

EXHIBIT 3

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JORGE FEIJOO,

Plaintiff

v.

COSTCO WHOLESALE CORPORATION,

Defendant.

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NO. 4:21-cv-02444

JORGE FEIJOO'S DECLARATION

My name is Jorge Feijoo. I am of sound mind, over the age of 18, have never been convicted of a felony, and am fully competent to make this Declaration. The facts contained in this Declaration are made based on my personal knowledge and are true and correct. I declare under penalty of perjury under 28 U.S.C. §1746, that all statements contained within this declaration are true and correct.

1. I worked for Costco for 27+ years from November 19, 1992 to April 14, 2020.
2. I was a Forklift Operator at the time of my termination, and I was 58 years old.
3. I suffer from tinnitus, which significantly impairs my hearing. As a result of my condition, I am completely deaf in my right ear and 75% deaf in my left ear. Despite my disability, I was able to perform all the essential functions of my job with reasonable accommodations. I made Costco aware of my disability and notified my managers.
4. Just a few months before my termination, I told Costco that I planned to retire when I turned 59 and a ½ years old during a performance evaluation meeting. As I continued to work looking forward to my future retirement, I realized that I was being subjected to increasingly negative treatment. Specifically, I was accused of being rude and was written up for that alleged behavior. However, in this instance, another employee was speaking to me, but I was unable to hear her because of my disability. This would happen on different occasions while at work because it can be hard for me to hear at times. I was not trying to be rude I just could not hear well. Even though I explained this to my superiors, I was still written up.
5. I complained to Kim Brown, the District Manager, about the negative treatment I was experiencing at work. I also notified her that the change in my schedule interfered with my Friday doctor's appointments. I was told by Mr. Jeff Polloreno, my store's General

Manager, that Costco did not care about my doctor's appointments and I needed to just schedule them around my work schedule.

6. I never tried to punch Chris Hall. I also did not swing at Chris Hall.
7. I did not wait for Chris Hall in the parking lot in to attempt to confront him after the incident occurred inside the warehouse on April 4, 2020.
8. Part of my job duties included me dropping merchandise to get stocked, using the forklift. I was performing this duty when Chris Hall (who was under forty (40) years old and a new seasonal worker), confronted me angrily and told me that I was dropping too much merchandise. Mr. Hall repeatedly yelled and cursed at me, stating that he did not want to work anymore, and he was ready to go home. Mr. Hall was irate because I was dropping merchandise which he did not want to have to stock (Chris Hall worked as a stocker). Confused by Mr. Hall's belligerent yelling and cursing, I got down from my forklift to discuss the situation with him. Then, suddenly and unexpectedly without provocation, Mr. Hall pushed me and then ran off towards the manager. I never returned physical contact after I was assaulted. Chris Hall initiated the incident on April 4, 2020, by cursing at me and then pushing me.
9. When Chris Hall pushed me, I fell to the ground. At that point Mr. Hall ran away towards where the managers were. I went in that same direction because I needed to speak with a manager as well about what happened. I was not chasing Chris Hall. Also, I never swung at Chris Hall (I did not attempt to punch him at all).
10. The video that Costco produced to the Court with its Motion for Summary Judgment (Defendant's Exhibit 29) does not show what happened to me on April 4, 2020.
11. Ryan Pearce states in his Declaration (Defendant's Exhibit 28 to the Motion for Summary Judgment) that, "The Video accurately shows what occurred on April 4, 2020 in the Warehouse..." but this is not true because Mr. Pearce was not present when Chris Hall pushed me. He does not have any personal firsthand knowledge of what happened in the moments when I was pushed. I told Mr. Pearce that I was pushed by Chris Hall but he did not say anything. No manager even asked me if I was ok.
12. I never told Jennifer Castro that I would meet Chris Hall outside. I know that Jennifer Castro also said in her statement that, "Jorge asked if I thought he would hurt Chris? I responded yes, at which point, Jorge stated "You are right, I would." I never said this. This is not true.
13. I also never told Chris Hall that I was going to meet him outside.
14. The April 4, 2020 incident happened in the main aisle connecting with the water aisle. I was on the forklift at first when Chris Hall started cursing at me. Shaye Massey and Sal Davide were not there when Chris Hall pushed me and I fell to the ground.

15. I was 58 years old at the time of my termination and planned to retire at 59 and a ½. I was so close to retirement I did not want to do anything to jeopardize my employment. I did not initiate this incident that happened on April 4, 2020. Chris Hall pushed me, where I fell to the ground. I had to go find a manager quickly to report the situation which is why I walked in the same direction as Chris Hall did, towards the managers that were on duty that night.
16. There are cameras all around the store and Costco only produced one short clip that does not show where I was pushed by Chris Hall. If the managers had truly investigated this incident after suspending me on April 4, 2020, they would have seen video footage of me being pushed by Chris Hall. Instead, they terminated me and Chris Hall kept his job.
17. My life has not been the same since my termination. I applied for many jobs but was not able to find anything making the same amount I was making at Costco. Losing my job after 27+ years was very hard for me emotionally and financially. I eventually had to move out of Texas because I could not afford to live in Houston anymore.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on September 7, 2022.

Jorge Feijoo

JorgeFeijoo (Sep 8, 2022 16:13 EDT)

JORGE FEIJOO

Exhibit 4 - Jorge Feijoo's Declaration

Final Audit Report

2022-09-08

Created:	2022-09-07
By:	Jacques Leeds (jacques@jleedslawfirm.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAA3M9k-23D1qUH9Ke2fN_Di6crN-VtXkzy

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-  Document created by Jacques Leeds (jacques@jleedslawfirm.com)
2022-09-07 - 9:02:12 PM GMT - IP address: 73.166.10.218
-  Document emailed to jfeijoo0660@yahoo.com for signature
2022-09-07 - 9:02:27 PM GMT
-  Email viewed by jfeijoo0660@yahoo.com
2022-09-08 - 8:08:50 PM GMT - IP address: 47.205.138.61
-  Signer jfeijoo0660@yahoo.com entered name at signing as JorgeFeijoo
2022-09-08 - 8:13:05 PM GMT - IP address: 47.205.138.61
-  Document e-signed by JorgeFeijoo (jfeijoo0660@yahoo.com)
Signature Date: 2022-09-08 - 8:13:06 PM GMT - Time Source: server- IP address: 47.205.138.61
-  Agreement completed.
2022-09-08 - 8:13:06 PM GMT