

ER

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT DEPARTMENT
CIVIL ACTION No.:

JUDITH E. KIDD,)
)
Plaintiff,)
)
vs.)
)
MASSACHUSETTS BAY)
TRANSPORTATION AUTHORITY,)
)
Defendant.)

COMPLAINT FOR FAILURE TO ACCOMMODATE
SINCERELY HELD RELIGIOUS BELIEFS AND RETALIATION

JURY DEMAND ENDORSED HEREON

INTRODUCTION

For her Complaint against Defendant Massachusetts Bay Transportation Authority ("MBTA"), Plaintiff Judith E. Kidd states as follows:

1. MBTA unlawfully denied Ms. Kidd accommodation based on her sincerely held religious beliefs from MBTA's Covid-19 vaccine requirement, and retaliated against Ms. Kidd for requesting accommodation and for protesting MBTA's policy and denial of her request.

2. Due to these events, explained more fully below, Ms. Kidd brings this suit for damages under Massachusetts and Federal Law.

PARTIES

3. Plaintiff Judith E. Kidd is an individual residing in Boston, Massachusetts.

4. Defendant Massachusetts Bay Transportation Authority is a body politic and corporate, and a political subdivision of the Commonwealth of Massachusetts, with a principal place of business at 10 Park Plaza, Suite 3910, Boston, Massachusetts 02116.

JURISDICTION AND VENUE

5. This Court has jurisdiction under M.G.L. c. 212 § 4, c. 223A §§ 2 and 3, and c. 151B § 9.

6. This Court may exercise concurrent jurisdiction over Plaintiff's federal claims.

7. The Court has personal jurisdiction over the Defendant because the Defendant is located in Massachusetts, and Defendant's conduct occurred in Massachusetts.

8. Venue is appropriate in Suffolk County because Defendant maintains its principal place of business in Suffolk County, transacts business in Suffolk County, and because the transaction or occurrence giving rise to this suit took place in Suffolk County.

FACTUAL ALLEGATIONS

9. Ms. Kidd worked for the MBTA for nine years and was only one year away from gaining full retirement benefits when she was forced to resign over her religious beliefs which conflicted with the MBTA's Covid-19 vaccine mandate.

10. In September of 2021, MBTA enacted a mandatory Covid-19 vaccination policy ("Policy"). As required by law, MBTA permitted employees to seek religious and/or disability-related accommodations from the policy.

11. On or about October 7, 2021, Ms. Kidd applied for religious accommodation from MBTA's Policy through an electronic form. Among other things, Ms. Kidd stated "The Holy Scriptures I believe in instruct me to stand against any non-biblical system that strips me of the freedom to determine what is done to my body, to include the preservation of my own life, if I have reason to believe that someone or something could cause undue harm."

12. Ms. Kidd offered to continue to work remotely as she had done for two years at the time of her request and offered to submit to weekly blood tests to prove she is not Covid positive.

13. In a follow-up conversation on or about November 15, 2021, Ms. Kidd explained to MBTA personnel that when she was 17 years old she was in a serious car accident, spent four months in the hospital, and miraculously survived. Since then she has put her trust in God to heal her and guide her in any medical decisions. Further, Ms. Kidd stated that she will not put something into her body that is not healthy and will not do her body well. She puts her faith in God to inform her in these decisions, and concluded through study and prayer that she should not take the Covid-19 vaccine.

14. Ms. Kidd converted to Judaism in 1985 and has been a devout practitioner since then. Her faith is an integral part of her daily life, guiding her decisions and practices.

15. Ms. Kidd's religious beliefs include a strong faith in God's protection and healing power. She attributes her good health and ability to heal from injuries to her faith in God and her practice of eating natural foods.

16. Ms. Kidd's religious beliefs instruct her to stand against any non-biblical system that strips her of the freedom to determine what is done to her body, including the preservation of her own life, if she has reason to believe that someone or something could cause undue harm.

17. Ms. Kidd's faith teaches her to refrain from putting potentially harmful substances into her body, especially when she does not suffer from an ailment to which that substance responds. She believes that God has protected her from illness, including Covid-19, through her faith and natural immunity.

18. Ms. Kidd's religious practice does not involve attending a church, as she believes God is wherever she is. She prays every day and maintains a strong, personal relationship with God.

19. While Ms. Kidd does take thyroid medication for a diagnosed issue, her decision to take this medication was similarly informed through study and prayer. Ms. Kidd has often declined other medications recommended by doctors for various injuries, believing in her body's natural healing abilities guided by her faith.

20. MBTA denied Ms. Kidd's accommodation request on November 16, 2021. MBTA told Ms. Kidd she could file a written appeal within 3 days.

21. On November 19, 2021, Ms. Kidd did so appeal and further explained her beliefs as stated in this Complaint.

22. On February 7, 2022, MBTA denied Ms. Kidd's appeal.

23. MBTA considered and offered no accommodation to Ms. Kidd.

24. Ms. Kidd could have continued working remotely as she had done for over two years at the time of her constructive discharge or worked at an off-site location. Ms. Kidd's performance during her work from home period for the MBTA met or exceeded expectations. Ms. Kidd would have observed other safety precautions and tested regularly should MBTA have required her presence in the office, but MBTA did not meaningfully consider any type of accommodation for Ms. Kidd.

25. Per the Policy, the certainty she would be terminated, and to preserve partial retirement benefits, Ms. Kidd resigned on or about February 22, 2022.

26. Ms. Kidd timely filed a Charge of Discrimination with the Equal Employment Opportunity Commission, which was transferred without closure to the Massachusetts Commission Against Discrimination. Ms. Kidd completed all appropriate administrative actions prior to filing this Complaint.

COUNT I
Violation of M.G.L. c. 151B
Religious Discrimination -- Failure to Accommodate

27. Ms. Kidd reincorporates the preceding paragraphs and realleges the same as if fully rewritten herein.

28. Ms. Kidd has sincerely held religious beliefs that conflict with MBTA's Covid-19 vaccination policy.

29. Ms. Kidd informed MBTA of her religious beliefs and requested reasonable accommodation from MBTA's Covid-19 vaccination policy.

30. MBTA improperly denied Ms. Kidd's request for accommodation and refused to provide Ms. Kidd reasonable accommodation.

31. MBTA's refusal to accommodate Ms. Kidd's sincerely held religious beliefs caused harm to Ms. Kidd.

COUNT II
Violation of M.G.L. c. 151B
Retaliation

32. Ms. Kidd reincorporates the preceding paragraphs and realleges the same as if fully rewritten herein.

33. Ms. Kidd engaged in protected activity when she requested accommodation and opposed Defendant's violation of her rights under law including opposing Defendant's mandate and Defendant's refusal to accommodate Ms. Kidd.

34. Ms. Kidd was subject to adverse employment actions due to her protected activity, including constructive discharge.

35. Ms. Kidd's protected activity was the cause of the adverse employment actions taken against her.

COUNT III
Violation of Title VII of the Civil Rights Act of 1964

Religious Discrimination -- Failure to Accommodate

36. Ms. Kidd reincorporates the preceding paragraphs and realleges the same as if fully rewritten herein.

37. Ms. Kidd has sincerely held religious beliefs that conflict with MBTA's Covid-19 vaccination policy.

38. Ms. Kidd informed MBTA of her religious beliefs and requested reasonable accommodation from MBTA's Covid-19 vaccination policy.

39. MBTA improperly denied Ms. Kidd's request for accommodation and refused to provide Ms. Kidd reasonable accommodation.

40. MBTA's refusal to accommodate Ms. Kidd's sincerely held religious beliefs caused harm to Ms. Kidd.

COUNT IV
Violation of Title VII of the Civil Rights Act of 1964
Retaliation

41. Ms. Kidd reincorporates the preceding paragraphs and realleges the same as if fully rewritten herein.

42. Ms. Kidd engaged in protected activity when she requested accommodation and opposed Defendant's violation of her rights under law including opposing Defendant's mandate and Defendant's refusal to accommodate Ms. Kidd.

43. Ms. Kidd was subject to adverse employment actions due to her protected activity, including constructive discharge.

44. Ms. Kidd's protected activity was the cause of the adverse employment actions taken against her.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court award her:

- A. Damages including back pay, front pay, pre-judgment and post-judgment interest, punitive damages, and compensatory damages.
- B. Injunctive relief.
- C. Reasonable attorneys' fees and costs.
- D. Any other relief that the Court considers just, proper, and equitable.

Respectfully submitted,
Plaintiff
Judith E. Kidd,
By her Attorney,

/s/ Brian Unger
Brian Unger, BBO No. 706583
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Dated: August 23, 2024

JURY DEMAND

Plaintiff hereby demands a jury on all issues so triable.

Respectfully submitted,
Plaintiff
Judith E. Kidd,
By her Attorney,

/s/ Brian Unger
Brian Unger, BBO No. 706583