

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

ALBERT SOBOTKA,

Plaintiff,

vs.

Case No: 22- CD
Hon.

OLYMPIA ENTERTAINMENT, INC.,

a Domestic Profit Corporation,

Defendant.

DEBORAH GORDON LAW

Deborah L. Gordon (P27058)
Elizabeth Marzotto Taylor (P82061)
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Molly Savage (P84472)
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COMPLAINT

Plaintiff **Albert Sobotka**, by his attorneys Deborah Gordon Law, complains against Defendant as follows:

1. This is an action for violations of the Michigan’s Elliot-Larsen Civil Rights Act, M.C.L. § 37.2101 *et seq.*, and the Michigan’s Persons with Disabilities Civil Rights Act, MCL 37.1202(1), arising out of Plaintiff’s employment relationship with Defendant.

2. Plaintiff’s claims arise out of discrimination and retaliation against Plaintiff in the terms and conditions of his employment and Defendant’s termination of Plaintiff on the basis of his age, and disability.

3. Defendant Olympia Entertainment, Inc. is headquartered in Michigan, in the County of Wayne.

4. The events underlying this Complaint occurred in Michigan, in the County of Wayne.

Background Facts

5. Plaintiff was born in 1953 in Poland.

6. He became employed by Olympia Stadium at age 17, working at Olympia Stadium on Grand River Ave. in Detroit. Plaintiff was then employed by Olympia Arenas and later Olympia Entertainment.

7. He performed services for the Detroit Red Wings including but not limited to handling day-to-day operations connected to the ice and the arena, including maintaining the practice ice, driving and maintaining the Zamboni and taking care of the locker rooms.

8. Plaintiff had an excellent performance record throughout his 51 years of employment.

9. After 51 years of employment, at age 68, he was terminated on February 17, 2022.

10. Plaintiff, who began working for Defendants at age 17, was a staple of the Detroit Hockey community and was well known among fans.

11. Plaintiff dedicated his life to his job, which he considered was also his passion. He never missed a single game or took a vacation during the hockey season. In 51 years, he used a single sick day.

12. His most recent performance review includes glowing remarks; he was consistently rated as “exceeds expectations”.

13. In late January, 2022, Plaintiff was on a Zoom meeting with the Vice President of Venue Operations, Tim Padgett who told him he was “getting old.”

14. Plaintiff is diagnosed with benign prostatic hypertrophy (“BPH”). This condition causes a frequent and uncontrollable need to urinate.

15. On February 2, 2022, Plaintiff had just finished cleaning and maintaining the ice in the main rink. He then moved the Zamboni into the garage.

16. In the garage is a “pit” where the ice is unloaded, drains, and runs into the sewer.

17. The garage is not open to the public and access is limited to the ice crew all of whom are male.

18. Plaintiff suddenly experienced an uncontrollable urge to urinate due to his BPH condition.

19. To access a rest room, Plaintiff would have had to exit the garage and walk 60-70 feet to a public rest room.

20. Instead, standing behind two Zambonis and seeing no one around, he urinated into the pit, which contained water to be drained.

21. Another male employee who works under Plaintiff was nearby and saw Plaintiff urinate into the pit. He reported it to management.

22. On February 4, 2022, at about 4:00 p.m., Plaintiff was called into a meeting by his supervisor, Jim Bullo, who put Human Resources Business Partner Jasmine Howard on speakerphone. Ms. Howard asked Plaintiff if he urinated in the pit; Plaintiff immediately said that he did. Nevertheless, Ms. Howard stated that Plaintiff was now “under investigation” and would be suspended for one week. He would be contacted about his return the following Friday, February 11, 2022.

23. On February 11, 2022, Plaintiff spoke to Ms. Howard. He was told he could not return yet and the “investigation” was still underway. Plaintiff also told Ms. Howard about his condition, BPH. She told him she would make sure that was reflected in the investigative report.

24. On February 17, 2022, Plaintiff received a call from Michele Bartos, Vice President of Human Resources and Tim Padgett (job title #13). They told Plaintiff he was being terminated for “bad judgment”.

25. Plaintiff was never interviewed as a part of the “investigation” and never saw any investigative report or results. He was given a “Confidential” Agreement to sign, which included a small payment and a non-disparagement provision. He declined the offer. 1

COUNT I
Violations of the Elliott-Larsen Civil Rights Act
Discrimination Based on Age

26. Plaintiff repeats and realleges all foregoing paragraphs as if they were set forth fully herein.

27. At all material times Plaintiff was an employee and Defendant was his employer, covered by and within the meaning of the Elliot-Larsen Civil Rights Act, MCL § 37.2101, et seq.

28. Defendant has discriminated against Plaintiff within the meaning of the Elliott-Larsen Civil Rights Act through the terms and conditions of his employment and with respect to his termination from employment because of his age, 68 years old at the relevant time.

29. Plaintiff’s age was at least one determining factor in Defendant’s decision to treat Plaintiff differently with respect to the conditions of his employment and termination.

30. At all times leading up to termination Plaintiff was capable of performing his job at a satisfactory or above satisfactory level.

31. Plaintiff’s termination was not due to lack of seniority, merit, quantity or quality of production, but rather, due to age.

32. As a direct and proximate result of the violations of Plaintiff’s rights as alleged, he has suffered loss of earnings and earning capacity, past and future lost earnings; and loss of the value of benefits.

33. Defendant's actions as described above were intentional and in deliberate disregard of and with reckless indifference to the rights and sensibilities of Plaintiff.

34. As a result of Defendant's conduct as alleged in this Complaint, Plaintiff has suffered and continues to suffer harm, including but not limited to: lost earnings and earning capacity, lost career opportunities, lost benefits, and other financial loss, as well as humiliation, embarrassment, emotional and physical distress, mental anguish, loss of professional reputation, and loss of the ordinary pleasures of everyday life, including the right to pursue gainful employment of his choice.

COUNT II

Discrimination in Violation of the Michigan's Persons with Disabilities Civil Rights Act (PWDCRA)

35. Plaintiff repeats and realleges all foregoing paragraphs as if they were set forth fully herein.

36. Plaintiff is a disabled person within the meaning of the PWDCRA because he actually and currently has, a record of, or is regarded as having a physical impairment that substantially limits one or more major life activities.

37. Defendants are a covered entity under the PWDCRA, pursuant to MCL 37.1201(b).

38. Defendants knew of Plaintiff's disability and/or perceived Plaintiff as disabled.

39. Plaintiff was at all times qualified to perform the essential functions of his job.

40. Plaintiff was terminated, at least in part, for his disability.

41. As a direct and proximate result of Defendants' wrongful acts, Plaintiff has sustained injuries and damages including but not limited to: loss of earnings and earning capacity, loss of career opportunities, loss of fringe benefits, mental anguish, physical and emotional distress, humiliation and embarrassment, loss of professional reputation, and loss of the ordinary pleasures of everyday life, including the right to pursue gainful employment of his choice.

42. Defendants violated the PWDCRA by discriminating against Plaintiff by interfering with his right to receive benefits and terminating him because of a disability that was unrelated to his ability to perform the job, and/or because he was regarded as having a disability.

43. Defendants' actions were intentional, with deliberate disregard for the rights and sensibilities of the Plaintiff.

COUNT III

Violations of the Michigan's Persons with Disabilities Civil Rights Act (PWDCRA)

44. Plaintiff repeats and realleges all foregoing paragraphs as if they were set forth fully herein.

45. Defendants also retaliated against Plaintiff in violation of the PWDCRA.

46. Plaintiff engaged in activities protected by the Act when he requested a reasonable accommodation for his disability.

47. Defendants nonetheless took a materially adverse action against Plaintiff by terminating him.

48. As a direct and proximate result of Defendants' wrongful acts, Plaintiff has sustained injuries and damages including but not limited to: loss of earnings and earning capacity, loss of career opportunities, loss of fringe benefits, mental anguish, physical and emotional distress, humiliation and embarrassment, loss of professional reputation, and loss of the ordinary pleasures of everyday life, including the right to pursue gainful employment of his choice.

49. Defendants violated the PWDCRA by retaliating against Plaintiff by interfering with his right to receive benefits and terminating him because of a disability that was unrelated to his ability to perform the job, and/or because she was regarded as having a disability.

50. Defendants' actions were intentional, with deliberate disregard for the rights and sensibilities of the Plaintiff.

Relief Requested

Plaintiff demands judgment against Defendant as follows:

A. Legal Relief:

1. Compensatory damages in whatever amount he is found to be entitled;
2. Exemplary damages in whatever amount he is found to be entitled;
and,
3. An award of interest, costs, reasonable attorney fees, and expert witness fees.

B. Equitable Relief:

1. An order from this Court placing Plaintiff in the position he would have been in had there been no wrongdoing by Defendant, including reinstatement with back pay;
2. An injunction from this Court prohibiting Defendant from engaging in policies, patterns and/or practices that discriminate against employees because of their age;
3. An order from this Court requiring Defendant to train all of their managers and supervisors about age discrimination in the workplace;
4. An order from this Court appointing a monitor to ensure that Defendant comply with the injunction provisions of any decree that the Court orders;
5. Declaratory relief stating that Defendant discriminated against Plaintiff in violation of state law;
6. An award of interest, costs and reasonable attorney fees; and
7. Whatever other equitable relief appears appropriate at the time of final judgment.

Dated: April 19, 2022

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JURY DEMAND

Plaintiff **Albert Sobotka**, by his attorneys **Deborah Gordon Law**, hereby demands a trial by jury of all the issues in this cause.

Dated: April 19, 2022

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