

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.

AGENCY

FEPA
 EEOC

CHARGE NUMBER

RHODE ISLAND COMMISSION FOR HUMAN RIGHTS

and EEOC

State or Local Agency, if any

NAME (Indicate Mr., Ms., Mrs.)

**RHODE ISLAND AFFILIATE,
AMERICAN CIVIL LIBERTIES UNION**

HOME TELEPHONE (Include Area Code)

401-831-7171

STREET ADDRESS

128 Dorrance Street, Suite 220

CITY, STATE AND ZIP CODE

Providence, RI 02903

DATE OF BIRTH

Not applicable

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME

Senesco Marine, LLC

NUMBER OF EMPLOYEES, MEMBERS

More than 300

TELEPHONE (Include Area Code)

401-295-0373

STREET ADDRESS

10 MacNaught Street

CITY, STATE AND ZIP CODE

North Kingstown, RI 02852

COUNTY

Washington

NAME

TELEPHONE NUMBER (Include Area Code)

STREET ADDRESS

CITY, STATE AND ZIP CODE

COUNTY

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))

RACE COLOR SEX RELIGION AGE
 RETALIATION NATIONAL ORIGIN DISABILITY OTHER

DATE DISCRIMINATION TOOK PLACE
EARLIEST (ADEA/EPA) LATEST (ALL)

1/2/09

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

The particulars are set forth on the attached continuation pages.

[]

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - (When necessary for State and Local Requirements)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(Day, month, and year)

Date

Charging Party (Signature)

CHARGE OF DISCRIMINATION

Complainant, Rhode Island Affiliate, American Civil Liberties Union, is a non-profit organization chartered for the purpose of safeguarding civil liberties, including combating discrimination against persons with disabilities.

Respondent, Senesco Marine, LLC ("Senesco"), is a Delaware limited liability company with its principal place of business in North Kingstown, Rhode Island. Senesco is in the business of ship design, construction, and repair. Upon information and belief, Senesco employs more than 300 people at its North Kingstown facility.

Senesco posts its employment application form on its Internet web page: <http://www.senescomarine.com/application.html>

The employment application form requires every job applicant to "attest" that:

"I am physically and mentally capable of performing the essential job duties of the above position for which I have applied. I further attest that I have no need for changes or adjustments in the essential duties of the job in order to allow me to meet the demands of the position. I attest to the above, having reviewed the essential job functions of the attached job description."

The "attestation" is a blatant violation of state and federal laws protecting the rights of persons with disabilities. By well-established law, an employer must provide an employee with disabilities with "reasonable accommodations" that would allow the employee to perform the essential functions of the job. In purpose and effect, Senesco's attestation operates to bar persons with disabilities from applying for a job unless they first waive their legal right to request reasonable accommodation.

Senesco's online job application form also provides a "notice" to applicants that:

"Section 28-35-57.1 of the Rhode Island Workers Compensation Law specifies that any employee who falsifies information concerning his or her ability to perform the essential functions of a job, without reasonable changes in the job's requirements, may be barred for two (2) years from making or collecting for a workers' compensation claim for any injury resulting from an inability to meet the essential job demands."

Senesco's "notice" in essence warns applicants that if it turns out that they do require reasonable accommodation due to a disability, they will forfeit their right to workers' compensation benefits if they are injured on the job.

CHARGE OF DISCRIMINATION

In fact, the cited provision says no such thing. R.I.G.L Section 28-35-57.1 actually states that an employee's workers compensation claim will be barred if the employee has "willfully provided false information on an employment application as to his or her ability to perform the essential functions of the job, with or without reasonable accommodations", and then, only if "the information is directly related to the personal injury which is the basis of the new claim for compensation."

The provision further states that "[n]othing in this section shall exempt any employer from or excuse full compliance with any applicable provisions of the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq., and chapter 87 of title 42 [Rhode Island's "Civil Rights of People With Disabilities Act"]."

Senesco's deliberate and blatant misrepresentation of applicable law, like its inclusion of the unlawful "attestation", is intended to deter persons with disabilities from applying for a job if they would require reasonable accommodation.

On or about November 3, 2008, Complainant notified Respondent in writing that its employment application form was unlawful. Respondent acknowledged receipt of the notification but has failed and refused to take any corrective actions.

Complainant seeks all remedies against Senesco that are available under the "Fair Employment Practices Act", R.I.G.L. § 28-5-1, et seq., and under the "Civil Rights of People With Disabilities Act", R.I.G.L. § 42-87-1, et seq., including injunctive relief, punitive damages, and costs and reasonable attorneys' fees.