

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH DAKOTA, WESTERN DIVISION

**FILED**

**SEP 17 2003**

  
CLERK

Civil Action No.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

v.

NORTH CENTRAL SUPPLY, INC.

03-5091

Defendant.

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**COMPLAINT AND JURY TRIAL DEMAND**

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NATURE OF THE ACTION

This action arises under Title VII of the Civil Rights Act of 1964 ("Title VII"), as amended, to correct unlawful employment practices on the basis of sex (pregnancy) and to provide appropriate relief to Sami M. Martinez ("Martinez"), a former employee of Defendant, North Central Supply, Inc. As set forth below, the EEOC alleges that Defendant unlawfully terminated Martinez because of her pregnancy, in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a).

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to 706(f)(1) and (3) of Title VII

of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981(A).

2. The alleged unlawful employment practices were committed within the jurisdiction of the United States District Court for the District of South Dakota, Western Division.

### PARTIES

3. Plaintiff, Equal Employment Opportunity Commission (the "Commission"), is an agency of the United States of America charged with the administration, interpretation and enforcement of Title VII and is expressly authorized to bring this action by 706(f)(1) of Title VII, 42 U.S.C. § 2000e-5(f)(1).

4. At all relevant times, Defendant, North Central Supply, Inc., has continuously been a South Dakota corporation doing business in the State of South Dakota and has continuously had at least fifteen employees. Defendant is engaged in the business of manufacturing building parts and supplying construction hardware.

5. At all relevant times, Defendant has continuously been an employer engaged in an industry affecting commerce within the meaning of Section 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

### STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Martinez filed a charge with the Commission alleging violations of Title VII by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. On or about December 10, 2001, Defendant engaged in unlawful employment practices, in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a)(1), by discharging Martinez because of her pregnancy.

8. Martinez was initially hired by Defendant in Rapid City, South Dakota, as a finish out technician.

9. Martinez was initially hired by Defendant in May 2001.

10. On or about November 27, 2001, Martinez became ill and left the Defendant's premises.

11. On or about November 28, 2001, Kay Bull Bear (Bull Bear) called Defendant and told Defendant that Martinez would not return to work until she felt better.

12. Bull Bear called Defendant on a second occasion to say that Martinez was sick and could not work and would not return to work until she felt better.

13. On or about December 7, 2001, Martinez learned from a co-worker, Shawn Nichols, that she had been terminated.

14. On or about December 10, 2001, Martinez spoke to her supervisor, Mike Titus (Titus), who told her that she had not been terminated and that the employee who told her that she had been terminated was disciplined.

15. On or about December 10, 2001, Titus told Martinez that she could return to work and then asked if the rumors of Martinez' pregnancy were true.

16. On or about December 10, 2001, Martinez told Titus that she was pregnant and Titus stated, "...that changes everything."

17. After learning of Martinez' pregnancy on or about December 10, 2001, Titus advised Martinez that he did not have a position available for her and that she should check back with Defendant after the birth of her child.

18. Because of Martinez' pregnancy, Defendant denied her equal employment opportunities and otherwise adversely affected her status as an employee.

19. As a result of Defendant's wrongful termination of Martinez' employment, Martinez has suffered damages, including but not limited to emotional distress, lost earnings and benefits, and medical and job search expenses, in amounts subject to proof.

20. The unlawful employment practices complained of in the foregoing paragraphs were intentional, or were committed with reckless disregard for Martinez' federally protected rights.

#### PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining the Defendant, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in any employment practice which discriminates on the basis of pregnancy.

B. Order the Defendant to institute and carry out policies, practices and programs which provide equal employment opportunities for pregnant employees, and which eradicate the effects of its past and present unlawful employment practices.

C. Order the Defendant to make whole Martinez, by providing appropriate back pay with prejudgment interest, in amounts to be proved at trial, and other affirmative and equitable relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to, rightful-place reinstatement of Martinez, or front pay where appropriate.

D. Order the Defendant to make whole Martinez, by providing compensation for past, and future pecuniary losses, including but not limited to job search expenses and medical expenses incurred as a result of the unlawful employment practices described above, in amounts to be determined at trial.

E. Order the Defendant to make whole Martinez, by providing compensation for past

and future nonpecuniary losses resulting from the unlawful practices complained of above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

- G. Grant such further relief as the Court deems necessary and proper.
- H. Award the Commission its costs in this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its Complaint.


Dated: September 16, 2003

Respectfully submitted,

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**PLEASE NOTE:**  
It is sufficient for purposes of service on the