

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY  
STATE OF MISSOURI

|                                   |   |                     |
|-----------------------------------|---|---------------------|
| RANDY STEPHENS,                   | ) |                     |
|                                   | ) | Cause No:           |
| Plaintiff,                        | ) |                     |
|                                   | ) | JURY TRIAL DEMANDED |
| vs.                               | ) |                     |
|                                   | ) |                     |
| EXEL INC. D/B/A DHL SUPPLY CHAIN, | ) |                     |
|                                   | ) |                     |
| Defendants.                       | ) |                     |

**PETITION FOR DAMAGES**

COMES NOW, Plaintiff, Randy Stephens, by and through counsel, and hereby brings his petition for damages against Defendant Exel Inc. d/b/a DHL Supply Chain under the Missouri Human Rights Act, § 213.055 and § 213.070 RSMo, *et. seq.*, and the Missouri Worker’s Compensation Law § 287.780 RSMo, *et. seq.* In support thereof, Plaintiff states:

**GENERAL ALLEGATIONS**

1. At all relevant times herein Plaintiff was a resident of the State of Missouri.
2. Upon information and belief, Defendant Exel, Inc. d/b/a DHL Supply Chain (“Exel”) is an Ohio corporation in good standing, registered to conduct business in Missouri.
3. Defendant Exel’s registered office is located at 120 South Central Avenue in Clayton, Missouri.
4. At all relevant times herein, Defendant acted by and through its agents, servants, and employees, who acted within the course and scope of their employment.
5. Venue is proper in this Court as all the allegations that gave rise to this action occurred in St. Louis County, Missouri.
6. Plaintiff has satisfied the administrative requirements to file suit under the Missouri Human Rights Act, § 213.111 RSMo, in that on June 7, 2022, Plaintiff filed a timely charge of

discrimination and retaliation with the Missouri Commission on Human Rights (MCHR), and that charge was cross-filed with the Equal Employment Opportunity Commission (EEOC). On November 27, 2023, Plaintiff received a Notice of Right to Sue letter from the MCHR. This lawsuit was filed within ninety days of its issuance.

**FACTUAL ALLEGATIONS COMMON TO ALL COUNTS**

7. At all times relevant to the allegations in this Petition, Defendant was Plaintiff's employer within the meaning of § 213.010(8) RSMo.

8. At all times relevant to the allegations in this Petition, Plaintiff is an individual meeting the definition of a person that is disabled or regarded as having a disability as defined by §213.010(4) RSMo.

9. Specifically, Plaintiff has bilateral carpal tunnel, bilateral tennis and golfer's elbow, and sciatica tendinitis.

10. Plaintiff began working for Defendant on October 20, 2009.

11. At all times relevant to this petition, Plaintiff was employed by Defendant as a lead materials handler and was paid approximately \$500 per week or \$19.20 per hour.

12. At all times relevant to this petition, Plaintiff worked at a warehouse owned and operated by Defendant located at 5790 Campus Parkway in Hazelwood, Missouri.

13. At all times relevant to this petition, James Brown was Plaintiff's supervisor and was an employee or agent of Defendant.

14. At all times relevant to this petition, Douglas Lander was an employee or agent of Defendant.

15. On or about June 20, 2018, Plaintiff injured himself in the course of his employment by performing repetitive activities which caused an occupational disease or repetitive trauma to both of his arms.

16. On June 28, 2018, Plaintiff filed a claim for worker's compensation with the Missouri Department of Labor and Industrial Relations Division of Workers' Compensation relating to the June 20, 2018 injury.

17. On August 2, 2019, Plaintiff was injured in the course of his employment when he was unloading a cage in a trailer and the cage fell on him, which forced him to push back on the cage to avoid being crushed.

18. On August 19, 2019, Plaintiff filed a claim for workers' compensation with the Missouri Department of Labor and Industrial Relations Division of Workers' Compensation relating to the June 28, 2018 injury.

19. After the injuries in June 2018 and August 2018, Claimant continued working and was able to accomplish all of his assigned duties during this period by utilizing braces to support his wrists.

20. On or about November 20, 2020, James Brown became Plaintiff's supervisor.

21. From approximately November 20, 2020 until September 23, 2021, James Brown subjected Plaintiff to pervasive sexual harassment.

22. Upon information and belief, James Brown harassed Plaintiff because Brown thought that Plaintiff behaved in a way that is not stereotypically considered "masculine."

23. On several occasions between November 20, 2020 and September 23, 2021, James Brown harassed Plaintiff by asking him if he was a woman, asking him if he wanted to be a woman, and telling him to "man up."

24. Plaintiff carried a bag to work, and James Brown would ask Plaintiff why Plaintiff, a man, “carried a purse.”
25. On or about mid-August 2021, two of Plaintiff’s co-workers harassed Plaintiff by holding Plaintiff’s bag over a trashcan and emptying the contents into the garbage.
26. James Brown was aware of the incident, and asked Plaintiff if he needed the bag to carry around his “lipstick and makeup.”
27. James Brown also told Plaintiff that he should apologize to the co-workers who emptied his bag into the trash.
28. After Plaintiff filed his claim for workers’ compensation, upper management told Plaintiff that “only women complain” and that he should handle the situation “like a man” and get over it.
29. On August 10, 2021, Plaintiff filed a grievance with his union complaining about harassment from James Brown, Douglas Lander, and Corey Stinson.
30. On September 22, 2021, Plaintiff complained to James Brown’s supervisor, Douglas Lander, about James Brown’s sexual harassment of Plaintiff.
31. Douglas Lander told Plaintiff that if Plaintiff wanted to file grievances or otherwise “stir the pot” that it would “not be pleasant” for Plaintiff.
32. Douglas Lander told Plaintiff to apologize to James Brown and that if he did not, he could be fired.
33. On September 23, 2021, James Brown told Plaintiff to go home when Plaintiff tried to clock in for his shift and told Plaintiff that Plaintiff would not be permitted to work until he no longer needed to wear the braces on his wrists.
34. On May 18, 2022, Plaintiff learned he no longer had health insurance through Defendant, indicating he had been discharged.

**COUNT I: VIOLATION OF § 287.780 RSMO**

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

36. Plaintiff was an employee within the meaning of § 287.020 RSMo.

37. Defendant is an employer within the meaning of § 287.030 RSMo.

38. Prior to his termination, Plaintiff filed a workers' compensation claim for injuries sustained during the course and scope of his employment within the meaning of § 287.030 RSMo.

39. Plaintiff seeking to avail himself under the workers' compensation laws of Missouri was a contributing factor in Plaintiff's suspension on September 23, 2021.

40. Plaintiff seeking to avail himself under the workers' compensation laws of Missouri was a contributing factor in Plaintiff's termination on or about May 18, 2022.

41. As a direct and proximate result of Defendant's retaliation towards Plaintiff's availing himself of this State's workers' compensation laws, Plaintiff has been damaged because he lost the wages he was earning with Defendant from the time he was sent home from work in September 2021 to the time he was discharged.

42. Furthermore, Plaintiff's suspension was humiliating, emotionally traumatic, and depressing.

43. As a direct and proximate result of Defendant's retaliation towards Plaintiff's availing himself of this State's workers' compensation laws, Plaintiff has been damaged because he lost the wages and health insurance benefits he was earning with Defendant at the time of his discharge through the future minus any subsequent employment he might have obtained.

44. Furthermore, Plaintiff's discharge was humiliating, emotionally traumatic, and depressing.

45. Defendant's retaliation towards and termination of Plaintiff because Plaintiff filed workers' compensation claims and sought to avail himself under the workers' compensation laws of this State were motivated by Defendant's evil motive, spite, and was wanton.

**COUNT II: VIOLATION OF MISSOURI HUMAN RIGHTS ACT – SEX DISCRIMINATION**

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

47. Plaintiff is male, and therefore a member of a protected group under § 213.010 RSMo *et seq.*

48. Defendant is an employer within the meaning of § 210.010(8) RSMo.

49. Defendant discriminated against Plaintiff on the basis of sex by subjecting him to continuous unwanted and unwelcome sexual comments and jokes by his supervisors and co-workers.

50. These unwelcome comments and jokes were so severe and/or pervasive as to alter the terms and conditions of Plaintiff's employment.

51. Defendant knew of the comments and jokes and failed to take effective remedial action.

52. Defendant's actions created a hostile work environment and constituted discrimination on the basis of sex in violation of § 213.055 RSMo.

53. This misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to Plaintiff's rights.

**COUNT III: VIOLATION OF MISSOURI HUMAN RIGHTS ACT – RETALIATION**

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

55. On September 22, 2021, Plaintiff reported to Douglas Lander that James Brown sexually harassed him.

56. Plaintiff's report constituted protected activity under § 213.070 RSMo.

57. The next day, Defendant told Plaintiff that he could not return to work.

58. Defendant suspended Plaintiff in because of his protected activity, in violation of § 213.070 RSMo.

59. Defendant took the above actions with malice, willfulness, and reckless indifference to Plaintiff's rights.

**COUNT IV: VIOLATION OF MISSOURI HUMAN RIGHTS ACT – DISABILITY DISCRIMINATION**

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

61. At all relevant times, Plaintiff was an individual entitled to the rights, protections, and benefits provided under the MHRA.

62. Plaintiff's recurring bilateral carpal tunnel, bilateral tennis and golfer's elbow, and sciatica tendinitis causes daily pain and discomfort.

63. Plaintiff's conditions substantially affect Plaintiff's major life activities of lifting, bending, and performing manual tasks.

64. Plaintiff's conditions constitute disabilities within the definition of §213.010(4) RSMo.

65. On or about September 23, 2021, Defendant refused to allow Plaintiff to clock into his shift unless he removed his wrist braces.

66. On or about May 18, 2022, Defendant terminated Plaintiff's employment.

67. Plaintiff's actual and/or perceived disability was the motivating factor in Defendant's above actions, in violation of § 213.055 RSMo *et seq.*

68. As a direct result of Defendants' discriminatory conduct, Plaintiff has sustained and continues to sustain damages, including but not limited to economic loss in the form of back wages and benefits less his current earnings, future lost wages and earnings, emotional distress, humiliation, embarrassment, and deprivation of his civil rights.

69. As a direct result of Defendants' discriminatory conduct, Plaintiff has incurred and continues to incur attorney's fees, costs, and other expenses in connection with this matter.

70. Pursuant to § 213.111(2) RSMo, Plaintiff seeks actual damages, court costs and reasonable attorney's fees.

71. At the time these actions were taken, Defendants knew its actions were outrageous, unlawful and were undertaken maliciously and/or in reckless disregard for Plaintiff's right to be free from retaliation.

**COUNT V: VIOLATION OF MISSOURI SERVICE LETTER STATUTE, § 290.140 RSMO ET SEQ.**

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

73. Defendant is an employer within the meaning of the Missouri Service Letter Statute, § 290.140 RSMo *et. seq.* in that Defendant does business within the State of Missouri and employs seven (7) or more employees.

74. Plaintiff was employed with Defendant from October 20, 2009 to approximately May 18, 2022 when he was informed of his termination.

75. Plaintiff worked for Defendant for approximately thirteen years.

76. After Plaintiff was terminated from his employment, he requested in writing a Missouri Service Letter, by letter dated February 10, 2023 and delivered on February 14, 2023, with specific reference to the Missouri Service Letter Statute, § 290.140 RSMo *et. seq.*



77. Defendants failed to respond to Plaintiff's request for a Missouri Service Letter, as required by the Missouri Service Letter Statute, § 290.140 RSMo *et seq.*

78. Plaintiff has been damaged by Defendant's failure to respond.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays this Court to enter judgment in favor of Plaintiff and against Defendants thereafter:

A. Declare the conduct engaged in by Defendant to be in violation of Plaintiff's rights under the MHRA and the Missouri Worker's Compensation Law;

B. Award Plaintiff such damages as are fair and reasonable, including actual damages such as backpay and front pay, lost benefits of employment, compensatory damages, emotional distress damages, pre and post judgment interest, all in an amount over \$25,000.

C. Award Plaintiff his costs and attorneys' fees; and

D. Grant such other relief as it may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff respectfully demands trial by jury on all issues triable by a jury in the Petition.

Respectfully submitted,

**KENNEDY HUNT, P.C.**

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