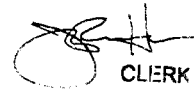


UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

KHB
FILED

NOV 24 2003


CLERK

EQUAL EMPLOYMENT OPPORTUNITY) CIV. NO: 03-5091
COMMISSION AND SAMI MARTINEZ,)
)
Plaintiffs,)
vs.) MARTINEZ' COMPLAINT
) AND DEMAND FOR JURY TRIAL
NORTH CENTRAL SUPPLY, INC.,)
)
Defendant.)

Sami Martinez through Donald P. Knudsen of Gunderson, Palmer, Goodsell & Nelson, L.L.P., her attorneys, for her Complaint states as follows:

JURISDICTION AND VENUE

1. At all times relevant to the Complaint Martinez was a citizen of the United States residing in Rapid City, Pennington County, South Dakota.

2. On information and belief, Martinez avers that at all times relevant to this Complaint, Defendant was a South Dakota Corporation having its principal place of business in Rapid City, Pennington County, South Dakota.

3. Among other allegations, this Complaint asserts a violation of Martinez' federally protected statutory rights, specifically, the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3), and § 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981(A).

Therefore, this Court has jurisdiction over the Complaint pursuant to 28 U.S.C. §§ 1331 and 1343(a)(4).

4. Venue in the United States District Court for the District of South Dakota, Western Division, is appropriate because it is the venue where the Defendant resides, and it is the venue in which the events giving rise to the claim occurred. 28 U.S.C. § 1391(b).

PARTIES

5. 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).

6. 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.

7. Sami Martinez was formerly employed by Defendant.

COUNT I.

8. Martinez was hired by Defendant in May 2001.

9. On or about November 27, 2001, Martinez became ill and left work.

10. On or about November 28, 2001, Martinez had a relative call Defendant to advise that she was ill and would not be at work that day.

11. On or about November 29, 2001, Defendant was told that Martinez was still ill, could not work, and would not return to work until she felt better.

12. On approximately December 7, 2001, Martinez learned that her employment with Defendant had been terminated.

13. On or about December 10, 2001, Martinez spoke with her supervisor. Her supervisor advised her that her employment had not been terminated. Her supervisor then asked if rumors regarding her pregnancy were true. Martinez told the supervisor that she was pregnant.

14. After learning that Martinez was pregnant, her supervisor told Martinez that there was no employment available for her at that time and that she should check back with Defendant after her pregnancy terminated.

15. Defendant's motivation for terminating Martinez' employment, or in the alternative, Defendant's motivation for not permitting Martinez to return to work, was Martinez' pregnancy.

16. Defendant's conduct violated Martinez' civil rights protected under the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3), and § 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981(A).

17. Defendant's wrongful conduct was committed intentionally or with reckless disregard to Martinez' statutorily protected rights.

18. Defendant's wrongful conduct was the legal cause of Martinez' damages including but not limited to emotional distress, lost earnings and benefits, and other consequential and incidental damages in an amount to be determined by the jury.

COUNT II.

19. All of the averments stated in paragraphs 1-18 above are incorporated herein by this reference.

20. Defendant's wrongful conduct violated Martinez' human rights as protected by SDCL 20-13-10.

21. Defendant's violation of SDCL 20-13-10 caused Martinez damages as described in paragraph 18.

COUNT III.

22. All of the averments stated in paragraphs 1-21 above are incorporated herein by this reference.

23. Defendants wrongfully terminated Martinez' employment in violation of public policy as defined by Title VII and South Dakota Ch. 20-13.

24. Defendants' wrongful termination of Martinez' employment caused Martinez damages as described in paragraph 18, above.

COUNT IV

25. All of the averments stated in paragraphs 1-24 above are incorporated herein by this reference.

26. Defendant's conduct as described in this Complaint intentionally, recklessly or negligently inflicted severe emotional distress on Martinez.

27. As a result of the Defendant's intentional, reckless or negligent infliction of emotional distress, Martinez has suffered damages as described in paragraph 19, above.

PRAYER FOR RELIEF

Wherefore, Martinez respectfully requests the Court to award the following relief:

- A. Award Martinez damages including but not limited to back pay, prejudgment interest, front pay, compensation for past and future economic damages, and compensation for past and future non-economic damages.
- B. Award punitive damages;
- C. Award Martinez' costs and attorneys fees; and
- D. Award such other relief as is appropriate under the circumstances.

JURY TRIAL DEMAND

Martinez requests a jury trial on all questions of fact raised by the Complaint.

Respectfully submitted this 24th day of November 2003.

GUNDERSON, PALMER, GOODSSELL
& NELSON, LLP

BY: 

Donald P. Knudsen

Attorney for Plaintiff Sami Martinez
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CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of November 2003, I sent by first-class United States Mail, postage prepaid, a true and correct copy of Martinez' Complaint and Demand for Jury

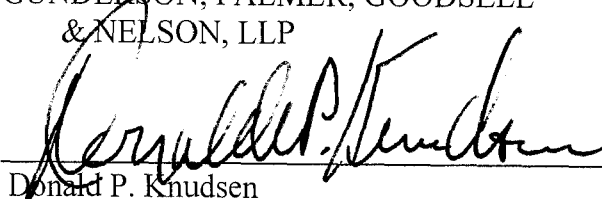
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