

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS

LUCAS ROSA,
Plaintiff,

v.

PARK WEST BANK AND TRUST COMPANY,
Defendant

Civil Action No.

COMPLAINT

Plaintiff Lucas Rosa, by and through attorneys states:

INTRODUCTION

1. This is a civil rights action against a bank for refusing to issue and accept a loan application from a bank customer. The loan officer who refused to issue and accept the application engaged in impermissible sex stereotyping based on Plaintiff's sex, sexual orientation and perceived sexual orientation all in violation of federal and state law.

Lucas Rosa asserts claims under the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f, Massachusetts statutes forbidding discrimination in places of public accommodation, M.G.L. c. 272, § 92A and § 98, and credit, M.G.L. c. 151B.

JURISDICTION

2. This Court has jurisdiction over Count I of this action under 15 U.S.C. § 1691e(f) and 28 U.S.C. § 1331.

3. This Court has jurisdiction over Counts II-V of this action under 28 U.S.C. § 1367.

PARTIES

4. The plaintiff, Lucas Rosa, is an individual and a consumer, who is a citizen of the Commonwealth of Massachusetts with a place of residence in Holyoke, Massachusetts.

5. The defendant, West Bank, is a lending institution engaged in the business of providing loans to consumers that operates a facility open to the public at 378 High Street, in Holyoke, Massachusetts, Hampden County.

STATEMENT OF FACTS

6. On or about July 21, 1998, Plaintiff Rosa entered West Bank to apply for a loan.

7. The Plaintiff, who was born a biological male, was dressed primarily in female sartorial, including women's clothing and earrings.

8. Plaintiff requested a loan application from bank employee Norma Brunelle.

9. Ms. Brunelle asked Plaintiff to present identification.

10. Plaintiff Rosa produced three true pieces of identification for Ms. Brunelle's review: (1) Massachusetts Department of Public Welfare Card; (2) Massachusetts Identification Card; (3) Money Stop Check Cashing ID Card. (Exhibit A, attached).

11. All three pieces of identification had a photograph of Plaintiff Lucas Rosa.

12. After looking at the identification cards, Ms. Brunelle told Plaintiff Rosa that she would not provide Plaintiff with a loan application until he "went home and changed."

13. Ms. Brunelle told Plaintiff Rosa that he had to be dressed like one of the identification cards in which his photographic image appeared more traditionally male

before she would provide Rosa with a loan application and further process an application for credit.

14. Ms. Brunelle failed and refused to provide an application for credit to Plaintiff Rosa.

15. As a result of Defendant West Bank's conduct in refusing to provide a loan application, Rosa suffered emotional distress including anxiety and depression, humiliation, and extreme embarrassment.

Count I - Equal Credit Opportunity Act

16. Plaintiff repeats the allegations contained in Paragraphs 1-15 of this Complaint and incorporates them herein.

17. Lucas Rosa requested an extension of credit from creditor West Bank.

18. Lucas Rosa is an applicant for credit who engaged in a credit transaction.

19. West Bank regularly participates in the decision of whether or not to extend credit in the ordinary course of its business.

20. By requiring Plaintiff Rosa to conform to sex stereotypes before proceeding with the credit transaction, West Bank unlawfully discriminated against Plaintiff Rosa with respect to an aspect of a credit transaction on the basis of sex in violation of 15 U.S.C. § 1691(a) and in further violation of Regulation B, 12 C.F.R. Part 202, which forbids a creditor from discriminating against an applicant on a prohibited basis regarding any aspect of a credit transaction.

21. As a result of Defendant West Bank's wrongful conduct, Lucas Rosa has suffered damages for which Defendant West Bank is liable.

Wherefore, the Plaintiff, Lucas Rosa hereby demands judgment against the Defendant, West Bank, plus interest, costs and attorney's fees.

Count II - Discrimination in Place of Public Accommodation on Account of Sex

22. Plaintiff repeats the allegations contained in Paragraphs 1-21 of this Complaint and incorporates them herein.

23. Plaintiff Rosa is an individual protected from discrimination in a place of public accommodation pursuant to M.G.L. c. 272, § 98.

24. West Bank, which is open to and accepts the patronage of the general public, is a place of public accommodation as defined in M.G.L. c. 272, § 92A.

25. On August 27, 1998, Lucas Rosa filed a charge of discrimination with the Massachusetts Commission Against Discrimination ("MCAD") alleging West Bank engaged in discriminatory conduct in violation of M.G.L. c. 272, §§ 92A, 98.

26. On December 1, 1998, the MCAD dismissed the charge at Rosa's request in order for Rosa to file a civil action in court, thereby exhausting available administrative remedies.

27. By refusing to allow Plaintiff Rosa to apply for a loan because Rosa did not conform to sex stereotypes, Defendant West Bank has, without any legitimate reasons, discriminated in the provision of services and treatment in a place of public accommodation in violation of M.G.L. c. 272, § 92A and § 98.

Wherefore, the Plaintiff, Lucas Rosa hereby demands judgment against the Defendant, West Bank, including but not limited to emotional distress damages, plus interest, costs and attorney's fees.

Count III - Discrimination in Place of Public Accommodation on Account of Sexual
Orientation

28. Plaintiff repeats the allegations contained in Paragraphs 1-27 of this Complaint and incorporates them herein.

29. By refusing to allow Plaintiff Rosa to apply for a loan based on sexual orientation or perceived sexual orientation, Defendant West Bank has, without any legitimate reasons, discriminated in the provision of services and treatment in a place of public accommodation in violation of M.G.L. c. 272, § 92A and § 98.

Wherefore, the Plaintiff, Lucas Rosa hereby demands judgment against the Defendant, West Bank, including but not limited to emotional distress damages plus interest, costs and attorney's fees.

Count IV - Discrimination in Furnishing Credit Because of Sex

30. Plaintiff repeats the allegations contained in Paragraphs 1-29 of this Complaint and incorporates them herein.

31. On December 30, 1998, Lucas Rosa filed a charge of discrimination with the Massachusetts Commission Against Discrimination ("MCAD") alleging West Bank engaged in discriminatory conduct in violation of M.G.L. 151B, § 4(14).

32. On December 1, 1998, the MCAD dismissed the charge at Rosa's request in order for Rosa to file a civil action in court, thereby exhausting available administrative remedies.

33. By refusing to allow Plaintiff Rosa to apply for a loan because Rosa does not conform to sex stereotypes, Defendant West Bank has, without any legitimate reasons, discriminated in furnishing credit in violation of M.G.L. c. 151B, § 4(14).

Wherefore, the Plaintiff, Lucas Rosa hereby demands judgment against the Defendant, West Bank, plus interest, costs and attorney's fees.

Count V - Discrimination in Furnishing Credit Because of Sexual Orientation

34. Plaintiff repeats the allegations contained in Paragraphs 1-16 and 30-32 of this Complaint and incorporates them herein.

35. By refusing to allow Plaintiff Rosa to apply for a loan based on sexual orientation or perceived sexual orientation, Defendant West Bank has, without any legitimate reasons, discriminated in furnishing credit in violation of M.G.L. c. 151B, § 4(14).

Wherefore, the Plaintiff, Lucas Rosa hereby demands judgment against the Defendant, West Bank, plus interest, costs and attorney's fees.

Jury Trial Demand

36. Plaintiff respectfully requests a jury trial for any issues so triable.

WHEREFORE, the plaintiff, Lucas Rosa, respectfully asks this Court to:

- A. Award Lucas Rosa money damages, including emotional distress, compensatory and punitive damages;
- B. Award Lucas Rosa any special damages or statutory penalties available under the causes of action from which this Complaint arises;
- C. Award Lucas Rosa attorney's fees and costs.
- D. Enjoin Defendant West Banks from refusing to engage in credit transactions with applicants on the basis of impermissible sex stereotypes.
- E. Order such other appropriate relief as the interests of justice may require.

Respectfully submitted,
LUCAS ROSA
By attorneys,

4/29/99
Dated

Mary C Bonauto
Mary L. Bonauto, BBO #549967
Gay & Lesbian Advocates &
Defenders
294 Washington Street
Suite 740
Boston, MA 02108
(617) 426-1350