

**STATE OF MICHIGAN
IN THE OAKLAND COUNTY CIRCUIT COURT**

TRISTIN MAC FULTON.
An individual,

Plaintiff,

Case No. 2018- -CZ
Hon.

v.

DICK'S SPORTING GOODS, INC.,
A Delaware Corporation,

Defendant.

James J. Makowski P62115
Makowski Legal Group, PLC
Attorney for Plaintiff
6528 Schaefer
Dearborn, MI 48126
(313) 434-3900

VERIFIED COMPLAINT

Now comes Plaintiff, by and through his attorney James J. Makowski, and by way of his Verified Complaint states as follows:

JURISDICTION AND VENUE

1. Plaintiff Tristin Mac Fulton ("Fulton"), is a resident of Battle Creek, County of Calhoun, State of Michigan.
2. Fulton is eighteen (18) years old as of the date of this Complaint.
3. Fulton is a member of a protected class under Michigan's Elliott-Larsen Civil Rights Act, MCL 37.2101 *et seq* ("ELCRA").

4. Defendant Dick's Sporting Goods ("Dick's), is a Delaware Corporation, headquartered in Coraopolis, Pennsylvania and is a nationwide retailer licensed to conduct business in the State of Michigan.
5. Defendant operates a retail location at 562 W. 14 Mile Road, Troy, MI 48083 in Oakland County.
6. Pursuant to MCL 37.2801(2) this court has jurisdiction as the specific violations addressed in this Complaint occurred in the City of Troy, Oakland County, Michigan.
7. The amount in controversy exceeds \$25,000.00.
8. Jurisdiction and venue are appropriate in this court.

FACTS

9. Plaintiff is legally able to purchase firearms under both state and federal law.
10. On March 5, 2018 Plaintiff entered the Troy, Michigan location of Dick's and attempted to purchase a long arm, specifically a shotgun.
11. Defendant's employees refused to sell a firearm to Plaintiff, citing a new corporate policy denying the sale of firearms to anyone under twenty-one (21) years of age. Said denial was videorecorded.
12. Defendant has widely advertised it will no longer sell firearms to anyone under twenty-one (21) years of age and has placed various signs throughout the Troy location indicating same.

**COUNT I – VIOLATION OF MCL 37.2302(a) OF THE
ELLIOTT-LARSEN CIVIL RIGHTS ACT**

13. Plaintiffs incorporate Paragraphs 1 through 12 as if fully restated herein.

14. Michigan law allows anyone eighteen (18) years of age or older to legally purchase a firearm unless otherwise legally incapacitated.
15. Plaintiff is not in any way legally incapacitated from owning firearms under state or federal law.
16. MCL 37.2301(a) provides: (a) “Place of public accommodation” means a business, or an educational, refreshment, entertainment, recreation, health, or transportation facility, or institution of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.
17. Section 37.2302(a) of the ELCRA prohibits a public accommodation from “Deny(ing) an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation or public service because of religion, race, color, national origin, **age**, sex, or marital status (**emphasis added**).”
18. By denying an otherwise legally permissible sale based solely upon the age of Plaintiff, Defendant has violated MCL 37.2302(a).
19. As a direct and proximate result of such civil rights violations Plaintiff has been harmed.

WHEREFORE, Plaintiff Tristin Mac Fulton prays this Honorable Court will:

- a. Enter a judgment in favor of Plaintiff against Defendant.
- b. Enter a money judgment in an amount more than \$25,000

- c. Grant Plaintiff injunctive relief against Defendant and enter an Order barring Defendant from continuing its systematic and widespread violations of the Elliott-Larsen Civil Rights Act.
- d. Award Plaintiff his costs and attorney fees for so wrongfully having to file the instant complaint.

**COUNT II – VIOLATION OF MCL 37.2302(b) OF THE
ELLIOTT-LARSEN CIVIL RIGHTS ACT**

- 20. Plaintiff incorporates Paragraphs 1 through 19 as if fully restated herein.
- 21. Section 37.2302(b) of the ELCRA is violated when public accommodations “Print, circulate, post, mail, or otherwise cause to be published a statement, advertisement, notice, or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation or public service will be refused, withheld from, or denied an individual because of religion, race, color, national origin, age, sex, or marital status, or that an individual's patronage of or presence at a place of public accommodation is objectionable, unwelcome, unacceptable, or undesirable because of religion, race, color, national origin, age, sex, or marital status.
- 22. Defendant has violated MCL 37.2302(b) by issuing press releases, posting on its website, and placing signs in its stores, including the Troy, Michigan location, stating its willful intention to discriminate against persons based upon age.
- 23. As a direct and proximate result of such civil rights violations Plaintiff has been harmed.

WHEREFORE, Plaintiff Tristin Mac Fulton prays this Honorable Court will:

- a. Enter a judgment in favor of Plaintiff against Defendant.
- b. Enter a money judgment in an amount more than \$25,000
- c. Grant Plaintiff injunctive relief against Defendant and enter an Order barring Defendant from continuing its systematic and widespread violations of the Elliott-Larsen Civil Rights Act.
- d. Award Plaintiff his costs and attorney fees for so wrongfully having to file the instant complaint.

Dated: March 6, 2018

/s/ James J. Makowski P62115
6528 Schaefer
Dearborn, MI 48126
313/434-3900

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AFFIDAVIT OF TRISTIN MAC FULTON

1. My name is Tristin Mac Fulton.
2. I reside at 20984 Waubascaon Road, Battle Creek, MI 49017.
3. I was born on September 3, 1999 and am currently eighteen (18) years of age.
4. I read, write and understand the English Language.
5. I am under no local, state or federal prohibition from owning or possessing a firearm.
6. On March 5, 2018 at approximately 7:00pm, I entered the Dick's Sporting Goods store located at 562 W. 14 Mile Road, Troy, MI 48083 to purchase a long gun.

7. When the sales clerk learned I was eighteen he stated it was Dick's Sporting Goods' corporate policy to not sell firearms to anyone under twenty-one (21) years of age.

FURTHER AFFIANT SAYETH NOT.

Date: 3/6/2018

Signed: *Tristin Mac Fulton*
Tristin Mac Fulton

STATE OF MICHIGAN)
) SS
COUNTY OF Calhoun)

On this 6th day of MARCH, A.D. 2018, before me, a Notary Public within and for the County and State aforesaid, personally appeared **Tristin Mac Fulton**, to me known, who being by me duly sworn, did say that the seal affixed to said instrument is the seal of said individuals and that said instrument was signed and sealed on behalf myself and the said individual acknowledges the execution of the said instrument as a free act and deed.

Matthew Newman
Notary Public, Calhoun County, Michigan
Acting in Calhoun County
My Commission expires: 12/19/2018

