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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE DISTRICT OF ARIZONA

10 Antoinette Barrett,

11 **Plaintiff,**

12 **v.**

13 iQor, Inc. and Allied Interstate LLC,

14 **Defendants.**

**Cause No.:**

**PLAINTIFF'S COMPLAINT**

**(Jury Trial Demanded)**

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17 This action is based on unlawful employment practices on the basis of  
18 disability and race discrimination and seeks to provide appropriate relief to  
19 Antoinette Barrett (“Barrett” or “Plaintiff”), who was adversely affected by such  
20 practices.

21 **JURISDICTION AND VENUE**

22 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1331,  
23 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section  
24 107(a) of the Americans with Disabilities Act of 1990 (“ADAAA”), 42 U.S.C.  
25 §12117(a), which incorporates by reference Section 706(f)(1) and (3) of Title VII of  
26 the Civil Rights Act of 1964 (“Title VII”) and 42 U.S.C. §2000e(f)(1) and (3).



1 peanuts, which renders her substantially limited in several major life activities  
2 including but not limited to her ability to breath, think and concentrate.

3 10. Barrett is disabled within the meaning of 42 U.S.C. § 12102(2)(c )  
4 because her employer regarded her as having an impairment that prevents her from  
5 performing the duties of her position.

6 11. Barrett is also a qualified individual with a disability because she has a  
7 record of disability within the meaning of the Americans With Disabilities Act.

8 12. Barrett is also a qualified individual with a disability within the  
9 meaning of 42 U.S.C. § 12111 (8) because she is otherwise qualified for the position  
10 and can perform the essential functions of the job with or without accommodation.

11 13. Defendants act through and by their entities, agents, and, employees  
12 and are liable for the acts of their employees pursuant to, but not limited to, the  
13 ADA, respondent superior doctrine, and agency principals.

14 14. In April 2010 and on several subsequent other occasions, Barrett  
15 informed her employer and immediate supervisor, Tammy Doherty that she was  
16 severely allergic to peanuts and requested that she not be exposed to peanuts while at  
17 work.

18 15. On October 12, 2010, Barrett timely filed a charge of discrimination  
19 with the Arizona Attorney General Office and United States Equal Employment  
20 Opportunity Commission alleging Defendants had discriminated against her because  
21 of her race, African American in violation of Title VII, her disability in violation of  
22 the ADAAA and on December 9, 2010 Barrett filed a charge of discrimination that it  
23 had retaliated against her.

24 16. Since at least July 2010, IQor has engaged in unlawful  
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1 employment practices in violation of Section 102(a) of Title I of the ADAAA, 42  
2 U.S.C. §12112(b)(5), Title VII of the Civil Rights Act of 1964 and §1981, Civil  
3 Rights Act of 1871, 42 U.S.C. § 1981.

4 **GENERAL ALLEGATIONS**

5 17. On or about April 5, 2010 Antoinette Barrett began working for  
6 Defendants Iqor, Inc. and Allied Interstate LLC (“Defendants”) as a Junior Agent in  
7 its Chandler, Arizona call center.

8 18. When she began her employment, Barrett immediately informed her  
9 employer and co-workers about her disability, as any exposure (*airborne or*  
10 *otherwise*) to peanuts could result in hospitalization and/or death.

11 19. Barrett did not go to the company cafeteria to avoid exposure to peanut  
12 products.

13 20. In July 2010, Barrett began being supervised by Tammy Doherty  
14 (“Doherty”). Within a couple of weeks of becoming Barrett’s supervisor, Doherty  
15 began harassing Barrett because of her race and disability by, amongst other things,  
16 using derogatory language towards Barrett and threatening to terminate Barrett’s  
17 employment. Barrett reported the harassment to management.

18 21. On or about September 1, 2010, knowing of Barrett’s disability, two of  
19 her co-workers Adriana Ortiz (“Ortiz”) and Fidel Garcia (“Garcia”) were *curious* as  
20 to what would happen if Barrett was exposed to peanuts. They ate peanuts near  
21 Barrett, chased her trying to place peanuts on her and touched her arm and leg with  
22 peanuts to see if Barrett was “faking” her disability. As a result, Barrett was forced  
23 to leave work and go to an Urgent Care facility because she had difficulty breathing.  
24 Barrett reported Ortiz’ and Garcia’s conduct to Doherty.

25 22. On or about September 17, 2010, Barrett’s co-workers ate peanuts at  
26 their desks in Barrett’s work area. Barrett’s face became swollen, her throat closed

1 and she could not breathe. As a result, Barrett was rushed to Urgent Care for  
2 treatment. Later that day, Barrett returned to work and gave Doherty a note from her  
3 doctor stating that she was on modified work duty. Doherty's response to her  
4 allergic reaction was that, "it was all in her [Antoinette's] head."

5 23. Barrett requested that Doherty inform her co-workers that she could not  
6 be exposed to peanuts and also requested that the building be "peanut free" to the  
7 extent possible. Doherty told Barrett that she would communicate to Barrett's co-  
8 workers that she was allergic to peanuts and that exposure could be detrimental to  
9 Barrett.

10 24. Instead of accommodating Barrett as required by the ADAAA, Doherty  
11 told Barrett's co-workers to eat peanut in Barrett's presence to see if Barrett was  
12 faking her disability.

13 25. On approximately September 28, 2010, Barrett returned from a break  
14 to find peanuts on her desk and on the floor around her workstation. As a result, she  
15 was rushed to the medical center for treatment.

16 26. On or about October 7, 2010, Barrett's co-worker, CarolAnn LNU,  
17 placed peanuts directly on Barrett. Barrett was, again, rushed to Urgent Care because  
18 her throat closed and she had difficulty breathing.

19 27. On or about October 8, 2010, Barrett reported the incident to  
20 Defendants' management including Doherty and Dave LNU. Barrett also filed a  
21 police report regarding the incident with the City of Tempe Police Department.

22 28. On October 11, 2010, within one hour of returning to work, Doherty  
23 called Barrett to her desk. Doherty was eating a Twix peanut bar with full  
24 knowledge of Barrett's disability. Doherty joked that if Barrett lived after the  
25 exposure it meant she was faking. The exposure resulted in a severe allergic reaction  
26 and Barrett began having difficulty breathing. She cried for help. Although

1 employees were present and witnessed Barrett fall to the floor and beg for help, no  
2 one made an attempt to assist Barrett or called an ambulance. Instead they watched  
3 Barrett’s plight as Doherty said no one was allowed to assist Barrett until they met  
4 productivity “goal[s].”

5 29. Barrett using her mobile phone, while on the floor called 911 to request  
6 an ambulance as her body was shutting down and she regurgitated on the floor.

7 Barrett was rushed to the emergency room by ambulance. She was hospitalized.

8 30. After her hospitalization, Barrett’s doctors instructed her to remain at  
9 home until she was able to safely return to work. Barrett informed Doherty regarding  
10 her health status and gave her notes from her doctor regarding her status and need for  
11 an accommodation.

12 31. During this time period, Barrett continued to request an  
13 accommodation for her disability.

14 32. Defendants did not undertake any written analysis to determine the  
15 impact of accommodating Barrett.

16 33. Defendants did not engage in the interactive process to determine if  
17 there were other accommodations available.

18 34. Defendants’ conduct demonstrates discriminatory animus towards  
19 Barrett because of her disability and because she sought to exercise her rights under  
20 the ADAAA.

21 35. Defendants’ conduct demonstrates discriminatory animus towards  
22 Barrett because of her race, African American.

23 36. October 11, 2010 was the last day Barrett was physically at  
24 Defendants’ call center.

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1           37.     During her employment, Antoinette Barrett had perfect attendance and  
2 did not receive any disciplinary actions (counseling or warnings) and/or complaints  
3 regarding her work performance.

4           38.     Barrett has suffered considerable emotional and financial distress over  
5 the loss of her employment.

6           39.     The conduct of Defendants described above was at all times intentional  
7 and malicious.

8                                                                   **COUNT I**  
9                                                                   **Americans with Disabilities Act**  
10                                                                  **Discrimination, Harassment, Reasonable Accommodation, and Retaliation**

11           40.     Barrett hereby re-pleads and incorporates all allegations set forth  
12 above.

13           41.     Defendants harassed, discriminated against, and refused to reasonably  
14 accommodate Barrett and retaliated against her because of her disability and/or  
15 perceived disability in violation of the ADAAA.

16           42.     The effect of the practices complained of herein above has been to  
17 deprive Barrett of equal employment opportunities and otherwise adversely affect her  
18 status as an employee, because of her disability.

19           43.     The unlawful employment practices complained of above were and are  
20 intentional.

21           44.     Defendants failed and/or refused to accommodate Barrett's disability,  
22 harassed her, retaliated against her, including terminated her employment in reckless  
23 disregard of its obligations under the ADAAA.

24           45.     As a direct and proximate result of Defendants' willful, intentional,  
25 malicious, and unlawful failure to accommodate Barrett's disability, discrimination,  
26 and termination of her employment, Barrett suffered humiliation, stress,  
embarrassment, anxiety, loss of health, worry, fright, emotional distress, lost

1 compensation, including employment benefits, and other compensation in amounts to  
2 be proven at trial.

3 **COUNT II**  
4 **Declaratory Relief Allegations**

5 46. Barrett incorporates by reference as if fully set forth herein the  
6 allegations contained in the paragraphs above.

7 47. An actual controversy exists between Barrett and Defendants  
8 concerning their respective rights and duties. Barrett contends that Defendants  
9 willfully violated her rights under the ADAAA by refusing to accommodate her  
10 disability and harassing her because of her disability and/or perceived disability and  
11 for terminating her employment. Barrett is informed and believes, and based thereon  
12 alleges, that Defendants deny that these actions were unlawful. Declaratory relief is  
13 therefore necessary and appropriate.

14 48. Barrett also contends Defendants violated her rights under Title VII  
15 and under 42 U.S.C. § 1981 *et seq.*, by harassing her, discriminating and retaliating  
16 against her because of her race and subjecting her to a hostile work environment.

17 **COUNT III**  
18 **Injunctive Relief Allegations**

19 49. Plaintiff incorporates by reference as if fully set forth herein the  
20 allegations contained in the paragraphs above.

21 50. No previous application for the injunctive relief sought herein has been  
22 made to this Court.

23 51. If this Court does not grant the injunctive relief sought herein, plaintiff  
24 will be irreparably harmed.

25 52. No plain, adequate, or complete remedy at law is available to plaintiff to  
26 redress the wrongs addressed herein.



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**COUNT IV**  
**Title VII, Discrimination, Harassment & Retaliation**  
**42 U.S.C § 1981 Discrimination, Harassment and Retaliation**

53. Barrett hereby repleads and incorporates all allegations set forth above.

54. Defendants intentionally discriminated against Barrett on account of her race, in violation of Title VII and 42 U.S.C § 1981, by denying her equal terms, conditions and privileges of employment, including but not limited to, discharging Barrett’s employment under the pretext that she had voluntarily resigned her employment.

55. Defendants also retaliated against Barrett on the account of her race, in violation of Title VII and 42 U.S.C § 1981 because she opposed unlawful discrimination by denying her equal terms, conditions and privileges of employment, including but not limited to, discharging Barrett’s employment under the pretext that she had resigned her employment.

56. As a direct and proximate result of Defendants’ conduct, Barrett suffered and continues to suffer damages in amounts to be proven at trial, including but not limited to loss wages, embarrassment, pain and suffering, mental distress, ordeal, humiliation, fright, worry, fright and emotional distress.

**COUNT V**  
**Intentional Infliction of Emotional Distress**

57. Barrett hereby repleads and incorporates all allegations set forth above.

58. The acts complained of above were extreme and outrageous as to go beyond all possible bounds of decency.

59. As a direct and proximate result of Defendants’ extreme and outrageous conduct, Barrett has been harmed in an amount to be proven at trial.

60. Barrett is entitled to punitive damages as a result of Defendants’ reckless conduct as outlined above.

1 **DEMAND FOR JURY TRIAL**

2 61. Barrett hereby requests a jury trial.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Barrett respectfully requests that this Court:

5 A. Grant a permanent injunction enjoining Defendants, its officers,  
6 successors, assigns and all persons in active concerns or participation with them, from  
7 engaging in any employment practice, which discriminates on the basis of disability.

8 B. Order Defendants to institute and carry out policies, practices and  
9 programs, which provide equal employment opportunities for qualified individuals with  
10 disabilities, and which eradicate the effects of its past and present unlawful employment  
11 practices.

12 C. Order Defendants to implement training and monitoring programs  
13 administered by an entity external to Defendants.

14 D. Enter a declaratory judgment that Defendants have violated Antoinette  
15 Barrett's right to be free from discrimination and retaliation and that IQor violated  
16 Barrett's civil rights.

17 E. Order Defendants to post notices required by the ADAAA.

18 F. Order Defendants to make whole Antoinette Barrett, by providing  
19 appropriate back pay and benefits with prejudgment interest, in amounts to be  
20 determined at trial, and other affirmative relief necessary to eradicate the effects of their  
21 unlawful employment practices, including but not limited to, reinstatement/rightful  
22 placement of Barrett including seniority and/or front pay.

23 G. Order Defendants to make whole Antoinette Barrett by providing  
24 compensation for past and future non-pecuniary losses resulting from the unlawful  
25 practices complained of above, including damages for emotional pain and suffering,  
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including but not limited to anguish, distress, humiliation, embarrassment, emotional distress, humiliation, anxiety, and ordeal in amounts to be determined at trial.

H. Order Defendants to pay punitive damages.

I. Award Barrett her costs, reasonable attorney’s fees and pre-judgment and post judgment interest.

J. Grant such other and further relief as this Court deems just, appropriate and proper.

DATED this 24<sup>th</sup> day of October 2011.

KIRTLEY WELLS

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