

MSWM, Wells Face Advisor Discrimination Lawsuits

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[Morgan Stanley](#) and [Wells Fargo Advisors](#) have each been hit with separate lawsuits from financial advisors alleging age-related discrimination, and other claims.

Steven Grant, a 68-year-old financial advisor in Palm Beach, Fla., has filed suit against [Morgan Stanley Smith Barney](#), claiming violation of the Florida Civil Rights Act due to age discrimination, violation of a state whistleblower act, civil conspiracy, tortious interference with a business relationship and unjust enrichment. The suit, originally filed in October in a Florida state court, was removed to federal court in the Southern District of Florida this week.

And in a separate case in California, **Leah Bullen**, 63, has filed a suit against Wells Fargo Advisors, claiming gender discrimination, age discrimination, retaliation, wrongful termination and libel. The suit, originally filed in a California state court, was removed to the U.S. District Court for the Northern District of California, this week.

Age discrimination cases have become common since the financial crisis, says **Donna Ballman**, A Florida-based attorney focused on representing workers in employment disputes, who is not involved in these specific cases. Many cases end in settlement, while some are thrown out by judges, Ballman says. Those that do go to trial, can be difficult to predict.

"These cases are always hard to predict, because you never know what a judge or jury is going to believe or how the evidence is going to pan out," Ballman says.

In Grant's complaint against Morgan Stanley, the advisor claims that the firm repeatedly subjected him to illegal discrimination based on his age, culminating in upper management "conspiring" to strip him of his largest and longest-tenured client. He also claims that the company retaliated against him after he complained about age discrimination.

Grant joined Morgan Stanley in 2001 with what he describes as a "substantial client base," of high-net-worth and institutional clients, including his largest client, **Hamamatsu Corporation**, according to the complaint.

In the complaint, Grant's attorney alleges that after a number of years of serving that client, Morgan Stanley attempted to get rid of "the aging Mr. Grant, while maintaining its financially successful relationships with Hamamatsu." The complaint alleges that the age-based harassment and retaliation started in 2013 and continued until 2016, when the firm reduced Grant's entitlement to commissions from his longstanding client, Hamamatsu.

Grant claims that a colleague, whom the complaint describes as "a young and ambitious gentleman in the infancy of his career," and other senior personnel harassed and sabotaged him, in an attempt to claim the \$45 million Hamamatsu account as their own, "in an effort to transition into wealth management services and substantially increase their income and prestige within Morgan Stanley."

Grant alleges that Burns and the firm unexpectedly cut off his administrative support and office resource staff. The lack of administrative support caused problems for the Hamamatsu account, Grant alleges, including "embarrassingly providing multiple valuations with multi-million dollar discrepancies for the same accounts."

Grant claims he repeatedly notified the firm that the account was being jeopardized by the company's decision to cut administrative staff, but the firm, "did not meaningfully address Mr. Grant's desperate cry for help."

Grant alleges that the firm and senior personnel then decided it could blame the problems on Grant, to convince Hamamatsu to fire him, in order to take control of the account. He also claims that members of his office showed they "were willing to physically intimidate and potentially harm him if it helped to keep Mr. Grant silent."

Eventually the client agreed to transfer its account to another group at Morgan Stanley, according to the complaint, and the firm later allegedly cut Grant's commission. In the complaint, Grant claims this was an attempt to pressure him into retirement, but he continues to work at the firm.

In the lawsuit, he seeks back-pay, including interest, front pay, and other damages, in addition to costs and attorneys' fees.

"In sales and brokerage positions, one of the things that is frequently done to push people out is to take away accounts," says Ballman, the attorney not involved in the case.

If the allegations in the claim are true, this plaintiff appears to have grounds for a claim, Ballman says.

"If true, I think they probably have got a good shot at showing age discrimination," Ballman says. "The employer is going to have to show there is some legitimate reason [for their actions] other than discrimination."

One defense Morgan Stanley could employ, however, would be to claim that it was the customer's choice, not the firm's, to move the account away from the plaintiff, Ballman says.

In the Wells Fargo case, Bullen, a former financial advisor employee of Wells Fargo Advisors in Walnut Creek, Calif. who was terminated in January 2016, claims wrongful termination and age and gender discrimination in violation of California state laws.

According to a U-5 filing from Wells Fargo, Bullen was terminated because of an attempt to enter into a loan for the purchase of real property with a non-client in which the non-client would have participated as an investor.

But Bullen denies that allegation, and claims that U-5 filing constituted libel. In the complaint, she alleges that the firm had wrongfully terminated her by disregarding her satisfactory performance and retaliating against her because of protected activity. She claims the firm discriminated against her based on her age and sex.

In a complaint of employment discrimination filed with the California Department of Fair Employment and Housing, Bullen elaborates on the allegations, claiming that her boss used sexist language at work, and that the firm "has a preference for hiring and retaining male financial advisors and firing females."

Bullen claims that as a result of the U-5 filing, she "has suffered loss of her reputation, shame, mortification, and hurt feelings all to her general damage." In addition, she claims loss of substitute employment opportunities.

In cases where an employee is wrongfully terminated due to discrimination, the employee will have the burden of proving that any legitimate reason the employer claims motivated the termination isn't true, says **Dana Gallup**, an attorney with **Gallup Law** in Hollywood, Fla., who represents both employers and employees in workplace disputes, and is not involved in either case.

"The employee is going to have to show that there were other people who committed similar or more severe acts [who weren't terminated]," Gallup says. "If this person is 50 years old and got fired, you point out a 30-year-old who committed the same [purported violation] and didn't get fired. That usually will create a factual issue where the jury can decide whether age was a factor or not, if the reason given was still legitimate."

In an answer to the complaint filed in mid-October, Wells Fargo denied generally and specifically each allegation from Bullen's complaint. In addition, it argued that the plaintiff hadn't been damaged in any amount by acts alleged against the defendant, that Bullen had failed to exhaust her administrative remedies, and that her claims are barred by applicable statutes of limitations. In addition, the firm wrote that it had at all times acted in good faith based solely on legitimate business reasons wholly unrelated to any discriminatory or statutorily impermissible factors.

Bullen filed the original complaint with the help of an attorney, **Frank Sarro**, but is currently listed as representing herself, pro-se, according to the new federal court docket.

Bullen's original attorney didn't respond to a voicemail requesting comment. A Wells Fargo spokeswoman didn't respond to a request for comment by deadline.

A Morgan Stanley spokeswoman declined to comment. An attorney for Grant declined to comment.