

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY  
TWENTY-FIRST JUDICIAL CIRCUIT  
STATE OF MISSOURI

L.F., by and through his Mother, and Next )  
Friend, MICHELE AVERY, )  
)  
and, )  
)  
MICHELE AVERY, in her individual )  
capacity )  
)  
PLAINTIFFS, )  
)  
vs. )  
)  
GATEWAY REGION YMCA )  
Serve at: )  
12521 Marine Ave. )  
Maryland Heights, Mo 63146 )  
)  
and )  
)  
PATTONVILLE R-III SCHOOL DISTRICT )  
Serve at: )  
11097 St. Charles Rock Road )  
St. Ann, Mo 63074 )  
)  
)  
DEFENDANTS. )

Cause No:  
JURY TRIAL DEMANDED

**PLAINTIFFS' PETITION**

COMES NOW Plaintiff L.F. (“*Plaintiff L.F.*”) a minor, by and through his Mother and Next Friend, Michele Avery (“*Plaintiff Avery*”) and Michele Avery in her individual capacity (collectively “*Plaintiffs*”) and bring this claim under the Missouri Human Rights Act, R.S. Mo. §213.010, et. seq., for discrimination based upon disability by Defendant Gateway Regional YMCA (“*Defendant YMCA*”), and Defendant Pattonville R-III School District (“*Defendant Pattonville*”), (collectively “*Defendants*”). In support of their Petition, Plaintiffs state the following:

## GENERAL ALLEGATIONS

1. Plaintiff Avery is an adult female parent of minor Plaintiff L.F. and a resident of St. Louis County.
2. Plaintiff L.F. is a minor child and a resident of St. Louis County.
3. Plaintiff L.F. is a minor child with disabilities. He was diagnosed at birth with Down's Syndrome.
4. Plaintiff L.F.'s disabilities are physical and mental impairments that substantially limit Plaintiff L.F.'s major life activities, such as learning, managing his emotions, interacting with others, toileting, and caring for himself.
5. Defendant YMCA is a not-for-profit 501(c)(3) entity that provides community programs for youth development, healthy living, and social responsibility and operates locations throughout the St. Louis Metro area, including St. Louis County, Missouri.
6. Defendant YMCA claims on its website and holds out to the community that those who participate in its programs are supposed to "experience a supportive and inclusive community."
7. As part of its youth development programs, Defendant YMCA contracts with local school districts to provide students with before- and after-school care.
8. Defendant YMCA provides before and after care services to some of Defendant Pattonville's students under the terms of a contract.
9. Defendant YMCA is a place of public accommodation under R.S. Mo §213.010 (16).
10. Defendant Pattonville is a public school district located in St. Louis County that provides public education to students within its district.

11. Defendant Pattonville is a place of public accommodation under R.S. Mo §213.010 (16).

12. Because it receives tax dollars to educate the students in its district, Defendant Pattonville legally cannot contract with any agent or entity that discriminates on the basis of disability.

13. Venue in this Court is proper because the allegations that give rise to this action occurred in St. Louis County, Missouri.

14. At all times relevant to the allegations in this Petition, Defendants were and are persons subject to liability as defined by R.S. Mo. §213.010 (15).

15. At all relevant times, Defendant Pattonville aided and abetted or attempted to aid and abet Defendant YMCA in the commission of discriminatory acts against Plaintiffs as prohibited by the Missouri Human Rights Act, §213.010, *et. seq.*

16. At all relevant times, Defendant YMCA was a contractor and acted as a representative and agent of Defendant Pattonville.

17. On November 14, 2022, Plaintiff filed a charge of discrimination against Defendants with the Missouri Commission on Human Rights (“*MCHR*”), alleging disability discrimination and retaliation under the Missouri Human Rights Act.

18. Plaintiffs received notice of the right to sue from the MCHR on November 7, 2023. Exhibit A is the Right to Sue.

19. This action is filed within two years of the discriminatory conduct and 90 days of receipt of the right-to-sue letter. Plaintiffs have complied with the administrative exhaustion requirements of the Missouri Human Rights Act as stated under §213.075.

**FACTUAL ALLEGATIONS**

20. At all times relevant to this matter, Plaintiff L.F.’s school district was Defendant Pattonville.

21. Plaintiff L.F. was and is a Rose Acres Elementary School student in Defendant Pattonville at all times relevant to this matter.

22. Defendant Pattonville offers all its students early care, which allows parents and guardians to drop students off at their school before the start of the school day, where Defendants supervise, care for, and provide activities before the start of the school day.

23. Defendant Pattonville provides before-school programs for all its elementary school students, and Defendants operate the program in school buildings owned and operated or used by Defendant Pattonville’s School District.

24. Defendant Pattonville contracts with Defendant YMCA to manage and staff the early care programs at some of Defendant Pattonville’s elementary schools.

25. Defendant contracted with Defendant YMCA to staff and operate the before-school care program at Rose Acres Elementary School, where Plaintiff L.F. is a student.

26. Defendants refer to the early care program provided by Defendant YMCA at some of Defendant Pattonville’s elementary schools as “Y-Care.”

27. Prior to the 2022-2023 school year, Plaintiff Avery enrolled Plaintiff L.F. in Defendant Pattonville’s Y-Care program.

28. Defendant YMCA required all of Defendant Pattonville’s disabled students who apply for acceptance into the Y-Care program to provide Defendant YMCA a written document outlining the student’s diagnosis and required accommodation for their review.

29. Plaintiff Avery provided Defendant YMCA with a written document outlining Plaintiff L.F.'s diagnosis and required accommodations shortly after she applied for Plaintiff L.F. to attend Y-Care at Rose Acres Elementary.

30. On or about August 2, 2022, Defendant YMCA emailed Plaintiff Avery to inform her of Plaintiff L.F.'s acceptance into Y-Care and to tell her they were "so excited that [Plaintiff L.F.] will be attending Y-Care with us this year!"

31. Fifteen days later, on August 17, 2022, and just a few days before the start of the 2022-2023 school year, Defendant YMCA emailed Plaintiff Avery stating that Plaintiff L.F. was no longer accepted into and would not be allowed to participate in the Y-Care program at Rose Acres Elementary School.

32. In the August 17, 2022, email, Defendant YMCA refused to allow Plaintiff L.F. to attend Y-Care because they "will not be able to provide the level of support your child requires at this time."

33. Defendants made no offer to accommodate Plaintiffs with any other before-school care option at this sudden rejection and denial.

34. Defendants denied Plaintiffs access to the Y-Care program due to Plaintiff L.F.'s disability.

35. This rescinding and denial of participation in the Y-Care program left Plaintiffs without an option for childcare a few days before the school year began and caused Plaintiffs serious disruption in their daily lives.

36. Plaintiff Avery later found out from other parents of children with disabilities similar to Plaintiff L.F. in Defendant Pattonville's School District that Defendant YMCA also denied access to the Y-Care Program due to their disabilities.

37. Defendants denied disabled students, including Plaintiff L.F., access to the Y-Care Program because of their disabilities while allowing non-disabled students or less severely disabled students access to the Y-Care Program.

38. On September 3, 2023, Plaintiff Avery wrote to the Superintendent and Board of Defendant Pattonville and informed them that their contractor and agent, Defendant YMCA, was discriminating against Defendant Pattonville's disabled students, including Plaintiff L.F. and denying them access to the Y-Care program for before and after school care.

39. Defendant Pattonville was already aware that its contractor and agent, Defendant YMCA, denied before and after-school care to disabled students in its district due to their disabilities.

40. In response to Plaintiff Avery's September 3, 2023, email, Defendant Pattonville did not require its contractor, Defendant YMCA, to cease discriminating against Plaintiff L.F. and other disabled students but instead required Plaintiff L.F. to attend before-school care at Remington Traditional School ("**Remington**"), another school in its district.

41. Defendant Pattonville's requirement that Plaintiff L.F. attends before-school care at Remington was not reasonable as it required Plaintiff Avery to drop Plaintiff L.F. off at Remington for a short amount of time and then forced Plaintiff L.F. to endure an hour-long bus ride to be transported to Rose Acres Elementary to arrive in time for school to start.

42. Defendant Pattonville's decision to require Plaintiff L.F. to attend before-school care at Remington did not allow Plaintiff L.F. to access the same amount of time participating in activities and learning through the Y-Care Program as its non-disabled and less disabled students since he must catch the bus shortly after arrival at the before-school program at Remington to arrive at Rose Acres Elementary School in time for school to start.

43. Defendant Pattonville's actions did not allow Plaintiff L.F. to interact with the peers he knew and attended school within the familiar setting at Rose Acres Elementary, but instead left him with students and staff he did not know in an unfamiliar setting.

44. Defendants forced Plaintiffs to use the Remington before-school program for the 2022-23 school year while they sought other childcare options.

45. Plaintiff L.F. had constant problems attending before-school care at Remington. On or about October 10, 2022, staff at Remington forgot to send Plaintiff L.F.'s backpack and lunch with him when he boarded the bus to Rose Acres Elementary. This resulted in Plaintiff Avery disrupting her day to bring Plaintiff L.F. something to eat at lunchtime that day.

46. Plaintiff continued to complain to Defendants about Defendants' exclusion of Plaintiff L.F. and other disabled students from the Y-Care program due to their disabilities and/or the severity of his disabilities.

47. Due to Plaintiff Avery's ongoing complaints, Defendants continued to exclude Plaintiff L.F. from the Y-Care program in retaliation for their complaints about Defendants' discrimination against Plaintiffs and other disabled students.

48. Finally, and only due to Plaintiff Avery's persistence did Defendant YMCA accept Plaintiff L.F. into the Y-Care program at Rose Acres Elementary School for the 2023-2024 school year.

**COUNT I: DISABILITY DISCRIMINATION AGAINST PLAINTIFF L.F. IN VIOLATION OF THE MISSOURI HUMAN RIGHTS ACT BY ALL DEFENDANTS**

49. Plaintiffs incorporate by reference the allegations in the foregoing paragraphs as if fully set forth herein.

50. At all relevant times, Defendants were places of public accommodation under R.S. Mo. §213.010 (16).

51. Plaintiff L.F.'s conditions of Down Syndrome significantly impact his major life activities, including but not limited to learning, managing his emotions, interacting with others, toileting, and caring for himself.

52. Plaintiff L.F. is disabled under the Missouri Human Rights Act, §213.010, *et. seq.*

53. At all relevant times, as described above, Defendants discriminated against Plaintiff L.F. due to his disability in that Defendants excluded Plaintiff L.F. from receiving after-school care in the same manner as non-disabled students because of his disability and/or the severity of his disability.

54. Defendants' actions were undertaken maliciously or in reckless disregard for Plaintiff L.F.'s right to be free from discrimination.

55. Given Defendants' willful and malicious conduct, Plaintiff L.F. will seek leave of Court to file a claim for punitive damages at the appropriate time outlined by R.S. Mo. §510.261.

56. As a direct and proximate result of the above-described acts, Plaintiffs have suffered and will continue to suffer pecuniary losses, emotional pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and other non-pecuniary losses.

57. WHEREFORE, Plaintiffs respectfully request that this Court enter judgment in their favor and against Defendants, awarding emotional distress damages, compensatory damages, pre-and post-judgment interest, and attorney's fees and costs, as well as any other relief that this court should find necessary and proper.

**COUNT II: DISABILITY DISCRIMINATION AGAINST PLAINTIFF AVERY FOR ASSOCIATION WITH AN INDIVIDUAL WITH A DISABILITY IN VIOLATION OF THE MISSOURI HUMAN RIGHTS ACT BY ALL DEFENDANTS**

58. Plaintiffs incorporate by reference the allegations in the foregoing paragraphs as if fully set forth herein.



59. At all relevant times, Defendants were places of public accommodation under R.S. Mo. §213.010 (16).

60. Plaintiff L.F.'s conditions of Down Syndrome significantly impact his major life activities, including but not limited to learning, managing his emotions, interacting with others, toileting, and caring for himself.

61. Plaintiff L.F. is disabled under the Missouri Human Rights Act, §213.010, *et. seq.*

62. At all relevant times, Defendants knew Plaintiff Avery associated with an individual with a disability, her son Plaintiff L.F.

63. At all relevant times, as described above, Defendants discriminated against Plaintiff L.F. due to his disability in that Defendants excluded Plaintiff L.F. from receiving after-school care in the same manner as non-disabled students because of his disability and/or the severity of his disability.

64. At all relevant times, as described above, Defendants discriminated against Plaintiff Avery due to her association with an individual with a disability in that Defendants excluded her son, Plaintiff L.F., from receiving after-school care in the same manner as individuals not associated with disabled students.

65. Defendants' actions were undertaken maliciously or in reckless disregard for Plaintiff Avery's right to be free from discrimination.

66. Given Defendants' willful and malicious conduct, Plaintiff Avery will seek leave of Court to file a claim for punitive damages at the appropriate time outlined by R.S. Mo. §510.261.

67. As a direct and proximate result of the above-described acts, Plaintiffs have suffered and will continue to suffer pecuniary losses, emotional pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and other non-pecuniary losses.

68. WHEREFORE, Plaintiffs respectfully request that this Court enter judgment in their favor and against Defendants, awarding emotional distress damages, compensatory damages, pre-and post-judgment interest, and attorney's fees and costs, as well as any other relief that this court should find necessary and proper.

**COUNT III: RETALIATION AGAINST BOTH PLAINTIFFS IN VIOLATION OF THE MISSOURI HUMAN RIGHTS ACT**

69. Plaintiff incorporates by reference the allegations in the foregoing paragraphs as if fully set forth herein.

70. At all relevant times Defendants were a place of public accommodation under R.S.Mo. §213.010 (16).

71. Plaintiff Avery's advocacy for Plaintiff L.F. and other disabled students excluded from the Y-Care program to receive the same before and after school care at Defendant YMCA as non-disabled and/or less severely disabled students was a motivating factor in Defendants continued exclusion and denial of Plaintiff L.F. and Plaintiff Avery receiving access to and the benefits of the same before and after school care at Defendant YMCA as non-disabled and/or less severely disabled students.

72. As a direct and proximate result of the above-described acts, Plaintiffs have suffered and will continue to suffer pecuniary losses, emotional pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and other non-pecuniary losses.

73. Defendants' actions were undertaken maliciously or in reckless disregard for Plaintiffs' right to be free from discrimination.

74. Given Defendants' willful and malicious conduct, Plaintiffs will seek leave of Court to file a claim for punitive damages, at the appropriate time as outlined by §510.261.

75. WHEREFORE, Plaintiffs respectfully request that this Court enter judgment in their favor and against Defendants, awarding emotional distress damages, compensatory damages, pre-and post-judgment interest, and attorney's fees and costs, as well as any other relief that this court should find necessary and proper.

Respectfully submitted,

*/s/ Michelle K. Faron*

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