

FILED

DEC 30 2004

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION


CLERK

Richelle Dooley and,
Angie Gacke
Plaintiffs,

vs.

SIouxLAND ORAL MAXILLOFACIAL
SURGERY ASSOCIATES, L.L.P.
Defendant.

CI 04- 4216

COMPLAINT
(Violation of Title VII of the Civil Rights
Act, Violation of the Pregnancy
Discrimination Act, Punitive Damages)

I.
INTRODUCTION

1. This is an action for damages brought by individual's for Defendant's violations of Title VII of the Civil Rights Act, violations of the Pregnancy Discrimination Act and for Punitive Damages. The Pregnancy Discrimination Act is an amendment to Title VII of the Civil Rights Act of 1964. This is an action to correct unlawful employment practices on the basis of sex, and to provide appropriate relief to Richelle Dooley ("Dooley") and Angie Gacke ("Gacke"), who were adversely affected by such practices. As alleged with greater particularity below, Plaintiff's alleges that Siouxland Oral Maxillofacial Surgery Associates ("Defendant") unlawfully terminated Dooley's employment after she advised her superiors that she was pregnant. Furthermore, the Commission alleges that the Defendant unlawfully refused to hire Gacke after she disclosed her pregnancy during the interview process.

II.
JURISDICTION

2. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 451, 1331, 1337, 1343, 1343 and 1345. This action is authorized and instituted pursuant to Section 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) ("Title VII"), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981 A .

3. The employment practices were committed within the jurisdiction of the United States District Court for the District of South Dakota.

III.
PARTIES

4. Plaintiff, Richelle Dooley, is a natural person residing in South Dakota.

5. Plaintiff, Angie Gacke, is a natural person residing in South Dakota.

6. The Defendant is Siouxland Oral Maxillofacial Surgery Associates, L.L.P. Defendant is a

business located in Lincoln County , South Dakota.

7. At all relevant times, Defendant was a South Dakota corporation doing business in the State of South Dakota, the City of Sioux Falls, and has continuously had at least fifteen employees.

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

IV. FACTUAL ALLEGATIONS

9. More than thirty days prior to the institution of this lawsuit, Dooley filed a charge with the Commission alleging violations of Title VII by Defendant.

10. More than thirty days prior to the institution of this lawsuit, Gacke filed a charge with the Commission alleging violations of Title VII by Defendant.

11. All conditions precedent to the institution of this lawsuit have been fulfilled.

12. Defendant interviewed Dooley for a reception/scheduling position on or about October 22, 2001.

13. On or about October 25, 2001, Defendant notified Dooley in writing that the position was filled and her resume would be kept on file for future employment opportunities.

14. On or about December 28, 2001, Defendant contacted Dooley in writing advising her of another reception/scheduling position and offered her immediate hire.

15. Dooley contacted Shelley Hofer ("Hofer"), Defendant's Administrative Coordinator, on or about December 29, 2001.

16. Hofer hired Dooley immediately and agreed to a January 2, 2002, start date.

17. On January 3, 2002, Dooley advised Hofer that she was pregnant.

18. On January 3, 2002, Kathleen Fjellstad, Defendant's Business Manager, told Dooley that her employment was terminated.

19. Fjellstad advised Dooley that Defendant would not have hired her if she had previously disclosed her pregnancy.

20. On or about March 11, 2002, Gacke submitted to Defendant an application for a Central Sterilization and Post-Operative Recovery position.

21. On March 12, 2002, Defendant's Surgical Administrator Sherena Kost ("Kost") and Central Sterilization and Post Operative Recovery employees Sharon McConnell and Jenny DeVries interviewed Gacke for the position.

22. At the end of the interview, Kost provided Gacke with a copy of Defendant's benefit package.

23. Gacke advised Kost that she was four-months pregnant and asked Kost if her pregnancy would be a pre-existing condition, for the purpose of receiving benefits.

24. Kost advised Gacke that her pregnancy was a problem because maternity leave would create more work for the other employees.

25. Kost immediately grabbed the benefit package back from Gacke.

26. Later that day, Kost contacted Gacke by telephone and told her she did not get the job.

FIRST CLAIM FOR RELIEF
(Title VII- Wrongful Discharge Dooley)

27. Plaintiff repeats and realleges paragraphs 1-19.

28. The effect of the practices complained of in the paragraphs 1-19, has been to deprive Ms. Dooley of equal employment opportunities and otherwise adversely affect her status as an employee because of her sex, female.

29. The unlawful employment practices complained of were intentional.

30. The unlawful employment practices complained of were done with malice or with reckless indifference to the federally protected rights of Dooley.

31. Dooley has suffered damages in loss of back pay, and her actual damages.

32. Dooley has suffered damages in loss of front pay.

SECOND CLAIM FOR RELIEF
(Pregnancy Discrimination Act - Wrongful Discharge Dooley)

34. Plaintiff repeats and realleges paragraphs 1-19.

35. The effect of the practices complained of in the paragraphs 1-19, has been to deprive Ms. Dooley of equal employment opportunities and otherwise adversely affect her status as an employee because of her pregnant condition.

36. The unlawful employment practices complained of were intentional.

37. The unlawful employment practices complained of were done with malice or with reckless indifference to the federally protected rights of Dooley.

38. Dooley has suffered damages in loss of back pay, and her actual damages.

39. Dooley has suffered damages in loss of front pay.

THIRD CLAIM FOR RELIEF
(Title VII Failure to lure- Gacke)

40. Plaintiff repeats and realleges paragraphs 1-8 and 20-26.
41. The effect of the practices complained of have been to deprive Ms. Gacke of equal employment opportunities because of her sex, female.
42. Defendant refused to hire Gacke because of a condition of her sex, female.
43. The unlawful employment practices complained of above were and are intentional.
44. The unlawful employment practices complained of above were and are done with malice or with reckless indifference to the federally protected rights of Gacke.
45. Dooley has suffered damages in loss of back pay, and her actual damages.
46. Dooley has suffered damages in loss of front pay.

FOURTH CLAIM FOR RELIEF
(Pregnancy Discrimination Act - Gacke)

47. Plaintiff repeats and realleges paragraphs 1-8 and 20-26.
48. The effect of the practices complained of have been to deprive Ms. Gacke of equal employment opportunities because of her sex, female.
49. Defendant refused to hire Gacke because of her pregnancy.
50. The unlawful employment practices complained of above were and are intentional.
51. The unlawful employment practices complained of above were and are done with malice or with reckless indifference to the federally protected rights of Gacke.
52. Dooley has suffered damages in loss of back pay, and her actual damages.
53. Dooley has suffered damages in loss of front pay.

FIFTH CLAIM FOR RELIEF
(Punitive Damages - Dooley and Gacke)

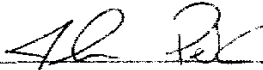
54. Plaintiff's reallege Paragraphs 1-53 above.
55. The Defendants actions were willful and done with malice or with reckless indifference to the federally protected rights of Dooley and Gacke.
56. Defendants actions demand punitive damages in an amount to be proven at trial.

WHEREFORE, the Plaintiffs pray for the following:

1. Demands judgment against the defendant in the amount to be determined by the jury for

- back pay with prejudgment interest, front pay, benefits, statutorily authorized damages with prejudgment interest and compensatory damages ;
2. Injunctive relief requiring the institution of policies and procedures to protect employees from sexual harassment and pregnancy discrimination;
 3. For all of Plaintiff's costs, disbursements, and attorneys' fees pursuant to federal law;
 4. For punitive damages in an amount to be proven at trial; and
 5. For such other and further relief as the Court deems just and proper under the circumstances.

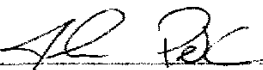
Dated at Sioux Falls, South Dakota, on December 29, 2004



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Demand for Jury Trial

Plaintiff respectfully demands trial by jury on all issues of fact.



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