

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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DOUGLAS H. WIGDOR,

Plaintiff,

v.

SOULCYCLE, LLC, JULIE RICE,
ELIZABETH CUTLER and MELISSA SCHOFFER,

Defendants.
-----X

Civil Action No.:

COMPLAINT

Jury Trial Demanded

Plaintiff Douglas H. Wigdor ("Plaintiff" or "Mr. Wigdor"), by and through counsel, Vladeck, Waldman, Elias & Engelhard, P.C., as and for the Complaint in this action against Defendants SoulCycle, LLC ("SoulCycle," or the "Company"), Julie Rice, Elizabeth Cutler and Melissa Schoffer (together with SoulCycle, "Defendants"), hereby alleges as follows:

PRELIMINARY STATEMENT

1. On May 6, 2013, SoulCycle banned attorney Douglas H. Wigdor from its premises after he filed a complaint alleging violations of, *inter alia*, the New York Labor Law ("NYLL"), and the California Labor Code ("CLC") on behalf of a client in the matter of *Oram v. SoulCycle, et al.*, 13 Civ. 2976 ("*Oram v. SoulCycle*"). After the plaintiff in *Oram v. SoulCycle* amended his complaint to include a claim of retaliation, SoulCycle argued that those retaliation claims should be dismissed. A federal judge disagreed, finding that SoulCycle,

had not demonstrated a "legitimate, nondiscriminatory reason" for banning Mr. Oram and his counsel from SoulCycle premises.

It can hardly be disputed that SoulCycle's decision to ban Mr. Wigdor – who had been a paying SoulCycle patron – was based on retaliatory animus. SoulCycle's conduct constitutes a clear attempt to discourage attorneys from representing clients with claims against SoulCycle.

SoulCycle's conduct was also intended to deter its employees and former employees from objecting to unlawful activity and pursuing legitimate legal action.

2. The significance of SoulCycle's conduct cannot be overlooked. Indeed, if other employers adopt Defendants' approach to ban attorneys who represent clients with claims against them, the result will be a restraint of trade that will inure to the detriment of society at large. Attorneys will be deterred from representing clients with legitimate claims for fear that they will be deprived of the ability to avail themselves of business services. Just a few examples of the problems this would cause are detailed below:

- An attorney considering bringing an action on behalf of an employee or former employee against a hospital could be faced with the decision of pursuing the representation or being banned from a hospital;
- An attorney considering bringing an action on behalf of an employee or former employee against a public utility could be faced with the decision of pursuing the representation or being denied gas and electricity;
- An attorney considering bringing an action on behalf of an employee or former employee against a pharmacy could be faced with the decision of pursuing the representation or having to travel further to obtain essential medication; and
- An attorney considering bringing an action on behalf of an employee or former employee against a bank could be faced with the decision of pursuing the representation or using a bank that did not offer the best interest rates or account options.

3. Even further, if attorneys are punished for representing clients with claims against their employers, employees will be further deterred from objecting to and exposing unlawful conduct. The anti-retaliation laws are intended to encourage and protect employees who disclose and report unlawful conduct, not prevent employees from engaging in protected activities or deter attorneys from representing such individuals.

NATURE OF THE CLAIMS

4. Plaintiff brings this action to obtain injunctive relief and damages due to Defendants' unlawful retaliatory conduct. Specifically, Defendants retaliated against Plaintiff by banning him from SoulCycle's premises for representing a former employee of Defendants in connection with claims under the NYLL and the CLC. Defendants' conduct violated the NYLL and California law prohibiting retaliation for alleging wage-and-hour violations. Defendants' conduct also constituted a *prima facie* tort and breached their duty of good faith and fair dealing to Plaintiff.

JURISDICTION AND VENUE

5. The Court has jurisdiction over Defendants pursuant to § 301 and/or § 302 of the New York Civil Practice Law and Rules ("CPLR") in that (i) SoulCycle, LLC is a limited liability corporation registered to do business in the State of New York and with a principal place of business in the City of New York, and/or (ii) SoulCycle, LLC transacts and/or solicits business within the State of New York from which it derives substantial revenues.

6. Venue is proper pursuant to CPLR § 503 in that New York County is the principal place of business of Defendants and the county in which Plaintiff resides.

PARTIES

7. Plaintiff Douglas H. Wigdor is a resident of the State and City of New York and is an attorney duly admitted to the practice of law in the State of New York. Plaintiff represents individuals and organizations in employment-related disputes, including, but not limited to, claims of discrimination, harassment, retaliation and wage-and-hour law violations.

8. Defendant Julie Rice is and was a co-owner of SoulCycle at all relevant times. Upon information and belief, as co-owner, Ms. Rice directly participated in the unlawful retaliation committed against Plaintiff.

9. Defendant Elizabeth Cutler is and was a co-owner of SoulCycle at all relevant times. Upon information and belief, as co-owner, Ms. Cutler directly participated in the unlawful retaliation committed against Plaintiff.

10. Defendant Melissa Schoffer is and was in-house counsel for SoulCycle at all relevant times. Ms. Schoffer directly participated in the unlawful retaliation committed against Plaintiff, including but not limited to, telling Plaintiff that he was banned from SoulCycle.

11. Defendant SoulCycle, LLC, is a New York corporation with a principal place of business at 103 Warren Street, New York, NY 10007. At all relevant times, SoulCycle was an "employer" within the meaning of all applicable statutes.

FACTUAL ALLEGATIONS

12. On May 2, 2013, Plaintiff Douglas H. Wigdor – a Partner of the law firm Wigdor LLP¹ – filed an action on behalf of Nick Oram ("Mr. Oram") in the United States District Court in the Southern District of New York captioned *Oram v. SoulCycle*, alleging, *inter alia*, violations of the NYLL and the CLC by SoulCycle, including but not limited to, failure to properly pay wages for all hours worked.

13. Prior to the commencement of *Oram v. SoulCycle*, Mr. Wigdor had been a patron of SoulCycle, an indoor cycling facility, spending approximately \$35 per class on a regular basis. He created an online account with SoulCycle, which he routinely used to schedule classes.

¹ At the time of filing, the law firm was called Thompson Wigdor LLP.

14. SoulCycle is considered the "country's premier indoor cycling studio." SoulCycle is unique among exercise facilities. It was created to offer customers a fitness experience unavailable anywhere else. Each class is designed to create a "mini theater production" that is "unique every time." According to SoulCycle's founders, "[t]here was a hole in the marketplace" so they "created SoulCycle." SoulCycle has 32 locations throughout the United States and is projected to nearly double the number of locations in the next year, including opening a location in London.

15. After Plaintiff attended several classes at SoulCycle, Defendant Melissa Schoffer, an in-house attorney and Senior Manager of Legal Affairs at SoulCycle, called Mr. Wigdor on Monday, May 6, 2013, and informed him that he would not be permitted on the premises of any SoulCycle location because his law firm represented an individual who had commenced a lawsuit against the Company. In an attempt to distance herself from that statement, later that day Ms. Schoffer sent an email that stated "Mr. Wigdor was simply asked not to come on our premises"

16. Upon information and belief, the decision to ban Mr. Wigdor from SoulCycle was made, agreed to, confirmed and/or acquiesced to by Ms. Schoffer and the co-owners of SoulCycle, Ms. Rice and Ms. Cutler.

17. As there had been some ambiguity with regard to its position on whether Mr. Wigdor was banned or was simply being requested not to come to SoulCycle, on May 23, 2013 Mr. Wigdor made a reservation to attend a class the following day. William Anthony ("Mr. Anthony"), a Partner at the law firm Jackson Lewis, P.C., outside counsel for the defendants in *Oram v. SoulCycle*, confirmed in writing that Mr. Wigdor, as well as his client, Mr. Oram, were banned from the premises of any of SoulCycle's locations.

18. Upon information and belief, this confirmation conveyed through counsel was determined, agreed to and/or acquiesced to by Ms. Schoffer and the co-owners of SoulCycle, Ms. Rice and Ms. Cutler.

19. Mr. Wigdor was banned from SoulCycle because he represented an individual in a legal action against SoulCycle for wage-and-hour violations under the NYLL and CLC, and Mr. Oram was similarly banned because he was the plaintiff pursuing the action.

20. On July 2, 2013, Mr. Oram filed an Amended Complaint in *Oram v. SoulCycle* alleging that the Defendants' decision to ban him and his counsel from SoulCycle's premises was retaliatory and in violation of the anti-retaliation provisions of the NYLL.

21. SoulCycle subsequently filed a motion to dismiss Mr. Oram's claim of retaliation for failure to state a claim under the NYLL. In doing so, SoulCycle argued that it could not be liable for retaliating against Mr. Oram because (i) the anti-retaliation provisions of the NYLL do not apply to former employees, and Mr. Oram was no longer employed at SoulCycle, and (ii) banning Mr. Oram and his counsel was not sufficiently retaliatory to trigger the protections of the NYLL.

22. On October 28, 2013, the court denied this aspect of SoulCycle's motion to dismiss and observed that SoulCycle,

had not demonstrated a "legitimate, nondiscriminatory reason" for banning Mr. Oram and his counsel from SoulCycle premises.

See Oram v. SoulCycle LLC, 979 F. Supp. 2d 498, 511 (S.D.N.Y. 2013) (emphasis added). The court further observed that "this ban . . . on attendance . . . remains a triable issue to warrant protection under NYLL § 215."

23. On July 30, 2014, SoulCycle, through its counsel, reiterated that the "ban" on Mr. Wigdor entering its premises remained in effect.

24. Upon information and belief, the decision to confirm and reiterate Mr. Wigdor's ban was made, agreed to, and/or acquiesced to by Ms. Schoffer and the co-owners of SoulCycle, Ms. Rice and Ms. Cutler.

25. Despite being banned from SoulCycle's premises, Mr. Wigdor continues to receive emails that appear to be sent out to SoulCycle's contact list of customers regarding SoulCycle-related events and new location openings.

26. Defendants' decision to ban Mr. Wigdor from its premises was at all times and remains intended to punish Mr. Wigdor for representing an individual who made protected complaints and filed protected legal action regarding his good faith and reasonable belief that SoulCycle's wage practices violated the NYLL and the CLC.

27. This retaliatory action was intended to dissuade not only other employees and former employees from engaging in and objecting to unlawful conduct and pursuing legal action, but was also intended to dissuade Mr. Wigdor and other attorneys from representing employees and former employees of SoulCycle.

28. Mr. Wigdor was not the accidental victim of retaliation or "collateral damage." Rather, Defendants' unlawful actions sought to punish Mr. Wigdor directly for conveying, participating in and filing his client's protected complaint.

29. Having been banned from SoulCycle, Mr. Wigdor is unable to attend events sponsored by various organizations and charities that hold events at SoulCycle.

30. Taken to its logical conclusion, if a company is permitted to ban an attorney who represents a client with good faith claims of unlawful conduct, attorneys will be dissuaded from representing clients with legitimate claims and pursuing claims against many companies.

31. Moreover, if lawyers are deterred from representing individuals with legitimate claims due to fear of retaliation, employees and former employees will be dissuaded from engaging in protected activity because it may be difficult to find willing and competent counsel.

32. If SoulCycle and other businesses are permitted to ban lawyers from their premises for representing clients with claims of unlawful conduct, such a ban will operate as a restraint of trade that will inure to the detriment of the public by restricting the available pool of lawyers for individuals contemplating legitimate legal action and deter those potential claimants from seeking representation.

33. This, in turn, would substantially undermine – if not entirely obstruct – the intended goals of numerous laws designed to further the public good, many of which are only enforced through individuals pursuing their claims.

FIRST CAUSE OF ACTION
(Retaliation in Violation of NYLL § 215)

34. Plaintiff, on behalf of himself, hereby realleges and incorporates by reference paragraphs 1 through 33 as though they were fully set forth herein.

35. NYLL § 215 prohibits retaliation against individuals who complain about conduct in violation of the NYLL and/or who institute a proceeding under or related to the NYLL.

36. Defendants violated the NYLL by banning Mr. Wigdor from their establishment in retaliation for him engaging in protected activity of representing a client with good faith claims of NYLL violations and for participating in his client's protected activity.

37. The foregoing conduct of Defendants constitutes a willful violation of the NYLL and/or its regulations.

38. As a direct and proximate result of Defendants' unlawful and retaliatory conduct in violation of the NYLL, Plaintiff has suffered damages for which he is entitled to full relief available under the law.

39. Plaintiff is entitled to an award of punitive damages as Defendants' unlawful conduct was willful, wanton and reckless and showed a disregard for Plaintiff's rights.

SECOND CAUSE OF ACTION
(Retaliation in Violation of California Law)

40. Plaintiff, on behalf of himself, hereby realleges and incorporates by reference paragraphs 1 through 39 as though they were fully set forth herein.

41. It is unlawful under California law to retaliate against an individual who alleges violations of the CLC and/or who brings a proceeding under or related to the CLC.

42. Defendants violated California law by banning Mr. Wigdor from their establishment in retaliation for him engaging in protected activity of representing a client with good faith claims of CLC violations and for participating in his client's protected activity.

43. As a direct and proximate result of Defendants' unlawful and retaliatory conduct, Plaintiff has suffered damages for which he is entitled to full relief available under the law.

44. Plaintiff is entitled to an award of punitive damages as Defendants' unlawful conduct was willful, wanton and reckless and showed a disregard for Plaintiff's rights.

THIRD CAUSE OF ACTION
(*Prima Facie* Tort)

45. Plaintiff, on behalf of himself, hereby realleges and incorporates by reference paragraphs 1 through 44 as though they were fully set forth herein.

46. Defendants' unjustified retaliatory acts intentionally inflicted harm on Plaintiff.

47. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has suffered damages for which he is entitled to full relief available under the law.

48. Plaintiff is entitled to an award of punitive damages as Defendants' unlawful conduct was willful, wanton and reckless and showed a disregard for Plaintiff's rights.

FOURTH CAUSE OF ACTION
(Breach of Obligation of Good Faith and Fair Dealing)

49. Plaintiff, on behalf of himself, hereby realleges and incorporates by reference paragraphs 1 through 48 as though they were fully set forth herein.

50. By banning Plaintiff from its facilities, Defendants have breached their obligations of good faith and fair dealing toward Plaintiff.

51. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has suffered damages for which he is entitled to full relief available under the law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter a judgment:

- (a) declaring that the acts and practices complained of herein are in violation of the NYLL, and California and New York common law;
- (b) enjoining and permanently restraining these violations;
- (c) directing Defendants to place Plaintiff in the position he would have occupied but for Defendants' unlawful conduct;
- (d) directing Defendants to pay Plaintiff damages, including punitive damages;
- (e) awarding Plaintiff attorneys' fees and costs; and
- (f) awarding such other and further relief as this Court may deem necessary and proper.

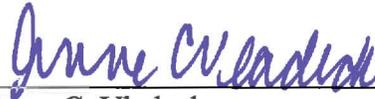
DEMAND FOR A TRIAL BY JURY

Plaintiff hereby demands a trial by jury on all issues of fact and damages.

Dated: New York, New York
November 20, 2014

VLADECK, WALDMAN, ELIAS &
ENGELHARD, P.C.

By:



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