

## X Can't Dodge Suit Alleging Musk Pushed Out Women

By **Patrick Hoff**

Law360 (April 2, 2024, 3:11 PM EDT) -- X Corp. must face a proposed class action claiming Elon Musk implemented policies meant to push out women when he took over the social network formerly known as Twitter, a California federal judge ruled, finding the ex-worker leading the suit provided enough details to move the suit forward.



A California federal court found X must face claims that when Elon Musk took over the company, he implemented policies that discriminated against women. (Photo by Kirill Kudryavtsev/AFP via Getty Images)

In a Friday **opinion**, U.S. District Judge Jacqueline Scott Corley denied X's motion to dismiss Sydney Frederick-Osborn's lawsuit alleging sex discrimination under Title VII and California's Fair Employment and Housing Act. Frederick-Osborn said in her **January complaint** that after Musk acquired Twitter in October 2022, he embarked on a mass layoff that reduced the company's staff by over 50% and then demanded that workers work intense 12-hour shifts, which made her feel unwelcome at the company.

Frederick-Osborn claimed that Musk also has a history of making disparaging comments about women and older people, such as jokes about women's breasts and remarks that "being a mom is just as important as any career," which Judge Corley said "plausibly support an inference that Musk knew the post-RIF [reduction-in-force] and the ultimatum email's conditions would be less acceptable to female employees who, according to him, should not prioritize their career over family obligations."

"Accordingly, drawing inferences in plaintiff's favor, these facts plausibly support an inference Musk, the owner and CEO of Twitter, had a discriminatory intent to have more women than men 'forced out of the company' ... because he expected women to be less committed to their career," the judge said.

X argued in a **Feb. 9 dismissal bid** that the sex bias claims should be tossed because Frederick-Osborn didn't provide any information about her performance and how it compared to male employees who stayed with the company. But Judge Corley noted that Frederick-Osborn alleged that she was terminated

based on her rejection of the ultimatum email, which didn't include any reference to employees' performance.

"The termination was based solely on employees' willingness and ability to consent to Musk's new expectations and requirements," Judge Corley wrote, adding, "Her performance or comparative performance with her male colleagues was not a motivating factor for her termination and, therefore, not relevant to the analysis."

The judge said Frederick-Osborn's age discrimination claims fell short, ruling she failed to show that workers over 50 were more likely to be terminated than younger employees or that Twitter had a culture that discriminated against older workers. Judge Corley said Frederick-Osborn may be able to add additional details to bolster these allegations, however, and gave her the opportunity to amend her complaint.

Frederick-Osborn, who's about 60 years old, said in her complaint that she worked for X as a software engineer from June 2022 until November 2022. After Musk took over in October 2022, employees were expected to work 12 hours a day, seven days a week, and were told to immediately return to the office despite long-standing policies that allowed them to work remotely, according to the complaint.

Frederick-Osborn said, in mid-November 2022, Musk told employees in an email to commit to "long hours at high intensity" or be laid off and receive three months' severance. According to Frederick-Osborn, this made her feel unwelcome at X because she thought it showed a preference for young and male workers, and she did not click a link in the email to accept the commitment.

According to the complaint, Frederick-Osborn was laid off the next day, along with 36% of the company's remaining women but only 28% of men.

X has been hit with a slew of suits alleging **disability** and **sex** bias in the wake of Musk's acquisition, as well as claims that the company **neglected to pay** promised severance and **violated federal labor law** by firing a worker who protested the return to the office.

Representatives for the parties did not immediately respond to requests for comment Tuesday.

Frederick-Osborn is represented by Shannon Liss-Riordan and Thomas Fowler of Lichten & Liss-Riordan PC.

X Corp. is represented by Eric Meckley, Brian D. Berry, Roshni C. Kapoor, Ashlee N. Cherry and Kassia Stephenson of Morgan Lewis & Bockius LLP.

The case is Frederick-Osborn v. Twitter Inc. et al., case number 3:24-cv-00125, in the U.S. District Court for the Northern District of California.

--Editing by Emma Brauer.