

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

Carolina Cropelli and
Steven Cropelli,

Plaintiffs

v.

Fort Cherry EMS,

Defendant

Case No.

COMPLAINT

Carolina and Steven Cropelli (“Plaintiffs”), by and through their counsel Elizabeth L. Pollock-Avery, Esq. and David M. Manes, Esq. of Kraemer, Manes & Associates LLC file this Complaint against Fort Cherry EMS (“Defendant”) alleging the following:

I. Nature of the Action

1. This is an action for equitable relief as well as monetary damages, to redress Defendant’s unlawful employment practices against Plaintiffs, including Defendant’s unlawful discrimination, harassment, and retaliation against Plaintiffs because of Mr. Cropelli’s disability and age, and Ms. Cropelli’s association with a disabled person and age, in violation of the Americans with Disabilities Act (ADA), as amended 42 U.S.C. §§12101 et seq. and the Age Discrimination in Employment Act (ADEA), 29 U.S.C. §621 et seq.

2. This action also addresses the improper compensation of the Plaintiffs under the Wage Payment and Collection Law (WPCL) Act of 1961, P.L. 637, No. 329 et seq.

II. Jurisdiction and Venue

3. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 and 1343 as this action involves federal questions regarding the violation of Plaintiff's rights protected by the ADA and ADEA. The Court has supplemental jurisdiction over Plaintiff's related claims arising under the PHRA pursuant to 28 U.S.C. § 1367.

4. The amount in controversy in this case exceeds \$75,000.

5. The events or omissions giving rise to the claims occurred in Western Pennsylvania, and therefore, this action is within the jurisdiction of the United States District Court for the Western District of Pennsylvania and the venue is proper pursuant to 28 U.S.C. § 1391(b).

III. Parties

6. Plaintiffs were residents and citizens of Pennsylvania at all times relevant to this case.

7. Defendant is a corporation located at 8200 Noblestown Road, McDonald, PA 15057.

IV. Facts

8. Mr. Cropelli was hired by Defendant on October 15, 2013.

9. Ms. Cropelli was hired by Defendant on November 13, 2013.

10. At the time of his hiring, Mr. Cropelli had diabetes and informed Defendant that he would need to take short breaks to eat several times during a 12-16 hour shift.

11. No one is permitted to eat within an ambulance by law.

12. Mr. Cropelli required a short break because he needed to eat in order to be able to take his insulin, which he requires to control his blood sugar. Without the insulin, Mr. Cropelli risks falling into a coma or even death.

13. Despite his request for accommodation, Mr. Cropelli was subject to the following acts:

a. Mr. Cropelli was constantly sent out on transfers with no time in between trips.

- b. Mr. Cropelli was sent out to sit in the ambulance on the side of the road for hours to wait for a call. Mr Cropelli could not eat in the ambulance, and would not be stationed near somewhere he could buy food.
- c. Mr. Cropelli was sent on non-emergency trips which could have been delayed 15 minutes to allow him to eat without causing an undue hardship to the employer.
- d. On one occasion, Mr. Cropelli's blood sugar dropped dangerously low and he requested some time to eat. His request was denied by the dispatcher who told him to "do just one more trip."

14. Mr. Cropelli was paid \$17/hour despite initially being told he would receive \$18/hour. Paramedics hired after Mr. Cropelli with less experience were paid \$18/hour.

15. Other paramedics were not sent out on as many transports as Mr. Cropelli, which is considered less favorable and is a clear indication that giving Mr. Cropelli time to eat before a transport would not have been an undue hardship to Defendant.

16. All of the EMT's employed at Ft. Cherry EMS during Plaintiffs' employment were under the age of 40.

17. Plaintiffs were both over the age of 40 during their employment with Defendant.

18. The vast majority of the paramedics employed by Defendant during Plaintiffs' employment were under the age of forty.

19. On December 18, 2013 Mr. Cropelli started to experience extreme chest pain. Mr. Cropelli's chest pain was so severe he was forced to go to the hospital.

20. The chest pain was directly related to Mr. Cropelli's diabetes.

21. Ms. Cropelli attempted to call off work for Mr. Cropelli by calling the dispatcher, but she was told that the operations manager, Ed Reynolds, needed to be contacted.

22. Mr. Cropelli called Mr. Reynolds at 1:30 am and left a message stating he would not be into work the next day.

23. Mr. Cropelli was released on December 21, 2013. For the three days he was in the hospital, Mr. Reynolds called and harassed Ms. Cropelli and the Plaintiffs' minor child.

24. On December 21, 2013 Mr. Cropelli called Mr. Reynolds to tell him about his release. Mr. Reynolds cursed at Mr. Cropelli and made threats towards him.

25. Mr. Cropelli was fired by Mr. Reynolds during this phone call on December 21, 2013.

26. Mr. Reynolds was unclear during this phone call whether or not he was terminated Ms. Cropelli as well as Mr. Cropelli. She contacted Mr. Reynolds and was told that "he did not have the time for her" and hung up. The next communication Ms. Cropelli received from Defendant was to pick up her final check.

COUNT I- Mr. Cropelli v. Defendant

ADA 42 U.S.C. §§12101 et seq. - Discrimination Based on Disability

27. The above paragraphs are incorporated here by reference as though fully set forth at length herein.

28. The ADA defines a disability as a "physical or mental condition that substantially limits a major life activity." The Americans with Disabilities Amendments Act expanded the definition of major life activity to include operations of major bodily functions.

29. Mr. Cropelli has a disability as defined under the ADA as he has a diagnosis of diabetes.

30. Defendant was made aware of Plaintiff's disability when he was hired.

31. Defendant discriminated against Plaintiff in violation of the ADA in the following ways:

- a. Defendant failed to engage in the interactive process of accommodating the Plaintiff.
 - b. Defendant paid Plaintiff less than what other non-disabled employees were paid.
 - c. Mr. Reynolds verbally harassed the Plaintiff and his family members over the phone while Plaintiff was hospitalized.
32. Mr. Cropelli was capable of performing the essential functions of his job.

COUNT II- Ms. Cropelli v. Defendant

ADA 42 U.S.C. §§12101 et seq. - Retaliation Based on Disability

33. All previous paragraphs are incorporated as though fully set forth herein.
34. Ms. Cropelli was associated with a person (her husband) who has a disability as defined under the ADA during her employment with Defendant.
35. Defendant retaliated against Ms. Cropelli by terminating her after she complained to Mr. Reynolds about his conduct towards both Plaintiffs when Mr. Cropelli needed to call off work.

COUNT III – Mr. Cropelli v. Defendant

PHRA 43 P.S. § 951 et. seq. - Discrimination Based on Disability

36. All previous paragraphs are incorporated as though fully set forth herein.
37. The Pennsylvania Human Relations Act defines a disability as a “physical or mental impairment which substantially limits one or more of such person’s major life activities.”

38. Mr. Cropelli has a disability as defined under the PHRA as he has a diagnosis of diabetes.

39. Defendant was made aware of Plaintiff's disability when he was hired.

40. Defendant discriminated against Plaintiff in violation of the PHRA in the following ways:

- a. Defendant failed to engage in the interactive process of accommodating the Plaintiff.
- b. Defendant paid Plaintiff less than what other non-disabled employees were paid.
- c. Mr. Reynolds verbally harassed the Plaintiff and his family members over the phone while Plaintiff was hospitalized.

41. Mr. Cropelli was capable of performing the essential functions of his job despite his disability.

COUNT IV – Ms. Cropelli v. Defendant

PHRA 43 P.S. § 951 et. seq. – Retaliation Based on Disability

42. All previous paragraphs are incorporated as though fully set forth herein.

43. Ms. Cropelli was associated with a person (her husband) who has a disability as defined under the ADA during her employment with Defendant.

44. Defendant retaliated against Ms. Cropelli after she complained to Mr. Reynolds about his conduct towards both Plaintiff when Mr. Cropelli needed to call off work.

COUNT V – Mr. Cropelli v. Defendant

ADEA 29 U.S.C. §621 et seq. – Discrimination on the basis of Age

45. All previous paragraphs are incorporated as though fully set forth herein.

46. Mr. Cropelli was over the age of 40 during his employment and is part of a protected age class.

47. Plaintiff was treated differently than younger, less experienced employees, including but not limited to being paid less and receiving less preferential shifts.

48. Defendant committed these adverse actions because of Mr. Cropelli's age.

COUNT VI – Ms. Cropelli v. Defendant

ADEA 29 U.S.C. §621 et seq. – Discrimination on the basis of Age

49. All previous paragraphs are incorporated as though fully set forth herein.

50. Ms. Cropelli was over the age of 40 during her employment and is part of a protected age class.

51. Ms. Cropelli was the oldest of all of the EMT's employed by Fort Cherry during her employment.

52. Plaintiff was treated differently than younger, less experienced employees, including but not limited to being paid less and receiving less preferential shifts.

53. Defendant committed these adverse actions because of Ms. Cropelli's age.

COUNT IX – All Plaintiffs v. Defendant

WPCL Act of 1961, P.L. 637, No. 329 et seq.

54. All previous paragraphs are incorporated as though fully set forth herein.

55. Mr. Cropelli was under compensated for his work.

a. When hired, Mr. Cropelli was informed that he would be paid \$18/hour.

b. In reality, Mr. Cropelli was only paid \$17/hour.

56. Mr. and Ms. Cropelli worked shifts on Thanksgiving Day and received normal pay, not time and a half like they were entitled to.

Request for Relief

WHEREFORE, Plaintiff respectfully requests for this Court to grant the following relief in excess of \$75,000:

- a. Award Plaintiffs back pay at a rate of pay and other benefits of employment, to which they would have been entitled, had they not been subjected to unlawful discrimination;
- b. Award Plaintiffs front pay, if appropriate;
- c. Award Plaintiffs compensatory damages, punitive damages, pre and post judgment interest, costs of suit and attorney and expert witness fees as allowed by law;
- d. Liquidated damages under the WPCL;
- e. Declare Defendant's conduct to be in violation of the Plaintiffs' rights under the ADA, PHRA and ADEA;
- f. Such equitable relief as may be appropriate under the circumstances; and
- g. Award such further relief as this Court deems necessary and proper.

JURY TRIAL DEMANDED.

Respectfully submitted,

Dated:

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