

FACTUAL BACKGROUND

4. Plaintiff is a publishing, marketing, fulfillment, and operations professional. Defendant BrightKey retained Plaintiff in December 2019 as a consultant to perform tasks relying on this expertise.

5. After Plaintiff successfully performed the tasks assigned to him as a consultant, Defendant BrightKey began negotiating to hire Plaintiff as a full-time employee, working in Annapolis Junction, with the title Vice President of Operations.

6. BrightKey hired Plaintiff as Vice President of Operations in February 2020.

7. Plaintiff's primary tasks were supervising and overseeing client support and warehouse operations. His superiors at BrightKey told him that he was doing good work, and he received a \$10,000 bonus because of the excellence of his work shortly after he began working there.

8. Plaintiff also puts out a podcast with a friend of his where the two assess craft beers and speak about various issues of the day. (There is also an associated website.) The two often have shows on salient and controversial public issues.

9. During the negotiations prior to starting full-time employment with BrightKey, Plaintiff spoke with BrightKey's President Rita Hope Counts to apprise her of the podcast and website, and make sure that it would not be objectionable to BrightKey. Ms. Counts told Plaintiff that what he did on his own time was his business and would not affect his employment at BrightKey.

10. BrightKey further represented to Plaintiff that its policy was that employees could express their views on their own time without any consequence to their employment relationship.

11. In reliance on BrightKey's promise and representation of its policy concerning his off-the-job activities, Plaintiff discontinued his consulting work, accepted full-time employment at BrightKey, and continued in that employment. Plaintiff's employment relationship with BrightKey was contractual: BrightKey paid Plaintiff a salary in exchange for performing his job duties.

12. In two podcasts, Plaintiff and his co-host discussed the conduct of government on various policies, *viz.*, diversity requirements and goals in various settings and the promulgation of "hate crimes" (that is, crimes motivated by a dislike for individuals because of their membership in groups defined by specific prohibited criteria). During the podcasts, Plaintiff expressed skepticism over the propriety of government conduct promoting diversity goals and creating "hate crimes," and, in general, expressed views in opposition to that government conduct.

13. The podcasts in question came to the attention of employees of BrightKey who objected strenuously to Plaintiff's views. They claimed that his political opinions made him an inappropriate person to be employed at BrightKey and advocated his termination from his position as Vice President of Operations. They communicated this to Rita Hope Counts and BrightKey.

14. After reviewing the foregoing political opinions identified by the other employees, Ms. Counts and BrightKey agreed that Plaintiff could not continue as an employee of BrightKey. Despite its earlier representation about BrightKey's policy and promise to Plaintiff that his off-the-job podcast was his own business and would not affect his role at BrightKey, and motivated by Plaintiff's political opinions, BrightKey fired Plaintiff on July 1, 2020.

15. BrightKey terminated plaintiff within days after learning of his political opinions. Prior to that time, BrightKey had expressed no dissatisfaction with Plaintiff's performance.

16. After his firing, Plaintiff has had difficulty finding work and has lost income. He also has lost his employer-supplied health insurance.

17. Plaintiff suffered depression, insomnia, and emotional distress as a consequence of BrightKey's firing him, his difficulty in finding work during the Covid-19 pandemic, and the damage to his good name.

18. Plaintiff timely filed an administrative complaint alleging discrimination on the basis of political opinion with the Howard County Office of Human Rights and Equity on or around December 22, 2020.

19. Plaintiff commenced an action in federal court on November 15, 2021, alleging *inter alia*, political opinion discrimination in violation of Howard County law, breach of contract, and negligent misrepresentation. These claims were dismissed without prejudice by the federal court, while a fourth claim (for race discrimination) was dismissed with prejudice. The Fourth Circuit Court of Appeals affirmed the dismissal of the race discrimination claim, and its mandate was issued on December 11, 2023. Accordingly, the statute of limitations for the claims asserted in this action were tolled for approximately two years and two months. 28 U.S.C. § 1367(d); *Turner v. Kight*, 406 Md. 167, 957 A.2d 984 (2008).

20. All condition precedents to filing this suit have occurred.

FIRST CLAIM FOR RELIEF

(for political opinion discrimination in violation of Maryland Code State Gov't § 20-1202 and Howard County Charter § 12.208)

21. Plaintiff hereby incorporates all of the previous allegations of this complaint.

22. Section 12.208(II)(a)(1) of the Howard County Charter states that “[i]t shall be unlawful if, because of discrimination, an employer . . . discharges a person.” Section 12.208(I)(a) of the Howard County Charter defines discrimination as “acting . . . regarding any person because of . . . [p]olitical opinion . . . in such a way that such person(s) are adversely affected in the area of employment.”

23. BrightKey terminated Plaintiff because of his political opinion. In doing so, BrightKey violated Howard County Charter § 12.208. Plaintiff is authorized to bring this suit pursuant to Maryland Code State Gov’t § 20-1202.

24. Plaintiff timely filed an administrative complaint and waited more than the requisite period of time before filing suit.

25. Plaintiff is entitled to backpay and compensatory damages.

SECOND CLAIM FOR RELIEF (for breach of contract)

26. Plaintiff incorporates all prior allegations.

27. To induce Plaintiff to accept and continue full-time employment at BrightKey as its Vice President for Operations, BrightKey stated that his podcast activities off-the-job were his own business and would not affect his position at BrightKey.

28. BrightKey promised not to terminate Plaintiff’s employment because of his podcast activities. Plaintiff considered BrightKey’s entire offer of employment, including that promise, and he relied on BrightKey’s promise that it would not terminate him for his podcast activities in accepting and continuing full-time employment.

29. BrightKey breached its contract with Plaintiff when it terminated him because of the opinions expressed on his podcasts.

30. Plaintiff has suffered damages and will continue to suffer damages as a consequence of this breach of contract.

THIRD CLAIM FOR RELIEF (for negligent misrepresentation)

31. Plaintiff incorporates all prior allegations.

32. In negotiating with Plaintiff concerning full-time employment, BrightKey owed Plaintiff a duty to exercise reasonable care in making representations concerning that employment.

33. To induce Plaintiff to accept and continue full-time employment at BrightKey as its Vice President for Operations, BrightKey stated that its policy was that off-the-job activities like his podcast were his own business and would not affect his position at BrightKey. Because Plaintiff had specifically asked about his podcast activities, BrightKey knew that Plaintiff would rely on its representation and it did so to induce his reliance.

34. BrightKey was negligent in making this representation of its policy because it would, in fact, terminate employees based on statements made outside of work, including on podcasts, and failed to use reasonable care in asserting that its policy was otherwise.

35. Plaintiff relied on BrightKey's negligent misrepresentation in accepting and continuing full-time employment.

36. Plaintiff's damages were proximately caused by BrightKey's negligence.

37. Plaintiff has suffered damages and will continue to suffer damages as a consequence of BrightKey's negligent misrepresentation.

Demand For Judgment

WHEREFORE plaintiff demands judgment:

- A. Backpay and/or frontpay;
- B. Damages in an amount to be determined, but in excess of \$75,000;
- C. Attorney's fees and costs pursuant to Maryland Code, State Government § 20-1202(d), or any other applicable authority; and
- D.. Any other relief that is appropriate.

Dated: January 2, 2024

/s/ Michael E. Rosman

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