



State of New Jersey

OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
PO Box 45029
Newark, NJ 07101

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

ROBERT LOUGY
Acting Attorney General

MICHELLE L. MILLER
Acting Director

April 1, 2016

VIA OVERNIGHT MAIL



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Deputy Clerk of Court
Superior Court of New Jersey
Chancery Division, Passaic County
Passaic County Courthouse
77 Hamilton Street
Paterson, New Jersey 07505

Re: Lougy v. Clifton Taxi and Limousine, Inc.
Initial Complaint

Dear Sir or Madam:

I represent Plaintiffs in the above-referenced matter. Enclosed please find the original and two copies of a Complaint. Please stamp one copy of the Complaint "filed" and return in the enclosed self-addressed, stamped envelope. Thank you kindly for your attention to this matter.

Sincerely yours,

ROBERT LOUGY
ACTING ATTORNEY GENERAL OF NEW JERSEY

By: _____


Megan J. Harris
Deputy Attorney General

enclosures



ROBERT LOUGY
ACTING ATTORNEY GENERAL OF NEW JERSEY
124 Halsey Street, 5th Floor
Newark, New Jersey 07101
Attorney for the New Jersey
Division on Civil Rights

By: Megan J. Harris
Deputy Attorney General
Attorney Id No. 021912001
(973) 648-7819

ROBERT LOUGY, Acting Attorney General of New Jersey, and CRAIG SASHIHARA, Director, New Jersey Division on Civil Rights,

Plaintiffs,

v.

CLIFTON TAXI AND LIMOUSINE SERVICE,
INC.

Defendant.

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIV: PASSAIC COUNTY

DOCKET NO. _____

CIVIL ACTION

COMPLAINT

Robert Lougy, as Acting Attorney General of New Jersey, having offices at 25 Market Street, Trenton, New Jersey, and 124 Halsey Street, Newark, New Jersey; and Craig Sashihara, as Director of the New Jersey Division on Civil Rights, having offices at 31 Clinton Street, Newark, New Jersey, 140 East Front Street, Trenton, New Jersey, 5 Executive Campus, Cherry Hill, New Jersey, and 1325 Boardwalk, Atlantic City, New Jersey, allege the following:

JURISDICTION AND PARTIES

1. Plaintiffs Robert Lougy, Acting Attorney General of New Jersey (the "Attorney General"), and Craig Sashihara, Director of the New Jersey Division on Civil Rights (the "Director"), are charged with administering and enforcing the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 to 49 (the "LAD").

2. Pursuant to the foregoing duties, the New Jersey Division on Civil Rights (the “Division”) took the Verified Complaint of Nicole Perkins (“Perkins” or “Complainant”), filed with the Division on January 24, 2014, and conducted an investigation into Perkins’ allegations that Clifton Taxi and Limousine, Inc. (“Clifton Taxi” or “Defendant”) subjected her to unlawful discrimination on the basis of disability, through its refusal to provide her taxi service when she called Defendant using a telecommunications relay service.

3. The Division’s investigation revealed sufficient evidence to credit Perkins’ allegations. The Attorney General and the Director file this action, on the basis of the Division’s investigative findings, seeking equitable relief and other remedies for Perkins and for the State of New Jersey.

4. Defendant Clifton Taxi is a business providing car and limousine transportation services. Clifton Taxi’s business office is located at 1199 Main Avenue in Clifton, New Jersey.

5. Clifton Taxi solicits patronage from the public and is a place of public accommodation as the term “place of public accommodation” is defined in the LAD.

FACTUAL ALLEGATIONS

6. All telecommunications providers are required, by federal law (47 U.S.C. 225, also referred to as Title IV of the Americans with Disabilities Act), to provide telecommunications relay services, whereby an individual who is deaf, hearing-impaired, or has a speech disability, may use voice communication services in a manner that is functionally equivalent to the ability of a hearing individual who does not have a speech disability.

7. Perkins, who is deaf, utilizes telecommunications relay services when she has a need to communicate with hearing individuals via telephone. During the relevant time period, Perkins used a service that allowed her to initiate a call by sending a text message from her cell phone to a relay operator. The relay operator would, in turn, place a telephone call and verbally convey the text message communications he or she received from Perkins. Once the answering party began to speak, the relay operator would convey the verbal communication back to Perkins via text message. This process would continue, with the relay operator acting as a medium, until the call concluded.

8. On January 21, 2014 at approximately 12:30 p.m., Perkins was in Clifton, New Jersey, waiting for a delayed bus.

9. It began to snow and Perkins became increasingly concerned about the bus delay and the possibility that she would be late for an appointment. She also became uncomfortable in the cold weather.

10. Perkins decided to call for a taxi and contacted Defendant through a telecommunications relay service.

11. The relay operator called Defendant's advertised telephone number twice and announced to Defendant that she was assisting a deaf caller. Twice, Defendant hung up without responding after the relay operator's announcement.

12. The relay operator called a third time. Defendant responded "Please stop calling," and hung up again.

13. After three unsuccessful attempts to contact Defendant, Perkins gave up.

14. During the Division's investigation, Defendant's dispatcher, Husseyn "John" Alasfar ("Alasfar"), stated that he was not certain Perkins had called Clifton Taxi or another

taxi service on the date in question. Perkins' screen shots from her telephone on January 21, 2014 confirm that she attempted to contact Defendant through the relay service.

15. Once persuaded that Perkins had called Clifton Taxi and not another taxi service, Defendant offered the Division three additional reasons why it declined to provide service to Perkins. First, Defendant stated that it does not send vehicles out in snow for insurance reasons. Second, Defendant stated that Alasfar may have hung up because he thought the relay operator's calls were "robo" calls or sales calls. Third, Defendant stated that it may not have had a taxi available at the time of Perkins' calls because all taxis were in use.

16. The Division found the first and third reasons to be contradictory. It found the second reason to lack merit as a defense. Moreover, the shift in reasons indicated to the Division that Defendant's proffered reasons were a pretext for denying service to Perkins because she is deaf or because she called using a relay service.

17. According to the information Defendant gave in response to Perkins' Complaint to the Division, Defendant has not trained its staff on communications from deaf or hearing-impaired customers, nor has Defendant made staff aware that deaf or hearing-impaired customers may call using a telecommunications relay service.

18. The Division concluded that Perkins' allegations were credible and Defendant had refused to provide service to Perkins because she is deaf and/or because she called Defendant using the accommodation of a telecommunications relay service.

COUNT I

**DEFENDANT DENIED PERKINS SERVICE ON THE BASIS OF HER DISABILITY
IN VIOLATION OF N.J.S.A. 10:5-12f(1)**

19. Plaintiffs repeat the allegations set forth in the preceding paragraphs of this Complaint as though set forth fully herein.

20. N.J.S.A. 10:5-12f(1) provides that it shall be unlawful discrimination for any place of public accommodation, directly or indirectly, to deny any person, because of his or her disability, the accommodations, advantages, facilities, or privileges thereof; or to discriminate in the furnishing of any accommodations, advantages, facilities, or privileges because of a person's disability.

21. On January 21, 2014, Defendant denied Perkins service on the basis of her disability in violation of N.J.S.A. 10:5-12f(1).

22. Each instance of denying Perkins service on the basis of her disability is a separate violation of N.J.S.A. 10:5-12f(1) and cause for the assessment of equitable relief in the form of (a) a permanent injunction against refusal to communicate with a telecommunications relay service acting on behalf of an individual who is deaf, hearing-impaired person, or has a speech disability; (b) a permanent injunction against refusal of service based on a person's disability or use of a telecommunications relay service; (c) an order to establish a written policy addressing accommodation of disabled customers or potential customers; and (d) an order to arrange for mandatory training of all management and employees on accommodation of disabled customers or potential customers.

23. Each instance of denying Perkins service on the basis of her disability is a separate violation of N.J.S.A. 10:5-12f(1) and renders Defendant liable for all damages Perkins suffered as a result.

24. Each instance of denying Perkins service on the basis of her disability is a separate violation of N.J.S.A. 10:5-12f(1) and cause for the assessment of a civil monetary penalty pursuant to N.J.S.A. 10:5-14.1a and attorney's fees pursuant to N.J.S.A. 10:5-27.1.

COUNT II

DEFENDANT FAILED TO PROVIDE PERKINS WITH A REASONABLE ACCOMMODATION IN VIOLATION OF N.J.S.A. 10:5-12(f)(1) AND N.J.A.C. 13:13-4.11

25. Plaintiffs repeat the allegations set forth in the preceding paragraphs of this Complaint as though set forth fully herein.

26. N.J.S.A. 10:5-12f(1) provides that it shall be unlawful discrimination for any place of public accommodation, directly or indirectly, to deny any person, because of his or her disability, the accommodations, advantages, facilities, or privileges thereof; or to discriminate in the furnishing of any accommodations, advantages, facilities, or privileges because of a person's disability.

27. N.J.A.C. 13:13-4.11 provides that a place of public accommodation shall make reasonable accommodations to the limitations of a patron or prospective patron who is a person with a disability, including making such reasonable modifications in policies, practices, or procedures, as may be required to afford goods, services, facilities, privileges, advantages, or accommodations to a person with a disability.

28. On January 21, 2014, Defendant denied Perkins a reasonable accommodation when it refused to communicate with a relay operator who sought to assist Perkins in

arranging taxi service. Accepting the relay operator's call and communicating with Perkins through the operator would have been a reasonable accommodation required to afford Perkins service.

29. Each instance of denying Perkins service on the basis of her disability is a separate violation of N.J.S.A. 10:5-12f(1) and cause for the assessment of equitable relief in the form of (a) a permanent injunction against refusal to communicate with a telecommunications relay service acting on behalf of an individual who is deaf, hearing-impaired person, or has a speech disability; (b) a permanent injunction against refusal of service based on a person's disability or use of a telecommunications relay service; (c) an order to establish a written policy addressing accommodation of disabled customers or potential customers; and (d) an order to arrange for mandatory training of all management and employees on accommodation of disabled customers or potential customers.

30. Each instance of denying Perkins a reasonable accommodation necessary to afford her service is a separate violation of N.J.S.A. 10:5-12f(1) and renders Defendant liable for all damages Perkins suffered as a result.

31. Each instance of denying Perkins a reasonable accommodation necessary to afford her service is a separate violation of N.J.S.A. 10:5-12f(1) and cause for the assessment of a civil monetary penalty pursuant to N.J.S.A. 10:5-14.1a and attorney's fees pursuant to N.J.S.A. 10:5-27.1.

DEMAND FOR RELIEF

ACCORDINGLY, Plaintiffs petitions this Court for judgment as follows:

- (a) Finding that Defendant committed the acts or omissions set forth in this Complaint;

- (b) Finding that such acts or omissions constituted violations of the LAD;
- (c) Granting Plaintiffs appropriate equitable relief against Defendant to redress violations of the LAD;
- (d) Awarding Nicole Perkins compensatory damages, damages for mental and emotional distress, and any other costs associated with Defendant's unlawful conduct;
- (e) Assessing Defendant a civil monetary penalty for each violation of the LAD in accordance with N.J.S.A. 10:5-14.1a;
- (f) Awarding Plaintiffs punitive damages based on the willful nature of the Defendant's conduct, pursuant to N.J.S.A. 10:5-13;
- (g) Granting Plaintiffs attorney's fees, expenses, and costs in accordance with N.J.S.A. 10:5-27.1; and
- (h) Affording Perkins, Plaintiffs, and other affected parties any additional relief the Court may deem just and equitable.

ROBERT LOUGY
ACTING ATTORNEY GENERAL OF NEW JERSEY
On behalf of Craig Sashihara,
Director of the New Jersey Division on Civil Rights

By: 
Megan J. Harris
Deputy Attorney General

Dated: April 1, 2016

RULE 4:5-1(b)(2) CERTIFICATION

I certify that other than as specified herein, Plaintiffs in this matter have not initiated any other civil action in any court of this State against Defendant and are not now engaged in any arbitration proceeding against Defendant, nor is any other civil action or arbitration proceeding contemplated. With Nicole Perkins' consent, this complaint subsumes the Verified Complaint Perkins filed with the Division on January 24, 2014, against Clifton Taxi and Limousine, Inc. and there will be no administrative proceedings related to the Verified Complaint while this action is pending. I certify that Plaintiffs are not aware of any other party who should be joined in this action at the current time.

ROBERT LOUGY
ACTING ATTORNEY GENERAL OF NEW JERSEY

By: 
Megan J. Harris
Deputy Attorney General

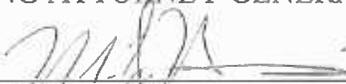
Dated: April 2, 2016

JURY DEMAND

Pursuant to N.J.S.A. 10:5-13, Plaintiffs demand a jury trial for all claims brought under the LAD and any other issues triable by a jury.

ROBERT LOUGY
ACTING ATTORNEY GENERAL OF NEW JERSEY

By: _____


Megan J. Harris
Deputy Attorney General

Dated: April 1, 2016

DESIGNATION OF TRIAL COUNSEL
PURSUANT TO R. 4:5-1(c)

Deputy Attorney General Megan J. Harris is hereby designated as trial counsel for this matter.

ROBERT LOUGY
ATTORNEY GENERAL OF NEW JERSEY

By: 
Megan J. Harris
Deputy Attorney General

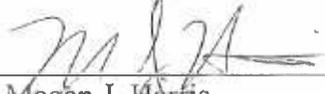
Dated: April 2, 2016

DEMAND FOR DISCOVERY OF INSURANCE COVERAGE

Pursuant to R. 4:10-2(b), demand is made upon Defendant, with the service of this Complaint, that it disclose to Plaintiffs whether or not there are any insurance agreements or policies under which any person or firm carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or indemnify or reimburse such Defendant for payments to satisfy any judgment rendered herein and provide Plaintiffs with those insurance agreements or policies, including, but not limited to, all and any declaration sheets. This demand shall include not only primary coverage, but also any excess, catastrophe, and umbrella policies.

ROBERT LOUGY
ATTORNEY GENERAL OF NEW JERSEY

By: _____


Megan J. Harris
Deputy Attorney General

Dated: April 1, 2016