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Lawsuit Says Older McDonald's Franchisees Don't Get Fair Shake

The 80-year-old plaintiff claims the company's efforts to compel franchisees to modernize facilities is unfair to older, long-term restaurant operators.

By Charles Toutant | March 21, 2018

A Superior Court judge has ruled that a [McDonald's](https://www.inc.com/suzanne-lucas/this-imminent-labor-law-ruling-could-change-fabric-of-mcdonalds-forever.html) (https://www.inc.com/suzanne-lucas/this-imminent-labor-law-ruling-could-change-fabric-of-mcdonalds-forever.html) franchise owner can proceed with an age discrimination suit against the company.



Photo: Tupungato/Shutterstock.com.

Plaintiff Sebastian Lentini (<https://patch.com/connecticut/milford/mcdonalds-owner-wont-turn-off-fox-news-customer-not-lovin-it>) is 80 years old and owns six McDonald's franchises in northern New Jersey. He claims the company's efforts to compel franchisees to modernize facilities is unfair to older, long-term restaurant operators.

Lentini's suit accuses McDonald's of violating the New Jersey Law Against Discrimination, the New Jersey Franchise Practices Act, and a breach of the implied covenant of good faith and fair dealing. The suit also names three McDonald's corporate employees—Ingrid Rodriguez, Mwaffak Kanjee and Matthew Ajayi—as defendants. Superior Court Judge Joseph Isabella, in Hudson County, denied a motion to dismiss by McDonald's in a decision made public Tuesday, but Lentini withdrew the FPA and covenant of good faith claims against the individual defendants.

According to the lawsuit, Kanjee and Ajayi said at a Dec. 8, 2016, meeting with Lentini and his son, Darren, that the company wanted him to give up his status as the primary franchisee of his stores due to his age. Ajayi was adamant that Lentini's age was "an impediment to his continued involvement in the McDonalds system," and the company had decided he would not be allowed to expand his operations because of his age, the suit claims. The suit also says Rodriguez told Lentini in January 2016 that he did not fit the profile of future restaurant operators, and added repeatedly that he "must be tired," an apparent reference to his age, the suit claims.

In addition, the company awarded a new franchise in Garfield, New Jersey, which is less than two miles from his restaurant in Passaic, to another franchisee without offering him the opportunity to operate that location, as has been the custom in McDonald's, his suit claims.

The company has also required Lentini to remodel his Paramus restaurant to higher specifications than in the past by requiring a total rebuild under its "Experience of the Future" (https://www.youtube.com/watch?v=Vo_1xjLRkS0) program, which includes such amenities as touch-screen ordering. That requirement is an attempt to "force him out of the system," his lawsuit claims.

Justin Klein of Marks & Klein in Red Bank, who represents Lentini, said the forced imposition of the Experience of the Future remodeling guidelines "will functionally eliminate many older, longtime operators who cannot sustain the financial stress of compliance with the mandate."

The complaint states that McDonald's efforts aimed at "impermissibly obstructing the success of his franchise network" is "not limited to Lentini, but, upon information and belief, is part of a wider corporate policy aimed at improperly terminating long-term franchisee."

Klein said McDonald's generally owns the real estate where their restaurants operate, but franchisees must pay for capital improvements.

Lentini has three of his children working with him who could take over the business one day, but McDonald's makes no assurances about whether such an arrangement would meet its approval, said Klein. Therefore, an older franchisee such as Lentini could be forced to pay for millions of dollars in costly updates to his restaurants without any assurance that his company could reap the benefit, Klein said.

McDonald's said in its motion to dismiss that Lentini could not base a claim on the company's failure to award him the Garfield franchise because he received payment in exchange for a release of all claims related to that store. The company said its Experience of the Future requirements were imposed evenly on all franchisees.

The suit is “a largely vague and conclusatory hodgepodge of factual allegations,” McDonald’s said in its motion. The claim under the covenant of good faith and fair dealing is “groundless” and the complained-of actions by McDonald’s are expressly permitted by the plaintiff’s franchise agreements.

Aaron Van Nostrand of Greenberg Traurig in Florham Park, New Jersey, did not respond to a reporter’s call about the case. McDonald’s also did not respond to a request for comment.

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