

No. \_\_\_\_\_

IN THE UNITED STATES DISTRICT COURT FOR  
THE **NORTHERN DISTRICT OF ILLINOIS**

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NAME OF PERSON FILING, acting *pro se*, )

Plaintiff, )

v. )

STORE NAME, a \_\_\_\_ corporation (find the  
state of incorporation if you can), )

Respondent. )

No. \_\_\_\_\_

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**COMPLAINT FOR INJUNCTIVE RELIEF**

Plaintiff \_\_\_\_\_ filing *pro se*, pursuant to **735 ILCS 5/2-701** hereby  
files this Complaint for Injunctive and Declaratory Relief against Defendant \_\_\_\_\_  
for unlawful medical discrimination pursuant to the Department of Justice's Title III  
ADA Regulation 28 C.F.R. §36.501 in forcing Plaintiff to obstruct her airways as a  
requirement for service. Plaintiff requests this Court enjoin Defendant store from  
further discrimination against Plaintiff or any person who asserts a medical condition  
precluding compliance with any "face mask" requirements to utilize their services.

**PARTIES**

1. Plaintiff \_\_\_\_\_ is a citizen of the State of Illinois and he currently resides  
in \_\_\_\_\_ County.

2. Defendant STORE is a [state] corporation currently operating and doing business in the state of [your state] in [your county}.

### **JURISDICTION**

3. Jurisdiction is proper pursuant to 28 U.S.C. §1331 because this action is filed pursuant to federal law and thus presents a federal question. 28 C.F.R. §36.501 grants private rights of action to enforce violations of the Americans with Disabilities Act.

### **FACTUAL BACKGROUND**

**\*\*here you state EVERY FACT that you will be using to make your argument\*\***

### **ARGUMENT**

**a. The unambiguous language of the Americans with Disabilities Act prohibits places of public accommodation from discriminating against customers on the basis of their physiological condition.**

4. The law clearly states:

Prohibition of discrimination. No individual shall be discriminated against on the basis of **disability** in the **full and equal enjoyment** of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by **any private entity** who owns, leases (or leases to), or operates a **place of public accommodation**. (emphasis added).

28 C.F.R. §36.201

5. Additionally, the law prohibits any form of coercion, intimidation, or interference in the exercise of his or her enjoyment of the place of public accommodation,

(b) No private or public entity shall coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by the Act or this part

28 C.F.R. §36.206

6. Pursuant to 28 CFR § 36.105 “disability” is defined as “**(i)** A physical or mental impairment that substantially limits one or more of the major life activities of such individual; **(ii)** A record of such an impairment; or **(iii)** Being regarded as having such an impairment as described in paragraph (f) of this section.”

7. “Physical or mental impairment” means:

- (i) Any **physiological** disorder or **condition**, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as: Neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, **immune**, circulatory, hemic, lymphatic, skin, and endocrine; or
- (ii) Any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disability. (emphasis added).

*Id.*

8. This includes but is not limited to,

**contagious and noncontagious diseases** and conditions such as the following: Orthopedic, visual, speech and hearing impairments, and cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, dyslexia and other specific learning disabilities, Attention Deficit Hyperactivity Disorder, Human Immunodeficiency Virus infection (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism. (emphasis added).

28 CFR § 36.105(b)(2)

9. The aforementioned code provisions explicitly prohibit places of public accommodation from discriminating against a customer on any basis relating to his or her physiological condition.

10. Plaintiff expressed vehemently to Defendant that she had a medical condition that would be exacerbated by obstructing her airways through use of a facemask and would be detrimental to her health.

11. Despite this fact, Defendant refused to allow Plaintiff service in its place of public accommodation.

12. Plaintiff presented no “direct threat” to customers.

13. If Defendant believed Plaintiff to be a “direct threat” it was required by law to conduct an,

individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: The nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies,

practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

28 C.F.R. §36.208

14. Because Defendant failed to 1) communicate to Plaintiff if he/she believed her to be a “direct threat” to the “health or safety of others” and 2) did not conduct the requisite “individualized assessment” to determine whether the store could provide reasonable accommodations to Plaintiff, the Defendant store is in violation of the ADA
15. Thereby, Plaintiff respectfully requests this Court enjoin Defendant from further discrimination against Plaintiff or persons who assert medical conditions that preclude compliance with any “mask mandate” to utilize their facility.

Respectfully submitted,

NAME

Address

Phone

Email