



**NAILAH K. BYRD**  
**CUYAHOGA COUNTY CLERK OF COURTS**  
1200 Ontario Street  
Cleveland, Ohio 44113

**Court of Common Pleas**

**New Case Electronically Filed: COMPLAINT**  
**October 25, 2022 21:31**

By: LINDSEY K. SELF 0099647

Confirmation Nbr. 2686367

CHERYL SHEPHARD

CV 22 970425

vs.

**Judge:** EMILY HAGAN

CROSSCOUNTRY MORTGAGE, INC., ET AL.

**Pages Filed:** 9

**IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO**

CHERYL SHEPHARD  
10126 Echo Hill Drive  
Brecksville, Ohio 44141  
Plaintiff,

vs.

CROSSCOUNTRY MORTGAGE, INC.  
c/o: C T Corporation System  
4400 Easton Commons Way, Suite 125  
Columbus, Ohio 43219

and

MARK O. NOVAK  
18715 Comstock Cir.  
Middleburg Height, Ohio 44130

Defendants.

) CASE NO:

) JUDGE:

) **COMPLAINT**

) *(Jury Demand Endorsed Hereon)*

NOW COMES Plaintiff, Cheryl Shephard, by and through undersigned counsel, and for her Complaint against Defendants CrossCountry Mortgage (“CCM”) and Mark Novak (“Novak”) (collectively “Defendants”) and hereby states as follows:

**THE PARTIES, JURISDICTION, AND VENUE**

1. Plaintiff, Cheryl Shephard, is a citizen of the State of Ohio, residing in Brecksville, Ohio. Ms. Shephard is a “person” and an “employee” as those terms are defined under O.R.C. § 4112.01. Ms. Shephard is, and was at all times relevant herein, a disabled woman over the age of forty years old.

2. Defendant CCM is a foreign limited liability company, formed in Delaware, with its principal place of business in Brecksville, Ohio. CCM is a “person” and an “employer” as those terms are defined under O.R.C. § 4112.01.

3. Defendant Novak, at all times relevant herein, was the Vice President of Finance for Defendant CCM. Novak is a resident of Cuyahoga County, Ohio. Novak is a “person” and an “employer” as those terms are defined under O.R.C. § 4112.01.

4. This Court has jurisdiction over Plaintiff’s claims insofar as they arise under Ohio statutory and common law.

5. Venue is proper in this Court pursuant to Civ. R. 3(b)(2), (3), and (6) because CCM maintains its principal place of business in Cuyahoga County; because Defendants conducted activity giving rise to Plaintiff’s claim for relief in Cuyahoga County; and, because all or part of Plaintiff’s claim for relief arose in Cuyahoga County.

### **FACTUAL ALLEGATIONS**

6. Plaintiff, Cheryl Shephard, was hired by CCM as a Senior Accountant in August 2016.

7. Plaintiff performed well in her role and met the legitimate expectations of CCM.

8. Plaintiff has, and had at the time of hiring, Dysautonomia.

9. Plaintiff’s condition worsened in 2020, resulting in fainting, near-fainting, tinnitus, and gastrointestinal issues.

10. Due to the Covid-19 pandemic, Plaintiff was working remotely at the time her condition worsened.

11. Plaintiff required reasonable accommodation for her disability, including a place to lay down periodically to avoid fainting, a silent work environment to decrease distractions due to tinnitus-related symptoms, and easy access to a private restroom when experiencing GI issues.

12. Plaintiff communicated her disability, and reasonable accommodation needed to perform the essential functions of her job, to CCM’s Controller.

13. Plaintiff received accommodation for her disability by working from home, which was approved by the Controller.

14. With reasonable accommodation, Plaintiff's disability did not interfere with her work quality or quantity, and she continued to perform the essential functions of her job.

15. In October 2021, CCM hired Mark Novak as the Vice President of Finance.

16. In January or February 2022, during a meeting with CCM's Controller and Chief Financial Officer ("CFO"), Novak made efforts to violate Plaintiff's approved accommodations by demanding Plaintiff return to work in office despite his knowledge of her approved accommodation.

17. During the same meeting, the CFO approved Plaintiff's accommodation despite Novak's insistence because Plaintiff was "performing the essential functions of her job with accommodation."

18. After the meeting, Novak told CCM's Controller that, regardless of what the CFO said, Plaintiff was to return to the office despite her approved accommodation allowing her to work from home as an accommodation to her disability. CCM's Controller refused to follow Novak's instruction because it was in violation of Plaintiff's rights under the law.

19. In February 2022, CCM's Controller resigned from his position.

20. In February 2022, after the Controller's resignation, Novak informed Plaintiff that she was required to return to the office regardless of her disability.

21. Novak did not at any time suggest an alternative accommodation for Plaintiff, nor did he engage in the interactive process.

22. From February 2022 to June 2022, Novak hired five men, who are substantially younger, non-disabled, and less qualified than Plaintiff, in the accounting department.

23. Immediately upon hire, Novak began reassigning Plaintiff's work to the new employees. Thus, the new employees were hired, in part, to replace Plaintiff.

24. In the spring of 2022, in response to Novak's discriminatory conduct, Plaintiff contacted CCM Human Resources regarding her disability and reasonable accommodation.

25. On June 1, 2022, CCM Human Resources approved Plaintiff's reasonable accommodation to continue work from home, as had been previously approved by the Controller and CFO.

26. Two days later, on June 3, 2022, Novak assigned Plaintiff a task typically performed by the lowest ranking employee of Plaintiff's department, while more complex work that Plaintiff was accustomed to performing was assigned to substantially younger, less experienced, and non-disabled employees.

27. On June 20, 2022, nineteen days after CCM HR approved her accommodation, CCM terminated Plaintiff's employment.

28. Plaintiff was told the reason for her termination was "elimination" of her position.

29. Immediately following Plaintiff's termination, CCM posted a position for Senior Accountant II, which included Plaintiff's prior responsibilities, replacing Plaintiff

30. Plaintiff timely filed a charge of discrimination with the Ohio Civil Rights Commission pursuant to O.R.C. §§ 4112.051 and 4112.052. Plaintiff received a Notice of Right to Sue issued September 29, 2022. All prerequisites to filing suit under O.R.C. § 4112.052 have been satisfied.

**COUNT ONE**  
**(O.R.C. § 4112 Age Discrimination)**

31. The foregoing allegations are incorporated by reference as if fully rewritten herein.

32. Plaintiff is, and was at the time of termination, a woman over forty years old.

33. Defendants subjected Plaintiff to adverse employment actions based on her age, including termination.

Plaintiff was qualified for her position as Senior Accountant and met the expectations of CCM during employment.

Plaintiff was qualified for the Senior Accountant II position that CCM posted immediately following Plaintiff's termination.

34. Plaintiff was qualified for the four positions Novak created in the accounting department between February 2022 and June 2022.

35. Plaintiff was not selected for such positions because of her age.

36. Defendants' reasons for termination are pretextual and intended to obscure the Defendants' discriminatory motive.

37. Defendants' conduct violated O.R.C. § 4112.02.

38. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered, and will continue to suffer, economic and non-economic damages for which the Defendants are liable, including, but not limited to, pain and suffering, emotional distress, loss of professional reputation, and loss of past and future salary, benefits, and other privileges and conditions of employment.

39. Defendants intentionally, willfully, wantonly, recklessly, and maliciously violated Plaintiff's rights under O.R.C. § 4112.02.

40. Defendants are liable to Plaintiff for past and future economic and non-economic compensatory damages, back pay, front pay, punitive damages, attorney's fees, costs, interest, and any other equitable relief that this Court deems appropriate, including reinstatement pursuant to O.R.C. § 4112.99.

**COUNT TWO**  
**(O.R.C. § 4112 Disability Discrimination)**

41. The foregoing allegations are incorporated by reference as if fully rewritten herein.

42. Plaintiff is, and was during the time of employment, a disabled woman.

43. Defendants subjected Plaintiff to adverse employment actions based on her disability, including termination.

44. Plaintiff was qualified for her position as Senior Accountant with or without reasonable accommodation and met the expectations of CCM during employment.

45. Plaintiff was qualified for the Senior Accountant II position that CCM posted immediately following Plaintiff's termination with or without accommodation.

46. Plaintiff was qualified for the four positions Novak created in the accounting department between February 2022 and June 2022 with or without accommodation.

47. Plaintiff was not selected for such positions because of her disability.

48. Novak failed to make reasonable accommodation to the disability of Plaintiff.

49. Defendants' reasons for termination are pretextual and intended to obscure the Defendants' discriminatory motive.

50. Defendants' conduct violated O.R.C. § 4112.02.

51. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered, and will continue to suffer, economic and non-economic damages for which Defendants are liable, including, but not limited to, pain and suffering, emotional distress, loss of professional reputation, and loss of past and future salary, benefits, and other privileges and conditions of employment.

52. Defendants intentionally, willfully, recklessly, and maliciously violated Plaintiff's rights under O.R.C. § 4112.02.

53. Defendants are liable to Plaintiff for past and future economic and non-economic compensatory damages, back pay, front pay, punitive damages, attorney's fees, costs, interest, and any other equitable relief that this Court deems appropriate, including reinstatement pursuant to O.R.C. § 4112.99.

**COUNT THREE**  
**(O.R.C. § 4112.02(J) Direct or Indirect Acts of Mark Novak)**

54. The foregoing allegations are incorporated by reference as if fully rewritten herein.

55. Novak, as Vice President of Finance, made the decision not to accommodate Plaintiff's disability and to terminate Plaintiff's employment.

56. Novak committed acts, directly or indirectly, declared by O.R.C. § 4112.02 to be unlawful discriminatory acts, including discrimination on the basis of age and disability.

57. Novak may be held liable pursuant to § 4112.02(J) for his discriminatory conduct.

58. As a direct and proximate result of Novak's conduct, Plaintiff has suffered, and will continue to suffer, economic and non-economic damages for which Defendants are liable, including, but not limited to pain and suffering, emotional distress, loss of professional reputation and the loss of past and future salary, benefits and other privileges and conditions of employment.

59. Novak intentionally, willfully, wantonly, recklessly, and maliciously, violated Plaintiff's rights under Ohio's Anti-Discrimination Act.

60. Novak is liable to Plaintiff for past and future economic compensatory damages, back pay, front pay, punitive damages, attorneys' fees, costs, interest, and any other equitable relief that this Court deems appropriate.

**WHEREFORE**, Plaintiff prays for the following relief:

A. All remedies available under Ohio Revised Code § 4112 et seq. including, but not limited to, past and future economic and non-economic damages in an amount in excess



of Twenty-Five Thousand Dollars (\$25,000.00), back pay, front pay, lost benefits, reinstatement/reemployment, promotion, punitive damages, interest, all attorneys' fees, expert fees and cost.

B. All other relief that this Court deems appropriate.

Respectfully Submitted,

/s/Lindsey K. Self

Richard C. Haber (0046788)

Lindsey K. Self (0099647)

HABER LLP

30195 Chagrin Boulevard, Suite 323

Pepper Pike, Ohio 44022

Office: (216) 250-4782

Fax: (216) 250-4783

Email: [rhaber@haberllp.com](mailto:rhaber@haberllp.com)

[lself@haberllp.com](mailto:lself@haberllp.com)

*Attorneys for Cheryl Shephard*

**JURY DEMAND**

A trial by jury is hereby requested.

*/s/Lindsey K. Self* \_\_\_\_\_

Richard C. Haber (0046788)

Lindsey K. Self (0099647)