IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

TALISA BORDERS and OTISHA WOOLBRIGHT, on behalf of themselves and all others similarly situated,	)	
Plaintiffs,	)	**Case No. 17-cv-0506-MJR-DGW**
vs.	)	
WAL-MART STORES, INC.,	)	
Defendant.	)	

MEMORANDUM & ORDER

REAGAN, Chief Judge:

Plaintiffs Talisa Borders and Otisha Woolbright filed this putative class action on behalf of themselves and all others similarly situated alleging that Walmart employed discriminatory policies and practices with respect to pregnant employees who required workplace accommodations due to their pregnancies. (Doc. 1). Proposed class members are current and former female employees of Walmart at stores nationwide, including Borders and Woolbright, who were subject to certain pregnancy policies and practices between March 19, 2013, and approximately March 2014. Before the Court are two motions to dismiss filed by Walmart. The first argues that Woolbright's claims must be dismissed for lack of personal jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1). (Doc. 15). The second moves for dismissal for failure to state a claim pursuant to Rule 12(b)(6). (Doc. 17). Plaintiffs filed briefs in opposition to each motion (Docs. 46,

47) to which Defendants replied (Docs. 64, 65). For the reasons delineated below, the motions to dismiss are **DENIED**.

A. BACKGROUND

Plaintiffs allege that Talisa Borders was employed by Walmart in O'Fallon, Illinois between July 25, 2012, and April 14, 2017. Sometime before March 19, 2013, Borders became pregnant. Part of her job duties included climbing ladders and lifting heavy objects. Early in her pregnancy, Borders nearly slipped off of a ladder, causing her to fear for the safety of her fetus and the health of her pregnancy. After her slip, Borders' co-workers began assisting her when she needed to perform climbing or lifting tasks, and the assistance allowed Borders to continue working while pregnant. After several months, an individual identified as "Crystal" noticed that Borders was not using a ladder and told Borders she was required to provide a note from her doctor in order to continue working at Walmart.

Borders showed Crystal a note from her doctor indicating that Borders could not lift more than 25 pounds or climb ladders due to her pregnancy. Borders requested to continue working with the limited heavy lifting and ladder climbing assistance from her co-workers as an accommodation of her pregnancy-related restrictions. Crystal sent Borders to talk with a woman named Michelle, who worked in the Personnel Department, and with Tiffany, the Walmart Human Resources Training Coordinator. They refused her request for the accommodation. Tiffany then told Borders that she would have to take an unpaid leave of absence because Walmart only accommodated employees with medical conditions that arose from on-the-job injuries. Borders alleges

that she was forced into taking an unwanted, unpaid leave of absence from approximately March 19, 2013, through July 12, 2013, approximately six weeks after the delivery of her child. When she returned to work, her pay was lowered from $10.85 per hour at pay grade 3 before her leave of absence to $8.85 per hour at pay grade 2. Borders was not allowed to return to her position as an associate in the pharmacy department and was moved around to various departments before eventually becoming a cashier earning $9.05 per hour.

Otisha Woolbright is a citizen of Florida. Between August 3, 2013, and January 15, 2014, she was employed as an associate at a Walmart store in Jacksonville, Florida. Woolbright learned she was pregnant in September 2013 and promptly informed her supervisor, Assistant Store Manager Teresa Blalock. Shortly thereafter, she began experiencing pain and bleeding and became concerned that she was having a miscarriage or a serious complication with her pregnancy. Woolbright went to the emergency room where she was warned that she faced a high risk of miscarriage. The instructions on her discharge papers indicated that she should avoid heavy lifting.

Woolbright began working in the deli and bakery department at Walmart in mid-September 2013. She notified Blalock of her hospitalization and of the instructions regarding lifting. Woolbright attempted to give her discharge paperwork to Blalock, but Blalock refused to accept it. Woolbright explained that she was given instructions to avoid heavy lifting, but Blalock told her she should leave if she could not perform the heavy lifting required by her job duties. Then Blalock allegedly called Borders a liability who was trying to cost Walmart money and told Woolbright that pregnancy is no

excuse for physical limitations, referring to Demi Moore doing a somersault on television while pregnant. Woolbright asked another manager, Holly, if she could transfer to a cashier position due to her inability to lift heavy objects, but she was told that she could not because she had not worked for Walmart long enough to transfer.

On September 24, 2013, Woolbright was kneeling down to lift trays of rotisserie chickens. The trays weighed between thirty-five and fifty pounds. As she was trying to lift a tray, Woolbright felt a shooting pain in her pelvic area, leg, buttocks, and back. Blalock allowed her to go home, and Woolbright went to the hospital later that day due to the intense pain. She missed several days of work and was offered accommodations when she returned because her lifting restrictions were newly considered to be due to an on-the-job injury. Woolbright was restricted to sedentary work that did not require heavy lifting.

On January 12, 2014, Woolbright requested information regarding Walmart's policies for leave after childbirth. The next day that she was at work, January 15, Woolbright alleges that she was questioned by Anthony Dennis, the Store Manager, about her pregnancy and efforts to inquire about time off for childbirth recovery. Dennis allegedly told her, "Walmart will no longer be needing your services," and fired her. Woolbright alleges that she was fired for requiring accommodations due to her pregnancy and for requesting information about maternity leave policies.

Up until March 2014, Walmart had what Plaintiffs describe as a constellation of policies and practices governing modifications and accommodations offered to employees in need of workplace changes due to health issues. The policies for

modifying or accommodating such changes depended on whether the health condition was a disability, a pregnancy or other medical condition, or a work-related injury. The system allowed for certain non-pregnant employees, who had similar abilities or inabilities to perform job tasks as pregnant employees, to receive modifications and accommodations to which pregnant employees were not entitled. According to Plaintiffs, Walmart's policies and practices ran afoul of the Pregnancy Discrimination Act's requirement that women affected by pregnancy, childbirth, or related medical conditions be treated the same as other persons not so affected but similar in their ability or inability to perform job tasks. ***See* 42 U.S.C. § 2000e(k)**.

Under Walmart's policies and practices, pregnant women who were limited in their physical abilities due to their pregnancies were only offered job aids or environmental adjustments, while others with similar abilities or inabilities to work but who were not pregnant, such as workers injured on the job or workers with disabilities, were offered full accommodations. In Count I, Borders and Woolbright allege that Walmart engaged in intentional discrimination on the basis of sex by employing policies and practices that resulted in disparate treatment of women. Plaintiffs contend that Woolbright is an example of the way the policies and practices were employed by Walmart. When she requested an accommodation with documentation from a doctor about her pregnancy-related lifting restrictions, Woolbright was told she could do her job or she could leave. Once she had a similar restriction after injuring herself at work lifting trays in excess of her doctor's recommendation, Woolbright was offered an accommodation, according to the complaint. Plaintiffs also allege that Borders' request

for accommodation was denied but that other employees at her store who required similar accommodations, specifically an employee who had neck issues and others who had trouble standing for long periods, were accommodated but she was not.

In addition to disparate treatment of women, in Count II Plaintiffs allege that Walmart intentionally discriminated on the basis of sex, as evidenced by the disparate impact on female employees of their policies and practices. Plaintiffs cite workplace statistics on the relationship between the relatively small number of retail workers who suffered on-the-job injuries and of employees with disabilities and the female employees who faced discrimination due to Walmart's treatment of pregnant employees who required accommodations. Finally, Woolbright and Borders bring individual retaliation claims under Title VII against Walmart in Count III, alleging that they faced adverse actions by Walmart for requesting accommodations and, in Woolbright's case, for requesting information about maternity leave policies.

B. MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION

Walmart first moves to dismiss Woolbright's claims for lack of personal jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(2). When personal jurisdiction is challenged pursuant to Rule 12(b)(2), plaintiffs bear the burden of establishing personal jurisdiction over defendants. ***See N. Grain Marketing, LLC v. Greving*, 743 F.3d 487, 491 (7th Cir. 2014)**. If the issue is raised by motion to dismiss and decided on written material, rather than an evidentiary hearing, a plaintiff need only make a *prima facie* showing of jurisdictional facts. ***Id.*** The Court accepts as true all well-pleaded facts and resolves all factual disputes in favor of the plaintiff. ***Id***. A court's

exercise of personal jurisdiction may be limited by the applicable state statute or the Constitution. The Illinois long-arm statute permits the exercise of jurisdiction to the full extent permitted by the Fourteenth Amendment's Due Process Clause. **735 ILL. COMP. STAT. 5/2-209(c)**.

The nature of Walmart's contacts with Illinois determines whether it is appropriate to exercise personal jurisdiction and also the scope of that jurisdiction, i.e. whether it is general or specific to the claims in this case. ***See Tamburo v. Dworkin*, 601 F.3d 693, 701 (7th Cir. 2010)**. To support the exercise of specific personal jurisdiction, a defendant's contacts with the forum state must directly relate to the conduct underlying the claims in a lawsuit. ***Id.* at 702 (citing *GCIU-Employer Ret. Fund v. Goldfarb Corp.*, 565 F.3d 1018, 1024 (7th Cir. 2009))**. Specific jurisdiction can be properly exercised where (1) the defendant purposefully directed its activities at the forum state or purposefully availed itself of the privilege of doing business in the state and (2) the alleged injury arises out of the defendant's forum-related activities. ***Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 472 (1985)**. In addition, the exercise of specific jurisdiction must comport with traditional notions of fair play and substantial justice, as required by the Due Process Clause of the Fourteenth Amendment. ***Int'l Shoe Co. v. State of Wash. Off. Of Unemp. Compensation and Placement*, 326 U.S. 310, 316 (1945)**.

Here, the parties do not challenge that Walmart purposefully avails itself of the privilege of doing business in Illinois. Rather, Walmart argues that exercising specific jurisdiction is inappropriate because there is no connection between Walmart's activities in Illinois and its conduct with respect to Woolbright, who lived and worked

in Florida while employed by Walmart. The inquiry here focuses on the relationship between Walmart, Illinois, and Woolbright's claims. ***See Brook v. McCormley*, 873 F.3d 549, 552 (citing references omitted)**. A defendant's relationship with a plaintiff is "not sufficient to create the necessary 'minimum contacts.'" ***Id.* (citing *Walden v. Fiore*, 134 S.Ct. 1115, 1123 (2014))**. That "relationship must arise out of contacts that the defendant [it]self creates with the forum State," and "the defendant's contacts with the forum State itself." ***Walden*, 134 S.Ct. at 1122**. Here, Woolbright's relationship from Walmart is wholly unrelated to Walmart's contacts with Illinois and does not arise out of Walmart's business in Illinois. Walmart is correct that it would be inappropriate to exercise specific jurisdiction as to Woolbright's claims in this action, but that is not the end of the inquiry.

Walmart argues that it also is not amenable to general personal jurisdiction in Illinois. Only a limited set of affiliations with a forum state render a corporate defendant subject to general, or all-purpose, jurisdiction there. A "court may assert general jurisdiction over foreign (sister-state or foreign country) corporations to hear any and all claims against them when their affiliations are so 'continuous and systematic' as to render them essentially at home in the forum State." ***Daimler AG v. Bauman*, 134 S.Ct. 746, 754 (2014) (quoting *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 924 (2011))**. "The 'paradigm' forums in which a corporate defendant is 'at home' . . . are the corporation's place of incorporation and its principal place of business." ***BNSF Ry. Co. v. Tyrrell*, 137 S.Ct. 1549, 1558 (2017)(citations omitted)**. A corporation, however, is not subject to general jurisdiction *only* in those

paradigmatic forums. ***Daimler AG*, 134 S.Ct. at 760**. The Supreme Court allows that "in an 'exceptional case,' a corporate defendant's operations in another forum 'may be so substantial and of such a nature as to render the corporation at home in that state.'" ***BNSF Ry. Co.*, 137 S.Ct. at 1558. (quoting *Daimler AG*, 134 S.Ct. at 761 n.19)**.

Walmart is incorporated in Delaware and maintains in principal place of business in Arkansas, so its paradigmatic forums where it is "at home" are Delaware and Arkansas, not Illinois. Plaintiffs argue, however, that Walmart's operations in Illinois form the "exceptional case" of being so substantial as to render the corporation "at home." Plaintiffs claim, and Walmart does not challenge, that Walmart is the largest private employer in Illinois. It maintains nearly 200 stores in Illinois and employs over 50,000 associates at those stores. In addition, Walmart provides another 167,000 supplier jobs in Illinois and collects more than half of a billion dollars in taxes for the state each year. Walmart engages in real estate transactions in Illinois, builds stores, sells products, and hires Illinois residents.

Walmart does more business and hires more workers in Illinois than it does in almost every other state in the country, including its paradigmatic home states of Arkansas and Delaware. Walmart has more employees and more stores and collects more taxes in Illinois than in Arkansas, its principal place of business. While it may not be true that Walmart would be at home in every state in which it does business, it is persuasive that, as a state with more associates and more stores than its "principal place of business," Walmart's business in Illinois is the "exceptional case" for general jurisdiction outside of a paradigmatic forum. Plaintiffs have made a *prima facie* showing

of personal jurisdiction. Accordingly, Defendant's motion to dismiss for lack of personal jurisdiction (Doc. 15) is **DENIED**.

C. MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM

A complaint must include enough factual content to give the opposing party notice of what the claim is and the grounds upon which it rests. ***See Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007), and *Ashcroft v. Iqbal*, 556 U.S. 662, 698 (2009)**. To satisfy the notice-pleading standard of Rule 8, a complaint must provide a "short and plain statement of the claim showing that the pleader is entitled to relief" in a manner that provides the defendant with "fair notice" of the claim and its basis. ***Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (citing *Twombly*, 550 U.S. at 555 and quoting Fed. R. Civ. P. 8(a)(2)).** In ruling on a motion to dismiss for failure to state a claim, a court must "examine whether the allegations in the complaint state a 'plausible' claim for relief." ***Arnett v. Webster*, 658 F.3d 742, 751 (7th Cir. 2011) (citing *Iqbal*, 556 U.S. at 677-78).**

1. Motion to Dismiss Due to Plaintiffs' Failure to Meet Procedural Prequisites

Walmart first argues that Woolbright failed to exhaust her administrative remedies before filing suit. Before filing a complaint for sex discrimination, such as the claim under the pregnancy discrimination act in Count I, a plaintiff must file a charge with the EEOC. In Florida, where the alleged discrimination against Woolbright occurred, a charge of discrimination must be filed within 300 days of the act about which a party complains. ***See* EEOC TIMELINESS at https://www.eeoc.gov/field/miami /timeliness.cfm ("An individual has 300 days from the date of the alleged harm to file a charge with this office . . . for discrimination based on . . . sex . . . in the State of**

Florida."). Woolbright alleges that she did file within 300 days, so her charge was timely filed.

Walmart next argues that Woolbright's EEOC charge was not broad enough to cover the claims she brings in this action. EEOC charges give the EEOC and an employer the opportunity to settle a dispute, and they give the employer notice of the employee's grievances. ***Cheek v. W & W Life Ins. Co.*, 31 F.3d 497, 500 (7th Cir. 1994)**. Courts review the scope of an EEOC charge liberally. ***Huri v. Office of the Chief Judge of the Circuit Court of Cook County*, 804 F.3d 826, 831 (7th Cir. 2015)(citing *Farrell v. Butler Univ.*, 421 F.3d 609, 616 (7th Cir. 2005))**. A Title VII plaintiff need not include every fact that forms the basis of a subsequent lawsuit's claims in an EEOC charge. ***Cheek*, 31 F.3d at 500**. As the Seventh Circuit has noted, most EEOC charges are drafted by laypersons rather than lawyers, so a Title VII claim "must simply be 'like or reasonably related to the allegations of the charge and growing out of such allegations.'" ***Huri*, 804 F.3d at 831 (quoting *Cheek*, 31 F.3d at 500)**. At a minimum, the EEOC charge and the related Title VII claim must describe the same conduct and implicate the same individuals. ***Id.* (citing *Moore v. Vital Prods.*, 641 F.3d 253, 257 (7th Cir. 2011))**.

Woolbright's EEOC charge alleges similar facts to the complaint in this action. She alleged that she was discriminated against on the basis of her pregnancy after requesting accommodations from her supervisor, Blalock, and that she was fired after she requested information about FMLA leave. While she does not specifically mention the Walmart policy or the concepts of disparate treatment or disparate impact, the

EEOC charge describes the same conduct and implicates the same individuals as the allegations in the complaint. The disparate impact and disparate treatment claims grow out of the allegations in the charge. Woolbright refers to discrimination and pregnancy discrimination, and the EEOC requested that Walmart produce its written policies for pregnant employees in response. Here, Woolbright's charge and the EEOC investigation were sufficient to exhaust her administrative remedies.

Walmart's final argument as to what it deems procedural perquisites to filing suit challenges Borders' claims for intentional discrimination based on sex under a disparate treatment theory (Count I) and a disparate impact theory (Count II) because Walmart maintained a separate, Illinois-specific policy that it claims allowed the type of accommodations Borders asserts she was denied. Walmart argues that, because she was subjected to an Illinois-specific policy, Borders lacks standing to pursue her disparate treatment and disparate impact claims.

Challenges to standing can be either facial or factual. If a motion to dismiss contends that a plaintiff's complaint lacks sufficient factual allegations to establish standing, the challenge is a facial one, and courts "must accept as true all material allegations of the complaint, and must construe the complaint in favor of the complaining party." ***Silha v. ACT, Inc.*, 807 F.3d 169, 173 (7th Cir. 2015)**. Courts "should use *Twombly-Iqbal's* 'plausibility' requirement, which is the same standard used to evaluate facial challenges under Rule 12(b)(6)." ***Id.* at 174 (citations omitted)**. With a factual challenge, however, a party does not challenge whether the complaint is formally sufficient and instead contends that there is *in fact* no subject matter

jurisdiction. ***Apex Digital, Inc. v. Sears, Roebuck & Co.*, 572 F.3d 440, 443 (7th Cir. 2009)**.

Walmart's argument is too undeveloped to determine whether they bring a facial or factual standing challenge, but, as far as the Court can discern, their challenge is a facial one. Accordingly, the Court finds that Borders pleads that Walmart's policies, as described in the complaint, and the practices consistent with those policies to which Borders was subjected led to discrimination against Borders on the basis of sex. Borders alleges a sufficient injury to establish standing: she was forced to take an unpaid leave of absence and was reinstated at a lower pay and in different departments after her leave. At this stage, that is sufficient to establish that Borders has standing to bring sex discrimination claims against Walmart under Title VII.

2. <u>Plausibility of Disparate Treatment Sex Discrimination Claim (Count I)</u>

Count I alleges that Walmart intentionally discriminated against Borders and Woolbright on the basis of sex in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e) *et seq.*, as amended by the Pregnancy Discrimination Act, 42 U.S.C. § 2000e(k). Title VII prohibits an employer from discriminating against an employee "because of such individual's … sex." **42 U.S.C. § 2000e-2(a)(1)**. The Pregnancy Discrimination Act adds that Title VII's prohibition against sex discrimination extends to discrimination "because of or on the basis of pregnancy, [or] childbirth." **42 U.S.C. § 2000e(k)**. Plaintiffs' claim alleges that Walmart discriminated against pregnant employees by categorically excluding them from accommodations that similarly-situated non-pregnant employees enjoyed, even despite the similarity between pregnant and non-pregnant employees' ability and or inability to work.

A plaintiff alleging that the denial of an accommodation constituted disparate treatment under the Pregnancy Discrimination Act "may make out a *prima facie* case by showing . . . that she belongs to the protected class, that she sought accommodation, that the employer did not accommodate her, and that the employer did accommodate others 'similar in their ability or inability to work.'" ***Young v. United Parcel Service, Inc.*, 135 S.Ct. 1338, 1345 (2015)**. Plaintiffs plead that the policies and practices engaged by Walmart do just that and, under a direct evidence theory, allege that the policies are discriminatory on their face.

Walmart takes issue with Plaintiffs' reading of the policy, arguing that it does discriminate in the ways laid out in the complaint. At the motion to dismiss stage, however, the question is whether Plaintiffs have satisfied the federal pleading standard, not whether Defendants agree with their interpretation of the factual allegations. When all well-pleaded facts are accepted as true and all inferences drawn in Plaintiffs' favor, they satisfactorily allege that they were members of a protected class who sought accommodations. They allege that they were denied accommodations. They allege that Walmart treated others similar in their ability or inability to work differently. They provide sufficient allegations of discrimination on the face of the policies and in the practices consistent with their policies. Whether through direct evidence or indirect evidence, Plaintiffs have pleaded a plausible claim in Count I, and the Court declines to limit Plaintiffs' method of proving their disparate treatment claim at this time.

3. <u>Plausibility of Disparate Impact Sex Discrimination Claim (Count II)</u>

Count II pleads a disparate impact intentional discrimination on the basis of sex

claim. To establish a disparate impact claim, a plaintiff's claims must make it plausible that a plaintiff will be able to demonstrate, after discovery, that the defendant used a particular employment practice that weighed more heavily on female employees than non-female employees and that was not justified by compelling considerations of business need. ***See Dormeyer v. Comerica Bank-Illinois*, 223 F.3d 579, 583 (7th Cir. 2000)**.

Here, Plaintiffs allege that Walmart offered job aids or environmental adjustments to employees with medical conditions that were not disabilities, like pregnant employees, than to workers who had disabilities or on-the-job injuries. Pregnant women were excluded from eligibility for the same accommodations that similarly-situated non-pregnant employees received, leading to female employees disproportionately being denied accommodations offered to those with similar abilities or inabilities to work. Plaintiffs plead a number of statistical allegations demonstrating the disparate impact of Walmart's policies and practices on women, as compared to other groups, and that are sufficient to demonstrate that, after discovery, they will be able to demonstrate that Walmart's policies and practices had a disparate impact on female employees. Drawing all inferences in Plaintiffs' favor, Count II plausibly pleads a disparate impact claim.

4. <u>Plausibility of Title VII Retaliation Claim (Count III)</u>

To plead a retaliation claim under Title VII, a plaintiff must demonstrate that an employee engaged in a protected activity and that the employee faced an adverse action by her employer as a result of that activity. ***Alamo v. Bliss*, 864 F.3d 541, 555 (7th Cir.**

2017). Borders pleads that she was forced to take an unpaid leave of absence after requesting modifications of her job duties following her receipt of a note from her doctor setting forth physical restrictions due to her pregnancy. She alleges that the unpaid leave was forced upon her in retaliation for requesting the modifications and that Walmart continued to retaliate against her after she returned to work following the birth of her child by removing her from her position in the pharmacy department and repeatedly moving her through different departments in the store. Walmart also lowered her pay after her leave of absence. Woolbright alleges that she was fired after asking for information on taking leave for childbirth and post-birth recuperation. She claims that she was also fired in retaliation for requesting accommodations earlier in her pregnancy and for receiving accommodations after she was injured when her first accommodation request was denied.

Walmart argues that these claims must be dismissed because Borders and Woolbright did not engage in a protected activity. One way to establish that an employee engaged in a statutorily protected activity is to demonstrate that the employee requested an accommodation**.** ***See Porter v. City of Chicago*****, 700 F.3d 944 (7th Cir. 2012)(requesting a religious accommodation accepted as a statutorily protected activity under Title VII);** ***Preddie v. Bartholomew Consolidated School Corp.*****, 799 F.3d. 806, 814-15 (7th Cir. 2015) (Under the ADA, an "element of both the indirect and direct methods of proof is that … [the employee] must have engaged in a statutorily protected activity--- in other words, he must have asserted his rights under the ADA by either seeking an accommodation or raising a claim of discrimination due to his**

disability.");[1] ***See also Mobley v. Allstate Ins. Co.*****, 531 F.3d 539, 549 (7th Cir. 2008)(finding requests for accommodations to be protected activity)**. Similarly, requests for time off for medical reasons, such as childbirth-related leave, can be construed as a protected activity. Accordingly, the Court finds that Plaintiffs have pleaded sufficient facts that, if true, would establish that they participated in a protected activity. As Walmart does not challenge other elements of Plaintiffs' retaliation claim, the motion to dismiss is **DENIED** as to Count III.

CONCLUSION

For the above-stated reasons, the Defendant's motion to dismiss for lack of personal jurisdiction (Doc. 15) and Defendant's motion to dismiss for failure to state a claim (Doc. 17) are **DENIED**.

IT IS SO ORDERED.

DATED: March 29, 2018

s/ Michael J. Reagan
MICHAEL J. REAGAN
Chief Judge
United States District Court

[1] Title VII and ADA anti-retaliation provisions are materially identical and both require proving that an employee engaged in statutorily protected activities. ***See, e.g., Tiwsdale v. Snow*****, 325 F.3d 950, 952 (7th Cir. 2003)**.