilities Act as amended (ADA)." Because the charge fails to describe conduct that may plausibly give rise to a complaint for discrimination based on race, age, or genetic information, Plaintiff failed to exhaust administrative remedies with respect to his claims asserted under Title VII, the ADEA, or GINA. Accordingly, said claims are **DISMISSED with prejudice** pursuant to F.R.C.P. 12(b)(6).

ADA Claim

In order to plead a viable disability discrimination claim, Plaintiff must allege that he is disabled within the meaning of the ADA, that he is qualified to perform the essential functions of the job, either with or without a reasonable accommodation, and that he suffered from an adverse employment action because of his disability. *Hoppe v. Lewis University,* 692 F.3d 833, 839 (7th Cir. 2012), *citing Nese v. Julian Nordic Const. Co.,* 405 F.3d 638, 641 (7th Cir.2005). A disability is defined as a physical or mental impairment that substantially limits one or more of the major life activities of [an] individual; (b) a record of such an impairment; or (c) being regarded as having such an impairment." *E.E.O.C. v. AutoZone, Inc.*, 630 F.3d 635, 639 (7th Cir. 2010) (emphasis in original).

UniQue asserts Bumphus has not established that he has a disability or that he was terminated because of it. Specifically, Defendant argues that Bumphus has failed to sufficiently allege that any of his claimed disabilities "substantially limit[] a major life activity," *Cassimy v. Bd. of Educ. of Rockford Public Schs., Dist. No. 205*, 461 F.3d 932 (7th Cir. 2006). It contends that the Complaint actually alleges that Plaintiff was terminated because of his failure to document his disability, not due to the disability itself.

Bumphus lists a number of maladies; among them PTSD, serious back issues, and renal problems. According to the Complaint, he received an accommodation for a work assignment that...

> "consisted of a forced repeat performance of a Production Wiring Rework Table operator task, of the loading of a large, and somewhat awkward, car component into the designated crates, due to the fact that I have a rod and two pins in my lower back, from a 2006 spinal fusion surgery, and the bending, straining, and lifting was causing discomfort to my back at the point which I perceived to be the (L4-5) point of that surgery."
> (Doc. 2 at 3-4).

Bumphus alleges that the accommodation was "abruptly rescinded," and that he was terminated and told that his complaint would only be considered if he provided substantiation of his back problems from a physician (Doc. 2 at 4). Bumphus also alleges that he complained to several superiors about the effect the overtime had on his back issues, and that he provided a doctor's note, but was not reinstated. Under the federal notice pleading standards, these allegations are sufficient to state a viable claim for ADA discrimination. Therefore, Defendants' motion to dismiss is **DENIED** as to this claim.

State Law Claims

In Illinois, a claim for intentional infliction of emotional distress requires that (1) the conduct to which the plaintiff was subjected was truly extreme and outrageous, (2) the defendant either intended to cause severe emotional distress or acted knowing there was a high probability such distress would result, and (3) the conduct was severe enough to cause emotional distress. *Lewis v. School District #70*, 523 F.3d 730, 746 (7th Cir. 2008). The bar for such a claim is a high one. "'The law intervenes only where the distress inflicted is so severe that no reasonable man could be expected to endure it'...[T]he tort does not extend to 'mere insults, indignities, threats, annoyances, petty oppressions, or other trivialities.'" *McGrath v. Fahey*, 126 Ill. 2d 78, 86, 533 N.E.2d 806, 809 (1988) (quoting Restatement (Second) of Torts § 46, comments *j,* at 77–78 & *d,* at 73 (1965)). Rather, the conduct "must be such that the recitation of facts to an average member of the community would arouse his resentment against the actor, and lead him to exclaim 'Outrageous!'" *Van Stan v. Fancy Colours, Co.*, 125 F.3d 563, 567 (7th Cir. 1997). Here, while Defendant and its agents took actions with which Bumphus disagreed, the complaint allegations do not meet the high standard required to suggest outrageous conduct. Therefore, this claim is **DISMISSED**.

The Court also construes the allegations of the Complaint as an attempt to assert a state law cause of action for retaliatory discharge.[2] In order to state a cause of action for retaliatory discharge, the plaintiff must allege that (1) the plaintiff was terminated by the employer, (2) the discharge was in retaliation for action of the employee, and (3) the discharge violates a clear mandate of public policy. *Turner*, 233 Ill. 2d at 500; *Michael v. Precision Alliance Group, LLC*, 2014 IL 117376, ¶ 31. Illinois courts recognized the tort of retaliatory discharge in only two instances: (1) when an employer discharges an employee for making, or planning to make, a claim under the Worker's Compensation Ac; and (2) when the discharge is in retaliation for "whistle-blowing" or reporting illegal or improper conduct against the employer. *Michael*, 2014 IL 117376, ¶ 30.

While Bumphus alleges that he filed a Workers' Compensation Act claim, he did so after he was terminated from his employment. As such, Plaintiff cannot satisfy the second element of a valid cause of action for retaliatory discharge since Defendants could not have terminated him in retaliation for an action he had yet to take. Under the circumstances, there are no set of facts that would allow permit Bumphus to state a colorable claim for retaliatory discharge. Accordingly, this claim will be **DISMISSED with prejudice.**[3]

CONCLUSION

For the forgoing reasons, the Court **GRANTS** the Motions to Dismiss filed by Defendants Synergy Coverage Solutions, L.L.C. (Doc. 13), Jennifer Katherine Yates Weller and

[2] He lists both "retaliation" and "wrongful discharge" as torts for which he is suing, but Illinois' exception to at-will employment, retaliatory discharge, is often referred to as "wrongful discharge." *See Golke v. Lee Lumber & Bldg. Materials Corp.*, 671 F. Supp. 568, 570 n. 1 (N.D. Ill. 1987)("Throughout this opinion, the terms "wrongful discharge" and "retaliatory discharge" will be used interchangeably.")

[3] Because Plaintiff's ADA claim survives dismissal, the Court will not address Defendant's motion to dismiss based on Plaintiff's *in forma pauperis status*.

Hennessy & Roach, P.C. (Doc. 23), and Andrew Toennies (Doc. 26) for lack of subject matter jurisdiction. Defendant UniQue Personnel Consultants, Inc.'s Motion to Dismiss (Doc. 38) is **GRANTED with prejudice** as to Defendant Krista Findlay for failure to state a claim; **GRANTED** for lack of subject matter jurisdiction with respect to Plaintiff's claims under Title VII of the Civil Rights Act of 1967, the Age Discrimination in Employment Act, and the Genetic Information Nondiscrimination Act; **GRANTED with prejudice** as to Plaintiff's state law claims; and **DENIED** with respect to Plaintiff's claim under the American with Disabilities Act.

IT IS SO ORDERED.

DATED: March 30, 2018

s/ Staci M. Yandle
STACI M. YANDLE
United States District Judge

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

April 27, 2018

By the Court:

JOHN DAN BUMPHUS, JR., Plaintiff-Appellant,	] Appeal from the United] States District Court for] the Southern District of
No. 18-1902 v.	] Illinois.]
UNIQUE PERSONNEL CONSULTANTS, et al., Defendants-Appellees.	] No. 3:16-cv-00312]] Staci M. Yandle,] Judge.

ORDER

A preliminary review of the short record indicates that the order appealed from may not be a final appealable judgment within the meaning of 28 U.S.C. § 1291.

Generally, an appeal may not be taken in a civil case until a final judgment disposing of all claims against all parties is entered on the district court's civil docket pursuant to Fed. R. Civ. P. 58. *See Alonzi v. Budget Construction Co.*, 55 F.3d 331, 333 (7th Cir. 1995); *Cleaver v. Elias*, 852 F.2d 266 (7th Cir. 1988).

The district court has not entered a Rule 58 judgment in the present case, and for good reason. Plaintiff's claim for ADA discrimination remains pending before the district court. As such, a final appealable judgment does not exist. Accordingly,

IT IS ORDERED that appellant John Dan Bumphus, Jr., shall file, on or before May 11, 2018, a brief memorandum stating why this appeal should not be dismissed for lack of jurisdiction. A motion for voluntary dismissal pursuant to Fed. R. App. P. 42(b) will satisfy this requirement. Briefing shall be suspended pending further court order.

NOTE: Caption document "JURISDICTIONAL MEMORANDUM". The filing of a Circuit Rule 3(c) Docketing Statement does not satisfy your obligation under this order.

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JOHN DAN BUMPHUS, JR.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**Case No. 16-CV-312-SMY-DGW**
	)	
UNIQUE PERSONNEL CONSULTANTS, KRISTA FINDLAY, JENNIFER KATHERINE YATES-WELLER, HENNESSY AND ROACH P.C., ANDREW G. TOENNIES, and SYNERGY COVERAGE SOLUTIONS, LLC,	)	
	)	
Defendants.	)	

MEMORANDUM AND ORDER

YANDLE, District Judge:

Plaintiff John Dan Bumphus Jr. filed this lawsuit *pro se* against numerous defendants alleging violations of Title VII of the Civil Rights Act ("Title VII"), the Age Discrimination in Employment Act ("ADEA"), the Americans with Disabilities Act ("ADA"), the Genetic Information Nondiscrimination Act ("GINA"), and asserting unlawful discharge from employment, retaliation, and intentional infliction of emotional distress under Illinois state law.[1] Now before the Court is Defendant UniQue Personnel Consultant's Motion for Summary Judgment (Doc. 97). Bumphus filed a response (Doc. 110). For the following reasons, the motion is **GRANTED**.

[1] On March 30, 2018, this Court dismissed Bumphus's claims under Title VII, the ADEA, the GINA, and his state law claims. The Court also dismissed his claims against Defendants Synergy Coverage Solutions, L.L.C., Jennifer Katherine Yates Weller, Hennessy & Roach, P.C., Andrew Toennies, and Krista Findlay (*see* Doc. 126).

Background

Plaintiff John Dan Bumphus, Jr. was diagnosed with post-traumatic stress disorder ("PTSD") in 2001 (Doc. 97-1, p. 116). His treatment consists of counseling with a therapist once every two or three months. *Id.* In addition to PTSD, Bumphus suffers from spinal stenosis and underwent a spinal fusion surgery in 2006. *Id.* During his deposition, Bumphus testified that no medical professional has precluded him from seeking work due to health reasons or concluded that he is incapable of working. *Id.* at p. 78.

In June 2015, Bumphus applied for a position with UniQue Personnel Consultants ("UniQue") (Doc. 97-1, p. 21; pp. 24-25; *see also* Doc. 97-2). UniQue is a placement agency that offered permanent as well as short or long-term temporary assignments to its applicants (Doc. 97-2). Unique would contact the applicant with more information regarding a position should a match be made. *Id.* An applicant was not under any obligation to accept any assignment or position recommended by UniQue. *Id.* UniQue applicants were required to call UniQue offices once per week when looking for work (Doc. 97-1, pp. 23-24; Doc. 97-2).

On the application, Bumphus indicated that he could perform work during any shift and was able to lift up to 40 pounds (Doc. 97-1, p. 22; Doc. 97-2). Bumphus did not indicate that he had any physical or mental limitations (Doc. 97-1, p. 24; Doc. 97-2). On June 17, 2015, Bumphus accepted a job at the Yazaki Warehouse ("Yazaki") that paid $10.50 per hour (Doc. 97-1, pp. 27-29). He again did not mention any physical or mental limitations at the time. *Id.*

Bumphus began working the third shift at Yazaki on the evening of June 21, 2015 (Doc. 97-1, pp. 29-30). His work involved various tasks, including the removal of automotive parts from crates and repacking them. *Id.* at pp. 30-32. Bumphus testified that, at some point during the shift, he felt pain in his back when manipulating what he described as a large harness. *Id.* at

pp. 30-31, 37-38. Bumphus was able to perform all other aspects of his job, including moving smaller objects and completing paperwork. *Id.* Bumphus informed his shift supervisor, Dana Felton, about his back pain and difficulty maneuvering the harnesses. *Id.* at pp. 30-34. He was able to complete his work assignments. *Id.*

On July 13, 2015, Bumphus moved to the second shift, as the third shift had been discontinued (Doc. 97-1, pp. 39-40). He testified that, at the beginning of the shift, he was informed by supervisor Donna May that there was mandatory overtime. *Id.* at p. 42. An hour later, Bumphus approached May and told her that he had to leave due to pain in his back. *Id.* at pp. 44-46. According to Bumphus, May responded that she would have to "write him up," to which Bumphus replied, "that sounds fair." *Id.*

The following morning, Bumphus spoke with UniQue's Krista Findlay about his back issues and the mandatory overtime (Doc. 97-1, pp. 47-50). According to Bumphus, Findlay assured him that "the conversation" about his back "would never come up again," and that it was "totally unacceptable" for him to work through his pain to complete a task. *Id.* at pp. 49-50.

Bumphus continued to work on the second shift at Yazaki from July 14, 2015 until July 16, 2015 (Doc. 97-1, p. 50). During this time, Bumphus was able to complete his assignments, including "running" two tables one night, and three tables another night, which involved walking and moving parts around. *Id.* at p. 51. On July 16, 2015, Bumphus spent an hour "pulling boxes out" and "recounting pieces" while in search of a missing piece of equipment. *Id.* at pp. 51-52. As he was preparing to leave for the day, May questioned him about leaving when there was still work to complete. *Id.* at p. 52. In response, Bumphus asked if she had spoken with Findlay, and May indicated that she did not know what he was referring to. *Id.* at p. 52. Bumphus then reiterated that he was leaving and left the facility. *Id.* at pp. 52-53.

On July 17, 2015, Bumphus spoke with Findlay in person (Doc. 97-1, pp. 55-58). During this conversation, he volunteered to provide proof of his back condition. *Id.* at pp. 57-58. Bumphus went to his physician's office and obtained what he describes as "four or five pages" containing CT scan results. *Id.* at pp. 62-64. He gave Findlay the documents along with a copy of his book, "Necessary Candor." *Id.* at pp. 62-64. When Bumphus gave Findlay the records and book, Findlay told Bumphus that he needed a note from a physician explaining his limitations. *Id.* at p. 65.

On July 23, 2015, Bumphus delivered a physician's note to Findlay (Doc. 97-1, pp. 66-69, Doc. 97-3). The note stated: "Please exempt patient from mandatory overtime that involves heavy lifting" (Doc. 97-3). Findlay offered Bumphus another position that paid $8.25 per hour and he declined (Doc. 97-1, pp. 69-70).

Bumphus did not return to Yazaki after July 16, 2015 (Doc. 97-1, p. 67). Bumphus testified that no one at UniQue ever told him that he could not inquire about available positions and no one ever told him that he was terminated. *Id.* at pp. 70-71, p. 78.

Discussion

Summary judgment is proper only if the moving party can demonstrate that there is no genuine issue as to any material fact and the movant is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a); *Celotex Corp. v. Catrett,* 477 U.S. 317, 322 (1986). The moving party bears the burden of establishing that no material facts are in genuine dispute; any doubt as to the existence of a genuine issue must be resolved against the moving party. *Lawrence v. Kenosha County,* 391 F.3d 837, 841 (7th Cir. 2004). A moving party is entitled to judgment as a matter of law where the non-moving party "has failed to make a sufficient showing on an essential element of her case with respect to which she has the burden of proof." *Celotex,* 477 U.S. at 323. If the

evidence is merely colorable, or is not sufficiently probative, summary judgment may be granted. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 249–50 (1986).

The American with Disability Act ("ADA") prohibits discrimination against a disabled individual "because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment." 42 U.S.C. § 12112(a). As a threshold matter, an individual seeking to assert claims under the ADA must show that he or she is disabled, and that he or she is a "qualified person" for the job position in question. *See Hoffman v. Caterpillar, Inc.*, 256 F.3d 568, 571–72 (7th Cir. 2001). Disability under the ADA is defined as "(A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment." 42 U.S.C. § 12102(2). A qualified person is one who "satisfies the pre-requisites for the position" and "can perform the essential functions of the position held or desired, with or without reasonable accommodation." *Bombard v. Fort Wayne Newspapers, Inc.*, 92 F.3d 560, 563 (7th Cir. 1996).

Bumphus does not contend that he had a record of an impairment or was regarded as having an impairment. Thus, the question is whether he actually had a physical or mental impairment that substantially limited a major life activity under the ADA's first definition of disability. Major life activities include, but are not limited to, "caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working." *Steffen v. Donahoe*, 680 F.3d 738, 745–46 (7th Cir. 2012). When determining whether a disability "substantially limits" a person from performing such an activity, courts consider "the nature and severity of the impairment; the duration or expected duration of the impairment; and the

permanent or long term impact, or the expected permanent or long term impact of or resulting from the impairment...generally, short-term, temporary restrictions, with little or no long-term impact, are not substantially limiting and do not render a person disabled for purposes of the ADA." *Serednyj v. Beverly Healthcare, LLC,* 656 F.3d 540, 554 (7th Cir. 2011) (citations omitted).

Bumphus maintains that his spinal stenosis and PTSD rendered him disabled under the ADA. However, there is insufficient evidence in the record establishing that Bumphus is disabled within the meaning of the ADA. Bumphus testified that his back pain, not his PTSD, was the only problem he had while working for UniQue. He further testified that he was able to perform nearly all aspects of his warehousing job and that his back pain did not hinder his ability to be productive. Bumphus states that he was able to run multiple tables and he believed that he was doing a good job in his position. Although Bumphus procured a physician's note requesting that he be exempt from mandatory overtime "that involves heavy lifting," lifting limitations do not qualify as a disability under the ADA.

In *Contreras v. Suncast Corp.*, 237 F.3d 756, 763 (7th Cir. 2001), the Seventh Circuit addressed the issue of lifting limitations in the context of the ADA. The plaintiff, an injured forklift operator, argued that he was substantially limited in the major life activity of working because he was unable to lift in excess of 45 pounds for a long period of time, unable to engage in strenuous work, and unable to drive a forklift for more than four hours a day. *Id.* The Seventh Circuit disagreed, stating that even after taking the plaintiff's claims as fact, it failed to see "how such inabilities constitute a significant restriction on one's capacity to work, as the term is understood within the ADA." *Id.* at 763. The court noted that other Circuits have also found

that weight limitations do not qualify as a substantial limitation on working and, thus, a disability under the ADA.

Consistent with Seventh Circuit precedent, even viewing the evidence in the light most favorable to Bumphus, this Court concludes that there is no evidence that his spinal stenosis substantially limited any major life activities. Because Bumphus has presented no evidence that even suggests he is precluded from a broad class of jobs, he has failed to establish that he is disabled within the meaning of the ADA.

Conclusion

For the foregoing reasons, Defendant's Motion for Summary Judgment is **GRANTED**. The Clerk of Court is **DIRECTED** to enter judgment accordingly. All pending motions are **TERMINATED** as **MOOT**.

IT IS SO ORDERED.

DATED: August 30, 2018

s/ Staci M. Yandle
STACI M. YANDLE
United States District Judge

D2

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JOHN DAN BUMPHUS, JR.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**Case No. 16-CV-312-SMY-DGW**
	)	
UNIQUE PERSONNEL CONSULTANTS, KRISTA FINDLAY, JENNIFER KATHERINE YATES-WELLER, HENNESSY AND ROACH P.C., ANDREW G. TOENNIES, and SYNERGY COVERAGE SOLUTIONS, LLC,	)	
	)	
Defendants.	)	

JUDGMENT IN A CIVIL ACTION

DECISION BY THE COURT.

This matter having come before the Court, and the Court having rendered a decision,

IT IS HEREBY ORDERED AND ADJUDGED that by Order dated March 30, 2018 (Doc. 126), Plaintiff John Dan Bumphus's claims against Defendants Synergy Coverage Solutions, L.L.C., Jennifer Katherine Yates Weller, Hennessy & Roach, P.C., Andrew Toennies, and Krista Findlay are **DISMISSED with prejudice.**

IT IS FURTHER ORDERED AND ADJUDGED that by Order dated August 30, 2018 (Doc. 137), Plaintiff's claims against Defendant UniQue Personnel Consultant are **DISMISSED with prejudice.** Plaintiff shall recover nothing and this action is **DISMISSED in its entirety.** Accordingly, the Clerk of Court is **DIRECTED** to close this case.

DATED: August 30, 2018

JUSTINE FLANAGAN, Acting Clerk of Court

By: s/ Stacie Hurst, Deputy Clerk

Approved: **s/ Staci M. Yandle**
STACI M. YANDLE
DISTRICT JUDGE

John Dan Bumphus, Jr., pro se
221 South Myrtle
Edwardsville, Illinois 62025-1510
j.bumphus@yahoo.com

UNITED STATES FEDERAL DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF ILLINOIS

JOHN DAN BUMPHUS, JR, PRO SE,

Plaintiff,

vs.

UNIQUE PERSONNEL CONSULTANTS, KRISTA FINDLAY, JENNIFER KATHERINE YATES-WELLER, OF HENNESSY AND ROACH, P.C., HENNESSY AND ROACH, P.C., ANDREW TOENNIES, AND SYNERGY COVERAGE SOLUTIONS L.L.C.,

Defendants

Case No.: 16-312-SMY-SCW

DISABLED PRO SE PLAINTIFF'S RULE 60 MOTION FOR RELIEF FROM FINAL JUDGMENT AND ORDER

DISABLED PRO SE PLAINTIFF'S RULE 60 MOTION

FOR RELIEF FROM FINAL JUDGMENT AND ORDER

To the Court:

In 1803, Judge William Cranch, a nephew of former distinguished American First Lady Abigail Adams wrote, in his role as reporter of decisions of the Supreme Court of the United States, that *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803), was a U.S. Supreme Court case which established the principle of judicial review in the United States, meaning that American courts have the power to strike down laws, statutes, and some government actions that contravene the U.S. Constitution.

In that case, a writ of mandamus, a type of court order which commands a government official to perform an act they are legally required to perform, was the proper remedy for

William Marbury's situation pertaining to his rights to a President John Adams-nominated March 3, 1801 appointment commission scheduled to be delivered by Secretary of State James Madison. Chief Justice John Marshall, in the U.S. Supreme Court's first ever declaration of the power of judicial review, ruled in Marbury's favor that American federal courts have the power to refuse to give any effect to congressional legislation that is inconsistent with the Supreme Court's interpretation of the U.S. Constitution.

Justice Marshall argued that the authorization in Article III of the Constitution, that the Court can decide cases arising "under this Constitution", implied that the Court had the power to strike down laws conflicting with the Constitution. This, Marshall wrote, meant that the Founders were willing to have the American judiciary use and interpret the Constitution when judging cases. Lastly, Marshall argued that judicial review is implied in Article IV of the Constitution, since it declares the supreme law of the United States to be not the Constitution and the laws of the United States, but rather the Constitution and laws made "in Pursuance thereof".

Your Honor, Documents 137 and 138 in this present case, concerning the **DISMISSALS** of the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr.'s, claims against Defendant UniQue Personnel Consultants, Inc., Defendant SYNERGY Coverage Solutions, L.L.C., Defendant Jennifer Katherine Yates-Weller, Defendant Hennessy & Roach, P.C., and Defendant Andrew Toennies, which were filed by this Court on August 30, 2018, contain **mistakes** of law concerning the application of the United States Constitutional law, Title 42 §12101, of the Americans with Disabilities Act (ADA) of 1990 as Amended, and have also not taken into consideration the **oversight** of **newly discovered evidence**, which had already been presented to Defendant Jennifer Katherine Yates-Weller, to the Illinois Workers' Compensation Commission,

Collinsville, Illinois, Workers' Compensation Commission Administrator Edward Lee, to Illinois Assistant Attorney General Samantha Costello #6325586, and to the Third Judicial Circuit, Madison County, Edwardsville, IL., Judge David W. Dugan, during the proceedings concerning amended Illinois Workers' Compensation Act Claim #15WC27577, which on September 29, 2017, became Illinois Workers' Compensation Occupational Disease Act claim #17 WC 028585, before evolving to become the May 14, 2018, Third Judicial Circuit, Madison County, Edwardsville, IL., Writ of Mandamus complaint No. 18-MR-131, and is now, as of October 17, 2018, in the State of Illinois Appellate Court, Fifth District, as General No. 5-18-0498WC, which had not been presented to this Court due to the persistently repeated federal trial date postponements. The Court here has also **mistakenly** neglected to address, and/or has chosen to ignore, the blatantly **intrinsic fraud** under Title 18 U.S.C. § 1001 perpetrated by Defendant Krista Findlay and Defendant attorney Andrew Toennies in their collaborative fraudulent September 9, 2015, EEOC "POSITION STATEMENT OF UNIQUE PERSONNEL CONSULTANTS, INC. TO NOTICE OF CHARGE OF DISCRIMINATION FILED BY JOHN BUMPHUS", and the **extrinsic fraud** perpetrated by the various defense attorneys in collectively coming together to repeatedly deny the ADA status of the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., on the record and in response to his pro se Discovery requests, along with ignoring the interference, and psychologically assaultive detriment, of the blatant **misconduct** perpetrated by Defendant Jennifer Katherine Yates-Weller, and her co-Defendant law firm partners at Hennessy & Roach, P.C., on behalf of the Defendant workers' compensation insurer SYNERGY Coverage Solutions, L.L.C., who was duly informed on August 18, 2015, of the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr.'s, mental health disability, as their chosen agent, Defendant Jennifer Katherine Yates-Weller on November 23, 2015, willfully

violated The Mental Health and Developmental Disabilities Act (740 ILCS 110/1), and the Health Insurance Portability and Accountability **Act** (HIPAA), as she interfered with the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr.'s, rights under the United States Constitutional law, Title 42 §12101, of the Americans with Disabilities Act (ADA) of 1990 as Amended, "interference" provision, with respect to his ADA rights, under 42 U.S.C. § 12203(b), which is broader than the anti-retaliation provision, in protecting any individual who is subject to coercion, threats, intimidation, or interference with respect to any of his ADA rights, by committing the Illinois Felony Code § 720 ILCS 5/17-3 violation of forging, and presenting fake official Illinois Workers' Compensation Commission Subpoenas, to the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr.'s mental health care provider/psychiatrist Mirza Baig, M.D., in an effort to illicitly attempt to forcefully gain access to his mental health records.

To be accepted under **Rule 60(c) "Timing and Effect of the Motion,** this motion under **Rule 60(b), of the Federal Rules of Civil Procedure, "Corrections Based on Clerical Mistakes; Oversights and Omissions.",** in this matter must be made within a reasonable time- and for reasons (1) **"mistake"** (2), **"newly discovered evidence"** and (3) **"extrinsic fraud, intrinsic fraud, misrepresentation, or misconduct by an opposing party",** no more than a year after the August 30, 2018, entry of the judgment or order.

Therefore, the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., by way of **Rule 60(a), of the Federal Rules of Civil Procedure, "Corrections Based on Clerical Mistakes; Oversights and Omissions.",** and under the United States Constitutional law, Title 42 §12101, of the Americans with Disabilities Act (ADA) of 1990 as Amended, which includes an

"interference" provision with respect to his ADA rights, under 42 U.S.C. § 12203(b), which is broader than the anti-retaliation provision, in protecting any individual who is subject to coercion, threats, intimidation, or interference with respect to any of his ADA rights, **before docketing any appeal of this matter with the 7th Circuit Appellate Court**, now respectfully moves this Honorable Court for relief from the final Judgment and Order, for the reasons of a mistake of Law being made, along with and in addition to the existence of newly discovered prima facie evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b), in addition to the intrinsic and extrinsic fraud, and misrepresentations perpetrated by the collective Defendants, of the August 30, 2018, **Judgment and Order** in the above noted Civil Action, which was received by the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., by U.S.P.S., on September 8, 2018, while he was a patient at Barnes Jewish Hospital in St. Louis, Missouri, having been admitted there on September 5, 2018, for research and to recover from a sudden bout of waist down temporary paralysis, brought on by the same July, 2015, Defendant employer UniQue Personnel Consultants, Inc.,-disputed spinal stenosis condition, which developed, as was reported on the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr.'s first evening of employment, as a result of a 2006 anterior/posterior spinal fusion surgery in the L4-5 region of his lower back.

It is plain and clearly, above all other factors, an irrefutable matter of factual United States Constitutional law, that on June 11, 2015, Defendant UniQue Personnel Consultants, Inc., hired for employment the already PTSD-disabled American citizen pro se Plaintiff John Dan Bumphus, Jr., who, since 1995, 20 years before the 2015 date of his hiring, during the time frame of his hiring and employment, and still today, has been covered, and protected by, Title 42

§12101, of the Americans with Disabilities Act (ADA) of 1990 as Amended, due to a permanent, Social Security Administration-acknowledged, Medicare Insurance-covered, DSM Code-Description F43.10-Posttraumatic Stress Disorder disability, which includes coverage by the "interference" provision with respect to his ADA rights, under 42 U.S.C. § 12203(b), which is broader than the anti-retaliation provision, in protecting any individual who is subject to coercion, threats, intimidation, or interference with respect to any of his ADA rights. Title I of the ADA prohibits employers with 15 or more employees (including religious entities) from disability discriminating in hiring, promotions, training, and other privileges of employment. It also forbids asking questions about an applicant's disability. Title I also requires that employers make a reasonable accommodation to the known physical or mental limitations of otherwise qualified individuals with disabilities, unless it results in undue hardship.

Under Rule 60(a), of the Federal Rules of Civil Procedure, "Corrections Based on Clerical Mistakes; Oversights and Omissions.", this Court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record. The Court may do so on motion or on its own, with or without notice. But after an appeal has been docketed in the appellate court and while it is pending, such a mistake may be corrected only with the appellate court's leave.

I. **Rule 60(b), of the Federal Rules of Civil Procedure, "Grounds for Relief from a Final Judgment, Order, or Proceeding."; (b)(1)-mistake, inadvertence, surprise, or excusable neglect.**

Mistake #1.-On Pages ID #1092 thru #1093, of the August 30, 2018, **Judgment and Order Memorandum**, this Court wrote, "Bumphus does not contend that he had a record of an impairment or was regarded as having an impairment. Thus, the question is whether he actually has a physical or mental impairment that substantially limited a major life activity under the ADA's first definition of disability. Major life activities include, but are not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working." *Steffen v. Donahoe,* 680 F.3d 738, 745-46 (7th Cir. 2012). When determining whether a disability "substantially limits" a person from performing such an activity, courts consider "the nature and severity of the impairment; the duration or expected duration of the impairment and the permanent or long term impact, or the expected permanent or long term impact of or resulting from the impairment...generally, short-term, temporary restrictions, with little or no long-term impact, are not substantially limiting and do not render a person disabled for purposes of the ADA.

"Bumphus maintains that his spinal stenosis and PTSD rendered him disabled under the ADA. However, there is insufficient evidence in the record establishing that Bumphus is disabled within the meaning of the ADA. Bumphus testified that his back pain, not his PTSD, was the only problem he had while working for UniQue. He further testified that he was able to perform nearly all aspects of his warehousing job and that his back pain did not hinder his ability to be productive. Bumphus states that he was able to run multiple tables and he believed that he was doing a good job in his position. Although Bumphus procured a physician's note requesting that he be exempt from mandatory overtime "that requires heavy lifting," lifting limitations do not qualify as a disability under the ADA."

Pro se Plaintiff's Rebuttal to Mistake #1.- The PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., was an employee of the Defendant UniQue Personnel Consultants, Inc., until July 17, 2015. In paragraph (1.) of the "IV. FACTS IN SUPPORT OF CLAIM", in the March 22, 2016-filed plausible federal Employment Discrimination Complaint of the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., it is noted on the record that he had been, years before his June 11, 2015 initial interview for employment with the Defendant UniQue Personnel Consultants, "officially designated and acknowledged" by the Social Security Administration to being PTSD-disabled. In paragraph (10.) of the "IV. FACTS IN SUPPORT OF CLAIM", in the March 22, 2016-filed plausible federal Employment Discrimination Complaint of the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., he noted that on his July 17, 2015 last day of employment, he presented Defendant Krista Findlay, the Human Resources Manager/office agent for the Defendant UniQue Personnel Consultants' Glen Carbon, Illinois, office, a copy of his 2014 book "Necessary Candor", wherein he underlined and discussed with her the passages in pages 80 & 81 which acknowledged his ongoing psychological treatment, as a disabled employee, for having had the generalized anxiety disorder psychological symptoms of a Post-Traumatic Stress Disorder (PTSD). Thereby, UniQue Personnel Consultants hired PTSD-disabled American citizen John Dan Bumphus, Jr., and subsequently after being duly informed, knowingly dismissed the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., who was, and still is, protected by Title 42 §12101, of the Americans with Disabilities Act (ADA) of 1990 as Amended, which includes the "interference" provision with respect to his ADA rights, under 42 U.S.C. § 12203(b), which is broader than the anti-retaliation provision, in protecting any individual who is subject to coercion, threats, intimidation, or interference with respect to any of his ADA rights.

In Paragraph (3.) of the March 22, 2016-filed "IV. FACTS IN SUPPORT OF CLAIM", of the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr.'s Employment Discrimination Complaint, it was established for the record that the already PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., officially, and legally, began the ADA accommodation process on his June 21, 2015, first evening of employment, by notifying the Defendant UniQue Personnel Consultants, Inc.'s, On Site Coordinator, Dana Felton, of his spinal stenosis disability, "due to a 2006 spinal fusion surgery, and that the bending, straining, and lifting was causing discomfort to his back at the point which he perceived to be the (L4-5) point of that surgery"; therefore, a notice of disability was clearly and timely made to the Defendant employer UniQue Personnel. And, "at that point, an employer's liability is triggered for failure to provide accommodations." *Hendricks-Robinson v. Excel Corp.,* 154 F.3d 685, 693 (7th Cir. 1998) (internal quotation marks omitted). After an employee has disclosed that he has a disability, the ADA requires an employer to "engage with the employee in an 'interactive process' to determine the appropriate accommodation under the circumstances." *E.E.O.C. v. Sears, Roebuck & Co.,* 417 F.3d 789, 805 (7th Cir. 2005) (quoting *Gile v. United Airlines, Inc.,* (7th Cir. 2000)).

The post July 13, 2015, midnight dispute which the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., had, with Defendant UniQue Personnel Consultants, Inc.'s, 2nd Shift YAZAKI warehouse Supervisor Donna May about his spinal stenosis disability, led to Defendant UniQue Personnel Consultants, Inc.'s Human Resources Manager/office agent for the Defendant UniQue Personnel Consultants' Glen Carbon, Illinois, office, Krista Findlay, initially making the proper legal decision of correctly later that morning of July 14, 2015, granting him a verbal accommodation by telephone, whereby for the next two shifts, he was not accosted by Donna May with any further requests for unscheduled overtime heavy lifting. However, after the

July 16, 2015, second shift, Donna May again badgered the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., taunting him about not joining in on the unscheduled overtime heavy lifting tasks, in spite of the reasonable accommodation earlier granted by Krista Findlay, which led to the July 17, 2015 onset date of the gradual, insidious process accident, which led to the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., sustaining a sudden, severe emotional shock.

The PTSD exacerbation process began during a verbal employment dispute meeting at the Respondent's Glen Carbon, Illinois, office concerning a pattern of repeated unscheduled overtime requests which required that the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., participate in a series of awkwardly painful, uncomfortable lifting tasks which brought distress to the L4-5 region of his back, due to his having a rod, and two pins, placed there from a 2006 spinal fusion surgery.

During the dispute conversation, the Defendant UniQue Personnel Consultants' Human Resource Administrator, Krista Findlay, was at that time arbitrarily and capriciously reversing the management position she had taken only three days earlier on July 14, 2015, of providing the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., by telephone, a verbal reasonable accommodation pertaining to his complaint of lower-back pain. Defendant UniQue Personnel Conultants' Human Resource Administrator, Krista Findlay was also suddenly challenging the veracity of the employee's spinal fusion surgery assertion.

By way of explaining his back pain medical issue position during the dispute, the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., had on that July 17, 2015 date, provided Defendant UniQue Personnel Consultants' Human Resource Administrator, Krista Findlay, with his personal medical June 15, 2015, CT-scan documentation, from Barnes Jewish Hospital, in St. Louis, Missouri, which he had obtained from the Maryville, Illinois, office of his primary

medical provider David Yablonsky, D.O., in an effort to present medical documentary proof, as to the reality of his having a rod, and two pins, in the L4-5 region of his back.

Furthermore, and in addition to challenging the veracity of the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr.'s, spinal fusion surgery assertion, after informing him that he would be required to present further medical documentary evidence proof, on his primary care doctor's office stationary, before his back-claim complaint could even officially be considered by the corporate administrators, Defendant UniQue Personnel Consultants' Human Resource Administrator, Krista Findlay then went on to: 1.) disregard the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr.'s immediate personal presentation to her, of his 2014 book "Necessary Candor", wherein he then, and there, underlined the specific passages on pgs. 80 & 81 in the book, which were directly on point, and pertinent in the identification and disclosure of, his Social Security Administration-acknowledged mental-health disability, as she continued to provoke the semantic memories within the mind of the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., by absolutely ignoring, declining and foregoing acknowledgement of, the simultaneous and verbally expressed onset occurrence, and existence of, a work-related exacerbation of the employee's medically diagnosed permanent, Social Security Administration-acknowledged, Medicare Insurance-covered, DSM Code-Description F43.10-Posttraumatic Stress Disorder disability, which includes coverage by the "interference" provision with respect to his ADA rights, under 42 U.S.C. § 12203(b), PTSD mental-health disability; before she 2.) subjected the employee to the adverse psychological impact of an Illinois Workers' Compensation Act §23:21 Retaliatory discharge, which further caused another sudden, severe emotional shock to the mind of the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr.,, by summarily dismissing him from employment, despite the fact that he had thoroughly, and

successfully, worked every moment of his (4) scheduled shifts that week, from July 13, through July 16, 2015, for the Defendant UniQue Personnel Consultants, and was being dismissed without the Defendant UniQue Personnel Consultants ever responsibly choosing to perform the legislated task of taking the time to engage the PTSD-disabled employee in the required Reasonable Accommodation Interactive process covered by both Title 42 § 12111 (9), in addition to their ignoring their legislated task set forth by the §23:68 Interactive Process for Disability under the Illinois Workers' Compensation Act.

The Defendant UniQue Personnel has now admitted under oath, in Document 83, filed January 12, 2017, (Page ID #444) "Defendant UniQue Personnel Consultants' Amended Response to Request #6 of Plaintiff's First Set of Requests for Admission", in the United States District Court for the Southern District of Illinois Case No.: 3:16-cv-00312-SMY-SCW, John Dan Bumphus, Jr., et. al., wherein the Defendant UniQue Personnel Consultants stated in admission that on July 17, 2015, John Dan Bumphus, Jr. handed Krista Findlay a copy of a book entitled "Necessary Candor," and that the following passage in this book, found on pages 80 and 81 therein, was highlighted with yellow marker: "I am now, by way of the Social Security Administration, officially designated and acknowledged as a psychologically disabled person due to my experiences as an employee with the TIMEC Corporation. Yes, I am a person who has actually and officially been rendered disabled by racism in the American workplace. I am still in treatment for the post-traumatic emotional stress disorder symptoms purposely inflicted upon me by those within the TIMEC Company, Inc."

That particular above-stated federal civil employment litigation evidentiary admission irrevocably establishes that before his dismissal from employment on the July 17, 2015 onset

date of the verbal employment dispute meeting at the Defendant UniQue Personnel's Glen Carbon, Illinois, office concerning a pattern of repeated unscheduled overtime requests which required that the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., participate in a series of awkwardly painful, uncomfortable lifting tasks which brought distress to the L4-5 region of his back, due to his having a rod, and two pins, placed there from a 2006 spinal fusion surgery, which caused a disabling exacerbation of his previously-diagnosed Social Security Administration-acknowledged, DSM Code-Description F43.10-Posttraumatic Stress Disorder of John Dan Bumphus, Jr., the Defendant UniQue Personnel Consultants, Inc., was aware and duly informed of his active PTSD-disability status which covered him, as an American citizen, with all of the United States Constitutional Law protections provided under Title 42 §12101, of the Americans with Disabilities Act (ADA) of 1990 as Amended, including the "interference" provision with respect to his ADA rights, under 42 U.S.C. § 12203(b), which is broader than the anti-retaliation provision, in protecting any individual who is subject to coercion, threats, intimidation, or interference with respect to any of his ADA rights. and yet to this day they have declined and refused to engage the Plaintiff in the Reasonable Accommodation Interactive process covered by both Title 42 § 12111 (9), in addition to their ignoring the legislated task set forth by the §23:68 Interactive Process for Disability under the Illinois Workers' Compensation Act. Aside from not engaging the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., in the federal law Title 42 § 12111 (9) interactive process, the collective Defendants UniQue Personnel Consultants, Inc., Defendant SYNERGY Coverage Solutions, L.L.C., Defendant Jennifer Katherine Yates-Weller, Defendant Hennessy & Roach, P.C., and Defendant Andrew Toennies, have all collectively coerced, threatened, lied, intimidated, and illegally interfered, in violation of the aforementioned "interference" provision, with respect to the PTSD-disabled pro se Plaintiff

John Dan Bumphus, Jr.'s ADA rights, under 42 U.S.C. § 12203(b), which is broader than the anti-retaliation provision, in protecting any individual who is thereby subject to protection.

A July 6, 2005, aortic dissection heart attack thoracic stent surgery which the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., endured, included a post-operative pleural effusion procedure, which resulted in his sustaining an infection in his L4-5 spinal region, which was discovered in April of 2006. On August 8, 2008, the anterior reconstruction portion of an L4-5 spinal fusion surgery was accomplished, with the posterior aspect of the placing a rod, and two pins occurring on September 12, 2006.

Lumbar spinal stenosis (LSS) is a medical condition in which the spinal canal narrows and compresses the nerves at the level of the lumbar vertebrae. Spinal stenosis may affect the cervical or thoracic region, in which case it is known as cervical spinal stenosis or thoracic spinal stenosis. Lumbar spinal stenosis can cause low back pain, abnormal sensations, and the absence of sensation (numbness) in the legs, thighs, feet, or buttocks, or loss of bladder and bowel control. The PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., was recently hospitalized from September 5, 2018, through September 9, 2018, after suddenly experiencing temporary paralysis in both legs.

Also, the official transcript copy of the August 18, 2015, Respondents' insurer, Defendant SYNERGY Coverage Solutions, L.L.C.'s "Employee Contact" recorded telephone conversation between the PTSD-disabled pro se Plaintiff petitioner/employee John Dan Bumphus, Jr., and Cathy Gober of Synergy Coverage Solutions, L.L.C., wherein John Dan Bumphus, Jr. again officially points out for the record that he was PTSD-disabled, had been in psychological counseling for over 20 years, and was at that time seeing psychiatrist Dr. Baig at Wellspring Resources (now Centerstone) in Alton, Illinois, who had arranged a follow-up

appointment to arrange supplemental counseling due to the diagnosed exacerbation of his DSM Code-Description F43.10-Posttraumatic Stress Disorder condition. The above-mentioned conversational transcript establishes that the Defendant UniQue Personnel Consultants, Inc., along with their workers' compensation insurer, co-Defendant SYNERGY Coverage Solutions, L.L.C., had both been duly and officially informed by John Dan Bumphus, Jr.'s ongoing and permanent PTSD disability status by August 18, 2015.

The pre-existing PTSD-disabled employee John Dan Bumphus, Jr. has, from June 21, 2015, through December 19, 2017, and unto this current date, presented personal, confidential and official physical and mental health medical information and documentation, some of which is protected by The Mental Health and Developmental Disabilities Act (740 ILCS 110/1), and the Health Insurance Portability and Accountability Act (HIPAA), covering the time frame of July 11, 2013, through December 11, 2017, from Associated Physicians Group, of Edwardsville, Illinois, and Centerstone, of Alton, Illinois.

Respectfully, for this Court to rule that the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., "...does not contend that he had a record of an impairment or was regarded as having an impairment. Thus, the question is whether he actually has a physical or mental impairment that substantially limited a major life activity under the ADA's first definition of disability.", is a mistake.

PTSD is covered by the Social Security Administration, and Medicare, as a disability under the United States Constitution Law Americans with Disabilities Act (ADA), as amended in 2009...President George H. W. Bush first signed the United States Constitutional Law Americans with Disabilities Act in 1990...

The pre-existing PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr. was initially professionally treated with counseling for a work-related Post Traumatic Stress Disorder episode on February 2 of 1995.

The pre-existing PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., has been locally diagnosed over the past seven years by his treating psychiatrist, Mirza Baig, M.D., of Centerstone, in Alton, Illinois, with a Social Security Administration-acknowledged, Medicare Insurance-covered, DSM Code-Description F43.10-Posttraumatic Stress Disorder, which had been evidenced by flashbacks, nightmares, anxiety, anger outbursts, difficulty in avoiding thoughts, diminished interest in activities, difficulty sleeping, hypervigilence, exxagerated startle response, and efforts to avoid things that remind him of trauma.

Previously in 1995, according to the "Findings of Fact" of Walnut Creek, California, Workers' Compensation Appeals Board (WCAB) Presiding Judge George W. Mason, Jr., in case #WCK0023185, the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., suffered a California Labor Code Section 3208.3 cumulative stress injury to his psyche, which was caused and imposed upon him, by a campaign of an arbitrary and capricious barrage of racial discrimination, combined with unethical General Counsel and Human Resource Administration behavior, at the hands of my former employer, the TIMEC Corporation of Vallejo, California,

This initial mental health injury legal finding was further substantiated by the 1998 federal civil trial jury verdict, in John Bumphus vs. TIMEC, C-95-3400, before U.S. Federal District Judge Susan Illston in San Francisco, California, where a subsequent jury finding, for the

Intentional Infliction of Emotional Distress, was also made against the Defendant TIMEC Corporation.

According to the American Psychological Association (APA) possible symptoms associated with the PTSD condition which has permanently disabled the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., are, re-experiencing, avoidance, negative cognition and mood, and arousal. Re-experiencing involves spontaneous memories of the traumatic event, recurrent dreams related to it, flashbacks or other intense or prolonged psychological distress. Avoidance refers to avoiding the distressing memories, thoughts, feelings or external reminders of the event. Negative cognitions and mood represents countless feelings, from a persistent and distorted sense of blame of self or others, to estrangement from others or markedly diminished interest in activities, to an inability to remember key aspects of the event. Arousal is marked by irritable, angry, aggressive, reckless or self-destructive behavior, sleep disturbances, hyper-vigilance or related problems (APA, 2013). Most people have some stress-related reactions after a traumatic event, but not everyone gets PTSD. PTSD symptoms usually start soon after the traumatic event, but they may not appear until months or years later. Individuals with PTSD experience many of the symptoms listed above for well over a month and cannot function as they were able to prior to the event. Signs and symptoms of PTSD usually begin within several months of the event. However, symptoms may not occur until many months or even years following the trauma. Those who develop PTSD may not experience all of the symptoms and behaviors listed above. The Americans with Disabilities Act (ADA) does not contain a list of medical conditions that constitute disabilities. Instead, the (ADA) has a general definition of disability that each person must meet on a case by case basis (EEOC Regulations . . . , 2011). A person has a disability if he/she has a physical or mental impairment that substantially limits one or more major life

activities, a record of such an impairment, or is regarded as having an impairment (EEOC Regulations . . . , 2011). However, according to the Equal Employment Opportunity Commission (EEOC), the individualized assessment of virtually all people with a Post Traumatic Stress Disorder (PTSD) will result in a determination of disability under the (ADA); given its inherent nature, (PTSD) will almost always be found to substantially limit the major life activity of brain function (EEOC Regulations . . . , 2011). The exacerbation disturbance, regardless of its trigger, causes clinically significant distress or impairment in the individual's social interactions, capacity to work or other important areas of functioning. It is not the physiological result of another medical condition, medication, drugs or alcohol.

Additionally, insofar as the EEOC position on being required to work with back pain disability distress is concerned, in the 2007 EEOC filed suit in the U.S. District Court for the Central District of Illinois, Peoria Division Civil Action No. 07 C 1154, which was tried before U.S. Magistrate John A. Gorman, a federal court jury in Peoria returned a June 3, 2011 verdict of $600,000.00 against AutoZone, Inc. for failing to provide a reasonable accommodation to a disabled sales manager. In the lawsuit brought by the EEOC, AutoZone was charged with requiring a sales manager to perform certain tasks, including mopping floors, that violated his medical restrictions. The sales manager who worked at the company's Macomb, Ill., retail store until 2003, is disabled with permanent back and neck impairments. The EEOC presented evidence that mopping floors was a non-essential function of the sales manager position that could have been reassigned to other employees, and that the employee could perform all of the essential functions of his job. The sales manager testified that he asked not to be assigned mopping and supported his request with documentation of his impairment. The EEOC's evidence at trial indicated that in 2003, new store management

refused the request and required the employee to mop, leading to further injury and necessitating a medical leave.

The EEOC charged that the company's actions violated the Americans with Disabilities Act (ADA), which requires that employers make reasonable accommodations to the known physical limitations of employees with disabilities. Under the ADA, a reasonable accommodation may include the elimination or modification of a non-essential job duty, or the transfer of a non-essential job duty to another employee.

"Any employer who thinks that the EEOC is reluctant to take cases to trial or that ordinary juries in courts will shy away from returning big verdicts in ADA cases ought to readjust his thinking in a hurry," said John Hendrickson, the EEOC's regional attorney in Chicago. "Juries well understand that providing reasonable accommodations to employees with disabilities is critical to keeping them on the job and moving the economy forward. They get it, and employers should too."

The government's litigation effort was supervised by EEOC Supervisory Trial Attorney Gregory Gochanour. At trial, the EEOC was represented by Trial Attorneys Justin Mulaire and Aaron DeCamp. Mulaire said, "The jury sent an important message today. Employers should take requests for accommodations seriously, and make every reasonable effort to enable qualified individuals with disabilities to do their jobs and earn a living."

Mistake 2-Defendants' Discovery Responses were allowed to pointedly disavow acknowledgment of the ADA Disability status of the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr.

The PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., now brings to this Court's attention, the reality and evidence of another ongoing mistake, under Rule 60(b)(1) of the Federal Rules of Civil Procedure, which was initially allowed by the original Magistrate Donald G. Wilkerson (DGW), to enter these proceedings during the 2016 Discovery process, when the collective Defendants' counsels were allowed by the original Magistrate Donald G. Wilkerson (DGW) to errantly declare, without restriction, in their responsive pleadings, and over the repeated arguments made by the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., that this Court's legal acknowledgement and acceptance of John Dan Bumphus, Jr.'s Social Security Administration-acknowledged, Medicare Insurance -covered, DSM Code-Description F43.10 Posttraumatic Stress Disorder disability was a question and matter of Law; when, in fact, it was actually a Constitutional Law-protected, previously federal jury-trial adjudicated and resolved Fact of Medical Evidence, which had already been accepted and acknowledged by the Social Security Administration as a disability, which was, from the outset, being collectively ignored in their blatant legal disregard responses.

Specifically, in the September 9, 2016, "DEFENDANT JENNIFER YATES WELLER'S ANSWERS AND OBJECTIONS TO PLAINTIFF'S FIRST SET OF INTERROGATORIES", prepared by Defense counsel Paul Gamboa (ARDC #6282923), of Gordon & Rees LLP, after being affirmed under oath by Defendant Jennifer Yates-Weller on September 7, 2016, repeatedly stated in response to Interrogatories #1, 3, 4, 5 & 6, which directly sought information pertaining to her actions as the attorney dealing with a workers' compensation legal matter involving the

PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., repeatedly offered the boilerplate answer which entailed the phrase, "Defendant objects to the characterization of Plaintiff as "disabled", on the bases(sic) that said characterization is argumentative an improper, and on the additional basis that whether a claimed affliction actually constitutes an impairment under the Americans with Disabilities Act ("ADA") is a determination of law."

As previously stated, in the official transcript copy of the August 18, 2015, "Employee Contact" recorded telephone conversation between the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., and Cathy Gober of Synergy Coverage Solutions, L.L.C., Defendant UniQue Personnel Consultants. Inc.'s Workers' Compensation Insurance carrier Defendant SYNERGY Coverage Solutions, L.L.C., who hired Defendant Jennifer Yates-Weller, and her partnering law firm Defendant Hennessy & Roach, P.C., on August 20, 2015, to defend against John Bumphus' claim, wherein John Dan Bumphus, Jr. again officially pointed out in the transcript record that he was PTSD-disabled, had been in psychological counseling for over 20 years, and was at that time seeing psychiatrist Dr. Mirza Baig at Wellspring Resources (now Centerstone) in Alton, Illinois, who had arranged a follow-up appointment to arrange supplemental counseling due to the diagnosed exacerbation of his DSM Code-Description F43.10-Posttraumatic Stress Disorder condition. The above-mentioned conversational transcript again establishes irrevocably that the Defendant UniQue Personnel Consultants, Inc., along with their workers' compensation insurer, co-Defendant SYNERGY Coverage Solutions, L.L.C., had both been duly and officially informed by John Dan Bumphus, Jr.'s ongoing and permanent PTSD disability status by August 18, 2015. Therefore, there was not ever any actual legal question remaining for anyone, on September 9, 2016, to ponder as to whether, or not, the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., was actually covered and protected by United States Constitutional Law under

Title 42 §12101, of the Americans with Disabilities Act (ADA) of 1990 as Amended, including the "interference" provision with respect to his ADA rights, under 42 U.S.C. § 12203(b), which is broader than the anti-retaliation provision, in protecting any individual who is subject to coercion, threats, intimidation, or interference with respect to any of his ADA rights.

On November 16, 2016, the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., filed a Motion to Compel to original Magistrate Donald G. Wilkerson (DGW), along with a copy of his 2014 book "Necessary Candor", in an effort to present evidence of the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr.'s, pre-hire Social Security Administration-acknowledged, Medicare Insurance -covered, DSM Code-Description F43.10 Posttraumatic Stress Disorder disability status into the record. After scheduling a December, 2016, telephone conference hearing date to resolve the matter of the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr.'s, pre-hired Social Security Administration-acknowledged, Medicare Insurance -covered, DSM Code-Description F43.10 Posttraumatic Stress Disorder disability status in a group setting, original Magistrate Donald G. Wilkerson chose the very morning of the scheduled telephone conference to recuse himself from this case, without ever resolving the implementation of the incomplete Americans with Disabilities Act (ADA) Discovery response issues.

The only Magistrate-allowed Discovery adjustment which was permitted, under the purview of the replacement Magistrate, is in the Document 83, filed January 12, 2017, (Page ID #444) "Defendant UniQue Personnel Consultants' Amended Response to Request #6 of Plaintiff's First Set of Requests for Admission", in the United States District Court for the

Southern District of Illinois Case No.: 3:16-cv-00312-SMY-SCW, John Dan Bumphus, Jr., et. al., wherein the Defendant UniQue Personnel Consultants stated in admission that on July 17, 2015, John Dan Bumphus, Jr. handed Krista Findlay a copy of a book entitled "Necessary Candor," and that the following passage in this book, found on pages 80 and 81 therein, was highlighted with yellow marker: "I am now, by way of the Social Security Administration, officially designated and acknowledged as a psychologically disabled person due to my experiences as an employee with the TIMEC Corporation. Yes, I am a person who has actually and officially been rendered disabled by racism in the American workplace. I am still in treatment for the post-traumatic emotional stress disorder symptoms purposely inflicted upon me by those within the TIMEC Company, Inc."

That particular above-stated federal civil employment litigation evidentiary admission irrevocably establishes that before his dismissal from employment on the July 17, 2015 onset date of the disabling exacerbation of his previously-diagnosed Social Security Administration-acknowledged, DSM Code-Description F43.10-Posttraumatic Stress Disorder of John Dan Bumphus, Jr., the Defendant UniQue Personnel Consultants, Inc., was aware and duly informed of his active PTSD-disability status which covered him, as an American citizen, with all of the United States Constitutional Law protections provided under Title 42 §12101, of the Americans with Disabilities Act (ADA) of 1990 as Amended, and yet to this day they have declined and refused to engage the Plaintiff in the Reasonable Accommodation Interactive process covered by both Title 42 § 12111 (9), in addition to their ignoring their legislated task set forth by the §23:68 Interactive Process for Disability under the Illinois Workers' Compensation Act.

Also, the official transcript copy of the August 18, 2015, Respondents' insurer SYNERGY Coverage Solutions, L.L.C.'s "Employee Contact" recorded telephone conversation

between the PTSD-disabled pro se Plaintiff petitioner/employee John Dan Bumphus, Jr., and Cathy Gober of Synergy Coverage Solutions, wherein John Dan Bumphus, Jr. again officially points out for the record that he was PTSD-disabled, had been in psychological counseling for over 20 years, and was at that time seeing psychiatrist Dr. Baig at Wellspring Resources (now Centerstone) in Alton, Illinois, who had arranged a follow-up appointment to arrange supplemental counseling due to the diagnosed exacerbation of his DSM Code-Description F43.10-Posttraumatic Stress Disorder condition. The above-mentioned conversational transcript establishes that the Defendant UniQue Personnel Consultants, Inc., along with their workers' compensation insurer, co-Defendant SYNERGY Coverage Solutions, L.L.C., had both been duly and officially informed by John Dan Bumphus, Jr.'s PTSD disability status by August 18, 2015.

There exists more than ample legal evidence to support the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr.'s legal theory that the Defendant UniQue Personnel Consultants, Inc., their co-Defendant supervisory office agent Krista Findlay, their co-Defendant ad hoc General Counsel attorney Andrew G. Toennies, their co-Defendant Workers' Compensation insurance provider Synergy Coverage Solutions, L.L.C., along with their co-Defendant workers' compensation insurance defense attorney Jennifer Yates-Weller and her co-Defendant partnering law firm of Hennessy & Roach, P.C., have all collectively conspired to willfully, and in an unreasonable manner, against the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., who was, from before the time he was drug-screened, hired, and began working for the Defendant UniQue Personnel Consultants, Inc., covered by all of the United States Constitutional Law protections provided under Title 42 § 12101, of the Americans with Disabilities Act (ADA) of 1990 as Amended, which includes the "interference" provision with respect to his ADA rights, under 42 U.S.C. § 12203(b), which is broader than the anti-retaliation

provision, in protecting any individual who is subject to coercion, threats, intimidation, or interference with respect to any of their ADA rights.

In Paragraph (3.) of the March 22, 2016-filed "IV. FACTS IN SUPPORT OF CLAIM", of the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr.'s Employment Discrimination Complaint, it was established for the record that the already psychologically disabled John Dan Bumphus, Jr., officially, and legally, began the ADA accommodation process on his June 21, 2015, first evening of employment, by notifying the Defendant UniQue Personnel Consultants, Inc.'s, On Site Coordinator, Dana Felton, of his spinal stenosis disability; "at that point, an employer's liability is triggered for failure to provide accommodations." *Hendricks-Robinson v. Excel Corp.,* 154 F.3d 685, 693 (7th Cir. 1998) (internal quotation marks omitted). After an employee has disclosed that he has a disability, the ADA requires an employer to "engage with the employee in an 'interactive process' to determine the appropriate accommodation under the circumstances." *E.E.O.C. v. Sears, Roebuck & Co.,* 417 F.3d 789, 805 (7th Cir. 2005) (quoting *Gile v. United Airlines, Inc.,* (7th Cir. 2000)).

The pre-existing PTSD-disabled employee John Dan Bumphus, Jr. has, from June 21, 2015, through December 19, 2017, and unto this current date, presented verbal notice and information, along with presenting personal, confidential and official physical and mental health medical information and documentation, most of which is protected by The Mental Health and Developmental Disabilities Act (740 ILCS 110/1), and the Health Insurance Portability and Accountability Act (HIPAA), covering the time frame of July 11, 2013, through December 11, 2017, from Associated Physicians Group, of Edwardsville, Illinois, and Centerstone, of Alton, Illinois. In response, and throughout that time frame, Defendant UniQue Personnel Consultants,

Inc., Defendant SYNERGY Coverage Solutions, L.L.C., Defendant Jennifer Katherine Yates-Weller, Defendant Hennessy & Roach, P.C., and Defendant Andrew Toennies, and their platoon of legal representative associates, have collectively and summarily repeated their stubbornly opined ongoing denials of the existence of his disability in unison to various governmental investigative entities, without any substantive inquiry into, or investigation thereof, the plethora of presented evidence, which includes the March 2016 presentation of his complete post-2012 psychiatric treatment medical file, which the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., attests could now be considered in this instance as another illegal, frivolous, and unconstitutionally unnecessary stalling tactic, which is clearly violative of the protected act provisions of Title 42 § 12112-Discrimination, of the Americans with Disabilities Act (ADA) of 1990 as Amended.

Rule 60(b)(2) of the Federal Rules of Civil Procedure "Grounds for Relief from a Final Judgment, Order, or Proceeding."; (b)(2)-newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b).

There have been three postponement rescheduling date delays to the originally scheduled July, 2017, trial date in this matter. During that time frame, the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., while fighting for, amending and defending his ADA-based exacerbation Illinois Workers' Compensation Occupational Disease Act claim #17 WC028585, has patiently been looking forward to presenting the **evidence** compiled therein to this Court.

The PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr. therefore now also informs the Court under Rule 60(b)(2) of the Federal Rules of Civil Procedure of the newly discovered evidence pertaining to the September 29, 2017-filed "Illinois Workers' Compensation Commission Application for Adjustment of Claim (Application for Benefits)", which was accepted by the Illinois Workers Compensation Commission, under Section § 310/19 (a) (3) of the Illinois Workers' Compensation Occupational Disease Act.

For the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., to, on September 29, 2017, amend his Illinois Workers' Compensation Act claim #15 WC27577 before its November 11, 2017 final disposition by Third Judicial Circuit, Madison County, Edwardsville, IL., Judge David W. Dugan, in Case No.# 17-MR-000187, to the Illinois Occupational Disease Act claim #17WC028585 has the legislated effect of enforcing the Illinois Occupational Disease Act Section §310/19 (a) (3) statute, which provides that "...Whenever any claimant misconceives his remedy and files an application for adjustment of claim under the Workers' Compensation Act and it is subsequently discovered, at any time before final disposition of such cause that the claim for injury or death which was the basis for such application should properly have been made under this Act, then **the application so filed under the Workers' Compensation Act may be amended in form, substance or both to assert claim for such disability or death under this (Occupational Disease) Act and it shall be deemed to have been so filed as amended on the date of the original (Workers Compensation Act) filing thereof, and such compensation may be awarded as is warranted by the whole evidence pursuant to the provisions of this (Occupational Disease) Act.** When such amendment is submitted, further or additional evidence may be heard by the Arbitrator or Commission when deemed necessary; provided, that nothing in this Section contained shall be construed to be or permit a waiver of

any provisions of this Act with reference to notice, but notice, if given shall be deemed to be a notice under the provisions of this Act if given within the time required herein."

In response to the September 29, 2017 filing of the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr.'s Illinois Occupational Disease Act claim #17WC028585, Defendant UniQue Personnel Consultants, Inc., their workers' compensation insurance provider, Defendant SYNERGY Coverage Solutions, L.L.C., and the designated Respondent's Defense attorney, Defendant Jennifer Yates-Weller, a law firm partner with Defendant Hennessy & Roach, P.C., on March 12, 2018, deliberately filed a spurious Motion to Dismiss the Occupational Disease Act claim #17WC028585, by utilizing the imaginary insistence of a "res judicata" prohibition against its filing. Amazingly, Collinsville, Illinois, Workers' Compensation Commission Arbitrator Edward Lee, although obligated in the nature of both public and statutory duty, to correctly apply the provision of Section § 310/19 (a) (3) of the Illinois Workers' Compensation Occupational Disease Act, abrogated his clear duty under RULE 63-CANON 3 of the ILLINOIS CODE OF JUDICIAL CONDUCT to be faithful to the law, and to maintain professional competence during the performance of his adjudicative responsibilities, and dismissed the Illinois Occupational Disease Act claim #17WC028585, on May 10, 2018, "due to res judicata". John Dan Bumphus, Jr. immediately filed the Case No. #18-MR-131 pro se complaint for a Writ of Mandamus with the same Third Judicial Circuit, Madison County, Edwardsville, IL., court of Judge David W. Dugan, on May 14, 2018, which was served by a Madison County Sheriff's Deputy to Collinsville, Illinois, Workers' Compensation Commission Arbitrator Edward Lee, on June 19, 2018 to, in effect, have a Mandamus hearing about the improper Arbitrator's "res judicata" application to an Illinois Workers' Compensation Occupational Disease Act statute,

Section § 310/19 (a) (3), involving the Case No.# 17-MR-000187, which Judge David W. Dugan of the Third Judicial Circuit, Madison County, Edwardsville, IL, had actually worked on himself, until its final resolution of November 11, 2017, 43 days subsequent to John Dan Bumphus, Jr.'s September 29, 2017, filing of Illinois Occupational Disease Act claim #17WC028585.

The Illinois Workers' Compensation Commission arbitrarily chose to join Collinsville, Illinois, Workers' Compensation Commission Arbitrator Edward Lee as a co-Defendant to the May 14, 2018-filed pro se complaint for a Writ of Mandamus Case No. #18-MR-131 against Collinsville, Illinois, Workers' Compensation Commission Arbitrator Edward Lee in the Third Judicial Circuit, Madison County, Edwardsville, IL., court of Judge David W. Dugan, on July 17, 2018, as the now co-Defendant parties at that point came to be represented by Illinois Assistant Attorney General Samantha Costello, #6325586, who had been assigned to the case on July 17, 2018, before entering her appearance on July 18, 2018, as she then immediately moved the Court for an extension of time of 30 days, up to and including August 20, 2018, to answer or otherwise plead to this PTSD-disabled Employee/Petitioner pro se Plaintiff John Dan Bumphus, Jr.'s Writ of Mandamus Complaint.

On September 14, 2018, Third Judicial Circuit, Madison County, Edwardsville, IL., court of Judge David W. Dugan, after accepting Illinois Assistant Attorney General Samantha Costello's false statement under oath that PTSD-disabled pro se employee/petitioner John Dan Bumphus, Jr.'s complaint was, at that time, under review by the Illinois Workers' Compensation Commission, incorrectly stated that he did not "have the authority" to rule on the Mandamus complaint. Therefore now, an Appeal to the Illinois Appellate Court, Fifth District has on October 17, 2018 been filed and docketed as General No.: 5-18-0498WC.

PTSD-disabled pro se employee/petitioner John Dan Bumphus, Jr., has a clear right to the minimally owed $38,940.00 payment for 177 weeks of past due temporary total disability (TTD) at the rate of $220.00 per week scheduled by Illinois Workers' Compensation Commission Occupational Disease Act claim Case #17 WC 028585, because in Section 19 (a) 1 of the Illinois Workers' Compensation Act, it states that, "...a) When an employee becomes unable to work due to an accidental or occupational disease arising out of or in the course of his or her employment, or alleges that he or she is unable to work, the employer, individually or by his or her agent, service company or insurance carrier, shall, within 14 calendar days after notification or knowledge of such inability or alleged inability to work:

1) begin payment of temporary total compensation, if any is then due."

In addition, the Post Traumatic Stress Disabled pro se employee/petitioner John Dan Bumphus, Jr., is also eligible for $258,700.00 of "Person-as-a-Whole" Compensation under section 8(d)(2) of the Illinois Workers' Compensation Act which is "that percentage of 500 weeks of $517.40 that the partial disability bears to total disability." When the petitioner sustains an injury that involves neither a disfigurement (section 8(c)) nor a scheduled loss (8(e)), it will be compensated under the "man as a whole" provisions of section 8(d)(2). Section 8(d)(2) addresses certain minimum PPD awards based on man as a whole in this catch-all category which can encompass injuries to the head, face neck, back, or burns that cause disability, skin disorders, concussions, broken teeth, electrical shocks, hernias, groin strains, posttraumatic stress disorder, depression, pulmonary disorders, heart attacks, strokes, reflux dystrophy, fibromyalgia, chest contusions, industrial poisoning, and disc injuries/ herniations. An award under this section may be made without objective findings.

The PTSD-disabled pro se employee/petitioner John Dan Bumphus, Jr., is also due to receive an additional Section 19(l) 50% penalty payment, to either or both of the above sums, for the deliberative scheming delays by the Respondent, their insurer, and their insurer's defense attorneys, in denying him payment under the Illinois Workers' Compensation Commission Application for Adjustment of Claim (Application for Benefits) Occupational Diseases Act Claim #17WC028585, which was properly filed on September 29, 2017.

A substantial portion of the plethora of compiled evidence supportive documentation presented to Defendant Jennifer Yates-Weller, the Illinois Workers' Compensation Commission, and Collinsville, Illinois, Workers' Compensation Commission Arbitrator Edward Lee, which pro se Plaintiff John Dan Bumphus, Jr., offered to substantiate his Illinois Workers' Compensation Commission Application for Adjustment of Claim (Application for Benefits) Occupational Diseases Act Claim #17WC028585, which was properly filed on September 29, 2017, was e-filed with the Third Judicial Circuit, Madison County, Edwardsville, IL., court of Judge David W. Dugan, on July 26, 2018. This is evidence which the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., intended to present at the thrice-postponed United States District Court for the Southern District of Illinois Case No.: 3:16-cv-00312-SMY-SCW, John Dan Bumphus, Jr., et. al., trial in October of 2018, which has been dismissed by this Court on August 30, 2018.

CONCLUSION

In Conclusion, the permanently disabled, Social Security Administration-acknowledged, Medicare Insurance-covered, DSM Code-Description F43.10-Posttraumatic Stress Disorder-

disabled pro se Plaintiff John Dan Bumphus, Jr., asserts for the record in this Motion that his United States Constitutional Law protections under Title 42 §12101, of the Americans with Disabilities Act (ADA) of 1990 as Amended, including the "interference" provision, with respect to his ADA rights, under 42 U.S.C. § 12203(b), which is broader than the anti-retaliation provision, in protecting any individual who is subject to coercion, threats, intimidation, or interference with respect to any of his ADA rights, the Mental Health and Developmental Disabilities Act (740 ILCS 110/1), the Health Insurance Portability and Accountability **Act** (HIPAA), and under Section § 310/19 (a) (3) of the Illinois Workers' Compensation Occupational Disease Act, have clearly been overlooked, ignored, routinely abused and violated, as a matter of illicitly unlawful form and practice, since July 17, 2015 by the collective Defendants listed here. The additional fact that the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., has personally been emotionally spiraling through an onerously burdensome and unnecessary gauntlet of litigation over the past three-and-one-half years, while simultaneously being medically counseled and treated for the duly informed exacerbation of his revealed mental health condition, is quantitatively more significant than just a subjectively cruel twist of misfortune.

WHEREFORE, PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr., who after initially informing the Defendant employer UniQue Personnel Consultants, Inc., on his June 21, 2015 first night of employment about his spinal stenosis disability due to his having a rod, and two pins in his L4-5 spinal area, due to a 2006 spinal fusion surgery, before directly notifying Defendant employer UniQue Personnel Consultants, Inc., on the July 17, 2015, last day of employment, of his permanent Social Security Administration-acknowledged, Medicare

Insurance-covered, DSM Code-Description F43.10-Posttraumatic Stress Disorder disability, which includes coverage by the "interference" provision with respect to his ADA rights, under 42 U.S.C. § 12203(b), PTSD mental-health disability, and then subsequently informing Defendant SYNERGY Coverage Solutions, L.L.C., on August 18, 2015, of his ongoing medical treatment for the work-related exacerbation of his permanent psychological PTSD disability, hereby respectfully requests and moves that this Court, after considering this motion, under the auspices of **Rule 60(a), of the Federal Rules of Civil Procedure, "Corrections Based on Clerical Mistakes; Oversights and Omissions."**, addresses and corrects the clerical mistakes, and the mistakes arising from oversight and/or omission, pertaining wherever any may now be found in Documents 137 and 138 in this present case, concerning any and all of the DISMISSALS of the PTSD-disabled pro se Plaintiff John Dan Bumphus, Jr.'s, claims against Defendant UniQue Personnel Consultants, Inc., Defendant SYNERGY Coverage Solutions, L.L.C., Defendant Jennifer Katherine Yates-Weller, Defendant Hennessy & Roach, P.C., and Defendant Andrew Toennies, which were filed by this Court on August 30, 2018.

Respectfully submitted, this 6th day of December, 2018, by John Dan Bumphus, Jr.

/s/John Dan Bumphus, Jr., pro se

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CC:

Filed on December 6, 2018, at the United States District Court for the Southern District of Illinois. Emailed copies sent to all Defendant attorneys on December 6, 2018.

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JOHN DAN BUMPHUS, JR.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**Case No. 16-CV-312-SMY-GCS**
	)	
UNIQUE PERSONNEL CONSULTANTS, et al.,	)	
	)	
	)	
Defendants.	)	

MEMORANDUM AND ORDER

YANDLE, District Judge:

Pending before the Court is Plaintiff John Bumphus, Jr.'s Motion for Relief from Final Judgment and Order (Doc. 139). For the following reasons, Plaintiff's motion is **DENIED**.

Background

In March 2016, Plaintiff brought an employment discrimination suit against his former employer, UniQue Personnel Consultants, Inc. ("UniQue"), for failure to accommodate a disability and wrongful termination, based on multiple federal statutes. Plaintiff also asserted statutory claims against various other parties arising out of his employment with UniQue.

Plaintiff's claims against all defendants were dismissed in two separate Orders. The claims against Defendants Jennifer Katherine Yates-Weller, Krista Findlay, and Andrew Toennies were dismissed on March 30, 2018 (Doc. 126). In that same Order, all claims against UniQue were dismissed, except for a single claim under the Americans with Disabilities Act ("ADA").

On August 30, 2018, rejecting Plaintiff's argument that his spinal stenosis and posttraumatic stress disorder rendered him disabled under the ADA, the Court granted UniQue's

motion for summary judgment as to the ADA claim and entered final judgment (Docs. 137, 138). Plaintiff now requests to be relieved from the final judgment under Federal Rule of Civil Procedure 60.

Discussion

Pursuant to F.R.C.P. 60(a), the Court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record. The Court may do so on motion or on its own, with or without notice. After an appeal has been docketed in the appellate court and while it is pending, such a mistake may be corrected only with the appellate court's leave. Under F.R.C.P. 60(b), the Court may relieve a party or a party's legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party. *See* Fed. R. Civ. P. 60.

Here, while Plaintiff cites Rule 60(a) in his motion, he does not assert a clerical mistake related to the judgement, order, or any part of the record; he simply disagrees with the Court's dismissal of his claims. As to Rule 60(b), relief under that provision is an extraordinary remedy and is granted only in exceptional circumstances. The remedy is appropriate only when "the [c]ourt has patently misunderstood the party or has made a decision outside the adversarial issues presented to the [c]ourt by the parties, or has made an error not of reasoning but of apprehension." *Bank of Waunakee v. Rochester Cheese Sales, Inc.*, 906 F.2d 1185, 1191 (7th Cir.1990) (quoting *Above the Belt, Inc. v. Mel Bohannan Roofing, Inc.*, 99 F.R.D. 99, 101 (E.D.Va.1983)). In other words, the Court cannot grant Plaintiff relief under Rule 60(b)(1) simply

because he disagrees with the prior rulings. The rulings were supported by facts and law, and the undersigned did not misunderstand the parties or the issues.

Further, the "newly discovered evidence" Plaintiff submitted in support of his motion is not new at all; the Court considered this evidence in rendering both prior rulings. In fact, Plaintiff acknowledges that the evidence is not new.

Conclusion

For the foregoing reasons, Plaintiff has failed to satisfy the requirements of F.R.C.P. 60. Accordingly, his Motion for Relief from the Final Judgement and Order is denied.

IT IS SO ORDERED.

DATED: August 9, 2019

STACI M. YANDLE
United States District Judge

G

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

April 24, 2020

By the Court:

JOHN DAN BUMPHUS, JR., Plaintiff-Appellant,	] Appeal from the United] States District Court for] the Southern District of
No. 19-2621 — v.	] Illinois.]
UNIQUE PERSONNEL CONSULTANTS, et al., Defendants-Appellees.	] No. 3:16-cv-00312-SMY-GCS]] Staci M. Yandle,] Judge.

ORDER

A review of the section of the brief captioned "Jurisdictional Statement" filed by appellees reveal that appellees have not complied with the requirements of Circuit Rule 28(b). That rule requires an appellee to state whether or not the jurisdictional summary in an appellant's brief is "complete and correct." If it is not, the appellees must provide a "complete jurisdictional summary."

Appellees point out that appellant's Statement "is not complete and correct." And, although appellees provide a jurisdictional statement, they fail to provide one that is both complete and correct. Specifically, appellees' statement fails to identify with specificity the "provision of the constitution" or "federal statute" involved in the case. *See* Cir. Rule 28(a)(1). This information must be provided. It is insufficient to cite 28 U.S.C. § 1331 and, later on, use the acronym "ADA." Accordingly,

IT IS ORDERED that appellees file a paper captioned "Amended Jurisdictional Statement" on or before May 1, 2020, that provides the omitted information noted above and otherwise complies with all the requirements of Circuit Rule 28(b), and if appellant's brief is not complete and correct, Circuit Court Rule 28(a) also.

IT IS FURTHER ORDERED, that the Clerk DISTRIBUTE, along with the briefs in this appeal, copies of this order and appellees' "Amended Jurisdictional Statement" to the assigned merits panel.

NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with Fed. R. App. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted May 19, 2020*
Decided May 20, 2020

Before

JOEL M. FLAUM, *Circuit Judge*

ILANA DIAMOND ROVNER, *Circuit Judge*

AMY C. BARRETT, *Circuit Judge*

No. 19-2621

JOHN DAN BUMPHUS, JR.,
Plaintiff-Appellant,

v.

UNIQUE PERSONNEL CONSULTANTS, et al.,
Defendants-Appellees.

Appeal from the United States District Court for the Southern District of Illinois.

No. 16-CV-312-SMY-GCS

Staci M. Yandle,
Judge.

ORDER

John Bumphus, Jr., seeks to contest the rejection of his claims for wrongful termination. After the district court entered its final judgment, Bumphus did not promptly appeal. Instead, he filed a motion under Federal Rule of Civil Procedure 60(b), which the district court denied, precipitating this appeal. We review only the district

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* We have agreed to decide this case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

court's denial of that Rule 60(b) motion and, because the court reasonably decided that the motion did not warrant disturbing the underlying judgment, we affirm.

Bumphus applied to UniQue Personnel Consultants, a job-placement agency, in 2015. A few days later, he began work at a warehouse. Soon after, back pain prevented him from completing his work. He told supervisors about his back conditions—including spinal stenosis—and they told him to bring a doctor's note explaining his limitations, which he did. In response, the warehouse offered him a different position that paid less. Bumphus rejected the offer and did not return to the warehouse.

Bumphus sued UniQue and other defendants, and the case proceeded in two stages. In the first stage, the district court considered claims that Bumphus brought against defendants under Title VII of the Civil Rights Act of 1967, 42 U.S.C. § 2000e–5, the Age Discrimination in Employment Act, 42 U.S.C. § 621l, and under state law. The court ruled that Bumphus had failed to state valid claims under these laws, but it allowed to stand an additional claim, under the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12112, against UniQue. Bumphus appealed from the order dismissing some of his claims, and this court ordered him to address whether it should dismiss his appeal for lack of a final judgment. In response, Bumphus moved to voluntarily dismiss the appeal. This court granted his motion and dismissed the appeal.

In the next stage, the district court granted UniQue's motion for summary judgment on the ADA claim and entered its final judgment. Bumphus did not appeal from that final judgment within the 30-day time limit. *See* FED. R. APP. P. 4(a)(1)(A). Instead, over 90 days after the entry of judgment, he moved for relief from the judgment under Federal Rule of Civil Procedure 60. The district court denied the motion, reasoning that Bumphus had not shown a clerical mistake in the judgment, *see* FED. R. CIV. P. 60(a), nor had he presented newly discovered evidence or shown any other exceptional reason for the court to grant relief under Rule 60(b).

On appeal, Bumphus devotes most of his brief to arguing that the district court erred when it dismissed for failure to state a claim his discrimination and state-law theories for relief. But the merits of that dismissal are not properly before us because Bumphus did not appeal from the district court's judgment within the required 30 days of its entry. *See* FED. R. APP. P. 4(a)(1)(A). Moreover, his Rule 60 motion, which he filed over 90 days from the entry of the judgment, did not toll the 30-day deadline to appeal. *See* FED. R. APP. P. 4; *Blue v. Int'l. Bhd. of Elec. Workers*, 676 F.3d 579, 583–84 (7th Cir.

2012). Therefore, Bumphus's appeal, which he filed within 30 days of the denial of his Rule 60 motion, is limited to the district court's denial of that post-judgment motion.

That brings us to the propriety of the denial of Bumphus's Rule 60 motion, which we review deferentially for abuse of discretion. *Dolin v. GlaxoSmithKline LLC*, 951 F.3d 882, 886 (7th Cir. 2020). Bumphus contends that the district court erred because he presented new evidence that the court had not previously considered before entering summary judgment for UniQue. Relief under Rule 60 based on "new" evidence is allowed only when the movant, using reasonable diligence, could not have discovered the evidence before judgment. *See* FED. R. CIV. P. 60(b)(2). Bumphus asserts that he did not have the evidence before judgment, but he does not say that he could not with diligence have acquired it sooner. Without such an assertion, the district court could permissibly deny the motion. *See Gleason v. Jensen*, 888 F.3d 847, 853 (7th Cir. 2018). Moreover, Bumphus has not refuted the district court's conclusion that his evidence merely duplicated what the court had already considered when ruling on the motion for summary judgment, and thus was not new. The court therefore properly denied Bumphus's post-judgment motion for relief.

We have considered Bumphus's remaining arguments, and none has merit.

AFFIRMED