

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MELISSA SILVER, *an individual*,

Plaintiff,

CASE NO.:

v.

IT’SUGAR LLC, *a Delaware Corporation authorized to and doing business in New York*,

Defendant.

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COMPLAINT

Plaintiff, MELISSA SILVER, (hereinafter “Plaintiff” and/or “Ms. Silver”), sues Defendant IT’SUGAR LLC (hereinafter “Defendant”) for injunctive relief, attorneys’ fees, and litigation costs, including but not limited to disbursements, court expenses, and other fees, pursuant to the Americans with Disabilities Act, 42 U.S.C. § 12181 *et seq.* (“ADA”) and the ADA Accessibility Guidelines, 28 C.F.R. Part 36 (hereinafter “ADAAG”), and for injunctive relief and damages, pursuant to the New York State Human Rights Law (“NYSHRL”), Article 15 of the New York State Executive Law (“Executive Law”), New York State Civil Rights Law (“Civil Rights Law”) § 40 (collectively, at times, hereinafter referred to as the “ADA Laws”), and alleges as follows:

NATURE OF CLAIMS

1. This lawsuit is in response to the inexcusable discriminatory misconduct by Defendant, who owns and operates a candy store called IT’SUGAR located in the Poughkeepsie Galleria, located at 2001 South Road, Poughkeepsie, New York (described more fully below) (the “Store”).
2. Ms. Silver is a customer who attempted to shop at the Store. She has a disability and, as a result, requires the assistance of her trained service animal, Brutus, a medium-sized

American Bulldog. Ms. Silver's service animal is fully vaccinated, always well groomed, and is professionally trained to perform specific tasks, including interruption of certain involuntary behaviors, providing deep pressure therapy, and locating assistance in the event of an emergency, such as fainting. Ms. Silver has been accompanied by her service animal in retail stores and other public accommodations without incident.

3. The Store is a place of public accommodation that offers goods and services to the general public. However, it imposes unlawful barriers by excluding individuals with disabilities who rely on service animals, thereby preventing them from accessing and enjoying its goods and services in the same manner as individuals without disabilities, as described above.
4. Accordingly, this lawsuit seeks to remedy Defendant's discriminatory practices by requiring the Store to become fully accessible to Ms. Silver and the general public, ensuring that customers with disabilities can shop and utilize the Store's goods and services in the same manner as those without disabilities. The lawsuit also seeks the implementation of employee training, policies, and procedures that are non-discriminatory and not designed to harass, humiliate, or exclude customers like Ms. Silver.

JURISDICTION AND VENUE

5. This Court has original subject matter jurisdiction over this action pursuant to 28 U.S.C. §§1331, 1343, as Plaintiff's claims arise under 42 U.S.C. §12181. *et seq.*, based upon the enumerated violations of Title III of the Americans with Disabilities Act (see also, 28 U.S.C. §§ 2202).
6. This Court has personal jurisdiction over Defendant in this action. Defendant owns or operates the Store, which is located in this District.

7. Venue lies in this District pursuant to 28 U.S.C. §1391(a)(2), because all of the events or omissions giving rise to the claims here at issue occurred in this District; Plaintiff encountered Defendant's ADA violations in this District, and the injury to Plaintiff here at issue occurred in this District.
8. This Court has supplemental jurisdiction over Plaintiff's claims arising under New York State law. 28 U.S.C.S. §1367(a).

PARTIES

9. At all times material hereto, Plaintiff was and is over the age of 18 years, sui juris, and a resident of the County of Dutchess, State of New York.
10. Ms. Silver has at all times had a "qualified disability" under Title III of the ADA; Ms. Silver suffers from a disability which substantially limits her major life activities. Ms. Silver's disability falls within the meaning of the laws of the NYSHRL. Specifically, her disability substantially interferes the major life activities of working and caring for herself. Ms. Silver utilizes a service animal, Brutus, as described more fully above, which enables her to perform activities of daily living that would otherwise be difficult or impossible due to her disability.
11. Defendant is a foreign corporation, authorized to conduct, and is conducting business in the County of Dutchess, State of New York, which is in the confines of this District.
12. Defendant is the owner and/or operator of a Store known as IT'SUGAR, in Poughkeepsie, New York (the "Subject Property"), and Defendant has control over the Subject Property's policies and procedures relative to service animals.
13. At all times material hereto, the Subject Property, a candy store, that has been in the business providing goods and services to the general public and is a place of public accommodation as that term is defined by the Americans with Disabilities Act.

14. Prior to the institution of this litigation, Plaintiff visited this Subject Property in order to purchase candy. Plaintiff was told that her service animal may not enter the Subject Property, and Defendant refused to allow her to stay in the Store. Defendant's employee (possibly a manager) insisted that the disabled Plaintiff leave the Subject Property because of her service animal. Defendant's agents and employees refused to allow Plaintiff to explain that she was lawfully permitted to keep the service animal with her and threw her out in a most aggressive and humiliating fashion.
15. That, Plaintiff desires to return to the Subject Property in the future to take advantage of the goods and services offered therein, when and if Defendant alter their discriminatory policies and make their Store fully accessible for Plaintiff and other individuals who rely on service animal.
16. That, Plaintiff continue to be injured in that they continue to be discriminated against due to the discriminatory policies that remain in place at the Subject Property, which are in violation of the ADA and New York State anti-discrimination laws.
17. As a consequence of its complete refusal to permit Plaintiff to be accompanied by her service animal at the Subject Property, even following Plaintiff's insistence that federal law requires accompaniment and that Defendant's actions were unlawful, Defendant has now willfully and continuously violated Plaintiff's rights under the Americans with Disabilities Act and the New York Human Rights Law, as set forth more fully below.

FIRST CAUSE OF ACTION
VIOLATIONS OF THE AMERICANS WITH DISABILITIES ACT

18. Plaintiff re-avers and re-alleges the allegations set forth above, as though fully set forth herein.

19. On or about July 26, 1990, Congress enacted the Americans with Disabilities Act, 42 U.S.C. § 12101, *et seq.*

20. Congress specifically found, *inter alia*, that:¹

- i. Some 43,000,000 Americans have one or more physical or mental disabilities, and this number is increasing as the population as a whole is growing older;
- ii. Historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;
- iii. Individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser service, programs, activities, benefits, jobs, or other opportunities;
- iv. Discrimination against individuals with disabilities persists in such critical areas of employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services; and,
- v. The continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs

¹ 42 U.S.C. § 12101(a)(1) – (3), (5), and (9).

the United States billions of dollars in unnecessary expenses resulting from dependency and non-productivity.

21. Congress explicitly set forth the purpose of the ADA; to wit:²

- i. Provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;
- ii. Provide a clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities; and,
- iii. Invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

22. The congressional legislation provided commercial enterprises with a period of one and a half years from the enactment of the statute to implement the requirements imposed under the ADA.

23. The effective date of Title III of the ADA was January 26, 1992 (or January 26, 1993, if Defendant has 10 or fewer employees and gross receipts of \$500,000.00 or less).³

24. Pursuant to 42 U.S.C. §1281(7) and 28 C.F.R. §36.104, The Store, which is subject to this action is a public accommodation because it provides good and services to the public, to wit: groceries.

25. Upon information and belief, Defendant has sufficient income to make readily achievable accessibility modifications to their policies and procedures at the Store.

² 42 U.S.C. § 12101(b) (1)(2) and (4).

³ 42 U.S.C. § 12181; 28 C.F.R. § 36.508(a).

26. Pursuant to the mandates of 42 U.S.C. § 12134(a), on July 26, 1991, the Department of Justice, Office of Attorney General, promulgated Federal regulations to implement the requirements of the ADA (the “ADAAG”).⁴
27. Public accommodations were required to conform to these regulations by January 26, 1992 (or January 26, 1993, if Defendant has 10 or fewer employees and gross receipts of \$500,000.00 or less).⁵
28. Plaintiff intends to return to the Store because she wants to purchase its candy products.
29. Plaintiff suffered, and continues to suffer emotional distress, including but not limited to humiliation, embarrassment, stress and anxiety, as a result of this incident.
30. The Store is legally required to be, ***but is not***, in compliance with the ADA and/or ADAAG.
31. That, Defendant has failed to comply with Title III of the ADA, 42 U.S.C. § 12182 (b)(2)(A)(II), wherein they refused and failed “to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages or accommodations.”
32. That, Defendant unlawfully discriminated against Plaintiff by denying her the opportunity to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of the Store.⁶

⁴ 28 C.F.R. Part 36.

⁵ 42 U.S.C. § 12181; 28 C.F.R. § 36.508(a).

⁶ 42 U.S.C. 12182(b)(1)(A)(I)

33. Plaintiff has attempted to use and enjoy the Store, but has been prohibited from doing so, because of her disability; specifically, Plaintiff was unlawfully and publicly interrogated concerning the nature of her service animal, in violation of 28 C.F.R. § 36.302(c)(6), and barred from the Store as a result of her service animal, in violation of 28 C.F.R. §36.302(c)(7).
34. Plaintiff suffered public humiliation, embarrassment, emotional distress and anguish because of Defendant's policies, which prevented her, as an individual who relies on a service animal, from staying in the Store (and enjoying the same level of access and accommodation as individuals without disabilities), without being subjected to harassing and unlawful interrogation regarding the nature of her disability and service animal.
35. Defendant's policies constitute violations under the ADA Laws. These violations, which include but are not limited to those enumerated herein, prohibit Plaintiff from using and enjoying the Store, and/or the goods, services, facilities, privileges, advantages and/or accommodations offered therein.
36. Defendant utilizes standards, criteria, or methods of administration that have the effect of discriminating or perpetuating the discrimination of others.
37. Remediating the ADA and/or ADAAG violations by implementing policies and procedures and employee staff training for patrons who utilize service animal in connection with disabilities, as set forth herein is both technically feasible and readily achievable.
38. Plaintiff intends to visit the Store in the future and upon Defendant's compliance with an Order of this Court requiring that Defendant remedy the subject ADA violations so that Plaintiff may use and enjoy the goods, services, facilities, privileges, advantages and/or accommodations offered at the Store. However, in light of Plaintiff's disability, unless and

until the Store is brought into compliance with the ADA Laws, Plaintiff will remain unable to fully, properly, and safely use and enjoy the Store, and/or the goods, services, facilities, privileges, advantages and/or accommodations offered therein.

39. As a result of the foregoing, Defendant has discriminated against, and continue to discriminate against Plaintiff, and others similarly situated, by denying access to, and full and equal enjoyment of, the goods, services, facilities, privileges, advantages and/or accommodations of the Store.

40. Defendant's discrimination is specifically prohibited by 42 U.S.C. § 12182, *et seq.*

41. Moreover, Defendant will continue to discriminate against Plaintiff unless and until they are compelled by this Court to permit Plaintiff to utilize the Store with her service animal and remediate their discriminatory policies that violate the ADA and/or ADAAG, including but not limited to those specifically set forth herein, and to make the Store, accessible to and usable by persons with disabilities, including Plaintiff.

42. Plaintiff is without adequate remedy at law, and are suffering irreparable harm, and reasonably anticipate that they will continue to suffer irreparable harm unless and until Defendant is required to remove the ADA and New York State discriminatory violations that exist upon the Store, including but not limited to those set forth herein.

43. This Court is vested with authority to grant injunctive relief sought by Plaintiff herein, including entry of an order requiring alteration and modification of Defendant's employee training, policies and procedures for operating the Store, so as to make it readily accessible to and useable by individuals with disabilities, including but not limited to Plaintiff to the extent required by ADA and/or ADAAG.

44. Plaintiff has been obligated to retain the undersigned counsel for the filing and prosecution of this action, and has agreed to pay counsel reasonable attorneys' fees, costs, and litigation expenses, all of which are recoverable against Defendant.⁷
45. Pursuant to the ADA, Plaintiff is entitled to have her reasonable attorneys' fees, costs and expenses paid by Defendant.
46. Pursuant to 42 U.S.C. § 12188 and the remedies, procedures, and rights set forth and incorporated therein, Plaintiff pray for judgment as set forth below.

SECOND CAUSE OF ACTION
VIOLATIONS OF THE NYSHRL, N.Y. EXEC. LAW ART. 15

47. Plaintiff re-avers and re-alleges the allegations set forth above, as though fully set forth herein.
48. Ms. Silver is diagnosed with a disability that has resulted in significant disabilities that impede her abilities to work and care for herself unassisted.
49. Therefore, Plaintiff has disabilities within the meaning of N.Y. Exec. Law § 296(21).
50. N.Y. Exec. Law § 296(2)(a) provides that it is “an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation . . . because of the . . . disability of any person, directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof.”
51. The New York State Human Rights Law provides:

It shall be an unlawful discriminatory practice for any person,
being the owner, lessee, proprietor, manager, superintendent, agent

⁷ 42 U.S.C. §§ 12205, 12117

or employee of any place of public accommodation...because of the ... disability ... of any person, directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof ... to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account of ... disability ...⁸

52. In 2019, the New York legislature enacted legislation that provides the New York State Human Rights Law shall be “construed liberally for the accomplishment of the remedial purposes thereof, regardless of whether Federal civil rights laws, including those laws with provisions worded comparably to the provisions of this article, have been so construed”. See Executive Law § 300 [effective date: August 12, 2019].
53. The amendment of Executive Law § 300 to mirror the text of the New York City Local Civil Rights Restoration Act of 2005 (Local Law 85 of 2005), the New York State legislature confirmed the legislative intent to abolish parallel construction between the New York State Human Rights Law and related Federal anti-discrimination laws.
54. The Store is a place of public accommodation as defined by the NYSHRL because it owns and operates a public facility.
55. Plaintiff visited the Store and encountered discriminatory policies and procedures that acted as disability barriers described herein, as well as, hostile employee interactions.
56. By maintaining policies and procedures that discriminate against people with disabilities, and due to Defendant’s lack of employee training through the actions described above, Defendant has, directly or indirectly, refused, withheld, and/or denied to Plaintiff, because

⁸ NYS Exec. Law § 296 (2) (a).

of her disability the accommodations, advantages, facilities or privileges thereof provided at the Store.

57. Defendant discriminated against Plaintiff in violation of NYSHRL and Executive Law § 296(2), by maintaining and/or creating an inaccessible place of public accommodation due to their discriminatory policies and procedures with respect to service animal.

58. Defendant has failed to take any prompt and equitable steps to remedy their discriminatory conduct. These violations are ongoing.

59. Plaintiff has been damaged and will continue to be damaged by this discrimination in an amount to be determined at trial.

60. Plaintiff is also entitled to reasonable attorneys' fees and costs.

61. Plaintiff respectfully requests a judgment pursuant to N.Y. Exec. Law § 297, including compensatory damages contemplated by § 297(9).

62. Plaintiff seek a judgment pursuant to N.Y. Exec. Law §297, including damages pursuant to § 297(9) thereof.

THIRD CAUSE OF ACTION
VIOLATION OF CIVIL RIGHTS LAW ART. 4

63. Plaintiff re-avers and re-alleges the allegations set forth above, as though fully set forth herein.

64. Plaintiff served notice thereof upon the attorney general as required by Civil Rights Law §41.

65. Civil Rights Law § 40 provides that "all persons within the jurisdiction of this state shall be entitled to the full and equal accommodations, advantages, facilities and privileges of any places of public accommodations, resort or amusement, subject only to the conditions and limitations established by law and applicable alike to all persons. No persons, being

the owner, lessee, proprietor, manager, superintendent, agent, or employee of any such place shall directly or indirectly refuse, withhold from, or deny to any person any of the accommodations, advantages, facilities and privileges thereof”

66. Civil Rights Law § 40-c(2) provides that “no person because of . . . disability, as such term is defined in section two hundred ninety-two of executive law, be subjected to any discrimination in his or her civil rights, or to any harassment, as defined in section 240.25 of the penal law, in the exercise thereof, by any other person or by any firm, corporation or institution, or by the state or any agency or subdivision.”

67. Plaintiff is within the jurisdiction of New York.

68. Defendant’s Store targets New York citizens in New York State and is a sales establishment and public accommodation within the definition of Civil Rights Law § 40-c(2). The Store provides services, privileges, and/or advantages of Defendant.

69. Defendant is subject to the Civil Rights Law because they own and operate the Store.

70. Defendant is a person within the meaning of N.Y. Civil Law § 40-c(2).

71. Defendant is violating Civil Rights Law § 40-c(2) by unlawfully demanding Plaintiff produce documentation to demonstrate their basis for using service animal, under threat of being removed and escorted out of the grocery store.

72. This discrimination denies patrons with disabilities full and equal access to the facilities, goods, and services that Defendant makes available to the public without disabilities.

73. To make the Store accessible to individuals with disabilities, Defendant needs to immediately cease and discontinue their existing unlawful policies and procedures, which unlawfully subject individuals who rely on service animal to harassing interrogation and exclusion.

74. Ordering Defendant to ensure the Store becomes accessible by making such modifications, implementing such policies and procedures and properly training their employees would not fundamentally alter the nature of Defendant's business nor result in an undue burden to Defendant.
75. In addition, Civil Rights Law § 41 states that "any corporation which shall violate any of the provisions of sections forty, forty-a, forty-b or forty-two . . . shall for each and every violation thereof be liable to a penalty of not less than one hundred dollars nor more than five hundred dollars, to be recovered by the person aggrieved thereby..."
76. Defendant has failed to take any prompt and equitable steps to remedy their discriminatory conduct. These violations are ongoing.
77. As such, Defendant discriminate, and will continue in the future to discriminate against Plaintiff on the basis of her disability and therefore, she is being directly or indirectly refused, withheld from, or denied the accommodations, advantages, facilities and privileges thereof in § 40 *et seq.* and/or its implementing regulations.
78. Plaintiff is entitled to compensatory damages of five hundred dollars per instance, as well as civil penalties and fines pursuant to N.Y. Civil Law § 40 *et seq.* for each and every offense.

INJUNCTIVE RELIEF

79. Plaintiff will continue to experience unlawful discrimination because of Defendant's failure to comply with the ADA, NYSHRL, and Civil Rights Law.
80. Pursuant to 42 U.S.C. § 12188, this Honorable Court is vested with the authority to grant injunctive relief in favor of Plaintiff, including but not limited to the issuance of an Order to (a) alter The Store so that it is made readily accessible to, and useable by, all individuals

with disabilities, including Plaintiff, as required pursuant to the ADA and NYSHRL; (b) requiring that Defendant implement policies and procedures for individuals with disabilities who utilize service animal; (c) close the Store until the requisite modifications are complete and The Store is compliant under the ADA and New York State laws.

81. Therefore, injunctive relief is necessary to order Defendant to alter and modify their place of public accommodation, their policies, business practices, operation, policies and procedures.

82. Injunctive relief is also necessary to make the Store readily accessible and useable by Plaintiff in accordance with the ADA and NYSHRL.

JURY DEMAND

83. Plaintiff demands a trial by jury on all claims so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff hereby demands judgment against Defendant and requests the following injunctive and declaratory relief:

- a) A declaration that the Store owned, leased, operated, controlled and/or administrated by Defendant is in violation of the ADA and the NYSHRL, Executive Law and Civil Rights Law;
- b) An Order requiring Defendant to evaluate and neutralize their policies, practices and procedures towards individuals with disabilities, for such reasonable time to allow Defendant to undertake and complete corrective procedures to the Store;

- c) An Order requiring Defendant undertake and complete a program of actions as may be necessary, to remediate and eliminate all ADA and ADAAG violations found at trial to be present upon the Store;
- d) A declaration that Defendant own, maintain and/or operate their the Store in a manner which discriminates against individuals with disabilities and which fails to provide access for persons with disabilities as required by Americans with Disabilities Act, 42 U.S.C. § 12182, *et seq.*, Executive Law § 296, *et seq.*, and the laws of New York;
- e) An Order requiring Defendant to implement employee staff training and policies and procedures to make the Store accessible to and useable by individuals with disabilities as required pursuant to Title III of the ADA, the ADAAG, NYSHRL, Executive Law and Civil Rights Law;
- f) Requiring that the Store be closed to the general public until such time as it complies with all ADA Laws, requirements, including but not limited to complete remediation of its employee training, policies and procedures at the Store;
- g) An Order issuing a permanent injunction ordering Defendant to close the Store and cease all business until Defendant remove all violations under the ADA Laws, including but not limited to the violations set forth herein;
- h) Find that Plaintiff is a prevailing party and award reasonable attorneys' fees, costs, disbursements and other expenses associated with this action, in favor of Plaintiff, and award such pursuant to the ADA and NYSHRL.

- i) Award monetary damages in favor of Plaintiff to the maximum amount permitted by the NYSHRL, Executive Law and Civil Rights Law, as well as, compensatory and punitive damages;
- j) Granting Plaintiff such other and further relief, as the Court deems just under the circumstances;
- k) Granting Plaintiff's Counsel an award of their attorneys' fees and costs of suit, reflective of the work done in prosecuting this action, the time spent, the effort and hard costs invested, and results obtained, in light of the Court's judgment informed by awards in other similar cases of comparable difficulty and complexity; and
- l) For such other and further relief that this Court deems just, necessary and proper.

Dated: Garden City, New York
April 10, 2026

Respectfully Submitted,

BASHIAN & PAPANTONIOU P.C.

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VERIFICATION

Melissa Silver, hereby verifies and says that I am a Plaintiff in the above-captioned case. I have reviewed the allegation and they are true and correct to the best of my knowledge, information, and belief.

Dated: April 13, 2026 | 11:05 AM PDT

Signed by:

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Melissa Silver