

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**HERCULES FINLEY,**

**Plaintiff,**

**v.**

**HAWKER BEECHCRAFT  
CORPORATION,**

**Defendant.**

**CIVIL ACTION**

**Case No. 10-1100-CM**

**MEMORANDUM AND ORDER**

Plaintiff Hercules Finley brings this employment discrimination case against his former employer, defendant Hawker Beechcraft Corporation, claiming that defendant discriminated against him because of his disability, in violation of the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12101 *et seq.* Plaintiff suffers from postherpetic neuralgia, a complication from shingles affecting the nerve fibers and skin. His condition is aggravated by exposure to vibrations and loud noises, and he suffers from debilitating pain and uncontrollable twitching and tremors when exposed to these triggers.

Plaintiff claims that defendant failed to accommodate his disability in the workplace despite having a number of available positions that plaintiff was qualified and able to perform. The case is now before the court on Defendant’s Motion for Summary Judgment (Doc. 49). In its motion, defendant asks the court to grant judgment as a matter of law on one or more issues.

The court has reviewed the briefs, the evidence submitted, and the governing law at length. After much deliberation, the court determines that genuine issues of material fact preclude summary judgment on any single issue in this case. Some of the issues raised by defendant may be proper for consideration in a motion in limine filed prior to trial. But on the record before it, the court cannot

conclude that defendant is entitled to judgment as a matter of law. There are material factual disputes that must be resolved by a trier of fact.

**IT IS THEREFORE ORDERED** that Defendant's Motion for Summary Judgment (Doc. 49) is denied.

Dated this 26th day of August 2011, at Kansas City, Kansas.

s/ Carlos Murguia  
**CARLOS MURGUIA**  
United States District Judge