

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

LEE-ANN SPACEK  
31850 Farm Drive  
Solon, Ohio 44139

Plaintiff,

vs.

REALTY ONE, INC., DBA REALTY  
ONE REAL LIVING  
c/o Statutory Agent  
CT Corporation System  
1300 East 9<sup>th</sup> Street  
Cleveland, OH 44114

and

REAL LIVING, INC.  
77 E. NATIONWIDE BOULEVARD  
COLUMBUS, OHIO 43215

and

HARLEY E. ROUDA, SR.  
77 E. NATIONWIDE BOULEVARD  
COLUMBUS, OHIO 43215

and

HARLEY E. ROUDA, JR.  
77 E. NATIONWIDE BOULEVARD  
COLUMBUS, OHIO 43215

and

KAIRA STURDIVANT ROUDA  
77 E. NATIONWIDE BOULEVARD  
COLUMBUS, OHIO 43215,

Defendants.

NOV 16 2006  
GERALD E. FUERST  
CLERK OF COURTS  
CUYAHOGA COUNTY

CASE NO.:

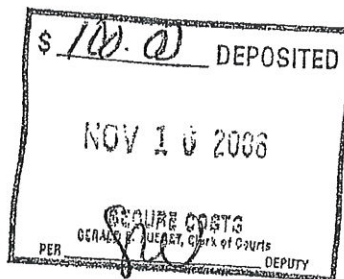
Complaint

EILEEN A GALLAGHER  
CV 06 607379

JUDGE:

**COMPLAINT**

*(Jury Demand Endorsed Hereon)*



Now comes Plaintiff, Lee-Ann Spacek, by and through undersigned counsel, and for her Complaint against Defendants, states as follows:

1. Plaintiff, Lee-Ann Spacek, is currently a resident of the City of Solon, County of Cuyahoga, and the State of Ohio.
2. Defendant Realty One, Inc., d.b.a. Realty One Real Living ("Realty One") is an Ohio corporation, with its principal place of business at 800 West St. Clair Avenue, Suite 310, Cleveland, Ohio 44113.
3. Defendant Real Living, Inc. ("Real Living") is an Ohio corporation, which maintains its principal place of business at 77 Nationwide Boulevard, Columbus, Ohio, 43215.
4. Defendant Harley E. Rouda, Sr. is the co-chairman of the board of Real Living, Inc. and was a supervisor of Plaintiff when Plaintiff was employed by Realty One and/or Real Living.
5. Defendant Harley E. Rouda, Jr. is the Chief Executive Officer and Managing Partner of Defendants Realty One and Real Living and was a supervisor of Plaintiff when Plaintiff was employed by Realty One and/or Real Living.
6. Defendant Kaira Sturdivant Rouda is the Chief Operating Officer of Real Living and was a supervisor of Plaintiff when Plaintiff was employed by Realty One and/or Real Living.
7. Venue is proper within the Court of Common Pleas of Cuyahoga County as the Plaintiff resides and was employed within Cuyahoga County at the time of her termination. The events which give rise of Plaintiff's claims occurred, in

whole or in part, within the County of Cuyahoga. Further, the Defendants maintain offices and/or conduct business within Cuyahoga County, Ohio.

### STATEMENT OF FACTS

8. Plaintiff Lee-Ann Spacek is a "person" and an "employee" as defined by Ohio Revised Code §4112.01.
9. Defendants are "employers" as defined by Ohio Revised Code §4112.01.
10. Ms. Spacek is over the age of forty and is in a protected class by virtue of her gender, age and disability.
11. Ms. Spacek was and is licensed by the Ohio Division of Real Estate and Professional Licensing. She obtained her real estate salesperson's license in 1977 and her real estate broker's license in 1982.
12. Ms. Spacek was hired by Defendants as the manager of its Solon branch office in 1998. She served in that position until 2004.
13. In 2004, Defendants hired Ms. Spacek as Director of Relocation for Realty One/Real Living at its corporate office location. Ms. Spacek headed the Relocation Department for the company's entire northeastern Ohio operation. *advised*
14. Ms. Spacek subsequently was named Vice President of Relocation Services. She served as one of eleven executives on the Realty One Real Living senior management team. She was a trusted, respected employee who operated a profitable and nationally-acclaimed department.
15. Ms. Spacek was diagnosed with cancer in August of 2004. She was treated with radiation and chemotherapy.



16. After her cancer treatment, Ms. Spacek developed a rare blood disorder in or about January 2005. As a result of these two serious diseases and the need for treatment, Ms. Spacek was away from her office. She did, however, continue to work from home during her leave.

17. Shortly after she returned from leave, Ms. Spacek attended a meeting on or about November 18, 2005 at Windows on the River in Cleveland. The meeting was attended by all Realty One Real Living branch managers and department heads, as well as Barbara Reynolds, the President of Realty One Real Living, and Defendant Harley E. Rouda, Jr.

18. At the November 18, 2005 meeting, there was a discussion about a change in Defendants' health insurance provider. Defendant Harley E. Rouda, Jr. advised the attendees that Defendants had too many employees who are older and who make too many claims that are covered by Defendants' health insurance provider.

19. At the November 18, 2005 meeting, Defendant Harley E. Rouda, Jr. characterized the volume of insurance claims as placing Defendants in a "downward death spiral."

20. In 2005 and thereafter, the Defendants engaged in a policy/practice to eliminate older employees and to replace them with younger employees.

21. Because of and after the aforementioned events, senior executives told Ms. Spacek that she was being "watched" and that her job was at risk.

22. Defendants terminated Ms. Spacek's employment on September 26, 2006. Ms. Spacek was 57 years old at the time.

COUNT I

23. Ms. Spacek incorporates by reference the allegations set forth in the foregoing paragraphs as if fully rewritten herein.

24. Defendants were aware of Ms. Spacek's serious health condition and the medical necessity of Ms. Spacek taking medical leave for treatment.

25. Notwithstanding her formal medical leaves and illness, Ms. Spacek continued to work loyally and diligently for Defendants while on leave with Defendants' knowledge and approval.

26. Nonetheless, Defendants terminated Ms. Spacek as a result of her disability and medical leave.

27. Ohio has a clear public policy protecting employees from being terminated for taking medical leave and for utilizing their health insurance benefits. Terminating employees under circumstances such as Ms. Spacek was terminated jeopardizes this public policy.

28. Defendants do not have a legitimate or overriding business justification for the termination of Ms. Spacek. Ms. Spacek was terminated based upon the specific, articulated concerns and policies of Defendants relating to the alleged harm to Defendants of employing employees who are old and disabled.

29. As a result of the wrongful termination and violation of Ohio public policy, Ms. Spacek has sustained substantial economic loss and will continue to sustain such loss into the foreseeable future.

30. As a result of the wrongful conduct of Defendants in terminating Ms. Spacek's employment, Ms. Spacek has suffered compensable harm including pain

and suffering associated with the loss of her employment and the result of uncertainty associated with such loss.

## COUNT II

31. Ms. Spacek incorporates by reference the allegations contained in the foregoing paragraphs as if fully rewritten herein.

32. Ms. Spacek is and was over the age of forty at all times relevant and, thus, is a member of a protected class by virtue of her age and disability.

33. At all times relevant herein, Ms. Spacek was qualified for the position of Vice President of Relocation, and served as such diligently and faithfully.

34. Ms. Spacek was terminated from her employment on September 26, 2006.

35. Defendants discharged Ms. Spacek on the basis of her disability and age. Defendants' purported reason(s) for terminating Ms. Spacek's employment are a pretext for unlawful discrimination in violation of Ohio Revised Code Chapter 4112.02.

36. As a direct and proximate result of Defendants' unlawful conduct, Ms. Spacek has suffered significant financial harm and financial damages and compensable harm, including pain and suffering associated with the loss of her employment.

37. Ms. Spacek is entitled to damages pursuant to Ohio Revised Code §4112.99 for Defendants' violation of the mandates of Chapter 4112.



### COUNT III

38. Ms. Spacek incorporates by reference the allegations set forth in the foregoing paragraphs as if fully rewritten herein.

39. As a result of two serious diseases, Ms. Spacek made claims as an employee covered by Defendants' health care plan, in which she participated. Her disability, the related claims, and use of her health care plan are protected activities.

40. Ms. Spacek's protected activities were determining factors in Defendants' decision to terminate Ms. Spacek.

41. Ms. Spacek's termination was retaliatory in violation of Ohio Revised Code Chapter 4112.02(I) in that it arose from her disability and the healthcare claims arising therefrom.

42. As a direct and proximate result of the unlawful conduct of Defendants, Ms. Spacek has suffered significant financial harm and financial damages and compensable harm, including pain and suffering associated with the loss of his employment.

43. Ms. Spacek is entitled to damages pursuant to Ohio Revised Code Chapter 4112.99 for Defendants' violation of the mandates of Chapter 4112.

### COUNT IV

44. Ms. Spacek incorporates by reference the allegations contained in the foregoing paragraphs as if fully rewritten herein.

45. Defendants were aware of Ms. Spacek's disability and the medical necessity of Ms. Spacek taking medical leave for treatment.

46. Notwithstanding Defendants' knowledge of Ms. Spacek's disability, medical leaves and illness, Defendants made statements and implemented policies in such a manner as to create an environment that made it clear that disabled and older employees were not welcome in Defendants' workplace.

47. Defendants made statements and implemented policies in order to discourage continued employment, as well as recognition, advancement, promotion, and salary increases, bonuses, and other financial incentives, to employees, including Ms. Spacek, who are or were older and/or disabled.

48. Defendants' conduct was a pretext for implementing their unlawful business policies and practices in respect to age and disability.

49. All of the foregoing conduct by Defendants' created a hostile work environment for Ms. Spacek.

50. As a result of Defendants' hostile work environment and wrongful conduct, Ms. Spacek has sustained substantial economic loss and will continue to sustain such loss into the foreseeable future.

51. As a result of Defendants' hostile work environment and wrongful conduct in terminating Ms. Spacek's employment, Ms. Spacek has suffered compensable harm including pain and suffering associated with the loss of her employment and the result of uncertainty associated with such loss.



**WHEREFORE**, Plaintiff, Lee-Ann Spacek prays that the Court enter judgment against Defendants for compensatory damages in an amount in excess of \$500,000, for punitive damages in an amount in excess of \$1,000,000, and attorney's fees, interest, costs and whatever other equitable relief that the Court deems just.

Respectfully submitted,

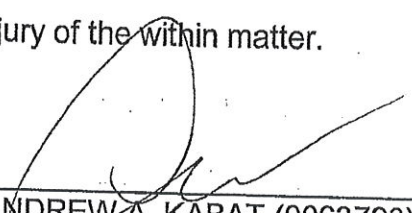


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*Attorneys for Plaintiff Lee-Ann Spacek*

**JURY DEMAND**

Plaintiff hereby demands a trial by jury of the within matter.



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ANDREW A. KABAT (0063720)  
CYNTHIA A. LAMMERT (0056184)

