

New York Law Journal

Lawyer Says Fitness Club Banned Him Over Prior Suit

Ben Bedell, New York Law Journal

November 24, 2014



An employment discrimination lawyer sued SoulCycle on Thursday for banning him, claiming the New York fitness club was retaliating against him for representing a former club employee in a minimum wage case (See Complaint).

Douglas Wigdor, founder of the 10-lawyer plaintiff's firm Wigdor LLP, represented Nick Oram, who had been an instructor at the indoor bicycle fitness chain, according to a federal suit claiming breaches of New York's Labor Law.

Wigdor has alleged that a few days after filing *Oram v. SoulCycle*, 13 Civ. 2976 in May 2013, SoulCycle in-house counsel Melissa Schoffer Farber told him that he and his client were not welcome at the club.

Wigdor, 46, who describes himself as an "avid cyclist," had joined SoulCycle two months earlier and was a weekly user of the club. He claims that SoulCycle's action, if allowed to stand, could have serious repercussions.

"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," he said Wigdor v. SoulCycle, 161572/14 in Manhattan Supreme Court.

The complaint claims a breach of New York Labor Law §215, which states no employer may "discharge, penalize, or in any other manner discriminate against any employee because such employee has ... caused to be instituted a proceeding" against the employer.

Wigdor is represented by Ann Vladeck, a partner at Vladeck, Waldman, Elias & Engelhard, who said in an interview that if SoulCycle's action "were allowed to stand, businesses of all types will have license to go after the lawyers who bring claims against them."

"The prospect of being told that we are not allowed to do business at banks, get electricity from our utility companies, or be seen at various hospitals is alarming," said Wigdor in an interview. Vladeck, a plaintiffs employment discrimination lawyer, said, "I have never seen a retaliatory action against a lawyer like this in my over 30 years of practice

Courts have read retaliation statutes broadly," added Valdi Licul, Vladeck's co-counsel on the case. "A U.S. Supreme Court case held a worker had a cause of action when a company fired him after his fiancée, who worked at the same company, made a discrimination complaint." "The court ruled that was unlawful, even though the statute they were construing did not explicitly extend protection to third parties," said Licul, citing *Thompson v. North American Stainless*, 562 U.S. 170 (2011).

The SoulCycle retaliation claim had been raised in the earlier Oram case, which had sought class action status.

In that case, Southern District Judge Robert Sweet (See Profile) held in deciding a summary judgment motion in October 2013 that SoulCycle "had not demonstrated a 'legitimate, nondiscriminatory reason' for banning Mr. Oram and his counsel from SoulCycle premises." Sweet dismissed the underlying New York minimum wage claims but allowed the retaliation claims to go forward. The case was resolved with a sealed settlement last July.

Wigdor said he asked SoulCycle to lift its ban when the case settled but they declined. He then sued.

"I am seeking injunctive relief here," he said, "and a precedent to protect our noble profession. Any money I recover, I will donate to charity."

His complaint claims SoulCycle is "unique among exercise facilities." Wigdor added: "It's near my office and it's a great workout. And no, I did not go there to solicit clients. Mr. Oram was introduced to me the way I get most of my clients: through other clients who recommend me." SoulCycle is a rapidly expanding fitness club that charges \$35 for each 45-minute spin workout.

From its initial 2006 location, in a converted funeral home on Manhattan's Upper West Side, it now has 31 locations nationwide, and plans to open another 50 to 60 worldwide by 2015, according to its website.

Schofer, of SoulCycle, declined to comment on the lawsuit.