

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

*Age
Discrimination*

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

COVENANT WOODS SENIOR
LIVING, LLC d/b/a COVENANT
WOODS, A SENIOR LIVING
COMMUNITY and BRIGHTSPACE
SENIOR LIVING, LLC,

Defendants.

CIVIL ACTION NO.

JURY TRIAL DEMAND

COMPLAINT

This is an action under the Age Discrimination in Employment Act of 1967, Title I of the Americans with Disabilities Act of 1990, as amended, and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the bases of age and disability and to appropriate provide relief to Shirley Noble, who was adversely affected by the unlawful employment practices. The Equal Employment Opportunity Commission (the "Commission" or the "EEOC") alleges that Defendants Covenant Woods Senior Living, LLC d/b/a Covenant Woods, a Senior Living Community, and BrightSpace Senior Living, LLC (collectively,

“Defendants”) discriminated against Noble when they terminated her employment because of her age, disability, and/or perceived disability.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343, and 1345. This action is authorized and instituted pursuant to Section 7(b) of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 626(b) (the “ADEA”), which incorporates by reference Sections 16(c) and 17 of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §§ 216(c) and 217; and Section 107(a) of the Americans with Disabilities Act of 1990 (the “ADA”), which incorporates by reference Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5(f)(1) and (3); and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Middle District of Georgia, Columbus Division.

PARTIES

3. Plaintiff, the EEOC, is the agency of the United States of America charged with the administration, interpretation, and enforcement of the ADEA and Title I of the ADA, and is expressly authorized to bring this action by Section 7(b)

of the ADEA, 29 U.S.C. § 626(b), as amended by Section 2 of Reorganization Plan No. 1 of 1978, 92 Stat. 3781, and Public Law 98-532 (1984), 98 Stat. 2705; and by Section 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1).

4. Defendant Covenant Woods Senior Living, LLC (“Covenant Woods”) is a corporation organized under the laws of the State of Tennessee. At all times relevant to this action, Defendant Covenant Woods transacted under the names Covenant Woods Retirement Community and/or Covenant Woods, a Senior Living Community (hereinafter “Covenant Woods Retirement Community”). Through its operation of Covenant Woods Retirement Community, Defendant Covenant Woods conducted business in the State of Georgia since at least December 19, 2014.

5. Defendant BrightSpace Senior Living, LLC (“BrightSpace”) is a corporation organized under the laws of the State of Tennessee. Since at least December 19, 2014, Defendant BrightSpace conducted business in the State of Georgia through its ownership and operation of Covenant Woods Retirement Community.

6. Defendants maintain the same principal place of business located at 7042 Lee Highway, Chattanooga, Tennessee 37421.

7. In filings with the Georgia Secretary of State, Defendants maintain the same registered agent.

8. Defendant Covenant Woods is privately owned and managed by Defendant BrightSpace.

9. Employees of Defendant BrightSpace represented Defendant Covenant Woods throughout the administrative proceedings relevant to this action.

10. Defendant BrightSpace offers guidance and input into employment decisions made by Defendant Covenant Woods.

11. Employees of Defendant BrightSpace facilitated and participated in Defendant Covenant Woods's termination of Noble's employment.

12. Defendants are so integrated with respect to ownership and operations as to constitute a single or integrated employer for purposes of the ADEA and the ADA.

13. Alternatively, Defendants each exercised sufficient control over the terms and conditions of Noble's employment as to constitute Noble's joint employers for purposes of the ADEA and the ADA.

14. At all relevant times, Defendants have collectively and continuously maintained at least 20 employees.

Manager raised any concern about Noble's ability to perform her duties as Receptionist.

33. From on or about the General Manager's hire in April 2021 through on or about February 10, 2022, Defendants tasked Noble to perform her typical duties as Receptionist.

34. On or about February 10, 2022, Noble suffered an incident of high blood pressure while at work; Noble was taken to the hospital.

35. Noble was released from the hospital approximately two days later.

36. At the time of her release from the hospital, Noble was told by her doctors that her February 10, 2022 high blood pressure incident had been the result of dehydration.

37. Noble was next scheduled to work on or about February 16, 2022.

38. On or about February 14, 2022, Noble visited Covenant Woods Retirement Community to let residents and colleagues know that she was feeling better and would be returning to work, as scheduled.

39. When Noble returned to work on or about February 16, 2022, a newly hired employee nearly 30 years her junior was performing Receptionist duties at Noble's desk. Noble was instructed to meet with the General Manager and Office Manager.

40. The General Manager opened the meeting with Noble by asking Noble how long she planned to continue working. The General Manager asked Noble questions such as: "Where do you see yourself? Do you need to keep working? Don't you want to travel? See your brother?"

41. Noble responded that she intended to keep working for another two or three years.

42. The General Manager then told Noble that Defendants had lost confidence on her ability to perform her duties as Receptionist, and that Noble's February 10, 2022 medical incident had heightened purported concerns about Noble's performance.

43. Defendant Covenant Woods' Associate Handbook provides that the general disciplinary steps for "poor job performance" include a verbal warning, a first written warning, a second written warning, a suspension, and, finally, termination.

44. In contravention of Defendant's policies, the General Manager began the process of removing Noble from her role as Receptionist.

45. The General Manager told Noble she had the options of working once per week on Sundays, of being transferred to another, unspecified role in an

Discriminatory Termination – Age

59. At all times relevant to this action, Noble has been within the class of individuals protected by the ADEA. At the time of her termination in February 2022, Noble was 78 years old.

60. Defendants, operating in concert as an integrated enterprise and/or as Noble's joint employers, terminated Noble because of her age.

61. The practices complained of in paragraphs 40 through 58 have deprived Noble of equal employment opportunities and have otherwise adversely affected her status as an employee because of her age.

62. The unlawful employment practices complained of in paragraphs 40 through 58 were willful within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626(b).

Discriminatory Termination – Disability

63. Noble is a qualified individual with a disability under Sections 3 and 101(8) of the ADA, 42 U.S.C. §§ 12101 and 12111(8):

- a. Noble has an impairment, chronic high blood pressure, that substantially limits major life activities, including the operation of the major bodily functions of her cardiovascular system.

b. Defendants regarded Noble as having a disability by subjecting her to adverse employment actions, including the termination of her employment, because of an actual or perceived impairment of chronic high blood pressure. Prior to terminating her employment, Defendants were aware that Noble regularly took medication to manage her blood pressure.

c. At all times relevant to this action, Noble was qualified to perform the essential functions of her job as Receptionist, with or without a reasonable accommodation.

64. Defendants, operating in concert as an integrated enterprise and/or as Noble's joint employers, terminated Noble because of her disability or perceived disability.

65. The unlawful employment practices complained of in paragraphs 40 to 58 were intentional.

66. The unlawful employment practices complained of in paragraphs 40 to 58 were done with malice or with reckless indifference to the federally protected rights of Noble.

PRAYER FOR RELIEF

WHEREFORE, the EEOC respectfully requests that this Court:

- A. Grant a permanent injunction enjoining Defendants, their officers, successors, assigns and all other persons in active concert or participation with them, from terminating their employees because of their age or because of their actual or perceived disabilities.
- B. Order Defendants to institute and carry out policies, practices, and programs which provide equal employment opportunities for individuals 40 years of age or older and for qualified individuals with disabilities, and which eradicate the effects of its past and present unlawful employment practices.
- C. Grant a judgment requiring Defendants to pay appropriate back wages in an amount to be determined at trial, an equal sum as liquidated damages, and prejudgment interest to Noble.
- D. Order Defendants to make whole Noble, by providing the affirmative relief necessary to eradicate the effects of their unlawful practices, including but not limited to the reinstatement of her employment or front pay in lieu of reinstatement.
- E. Order Defendants to make whole Noble by providing compensation for past and future nonpecuniary losses resulting from the unlawful employment

practices described in paragraphs 40 to 58, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

F. Order Defendants to pay Noble punitive damages for their malicious and reckless conduct, as described in paragraphs 40 to 58 above, in amounts to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper in the public interest.

H. Award the EEOC its costs in this action.

JURY TRIAL DEMAND

The EEOC requests a jury trial on all questions of fact raised by its Complaint.

Respectfully submitted,

KARLA GILBRIDE
General Counsel

CHRISTOPHER LAGE
Deputy General Counsel

MARCUS G. KEEGAN
Regional Attorney

JS 44 (Rev. 04/21)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM)

I. (a) PLAINTIFFS
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

(b) County of Residence of First Listed Plaintiff _____
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) _____

DEFENDANTS
COVENANT WOODS SENIOR LIVING, LLC D/B/A
COVENANT WOODS, A SENIOR LIVING COMMUNITY

County of Residence of First Listed Defendant _____
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) _____

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff
 2 U.S. Government Defendant
 3 Federal Question (U.S. Government Not a Party)
 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input checked="" type="checkbox"/> 445 Amer. w Disabilities - Employment <input type="checkbox"/> 446 Amer. w Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from Another District (specify) _____
 6 Multidistrict Litigation - Transfer
 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 Age Discrimination in Employment Act of 1967, Title I of the Americans with Disability Act of 1990, as amended, and Title I of the Civil Rights Act of 1964

Brief description of cause:
 Discrimination on the basis of age and disability

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.C.V.P. **DEMAND \$** _____ **CHECK YES only if demanded in complaint:**
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions) JUDGE _____ DOCKET NUMBER _____

DATE: Feb 14, 2024
 SIGNATURE OF ATTORNEY OF RECORD: **Fahad A. Khan, Trial Attorney**
 Digitally signed by Fahad A. Khan, Trial Attorney Date: 2024.02.14 12:16:20 -0500'

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IEP _____ JUDGE _____ MAG. JUDGE _____