

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

RYAN FREEMAN

Plaintiff,

v.

OMAKIN RESTAURANTS, LLC,

Defendant.

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No. 2020CH06748

**IN CHANCERY
FOR INJUNCTION**

JURY TRIAL DEMANDED

11106691

COMPLAINT

Plaintiff Ryan Freeman states as his complaint against Omakin Restaurants, LLC, as follows:

INTRODUCTION, NATURE OF CASE, AND VENUE

1. This case is a claim for unlawful retaliation in violation of the Illinois Whistleblower Act, 740 ILCS 174/1, *et seq.*, by a former McDonald’s employee against the owner of the restaurant where he worked, and seeks an order reinstating him to his position and providing him with back pay and other forms of relief.

2. Plaintiff Ryan Freeman worked at the McDonald’s restaurant at 207 East 35th Street in Chicago, which is owned by Defendant Omakin Restaurants, LLC (“Omakin Restaurants”).

3. Mr. Freeman, other current and former McDonald’s employees, and certain of their relatives, including Mr. Freeman’s mother, filed suit in this Court on May 19, 2020 against four McDonald’s restaurants and against the parent McDonald’s corporation alleging, among other things that improper and deficient safety practices at the restaurants were creating a substantial risk to the plaintiffs and others of exposure to the COVID-19 virus.

4. In addition to serving as a plaintiff in the lawsuit, Mr. Freeman provided testimony on June 4, 2020, in an emergency preliminary injunction hearing in that suit conducted before the Honorable Eve M. Reilly.

5. The lawsuit resulted in the issuance of a preliminary injunction requiring improved health and safety practices at some of the restaurants.

6. Rather than commending Mr. Freeman for his courage in taking part in the lawsuit that resulted in an order for improved health and safety practices for the benefit of McDonald's workers, their families, and the general public, Omakin Restaurants retaliated against him by failing to retain him for employment when, during the period that the preliminary injunction hearing was pending, it assumed ownership of the McDonald's restaurant where he had worked.

7. Venue is proper in this Court under 735 ILCS 5/2-101 because the plaintiff and the defendant are residents of Cook County and the events giving rise to the complaint occurred within Cook County.

PARTIES

8. Plaintiff Ryan Freeman is an individual who lives in Chicago, Cook County, Illinois, and is, and at all relevant times has been, an "employee" within the meaning of the Whistleblower Act, 740 ILCS 174/5.

9. Defendant Omakin Restaurants is an Illinois limited liability corporation that owns and operates a McDonald's restaurant at 207 East 35th Street in Chicago, Cook County, Illinois, as well as several other McDonald's restaurants in the Chicago area, and is an "employer" within the meaning of the Whistleblower Act, 740 ILCS 174/5.

FACTS

10. In or around July 2019, Mr. Freeman began working at the McDonald's location at 207 East 35th Street as a crew member, cooking and making food, cleaning, washing, and performing other tasks assigned to him.

11. At the time Mr. Freeman began working at the 35th Street location, he was also working at a different McDonald's restaurant, located at 6900 S. Lafayette Avenue in Chicago, having been employed there since 2018.

12. Although it did not own the Lafayette Avenue restaurant when Mr. Freeman began working there, Omakin Restaurants became the owner of that facility at some point while he was employed there.

13. In or around February 2020, Mr. Freeman's supervisor at the Lafayette Avenue restaurant terminated him for what he claimed to be improper attendance.

14. On information and belief, Omakin Restaurants is owned by Mr. Akins Akinagbe, who is its registered manager and actively participates in the management of the restaurants he owns, and who identifies himself to employees and others as "Mr. Omakin." (This complaint will refer to that individual as "Mr. Omakin.")

15. In or around May 2020, when Mr. Freeman was working at the drive-through window at the 35th Street restaurant, which at the time had a different owner, Mr. Omakin went through the drive-through window as a customer and he and Mr. Freeman had a conversation as Mr. Freeman served him.

16. During that conversation, Mr. Freeman commented on what he felt had been the unfair actions of his supervisor in terminating him from the job at the Lafayette Avenue restaurant and Mr. Omakin replied that he understood Mr. Freeman was terminated for coming to work late on occasions and that he was also aware that at least part of the problem was that Mr.

Freeman was working at both that restaurant and the 35th Street restaurant.

17. Messrs. Freeman and Omakin continued speaking briefly as Mr. Freeman filled and gave him his order, and then Mr. Omakin left.

18. The entire country, including Chicago, has faced the COVID-19 pandemic since approximately February 2020. (All further dates are 2020.)

19. Since the beginning of the pandemic, Mr. Freeman observed numerous unsafe practices at the 35th Street restaurant that he felt put himself, his coworkers, customers, and others with whom any of them came into contact at undue risk of contracting and spreading the virus.

20. At all relevant times, Mr. Freeman has lived with his mother, Ms. Joyce Freeman, who is particularly at risk for a severe reaction to the COVID-19 virus because of preexisting medical conditions; and Mr. Freeman has been concerned for her welfare and about the risk of him transmitting the virus to her.

21. Despite these concerns, Mr. Freeman went to work regularly and did his job at the 35th Street restaurant from the start of the COVID-19 pandemic until approximately the middle of May, when he was told that the reason the restaurant had just been closed for a day was that a coworker tested positive for the virus.

22. Based on his concerns over what he felt were improper safety practices, the lack of any notification from management or supervision about what he understood to be his coworker's positive test, and his mother's situation, Mr. Freeman decided it would not be safe to continue working at the 35th Street McDonald's until the failures he had observed in health and safety practices in response to the pandemic changed.

23. Mr. Freeman arranged for a representative of the National Fast Food Workers

Union to inform management of the 35th Street restaurant that he was going to stop working temporarily because of his concerns over safety and would return to work when the issues giving rise to his safety concerns were resolved.

24. Mr. Freeman learned in May 2020 that ownership of the 35th Street restaurant was going to change, and he decided he would wait until that change occurred and then return to work in the hope that the new ownership and management would improve safety practices.

25. Mr. Freeman also learned that Mr. Omakin was going to be the new owner of the 35th Street restaurant.

26. On or around May 27, in response to a notice he had received, Mr. Freeman went to the 35th Street restaurant to fill out an application for the new owner and participate in an interview.

27. Mr. Freeman and two other employees met with Mr. Omakin, and Mr. Omakin recognized and acknowledged him and spoke to him in a friendly manner.

28. Mr. Omakin asked Mr. Freeman and the other two individuals a variety of questions, including what work they did at the restaurant.

29. When the discussion among the four of them was completed, the three employees rose to leave and Mr. Omakin handed Mr. Freeman an application and other material and said he was going to give Mr. Freeman another chance and hire him.

30. Mr. Freeman completed the application and a W-4 form, signed other documents as needed, and left them at the store, with the expectation of returning to work in or around the middle of June.

31. On June 4, Mr. Freeman testified at the emergency preliminary injunction hearing before Judge Reilly, giving detailed testimony about the deficient health and safety practices by

managers and others who had consistently failed to follow what McDonald's Corporation claimed were mandatory safety procedures including wearing masks, attempting to practice social distancing, and regular hand washing, which failures were contrary to Governor Pritzker's Executive Order 2020-38, guidance issued by the Illinois Department of Health, and other rules and regulations.

32. On June 11, one week after his testimony and approximately two weeks after Mr. Freeman had participated in the interview and Mr. Omakin told him he was going to give him another chance and hire him, Mr. Omakin called Mr. Freeman on the phone and said he would not give him a job at the 35th Street restaurant because of attendance problems from when he had worked for Mr. Omakin's business at the Lafayette Avenue restaurant.

33. Mr. Freeman attempted to question Mr. Omakin about how that explanation could make sense in light of their earlier communications, but Mr. Omakin cut the call short and ended the conversation almost immediately.

UNLAWFUL RETALIATORY CONDUCT

34. Defendant Omakin Restaurants did not hire Ryan Freeman because Mr. Freeman testified at the hearing and was a plaintiff in the lawsuit.

35. By serving as a plaintiff in the lawsuit and testifying at the preliminary injunction hearing Mr. Freeman provided information that he had "reasonable cause to believe ... disclose[d] a violation of a State or federal law, rule, or regulation" within the meaning of § 15 of the Whistleblower Act, 740 ILCS 174/15(a), specifically Executive Order 2020-38, Illinois Department of Public Health guidelines, and other rules and regulations.

36. The action of Omakin Restaurants in not hiring Mr. Freeman constituted prohibited retaliation within the meaning of the Whistleblower Act, 740 ILCS 174/15(a).

37. Omakin Restaurants' retaliatory actions against Mr. Freeman have caused him to lose wages and benefits he would have earned if he had been employed.

38. Omakin Restaurants' unlawful retaliatory actions toward Mr. Freeman have also caused him stress, anxiety, and depression because of his inability to work, to support himself, and to help support his mother.

39. Unless Omakin Restaurants is ordered to refrain from doing so, it will continue to refuse to employ Mr. Freeman, thereby causing him continuing harm and perpetuating its violation of the Whistleblower Act.

WHEREFORE, Ryan Freeman asks the Court to enter judgment in his favor and against Defendant Omakin Restaurants, LLC, as follows:

1. Ordering it to offer him a job as a member of the crew at its facility at 207 East 35th Street;
2. Ordering it to refrain from further retaliatory conduct against him;
3. Ordering it to make him whole for the loss of pay and benefits he has sustained as a result of its retaliatory refusal to employ him;
4. Ordering it to pay interest to him on that back pay and on the value of those benefits;
5. Ordering it to compensate him for the stress, anxiety, depression, and other harms he has suffered as a result of its retaliatory refusal to employ him;
6. Ordering it to pay reasonable attorneys' fees and costs of suit; and
7. Granting such further relief as the Court finds just and proper.

JURY DEMAND

Plaintiff demands a trial by jury as to all issues so triable.

Respectfully submitted,

Dated: November 12, 2020

Ryan Freeman

By: /s/ Barry M. Bennett
One of His Attorneys

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