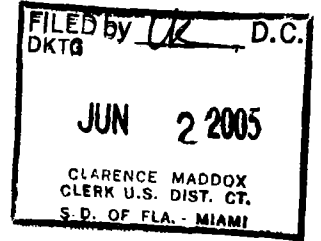


IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
FT. LAUDERDALE DIVISION

CASE NO: 05-CV-61580-ALTONGA/TURNOFF



UNITED STATES EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION,)
)
Plaintiff,)
)
v.)
)
PH FITNESS, INC. d/b/a FITNESS FIRST and)
PBH FITNESS, LLC d/b/a FITNESS FIRST)
)
Defendants,)
)
)
DAWN GRUNGO,)
)
Intervening Plaintiff,)
)
v.)
)
PH FITNESS, INC., d/b/a FITNESS FIRST)
and PBH FITNESS, LLC, d/b/a FITNESS FIRST)
)
Defendants-in-Intervention,)
)
<hr/>	

SECOND AMENDED COMPLAINT

Plaintiff, Dawn Grungo, files her Second Amended Complaint against Defendants PH Fitness, Inc. d/b/a Fitness First and PBH Fitness, LLC, d/b/a Fitness First (collectively "Fitness First"), pursuant Title VII of the Civil Rights Act of 1964 (42 U.S.C. §2000e), and Title I of the Civil Rights Act of 1991 (42 U.S.C. §1981a). In support of her claims, Ms. Grungo asserts as follows:

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/K

JURISDICTION, VENUE AND PARTIES

1) The jurisdiction of this Court is properly invoked pursuant to 28 U.S.C. §1331, §1337 and §1343 based upon the claims asserted by Ms. Grungo. This action is authorized and instituted pursuant to Section 706 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e ("Title VII") and Section 102 of the Civil Rights Act of 1991, §1981a.

2) The actions giving rise to these causes of action occurred in Broward County, Florida, within the jurisdiction of the Southern District of Florida, Ft. Lauderdale Division.

3) At all times relevant to this incident, Ms. Grungo was living and working in Broward County, Florida.

4) At all times relevant to this incident, Fitness First has continuously been doing business in Broward County, Florida and has continuously employed 15 or more employees.

5) At all relevant times, Defendants have continuously been employers engaged in an industry affecting commerce within the meaning of Title VII.

STATEMENT OF FACTS

6) From June 2002 through June 2004, Ms. Grungo was employed by Fitness First as a sales representative.

7) Ms. Grungo was a successful sales representative and in June 2004, Defendants promoted her to manager and asked her to manage the new gym in Plantation, Florida, set to open on August 1, 2004.

8) At all relevant times, Ms. Grungo was qualified and performed her job well.

9) On July 12, 2004, Ms. Grungo called in sick and went to the doctor's office.

10) Ms. Grungo discovered that she was pregnant.

11) She disclosed this information to her manager, Cara Voegtlin. Ms. Voegtlin instructed Ms. Grungo to take the week off and this conversation was witnessed by other Fitness First employees.

12) On July 15, 2004, Ms. Grungo was fired.

13) There is a nexus between Ms. Grungo's pregnancy and her termination.

14) Since at least July, 2004, Defendants have engaged in unlawful employment practices in violation of Section 703(a)(1) of Title VII, 42 U.S.C. s. 2000(e)-2(a).

15) The effect of the unlawful employment practices complained of above has been to deprive Dawn Grungo of equal employment opportunities, and otherwise adversely affect her status as an employee because of her pregnancy status.

16) Ms. Grungo has satisfied all conditions precedent to filing this lawsuit, including filing a complaint with the EEOC and FCHR in compliance with Fla. Stat. §760.11, Title I and Title VII.

PREGNANCY DISCRIMINATION

17) Ms. Grungo reasserts paragraphs 1 through 16 as if fully set forth herein.

18) At all relevant times, Ms. Grungo was a member of a protected class based upon her pregnancy.

19) Ms. Grungo suffered an adverse employment action (namely her termination).

20) Ms. Grungo's membership in this protected class was the direct basis for the adverse employment action. In other words, Ms. Grungo was pregnant. She disclosed her pregnancy to her manager. Two days later, she was terminated despite the fact that she was well qualified for her job and had performed well prior to her termination. She was replaced by a non-pregnant person.

21) Fitness First's unlawful employment practices have caused Ms. Grungo to suffer damages.

22) Fitness First's unlawful employment practices were intentional.

23) Fitness First's unlawful employment practices were done with malice or with reckless indifference to Ms. Grungo's federally protected rights.

WHEREFORE, Ms. Grungo requests this Court:

A) Grant a permanent injunction enjoining Defendants, their officers, successors, assigns and all persons in active concert or participation with them, from engaging in pregnancy discrimination in employment practices at their facilities.

B) Order Defendants to institute and carry out policies, practices, and programs which provide equal employment opportunities for women which eradicate the effects of their past and present unlawful employment practices.

C) Order Defendants to make whole Dawn Grungo by providing appropriate back pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to, reinstatement, rightful-place hiring, and front pay.

D) Order Defendants to make whole Dawn Grungo by providing compensation for past and future pecuniary losses resulting from the employment practices, including but not limited to, out-of-pocket losses, medical expenses and job search expenses, in amount to be determined at trial.

E) Order Defendants to make whole Dawn Grungo by providing compensation for past and future nonpecuniary losses resulting from the employment practices, including but not limited to, emotional pain, suffering, inconvenience, loss of enjoyment of life and humiliation, in amounts to be determined at trial.

F) Order Defendants to pay punitive damages for their malicious and reckless conduct in an amount to be determined at trial.

G) Grant such other relief as the Court deems necessary and proper in the public interest.

H) Grant Dawn Grungo attorney's fees and costs incurred in this action.

DEMAND FOR JURY TRIAL

Plaintiff, Dawn Grungo demands a trial by jury.

June 1, 2006

 /s/William H. Pincus
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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION**

CASE NO: 05-CIV-61580-ALTONAGA/TURNOFF

UNITED STATES EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

vs.

PH FITNESS, INC. d/b/a FITNESS FIRST and
PBH FITNESS, LLC d/b/a FITNESS FIRST,

Defendants.

DAWN GRUNGO,

Intervening Plaintiff,

vs.

PH FITNESS, INC. d/b/a FITNESS FIRST and
PBH FITNESS, LLC d/b/a FITNESS FIRST,

Defendants-in-Intervention.

**ORDER GRANTING PLAINTIFF'S
MOTION TO AMEND COMPLAINT**

THIS CAUSE came before the Court on Plaintiff's Motion to Amend Complaint, filed June 1, 2006. Upon review of the Motion, the Court file, and being otherwise duly advised in the premises, it is hereby:

ORDERED AND ADJUDGED that:

1. The Motion for Leave to Amend Complaint is **GRANTED**.
2. The Amended Complaint attached to the Motion is hereby deemed filed.

3. Defendants shall have ten (10) days from the date of entry of this Order in which to serve a response to the Amended Complaint.

DONE AND ORDERED in Chambers at Miami, Florida, this _____ day of June, 2006.

CECILIA ALTONAGA
United States District Judge

COPIES FURNISHED TO:

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