

**IN THE CIRCUIT COURT OF TENNESSEE
FOR THE SIXTH JUDICIAL DISTRICT
AT KNOXVILLE**

JAMES ZIMMERMANN,)	
)	
)	
<i>Plaintiff,</i>)	
)	
v.)	
)	
KNOXVILLE SYMPHONY SOCIETY, INC.)	
)	
<i>Defendant.</i>)	
_____)	

COMPLAINT

Plaintiff James Zimmermann files this Complaint against the Knoxville Symphony Society, Inc. (“the Symphony”). This action seeks compensation and other appropriate relief for Defendant’s wrongful and discriminatory refusal to hire him as Principal Clarinet despite Defendant’s determination that he was the best performer in a blind audition for which the Defendant had personally induced him to spend scores of hours preparing.

JURISDICTION AND VENUE

1. This Court has jurisdiction over this case pursuant to Tenn. Code § 16-10-101.

2. Venue is proper in this Court under Tenn. Code §§ 20-4-101, 20-4-104(1)–(2) because the events giving rise to the cause of action occurred in Knox County, the cause of action arose in Knox County, and Defendant maintains its principal office in Knox County and is deemed to reside there.

3. Venue is additionally proper under Tenn. Code § 4-21-311(a), since Knox County is the county in which the Defendant’s alleged violation of the Tennessee Human Rights Act, Tenn. Code § 4-21-401(a)(1) occurred.

PARTIES

4. Plaintiff, JAMES ZIMMERMANN, is an adult citizen of the United States and the State of Tennessee who resides in Nashville, Tennessee.

5. Defendant, KNOXVILLE SYMPHONY SOCIETY, INC., is a non-profit corporation incorporated under the laws of Tennessee. Its principal office is in Knoxville. It is in good standing with the Tennessee Secretary of State's office. Its self-described mission, in relevant part, is to sustain a symphony orchestra and reach East Tennessee audiences of all ages.

6. Defendant Knoxville Symphony Society, Inc. is the legal entity that established, oversees, and operates the Knoxville Symphony Orchestra (hereafter, "Orchestra").

PLAINTIFF JAMES ZIMMERMANN IS A TALENTED AND EXPERIENCED MUSICIAN

7. Zimmermann is an extraordinarily talented professional musician with extensive training and experience playing the clarinet. He has played the clarinet since 1991, and done so professionally since 1997.

8. Zimmermann received his Bachelor's Degree in Music Performance, *summa cum laude*, from the University of Southern California in 2004.

9. He went on to receive his Master's Degree in Music Performance from the University of Minnesota in 2007.

10. During the 2007–08 season, he was a member of the Pacific Symphony in Costa Mesa, California.

11. From 2008 through 2020, Zimmermann was the Principal Clarinet of the Nashville Symphony. In 2011–2013, the orchestra's members elected him to a term on the Nashville Symphony's Board of Directors, and elected him in 2018 to the Musicians Negotiating Committee for contract negotiations.

12. During his time with the Nashville Symphony, Zimmermann also performed as a guest with the Detroit Symphony and Boston Symphony.

13. Zimmermann was Acting Associate Professor of Clarinet at Vanderbilt University's Blair School of Music in 2016, 2017, and 2020. He has also taught as a guest clinician at Middle Tennessee State University, Tennessee Technological University, the University of Minnesota, and the University of Texas at Austin.

14. Zimmermann has been hired as a session musician for hundreds of commercial recordings including internationally distributed video games ("Call of Duty," "Madden," and "The Last of Us"), films such as HBO's *A Christmas Story Christmas*, and theatrically released movies such as *Matchbox* and *Hershey* (to be released in 2026). Zimmermann's recorded performances have been used in theme parks around the world such as Sea World, Disney Tokyo, and Walt Disney World, and also at President Barack Obama's second presidential inauguration in January 2013.

15. Zimmermann has been recorded as a featured soloist with the Nashville Symphony on the Naxos label. In October 2025, Zimmermann performed at Carnegie Hall in New York City as Principal Clarinet of the Hollywood Film Music Orchestra's concert, "Marvel Studios' Infinity Saga Concert Experience," including music from 23 Marvel movies.

16. Zimmermann has been paid as much as \$400/hour for his professional time as a musician, and on a number of occasions has been paid \$200 for 15 minutes of performance.

**DEFENDANT INDUCED ZIMMERMANN TO SPEND NEARLY
100 HOURS REHEARSING TO PARTICIPATE IN A BLIND AUDITION
FOR PRINCIPAL CLARINET IN THE KNOXVILLE ORCHESTRA**

Defendant's Online Notice

17. On or about June 30, 2025, Defendant or its agent posted a notice on the website OrchestraAuditions.com. The notice was entitled “Principal Clarinet – Knoxville Symphony Orchestra.”

18. A true and complete copy of the notice is attached to this Complaint as **Exhibit 1**.

19. The notice stated, “The [Knoxville Symphony Orchestra] announces auditions for the position of Principal Clarinet will be held Monday, September 15 and possibly Tuesday, September 16, 2025. Invited candidates will be asked to return a confirmation form with a \$50 refundable audition deposit to arrive by September 3, 2025, to secure an audition time. Audition times will be assigned on September 5th. All audition rounds are screened.” (emphasis omitted)

20. The notice contained a link to “Principal Clarinet Position Details.”

21. The notice also contained a link to “Principal Clarinet Audition Repertoire.” The Repertoire is the music that a person had to perform in order to audition.

22. The notice’s reference to “screened” auditions meant that an applicant would play the provided Repertoire behind a screen or other barrier so that hiring decisions could be made purely based on the skill of the performer and quality of the music produced, rather than idiosyncratic or potentially discriminatory grounds.

23. The notice concluded by inviting “[i]nterested candidates” to “email or mail” their resume to a specified physical or e-mail address.

Defendant's Instagram Advertisement

24. On or about July 10, 2025, Defendant or its agent posted an advertisement on Instagram to fill the orchestra's Principal Clarinet position.

25. A true and complete copy of the advertisement is attached to this Complaint as **Exhibit 2.**

26. The advertisement stated that it was posted by the Knoxville Symphony Orchestra. It announced "AUDITION: Principal Clarinet." The advertisement continued, "Full-time, salaried position with benefits. Includes chamber music and community outreach work as part of the KSO Woodwind Quintet."

27. The advertisement stated the position was "Full-time" for a "35-week season." The salary for the 2025–26 season was specified as \$47,476.

28. The advertisement stated auditions would be held on September 15, 2025.

29. The advertisement concluded with a link to knoxvillesymphony.com/careers where prospective auditioners could "[a]pply and learn more."

Edward Pulgar's texts to Zimmermann

30. Edward Pulgar is the Orchestra's Principal Second Violin and the Gleb Mamontov Chair.

31. On July 10, 2025, Pulgar used Facebook Messenger to message Zimmermann, stating, "I remember with fondness your fantastic playing." He asked, "Have you considered coming back to the audition race? If so; would you be interested or inspired in taking the audition for Knoxville Symphony?"

32. When Zimmermann expressed interest, Pulgar texted him a copy of the Orchestra's Instagram advertisement. Pulgar later commented, "Hope you get it!"

The Orchestra's Additional Communications to Zimmermann

33. On July 24, 2025, Zimmermann e-mailed Mark Tucker, the Orchestra's Personnel Manager who was responsible for arranging auditions. Zimmermann wrote, "I'd like to take your Principal Clarinet audition in September. Attached is my resume. Thanks for your consideration!"

34. The following day, Tucker responded, thanking Zimmermann for his interest in the position. The e-mail stated, "I have attached information about the audition and position, repertoire list, verification form, and the excerpts." The e-mail reiterated auditions would be held nearly two months later, on September 15. The e-mail added, "It is possible the final round will be on Tuesday morning, September 16th."

35. Tucker's e-mail was accompanied by an attachment comprised of several files, including: (i) a Principal Clarinet information sheet, (ii) an article about the KSO Kids program, (iii) a Statement of Intent form, (iv) the audition repertoire, and the sheet music needed for the audition.

36. A true and complete copy of the Principal Clarinet information sheet (hereinafter, "Information Sheet" or "Sheet") is attached as **Exhibit 3**.

37. The Information Sheet was divided into two sections: "Audition Information" and "Position Details."

38. The Audition Information section of the information sheet confirmed auditions would be held on Monday, September 15, and "possibly" Tuesday, September 16.

39. The Sheet added, "Invited candidates will be asked to return a confirmation form with a \$50 refundable audition deposit to arrive by September 3, 2025 to secure an audition time."

40. The Sheet reiterated, "All audition rounds are screened."

41. The only other qualification stated, “The KSO cannot offer employment if a candidate does not have proper immigration clearances.” (emphasis omitted)

42. The Position Details section of the Information sheet explained Principal Clarinet “is a full-time position.” It elaborated, “The KSO performs a 35-week season which will begin September 1, 2025, and will end May 24, 2026. Salary for the 2025–26 season will be \$47,476.69 (\$1,356.48 weekly).” The Sheet further noted, “Benefits include group health insurance, short-term disability, life and AD&D insurance, and pension contribution. A dental plan is available but not funded by the Symphony.”

43. The Sheet declared, “*The winning candidate may begin employment September 29, 2025.*” (emphasis added).

44. The Sheet also identified additional duties the Principal Clarinet would have to perform beyond rehearsing and performing with the Orchestra. Specifically, the Principal Clarinet would also perform regularly with the Knoxville Symphony Woodwind Quintet and participate in certain specified education and community partnership programs.

The Voluminous Audition Materials

45. A true and complete copy of the Audition Repertoire the Orchestra e-mailed to Zimmermann is attached to this Complaint as **Exhibit 4**.

46. The Repertoire identified all of the pieces a person would have to be prepared to perform in order to audition for the position of Principal Clarinet.

47. The Repertoire specified each auditioner would have to perform a solo rendition of “Mozart, Clarinet Concerto, K.622, First movement exposition.”

48. The Repertoire further listed 18 other pieces by 16 different composers that each auditioner had to be prepared to perform. The Repertoire was followed by 28 pages of complex sheet music for those pieces.

The Orchestra's Acceptance of Zimmermann's Blind Audition

49. On or around July 24, 2025, Zimmermann completed the Statement of Intent and returned it to Tucker at the Orchestra along with a deposit check for \$50.00. The Statement declared, "I will attend the audition for Principal Clarinet on Monday, September 15, 2025."

50. A true and complete copy of Zimmermann's Statement of Intent is attached to this Complaint as **Exhibit 5**.

51. On July 30, Tucker e-mailed Zimmermann that his deposit arrived. He invited Zimmermann to audition at the Tennessee Theatre, reiterating, "All rounds are screened."

52. A true and complete copy of Tucker's e-mail is attached to this Complaint as **Exhibit 6**.

Zimmermann's Extensive Rehearsals in Reliance on the Orchestra's Invitation

53. From July 30 through September 14, Zimmermann devoted approximately three to four hours almost every day rehearsing the pieces included in the Repertoire.

54. The only reason Zimmermann rehearsed the pieces in the Repertoire was because he had been extended the opportunity for a screened or "blind" audition.

55. The generally understood and accepted purpose of a screened or blind audition in orchestras is to prevent personal biases or discrimination from influencing hiring decisions. An orchestra conducts a screened or blind audition to ensure a position is filled by the auditioner who gives the best performance of the pieces in the provided repertoire, and the selection panel is not influenced by considerations other than the quality of the music performed.

56. The screened audition process is the universal standard of American symphonies. Deviation from this process is virtually unheard of.

57. Nearly every member of every reputable orchestra is hired through screened auditions. Screened auditions are standard, well-understood procedures.

58. It would violate the well-understood, longstanding, broadly shared, and widely applied norms, practices, customs, and understandings of the orchestra community (or field of employment) for an orchestra to complete screened auditions and refuse to hire the person selected through that process as the top performer (unless that person is legally ineligible to be hired).

59. Over the course of nearly a month and a half, Zimmermann spent a total of nearly 100 hours practicing the Repertoire pieces.

60. But for the Orchestra's extension of the opportunity to perform a screened audition of the Repertoire pieces to obtain a position as Principal Clarinet for the 2025–26 season, Zimmermann would not have spent any time, much less nearly 100 hours, practicing the Repertoire pieces.

61. Zimmermann reasonably relied on the Orchestra's invitation to perform a screened audition to receive fair, nondiscriminatory, and unbiased consideration to be selected as Principal Clarinet in deciding to devote nearly 100 hours to practicing the pieces in the Repertoire.

62. The Orchestra's offer of a blind audition reflects an implicit, if not express, promise to fairly judge auditioners based on their musical talent in a manner free of bias based on their identities or personal characteristics in accordance with the well-understood, longstanding, broadly shared and widely applied norms, practices, customs, and understandings of the American orchestra community (or field of employment).

ZIMMERMANN EXCELS AT HIS SCREENED AUDITIONS

63. Over a month later, Tucker e-mailed again to specify that Zimmerman's audition for Principal Clarinet would occur at 2:55 P.M. on Monday, September 15.

64. A true and complete copy of Tucker's follow-up e-mail is attached to this Complaint as **Exhibit 7**.

65. Tucker's follow-up e-mail reiterated yet again, "All rounds are screened." It added, "The final round will be on Tuesday, September 16th." The e-mail further specified Zimmermann would "have access to a warmup room one hour prior to . . . audition time."

66. Zimmermann attended the screened audition on the afternoon of September 15 and performed the required pieces.

67. Based on Zimmermann's masterful performance, Tucker texted Zimmermann only a few minutes after his audition concluded to declare, "You advanced to the semifinal and will play tomorrow morning."

68. A true and complete copy of Tucker's text is attached to the Complaint as **Exhibit 8**.

69. The following morning, Tuesday, September 16, Zimmermann performed additional pieces in the semifinal round of the screened auditions. Again, Zimmermann excelled and was invited to perform yet again in the final round.

70. Based on Zimmermann's consistently outstanding performances throughout all three rounds of the screened auditions, Tucker notified Zimmermann that he had won and that the Orchestra would "get [Zimmermann] on the payroll" within two weeks. Tucker promised to give Zimmermann a telephone call to follow up the next day.

**THE ORCHESTRA REFUSES TO HIRE ZIMMERMANN
EVEN THOUGH IT RECOGNIZED HIM AS THE
TOP PERFORMER IN THE BLIND AUDITIONS**

71. Tucker did not call Zimmermann as promised on Wednesday, September 17.

72. Instead, on the morning of Thursday, September 18, Rachel Ford, the Chief Executive Officer of the Orchestra called Zimmermann to inform him that, even though he had been the top performer in the screened auditions and had prevailed in the final round, the Orchestra would not hire him. She indicated that, based on information which the Orchestra could have accessed at any point in the month-and-a-half prior to his screened audition, the Orchestra had determined he had not been adequately committed to Diversity, Equity, and Inclusion anti-racist principles at a previous job several years ago with the Nashville Symphony.

73. Ford immediately followed up by sending Zimmermann an e-mail memorializing their conversation. She stated, “[B]ased on a number of items which have come to the attention of the Knoxville Symphony Orchestra regarding your employment with the Nashville Symphony, I regret to inform you that the KSO has decided not to move forward with offering you a contract of employment.”

74. She refused to “participate in any ongoing communications related to this matter.”

75. A true and complete copy of Ford’s e-mail is attached to this Complaint as **Exhibit 9.**

76. Because Ford sent Zimmermann the e-mail almost instantaneously upon hanging up with him, it appears to have been drafted in advance of their call.

77. On information and belief, the Orchestra had never previously declined to hire a person who had successfully completed all rounds of the screened audition and been recognized as the top performer.

78. Indeed, it is virtually unheard of for any American orchestra to complete a screened audition process and refuse to hire the person chosen as the best performer, unless he were legally ineligible to be hired.

79. The Orchestra instead offered the position of Principal Clarinet which Mr. Zimmermann had earned to a person of Asian descent who had not performed as well as Mr. Zimmermann during the screened auditions.

CAUSES OF ACTION

COUNT I Promissory Estoppel

80. Plaintiff realleges and incorporates by reference the allegations contained in the foregoing paragraphs as if set forth fully herein.

81. Defendant repeatedly declared, both publicly and directly to Mr. Zimmermann, that it would be holding screened auditions.

82. The Orchestra extended an invitation directly to Mr. Zimmermann to participate in its screened auditions beginning on September 15, 2025.

83. The generally understood purpose within the orchestral community, and the express or implied promised, of screened auditions is to provide anonymity for the person performing in order to ensure the Orchestra's decision is based on talent and the quality of the music they produce rather than the identity of the performer, bias, discrimination, or other such factors.

84. Mr. Zimmermann reasonably relied on the Orchestra's promise, by holding screened auditions, to base its hiring decision on musical talent rather than anything idiosyncratic to an individual performer's personal identity or political beliefs to devote nearly 100 hours over a month and a half to practice, master, and perfect the first-movement clarinet part from Mozart's

clarinet concerto, as well as eighteen (18) other pieces the Orchestra sent him as its audition Repertoire.

85. Even though Mr. Zimmermann progressed to the semifinal and final rounds of the screened auditions, and was ultimately determined to be the best performer and promised the job, the Orchestra declined to proceed with hiring him.

86. Whether the orchestra based its determination on publicly available information about Mr. Zimmermann of which the Orchestra's agents, including Edward Puglar, were aware before the Orchestra induced Mr. Zimmermann to invest nearly 100 hours in rehearsing its audition repertoire, or instead on Mr. Zimmermann's race or ethnicity once the screened auditions were complete and they became known to the Orchestra, it was a violation of the Orchestra's initial offer to Mr. Zimmermann.

87. Mr. Zimmermann materially changed his position to his detriment by devoting nearly 100 hours of rehearsal time in August and September 2025 to practicing the Orchestra's Repertoire for the sole purpose of auditioning based on the Orchestra's representation that hiring would be based on the screen audition process.

88. Mr. Zimmermann is entitled to reliance damages based on the Orchestra's violation of its promise to base hiring decisions on the results of a screened audition. Even though Mr. Zimmermann rehearsed for that audition for nearly 100 hours by practicing the Orchestra's specialized Repertoire, and he prevailed in three rounds of screened auditions to be recognized as the prevailing candidate, the Orchestra refused to hire him based on facts and/or characteristics about Mr. Zimmermann that were both knowable and actually known to Orchestra agents in advance of the audition and irrelevant to the quality of his music.

89. This count is a good-faith, nonfrivolous claim filed for the purpose of extending existing precedent concerning promissory estoppel pursuant to Tenn. Code § 20-12-119(c)(5)(E). In *Barnes & Robinson Co. v. Onesource Facility Servs.*, 195 S.W.3d 637 (Tenn. App. 2006), the Tennessee Court of Appeals held the state “does not liberally apply the doctrine of promissory estoppel,” limiting its application “to exceptional cases.” *Id.* at 645. There, the court held the plaintiff’s reliance on the putative purchaser’s representations was not reasonable in light of their letters of intent “and completion of the transaction required a signed definitive agreement.” *Id.* Likewise, in *Smith v. Harriman Util. Bd.*, 26 S.W.3d 879, 887 (Tenn. App. 2000), the court likewise held plaintiff’s “at-will employment created no detrimental reliance on employment with Defendants for any period of time.” Plaintiff argues for extension of the principles of promissory estoppel to this case and contends in good faith these and similar cases are distinguishable.

COUNT II
RACIAL DISCRIMINATION IN VIOLATION OF THE TENNESSEE
HUMAN RIGHTS ACT, Tenn. Code §§ 4-21-311(a), 4-21-401(a)(1)

90. Plaintiffs reallege and incorporate by reference the allegations contained in the foregoing paragraphs as if set forth fully herein.

91. The Tennessee Human Rights Act provides, in relevant part, “It is a discriminatory practice in violation of this chapter for an employer to: [f]ail or refuse to hire . . . a person . . . because of such individual’s race, creed, color, religion . . . or national origin.” Tenn. Code § 4-21-401(a)(1).

92. Zimmermann participated in a screened audition process which prevented Orchestra personnel listening to his audition from observing or otherwise knowing his personal characteristics, including his race, color, and national origin.

93. After approximately a month-and-a-half, in which Zimmermann rehearsed the audition Repertoire for nearly 100 hours, he succeeded in the initial round of screened auditions on Monday, September 15, and was invited to return for the semifinal round the following day.

94. Zimmermann similarly performed proficiently during the semifinal round of screened auditions and was invited to participate in the final round later that day. Zimmermann went on to prevail in the final round of screened auditions and was recognized as the top performer throughout the entire screened audition process.

95. Based on his performance at the screened auditions, the Orchestra's personnel manager Tucker notified Zimmermann he had won the screened audition and the Orchestra would "get [Zimmermann] on the payroll" within two weeks.

96. Once the screened audition was over, however, and the Orchestra's CEO learned of Zimmermann's identity, she notified him that the Orchestra would not hire him. Instead, the Orchestra hired a person of Asian descent who had performed less well than Zimmermann at the audition.

97. The Orchestra engaged in racial discrimination against Mr. Zimmermann, violating the results of its own screened audition, in violation of the Tennessee Human Rights Act.

98. Had Zimmermann not been a white male, particularly a white male who had previously expressed opposition to DEI initiatives, the Orchestra would have proceeded with hiring him consistent with the result of its screened auditions.

99. Had Zimmermann been a member of a racial minority group, the Orchestra would have proceeded with hiring him, consistent with the result of its screened audition, regardless of statements it believes he made several years ago concerning race-conscious diversity, equity and inclusion initiatives in other orchestras.

100. The Orchestra failed to hire Zimmermann because of his race, creed, color, religion, or national origin.

101. Tenn. Code § 4-21-311(a) provides, “A person injured by an act in violation of this chapter has a private right of action in chancery court or circuit court in a county in which the alleged violation occurred”

102. As a proximate result of the Orchestra’s violation, Zimmermann has suffered damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for the following relief:

1. Reliance damages in excess of \$25,000 to compensate for the time Zimmermann spent rehearsing the audition Repertoire in reasonable reliance on the Orchestra’s representations;
2. Compensatory damages in excess of \$47,476, reflecting the salary and benefits of the Principal Clarinet position he was denied due to Defendant’s violation of the Tennessee Human Rights Act;
3. Attorneys’ fees;
4. Costs; and
5. Such other relief as this Court deems just and equitable.

Dated this ____ day of December 2025.

Respectfully submitted,

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