

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT COURT OF MARYLAND

ROBERT JOHNSON,

Plaintiff,

v.

FERRARO FOODS, INC. and  
FERRARO FOODS OF MARYLAND, LLC,

Defendants.

CIVIL ACTION NO.

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**COMPLAINT**

Plaintiff Robert Johnson files this Complaint against Defendants Ferraro Foods, Inc. and Ferraro Foods of Maryland, LLC (collectively referred to as “Ferraro Foods”), seeking relief for the discrimination he was subjected to and the unlawful termination of his employment by Ferraro Foods.

**THE PARTIES**

1. Plaintiff Robert Johnson is an adult individual who resides in Johnstown, Pennsylvania.
2. Defendant Ferraro Foods, Inc. is a New Jersey corporation which operates in Connecticut, Florida, Maryland, New Jersey, New York, and North Carolina. Ferraro Foods, Inc.’s principal place of business is located at 287 South Randolphville Rd, Piscataway, New Jersey 08854, and that location also serves as the headquarters for Ferraro Foods.
3. Defendant Ferraro Foods of Maryland, LLC is a Delaware corporation with its principal place of business located at 1501 Perryman Road, Suite 150, Aberdeen, Maryland 21001.

4. At all relevant times, Ferraro Foods continuously employed more than 15 employees and was a covered employer as defined by the Americans with Disabilities Act (“ADA” – 42 U.S.C. §§ 12101 *et seq.*) and the Maryland Fair Employment Practices Act (“FEPA” – Md. Code Ann., State Gov’t §§ 20-601 *et seq.*).

### **JURISDICTION AND VENUE**

5. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 in that Plaintiff’s claims arise under the laws of the United States and Plaintiff seeks redress for violations of federal laws. The Court has supplemental jurisdiction over the remaining claims pursuant to 28 U.S.C. § 1367, because such claims are so closely related to Plaintiff’s federal claims that they form part of the same case or controversy.

6. Venue is proper in this district pursuant to 28 U.S.C. § 1391(a) and (b)(2) as a substantial part of the events or omissions giving rise to Plaintiff’s claims occurred in this district.

### **FACTUAL BACKGROUND**

7. Ferraro Foods is a specialty foodservice distributor that primarily serves the Italian restaurant and pizzeria segment in the Eastern United States.

8. Ferraro Foods is headquartered in Piscataway, New Jersey, and has approximately 8,000 customers who are located in 23 states throughout the country. To meet its distribution needs, Ferraro Foods has established regional operations in Connecticut, Florida, Maryland, New York, and North Carolina.

9. Each of these regional outposts are wholly owned subsidiaries of Ferraro Foods, Inc. The following is a list of the regional outposts that Ferraro Foods currently owns and operates: Ferraro Foods of Connecticut, LLC; Ferraro Foods of Florida, LLC; Ferraro Foods of

Maryland, LLC; Ferraro Foods of Maryland South, LLC; Ferraro Foods of New Jersey, LLC; Ferraro Foods of New York East, LLC; Ferraro Foods of New York, LLC; Ferraro Foods of New York North, LLC; and Ferraro Foods of North Carolina, LLC. (“Regional Outposts”)

10. Although Ferraro Foods, Inc. and its Regional Outposts operate under distinct corporation names, all of Ferraro Foods’ operations, which include the day-to-day operations at the Regional Outposts, are controlled by the company’s headquarters in Piscataway, New Jersey.

11. Each of the Regional Outposts are unilaterally dependent upon Ferraro Foods, Inc. Because of the nature of this parent-subsidary relationship, Ferraro Foods, Inc., and all its Regional Outposts, which includes Ferraro Foods of Maryland, LLC, act as joint employers for the following reasons

- a. The C-suite executives for Ferraro Foods, Inc. (“Ferraro Foods’ Executives”), which includes the President, Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, and Chief Information Officer, are all located at and work from Ferraro Foods’ headquarters in Piscataway, New Jersey;
- b. Ferraro Foods’ Executives have direct control and authority over the day-to-day operations at all the Regional Outposts;
- c. Ferraro Foods’ Executives have exclusive control over the allocation of workplace resources at the Regional Outposts, which includes funding and allocation of personnel;
- d. Ferraro Foods’ Executives have control and authority over the marketing and business strategy at all the Regional Outposts;
- e. Ferraro Foods’ Executives have final decision-making authority over the hiring and firing of all personnel at the Regional Outposts; and
- f. All of Ferraro Foods’ human resources functions are controlled from and located at Ferraro Foods’ headquarters in Piscataway, New Jersey.

12. On July 31, 2019, Johnson was offered the position of Vice President of Operations by Ferraro Foods. This position would be responsible for the company's operations in Connecticut, Maryland, and North Carolina. In addition, Johnson would be expected to assist with the company's operations in New Jersey.

13. Johnson would primarily work from the company's location in Aberdeen, Maryland, but would report directly to Ferraro Foods' President and Chief Operating Officer, Thomas Recine.

14. As part of his job offer, Johnson was provided use of vacation days, sick days, and other fringe benefits including short-term and long-term disability leave. In addition, after one year of employment, Johnson would be eligible to participate in the company's 401k plan.

15. On August 6, 2019, Johnson began his employment with Ferraro Foods.

16. The first 8 months of Johnson's employment were largely successful, and the feedback Johnson received about his performance was encouraging and pointed to a long-term future with the company.

17. Throughout Johnson's employment with Ferraro Foods, he was dealing with a disability related to his spleen. Johnson would experience frequent pain in his abdominal area, but he managed this condition without issue and never missed a day of work.

18. Things, however, changed quickly, beginning on April 6, 2020. On that day, Johnson suffered a ruptured spleen while working from the office and was transported to the hospital by ambulance.

19. Johnson was in the hospital for 10 days and was treated for a variety of issues in his abdominal area. Throughout his time at the hospital, Johnson kept Ferraro Foods apprised of the status of his medical situation.

20. Upon his release from the hospital on April 16, 2020, Johnson was not medically cleared to return to work.

21. Johnson immediately informed Ferraro Foods' Human Resources Director ("HR Director") that he was not permitted to return to work by his doctor. Johnson also informed the HR Director that he would have a follow-up appointment with his doctor in a few weeks to determine if he needed additional medical treatment or would be cleared to return to work.

22. Johnson also notified Ferraro Foods' HR Director that he was now dealing with multiple health issues in his abdominal area, and that he would be managing these conditions for the foreseeable future. Johnson detailed to the HR Director the manner in which these ongoing health conditions substantially impacted major activities in his life.

23. Johnson asked Ferraro Foods' HR Director if he was permitted to use his short-term or long-term disability leave benefits while he was not working. The HR Director discouraged Johnson from using any of his disability-leave benefits and told Johnson that he was not permitted to use his disability-leave benefits unless he took a minimum of 6 weeks off.

24. After Johnson informed Ferraro Foods that he would be unable to return to work for a few weeks, the company began searching for his replacement.

25. Ferraro Foods attempted to conceal its attempts to replace Johnson by searching for candidates to fill a position that was called Director of Corporate Operations.

26. Ferraro Foods told prospective candidates for the Director of Corporate Operations position to keep everything quiet because they would be replacing an individual who was currently employed with the company as a senior-level operations executive. At least one of the prospective candidates was able to confirm that he would be replacing Johnson if he was hired for the Director of Corporate Operations position.



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