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11 *Plaintiff and the Putative Class*

12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**

14 CASE NO.: _____

15 **CLASS ACTION COMPLAINT FOR DAMAGES**
16 **AND INJUNCTIVE RELIEF**

17 **DEMAND FOR JURY TRIAL**

18 JANE DOE, individually, and on
19 behalf of all others similarly
20 situated,

21 Plaintiff,

22 vs.

23 CAROL SPAHN, in her official
24 capacity as Acting Director of the
25 Peace Corps, and DOES 1 through
26 50, inclusive,

27 Defendants.

1 **I. PRELIMINARY STATEMENT**

2 1. This class action lawsuit brought by Representative Plaintiff Jane Doe (“Plaintiff
3 Doe”), on her own behalf and on behalf of the proposed Class identified below, challenges the
4 systematic failure of the Peace Corps to meet its obligations under the Rehabilitation Act of 1973, 29
5 U.S.C. § 701 *et seq.* (“Rehabilitation Act”).

6 2. Specifically, the Peace Corps discriminates against Invitees¹ with disabilities, denying
7 them opportunities, and does not conduct individualized assessments or consider reasonable
8 accommodations for Invitees with disabilities when conducting its medical clearance process, among
9 other deficiencies.

10 3. The Peace Corps is an independent agency within the executive branch of the United
11 States government. 22 U.S.C.A. § 2501-1.

12 4. The Peace Corps utilizes its Volunteer corps to “promote world peace and friendship,”
13 meet the basic needs of people living in poverty abroad, and “help promote a better understanding of the
14 American people on the part of the peoples served and a better understanding of other peoples on the part
15 of the American people.” 22 U.S.C.A. § 2501.

16 5. By serving abroad, Peace Corps Volunteers carry out the foreign policy goals of the Peace
17 Corps, including “the promotion of a better understanding of other peoples on the part of the American
18 people.” 22 U.S.C.A. § 2517.

19 6. Peace Corps Volunteers are provided compensation, training, leave, healthcare, and
20 retirement credits in exchange for their service. 22 U.S.C.A. § 2504(a).

21 7. The Peace Corps Medical Office (“Medical Office”) is responsible for conducting the
22 Medical Clearance process for all Invitees who are extended an invitation to serve in the Peace Corps.

23 8. As a regular practice and policy, the Medical Office denies positions abroad to Invitees
24 with disabilities, perceived disabilities, and records of disabilities.
25
26

27
28 ¹ Throughout, the term “Invitee” refers to individuals who were extended an invitation to become a Peace Corps Volunteer and have accepted their invitation to serve, but have not been placed as a Volunteer.

1 9. As a regular practice and policy, the Medical Office fails to conduct individualized
2 assessments of Invitees with disabilities to assess their capacity to serve in specific posts abroad, but
3 rather, discriminates against them based upon stereotypes about their medical conditions, denying them
4 opportunities.

5 10. Plaintiff Doe was an Invitee, provisionally offered a Peace Corps Volunteer position.

6 11. Plaintiff Doe has a disability, perceived disability, and record of disability which caused
7 the Peace Corps to deny her placement abroad as a Volunteer. In particular, at all times relevant to this
8 Complaint, Plaintiff Doe had Major Depressive Disorder and Generalized Anxiety Disorder, for which
9 she was taking prescription medications.

10 12. At all times relevant to this Complaint, Plaintiff was a qualified individual with a disability
11 under the Rehabilitation Act. In particular, Plaintiff Doe was qualified for the position for which she
12 had been selected and could have performed all essential functions of the position with or without
13 reasonable accommodations.

14 13. In denying her a position, the Peace Corps failed to conduct an individualized assessment
15 of Plaintiff, failed to engage in the interactive process with her in good faith, failed to conduct undue
16 hardship/direct threat analysis, and failed to consider reasonable accommodations (if any were needed)
17 that would have allowed Plaintiff to perform all the essential functions of a Volunteer abroad.

18 14. The Peace Corps routinely fails to meet its obligations under the Rehabilitation Act by
19 denying individuals with disabilities participation in the federally funded Volunteer program.

20
21 **II. THE PARTIES**

22 15. Individual and Representative Plaintiff Doe resided in Berkeley, California, at the time
23 of her application to the Peace Corps, invitation to serve, medical clearance process, denial of medical
24 clearance, and appeal of denial of medical clearance. She currently resides in Sandy Springs, Georgia.

25 16. Defendant Carol Spahn is the Acting Director of the Peace Corps. She is sued in her
26 official capacity.

27 17. Defendants Does 1-50, inclusive, are sued herein under fictitious names. Their true names
28 and capacities are unknown to Plaintiff. When their true names and capacities are ascertained, Plaintiff

1 will amend this complaint by inserting their true names and capacities herein. Plaintiff is informed and
2 believes and thereupon alleges that each of the fictitiously-named Defendants is responsible in some
3 manner for the occurrences herein alleged, and that the damages of Plaintiff and the putative Class
4 Members herein alleged were proximately caused by such Defendants.

5 **III. JURISDICTION AND VENUE**

6 18. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question
7 jurisdiction), as this case is brought under the Rehabilitation Act of 1973, 29 U.S.C. § 701 *et seq.*

8 19. Venue is proper in the United States District Court for the Northern District of California
9 pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to the claims set
10 forth herein occurred in this district. Plaintiff Doe first met with a Peace Corps Advisor at the Career
11 Center at UC Berkeley. Throughout her application process, Plaintiff Doe emailed with the Advisor
12 from her home in Berkeley. All events related to Plaintiff Doe's Volunteer application process,
13 including her interview and invitation, took place at Plaintiff Doe's home in Berkeley. Plaintiff Doe
14 received the denial of her medical clearance while she was at her home in Berkeley, and subsequently
15 appealed the denial of her medical clearance from her home in Berkeley.
16

17 **IV. THE PEACE CORPS DENIED PLAINTIFF AN INDIVIDUALIZED ASSESSMENT, AN**
18 **INTERACTIVE PROCESS, AND FAILED TO CONSIDER REASONABLE**
19 **ACCOMMODATIONS AND/OR TO PERFORM AN UNDUE HARDSHIP AND/OR**
20 **DIRECT THREAT ANALYSIS.**

21 20. In February 2020, Plaintiff was selected for a Peace Corps Volunteer position in North
22 Macedonia.

23 21. As a part of the application process, Plaintiff filled out a Health History form on January
24 2, 2020. In her Health History form, she disclosed her history of Major Depressive Disorder and
25 Generalized Anxiety Disorder, and that she was prescribed medications as treatment for her mental health
26 conditions.

27 22. Following her selection, on February 20, 2020, a pre-service nurse from the Peace Corps
28 Medical Office requested additional information from Plaintiff because she reported mental health
conditions in her Health History form. Plaintiff timely provided the requested information on February

1 24, 2020. All communications between Plaintiff and the Medical Office took place via an online Peace
2 Corps portal.

3 23. In response, on February 24, 2020, the nurse sent Plaintiff a link to a list of “conditions
4 difficult to accommodate in the Peace Corps.”

5 24. The Peace Corps maintains on its website a publicly available list of medical conditions
6 difficult to accommodate in the Peace Corps, including around 100 medical conditions. *See*
7 [https://www.peacecorps.gov/volunteer/health-and-safety/medical-information-applicants/#medical-](https://www.peacecorps.gov/volunteer/health-and-safety/medical-information-applicants/#medical-conditions-difficult-to-accommodate)
8 [conditions-difficult-to-accommodate](https://www.peacecorps.gov/volunteer/health-and-safety/medical-information-applicants/#medical-conditions-difficult-to-accommodate) (last visited May 20, 2021). This list systematically discourages
9 individuals with disabilities and records of disabilities and perceived disabilities from applying to the
10 Peace Corps.

11 25. On February 25, 2020, without an interactive process or consideration of potential
12 reasonable accommodations, or a compliance undue hardship/direct threat analysis, the Medical Office
13 notified Plaintiff that her medical clearance was denied. The reason given in her denial was that Plaintiff
14 recently had a change in psychiatric medications and that she was currently engaged in treatment for her
15 mental health conditions. The denial also stated, without basis in fact: “It is likely, to a reasonable degree
16 of medical certainty, the potentially stressful environment of Peace Corps would aggravate, exacerbate,
17 accelerate, or permanently worsen your pre-existing medical concerns, which would lead to your being
18 unable to complete a tour of 27 months without unreasonable disruption of service.”

19 26. On February 27, 2020, Plaintiff wrote an email to the Medical Office in response to her
20 non-clearance, explaining that her mental health condition and her medications would not inhibit, at all,
21 her ability to serve in North Macedonia, where she was set to move. She explained that her treating
22 psychiatrist and therapist offered to continue treating her remotely, and that she had located private
23 pharmacies and delivery services in Skopje, near the Peace Corps Headquarters in North Macedonia, that
24 would allow her to receive her medications. Additionally, Plaintiff described her experience successfully
25 spending extensive time in Syria, Lebanon, and Peru under austere conditions, despite her diagnoses of
26 depression and anxiety. In this email, Plaintiff offered to put the Medical Office in direct contact with
27 her treating psychiatrist, who would attest to Plaintiff’s ability to serve abroad.
28

1 27. The Peace Corps did not engage in any interactive process with Plaintiff, or contact
2 Plaintiff's treating providers, who were in the best position to evaluate her ability to serve abroad.

3 28. On February 28, 2020, the Medical Office notified Plaintiff of her right to appeal their
4 decision to deny her medical clearance.

5 29. Ms. Doe timely submitted an appeal on March 28, 2020, including a personal statement
6 describing her ability to serve abroad. Plaintiff reiterated her successful experience abroad despite her
7 diagnoses of depression and anxiety. She described her self-care routine, which had helped her manage
8 her depression and anxiety, including regular exercise, meditation, and journaling, all things she could
9 continue in North Macedonia. Plaintiff presented the Peace Corps with research she had done on private
10 pharmacies near the Peace Corps Headquarters in North Macedonia, including delivery services, which
11 would allow her to obtain her prescription. She reported that as her therapy was largely preventative, she
12 would not necessarily need to continue therapy during her time in North Macedonia. However, she
13 suggested that if therapy was necessary, her treating providers had agreed to conduct her treatment over
14 Skype.
15

16 30. On April 8, 2020, Plaintiff informed the Medical Office nurse that she was completing her
17 therapy treatment and that she planned to discontinue her medication with her providers' approval. This
18 information did not change the Peace Corps' decision to reject Plaintiff later that year.

19 31. Plaintiff requested no accommodation of the Peace Corps which would have imposed any
20 burden – let alone an undue hardship – on the agency.

21 32. On August 5, 2020, the Peace Corps notified Plaintiff that her appeal had been denied and
22 that her candidacy for the Peace Corps Volunteer position was being terminated.

23 33. The Peace Corps did not consider any reasonable accommodations for Plaintiff prior to
24 denying her opportunities.

25 34. The Peace Corps did not consider the resources available at the specific location where
26 Plaintiff was supposed to serve, nor the job duties of Plaintiff's offered position, in order to conduct a
27 compliant individualized assessment.
28

1 35. The Peace Corps did not consider any alternative assignments as a last-resort
2 accommodation.

3 36. The Peace Corps did not perform any compliant, individualized analysis of whether
4 Plaintiff's conditions would create a direct threat to herself or others, under 29 C.F.R. §1630.2(r).

5 37. Rather, the Peace Corps summarily denied Plaintiff opportunities based upon her
6 disabilities, record of disabilities, and perceived disabilities, effectively determining that Plaintiff could
7 not be accommodated in any position in any location in the world.

8
9 **V. CLASS ACTION ALLEGATIONS**

10 38. Plaintiff brings this action as a class action pursuant to Rule 23(b)(2), (b)(3), and (c)(4) of
11 the Federal Rules of Civil Procedure ("FRCP") on behalf of the following defined Class:

12
13 **Proposed Class:**

14 All Peace Corps Invitees from August 2, 2020² until the resolution of this complaint, who were
15 denied Volunteer positions in the Peace Corps because the Peace Corps denied them medical clearance
16 for service due to their disability, record of a disability, or perceived disability.

17 39. Numerosity: The Proposed Class is so numerous that joinder of all members is
18 impracticable.

19 40. According to the Peace Corps' publicly available data, as of September 30, 2020, the
20 Peace Corps had 2,187 active Invitees and received 3,548 new Volunteer applications between April 1,
21 2020 and September 30, 2020. *See* [https://s3.amazonaws.com/files.peacecorps.gov/documents/inspector-](https://s3.amazonaws.com/files.peacecorps.gov/documents/inspector-general/Semiannual_Report_to_Congress_Apr_2020-Sep_2020.pdf)
22 [general/Semiannual_Report_to_Congress_Apr_2020-Sep_2020.pdf](https://s3.amazonaws.com/files.peacecorps.gov/documents/inspector-general/Semiannual_Report_to_Congress_Apr_2020-Sep_2020.pdf) (last visited May 18, 2021).

23 41. Because there are thousands of Invitees each year, Plaintiff believes, and on that basis
24 alleges, that during the relevant time period, there are at least dozens of individuals who are
25 geographically dispersed around the country and the world and who satisfy the definition of the Proposed
26

27
28 ² Plaintiff will seek to certify a class commencing with the earliest possible date. This date is 45 days
prior to Plaintiff's informal EEO exhaustion with the Peace Corps. If it is determined that the class period
can extend prior to this date, then Plaintiff incorporates that earlier date here by reference.

1 Class. Moreover, Plaintiff anticipates that the class will grow over time because, upon information and
2 belief, the Peace Corps continues to maintain the challenged pattern, practice, and/or policy of failing to
3 conduct individualized assessments and consider reasonable accommodations and/or perform compliant
4 undue hardship/direct threat analyses for Invitees with disabilities, records of disabilities, or perceived
5 disabilities.

6 42. Typicality: Plaintiff's claims are typical of the members of the Proposed Class. Plaintiff
7 was an Invitee of the Peace Corps with an actual disability and record of disability whom the Peace Corps
8 denied medical without conducting an individualized assessment or considering reasonable
9 accommodations, or conducting a compliant undue hardship/direct threat analysis.

10 43. Superiority: A class action is superior to other available methods for the fair and efficient
11 adjudication of this controversy, particularly in the context of applicants for Volunteer positions, where
12 limited individual financial recovery is at stake, and where individuals lack the financial resources to
13 vigorously prosecute separate lawsuits in federal court against a large governmental defendant, and fear
14 retaliation and blackballing. Prosecuting dozens of identical individual lawsuits across the country on
15 behalf of individuals dispersed around the world does not promote judicial efficiency, equity, or
16 consistency in judicial results, when there is a single pattern, practice, and/or policy being challenged:
17 the Peace Corps' failure to conduct individualized assessments and consider reasonable accommodations
18 and/or conduct direct threat/undue hardship analysis for Invitees with disabilities.

19 44. Adequacy: Plaintiff will fairly and adequately protect the interests of the proposed Class,
20 has no conflicts with the proposed Class's interests, and has retained counsel experienced in complex
21 class litigation against large employers, including class disability discrimination litigation against federal
22 agencies.

23 45. Commonality: Common questions of law and fact exist as to all members of the proposed
24 Class and predominate over any questions solely affecting individual members of the proposed Class,
25 including but not limited to:

- 26
27 a. Whether the Peace Corps has a policy of not conducting adequate individualized
28 assessments;

- b. Whether the Peace Corps has a policy of not engaging in an adequate interactive process;
- c. Whether the Peace Corps fails to consider reasonable accommodations;
- d. Whether the Peace Corps has a policy of not considering potential reasonable accommodations according to site location;
- e. Whether the Peace Corps conducts a compliant undue hardship analysis as to any reasonable accommodations;
- f. Whether the Peace Corps conducts a compliant direct threat analysis as to any disabilities, perceived disabilities, and records of disabilities;
- g. Whether the Peace Corps' failure to conduct individualized assessments, engage in the interactive process, consider reasonable accommodations, and/or conduct compliant undue hardship/direct threat analyses resulted in the rescission of Invitees' invitations to Volunteer;
- h. Whether the Peace Corps' failure to conduct individualized assessments, engage in the interactive process, consider reasonable accommodations, and/or conduct compliant undue hardship/direct threat analyses violates, or results in violation of, Section 504 of the Rehabilitation Act of 1973.
- i. The appropriate injunctive relief to prevent prospective harm to Class Agent and those similarly situated;
- j. The proper measure of damages sustained by the Proposed Class.

46. This case is maintainable as a class action under Federal Rule of Civil Procedure 23(b)(2) because the Peace Corps has acted or refused to act on grounds that apply generally to the proposed Class, including but not limited to maintaining a uniform pattern, practice, and/or policy of failing to conduct individualized assessments, consider reasonable accommodations, and/or conduct compliant direct threat and undue hardship analyses, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the Class as a whole.

1 47. Class certification is also appropriate under Federal Rule of Civil Procedure Rule 23(b)(3)
2 because questions of law and fact common to the proposed Class predominate over any questions
3 affecting only individual members of the proposed Class, and because a class action is superior to other
4 available methods for the fair and efficient adjudication of this litigation. The Peace Corps' uniform
5 pattern, practice, and/or policy of failing to conduct individualized assessments and consider reasonable
6 accommodations has stymied Invitees' careers and caused Invitees emotional and/or physical harm. The
7 damages suffered by the individual proposed Class are small compared to the expense and burden of
8 individual prosecution of this litigation, in light of limited individual damages at stake. Proposed Class
9 fear employment retaliation and being "blackballed" from obtaining future opportunities with the federal
10 government. In addition, class certification is superior because it will obviate the need for unduly
11 duplicative litigation that might result in inconsistent judgments about the Peace Corps' failure to conduct
12 individualized assessments, consider reasonable accommodations, and conduct compliant undue
13 hardship/direct threat analyses.

14 48. Class certification may also be maintained under Federal Rule of Civil Procedure Rule
15 23(c)(4) because resolving the central question of whether the Peace Corps systematically fails to conduct
16 individualized assessments, consider reasonable accommodations, and/or conduct compliant undue
17 hardship/direct threat analyses with respect to Invitees with disabilities can be established with common
18 proof using, for example, statistics, statements from Peace Corps officials, and representative testimony
19 and documents from class members. Thereafter, individual class members may be required to prove their
20 individual entitlements to monetary recovery and the Peace Corps would have an opportunity to present
21 any affirmative defenses with respect to such individual Class members in *Teamsters* hearings. *See Int'l*
22 *Bhd. of Teamsters v. United States*, 431 U.S. 324, 361–62 (1977).

23 49. Plaintiff Doe intends to send notice to all members of the Proposed Class to the extent
24 required by Rule 23. The names, email addresses, mailing addresses, and telephone numbers of the
25 members of the Proposed Class are available from the Peace Corps because class members are current
26 and former Peace Corps Invitees.
27

28 **VI. EXHAUSTION OF ADMINISTRATIVE REMEDIES AND TOLLING**

1 50. A Peace Corps Volunteer, Trainee, or Applicant alleging discrimination by the Agency
2 may file a civil action in the appropriate U.S. District Court if, after one hundred eighty (180) calendar
3 days from the date of filing a complaint with the agency if there has been no final agency action. 45
4 C.F.R. § 1225.21.

5 51. On August 5, 2020, Ms. Doe received notice that her appeal had been denied and her
6 candidacy for the Peace Corps position was being terminated.

7 52. On September 16, 2020, Plaintiff timely filed an informal complaint with Peace Corps
8 EEO³, alleging individual and class claims of disability discrimination.

9 53. On November 23, 2020, Plaintiff timely filed a formal complaint with Peace Corps EEO,
10 alleging individual and class claims of disability discrimination.

11 54. On November 25, 2020, Peace Corps EEO informed Plaintiff of its opinion that the
12 information she provided was insufficient to establish a class claim under 45 CFR 1225. Peace Corps
13 EEO requested additional information in support of Plaintiff’s class allegations.

14 55. On November 30, 2020, Plaintiff timely submitted additional information to Peace Corps
15 EEO supporting her class allegations.

16 56. On December 23, 2020, John Burden, Director of the Peace Corps Office of Civil Rights
17 and Diversity (“OCR D”), notified Plaintiff that OCR D still did not consider her class allegations
18 sufficient under 45 CFR 1225.13(a)(7).

19 57. On February 8, 2020, Peace Corps EEO accepted Plaintiff’s individual complaint for
20 investigation, and dismissed Plaintiff’s class allegations. On February 8, 2020, Plaintiff, with assistance
21 of counsel, indicated that she disagreed with the dismissal of her class allegations.

22 58. On February 25, 2020, Peace Corps EEO referred Plaintiff’s class claims to the Director’s
23 Office and asked Plaintiff to supply additional information to support her class allegations.

24 59. On March 8, 2021, Plaintiff submitted supplemental documentation and legal arguments
25 to Peace Corps EEO in support of her class allegations.
26

27 _____
28 ³ Throughout, “Peace Corps EEO” refers both to the Peace Corps and the Peace Corps Office of Civil
Rights and Diversity.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Alleges Peace Corps Discriminates Against Invitees with Disabilities](#)
