

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

KRISTEN ROHRER

Plaintiff,

CASE NO.:

vs.

TOWN OF DAVIE,

Defendant.

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, KRISTEN ROHRER, by and through her undersigned counsel, hereby sues
Defendant, TOWN OF DAVIE, and states:

PARTIES, JURISDICTION AND VENUE

1. This suit is brought and jurisdiction lies pursuant to Section 706 of Title VII of the Civil Rights Act of 1964, as amended 42 U.S.C. Section 2000e-5, et seq, section 102 of the Civil Rights Act of 1991, 42 U.S.C. Section 1981A, the Pregnancy Discrimination Act, 42 U.S.C. Section 2000e(k). This Court has original jurisdiction pursuant to 28 U.S.C. Section 1343(a)(4) and 1331. This suit is also brought pursuant to the Florida Civil Rights Act of 1992, Fla. Stat. 760 et seq., over which this Court has supplemental jurisdiction.

2. Plaintiff, ROHRER further invokes the pendent jurisdiction of this Court to hear and decide claims arising under the state law, in that the claims arise out of the same nucleus of operative facts and are such that they would ordinarily be expected to be tried in one judicial proceeding.

3. Venue is appropriate in the Ft. Lauderdale Division of the Southern District of Florida pursuant to 28 U.S.C. 1391(b) because actions complained of herein took place in Broward County at Defendant's places of business located in Davie, Florida.

4. Plaintiff, KRISTEN ROHRER (hereinafter "Ms. Rohrer") is a resident of Broward County, Florida.

5. Defendant, TOWN OF DAVIE, is a town in Broward County, Florida, and operates the Fire Department where the discriminatory acts took place.

6. At all material times, Defendant, TOWN OF DAVIE, employed fifteen (15) or greater employees for each regular working day in each of twenty (20) or more calendar weeks in the current and/or preceding calendar year, and is otherwise an "employer" within the meaning of Title VII, the Pregnancy Discrimination Act, the ADA and the Florida Civil Rights Act.

7. Plaintiff, ROHRER is a "person" within the meaning of Title VII, 42 US § 2000e(a), the Pregnancy Discrimination Act, the Florida Civil Rights Act .

8. Plaintiff, Rohrer was an "employee" as defined by Title VII, 42 USC § 2000e(f), Florida Statute § 760.02(5).

CONDITIONS PRECEDENT

9. The Plaintiff has filed timely administrative charges of employment discrimination and retaliation with the Equal Employment Opportunity Commission ("EEOC"). All of the discriminatory employment practices alleged herein was committed within the jurisdiction of the Southern District of Florida, Ft. Lauderdale Division.

10. Plaintiff also filed her charge of employment discrimination and retaliation with the Florida Commission of Human Relations pursuant to those agencies work sharing

agreement with the EEOC. Plaintiff has complied with all conditions precedent before filing suit under the Florida Civil Rights Act in that this lawsuit was filed after this matter had been pending before the EEOC, and Florida Commission on Human Relations for more than 180 days, and/or Plaintiff was issued Right To Sue letters by the EEOC on April 7, 2014. This lawsuit was further filed within four years of the discriminatory acts complained of herein.

11. All other conditions precedent to the filing of her action have been performed or have been waived.

FACTUAL ALLEGATIONS

12. Plaintiff, ROHRER, was/is employed as a firefighter/paramedic with The Town of Davie Fire Department and during her tenure was supervised by, and/or fell in the direct chain of command of several male employees, including but not limited to Captain Hudson, Battalion Chief Glenn Samson, Captain, Michael Labita, Captain Diltz, Chief Motopoli, Fire Marshall Precancio, Battalion Chief Gonzalez and Chief Malvasio.

13. Throughout her employment Plaintiff was an above average employee.

14. Plaintiff, ROHRER became pregnant in 2010. Thereafter, Plaintiff began to experience, and continues to experience pervasive discrimination, a hostile work environment and disparate treatment in with regards to the terms and conditions of her employment, based solely on her gender, pregnancy/post pregnancy status, and lawful complaints related to same.

15. Following the birth of her child, Plaintiff was repeatedly humiliated and made to feel embarrassed regarding her use of a breast pump. Specifically, Chief Glen Samson, and other male co-workers would publically, regularly and maliciously comment that Plaintiff was taking time out of work to "pull on her udders". On numerous occasions Chief Samson openly chastised Plaintiff about her breast pump usage at work, and went so far as complain about it

to Plaintiff's then Captain, Captain Hudson.

16. During the course of Plaintiff's pregnancy, post pregnancy and continuing to date, Plaintiff's male co-workers, would openly chastise female firefighters generally, and plaintiff specifically for becoming pregnant and using their sick time for pregnancy or post pregnancy related issues, or for what the male firefighters would openly and repeatedly refer to as "vagina injuries".

17. While on light duty during and after her pregnancy, Plaintiff was consciously ignored and ostracized on a daily basis by her supervisors. Following her pregnancy, Plaintiff was expressly prevented from using her "banked time" accumulated from covering prior shift and shift trades, while similarly situated male employees were permitted to use "banked time", unquestioned, and in conjunction with non-work related injury and FMLA leave.

18. Following her returned from pregnancy leave (FMLA), Plaintiff was required to undergo a "re-acclimation process", which her male supervisors intentionally made disproportionately difficult for Plaintiff. Conversely, male employees returning from FMLA or injury leave were not required to similarly undergo the same re-acclimation process.

19. In 2013 fire administration implemented a process whereby fire fighters could take a class to 'act up" as Captain. Plaintiff was the only female of the five (5) firefighters who signed up for, and completed the class. As a prerequisite to being allowed to "act up" to the Captain position the five (5) candidates were required to complete three (3) "rides". In a calculated effort to preclude and obstruct her from "acting up" to Captain, Plaintiff was continuously denied the opportunity to complete the three (3) rides, thereby denying her the opportunity to gain experience, promotion and extra pay. Conversely, all four (4) male candidates were provided with numerous opportunities to complete, and did complete the

required number of "rides", and all have been officially approved to "act up" as Captain. As of March 25, 2013, Plaintiff met all qualifications to "act up", and demonstrated the requisite competency to "act up" as Captain. However, unlike her male counterparts, Plaintiff has not been approved for the position.

20. On several separate occasions, Plaintiff complained about the above described disparate treatment, hostile work environment and unlawful discrimination. However Plaintiff's complaints were ignored by the Defendant and no remedial action(s) were taken.

COUNT: I
UNLAWFUL SEXUAL HARASSMENT AND RETALIATION VIOLATION OF
THE FLORIDA CIVIL RIGHTS ACT OF 1992, FLA. STAT. 760 ET SEQ.,

21. Plaintiff, ROHRER repeats and realleges each and every allegation set forth in Paragraphs 1 through 20 as if full set forth herein again at length.

22. Since at least 2010 and continuing to date, Defendant, TOWN OF DAVIE, engaged in unlawful employment practices in Broward County Florida in violation of Florida Civil Rights Act of 1992, Florida Statute Section 760, Et, Seq., in that

a. Plaintiff was subjected to sexual harassment by her supervisor(s) and co-workers in the form of discrimination based upon her pregnancy status and gender.

b. Plaintiff was discriminated in the terms and conditions of her employment based on her pregnancy status and gender;

c. Plaintiff was subjected to a pervasive hostile work environment, including daily ridicule and embarrassment based on her pregnancy status and gender.

d. Defendants retaliated against Plaintiff for complaining of the unlawful sexual harassment, by denying her the use of accumulated "banked time", by denying her promotion and promotion opportunities, and by creating a continuous hostile work

environment.

e. Plaintiff, based solely on her pregnancy and gender, was treated dissimilarly than other similarly situated employees, who by contrast were permitted to use "banked time", who were afforded opportunities to increase their pay and experience through promotion, and who were not subject to a gender based hostile work environment.

31. The effect of the conduct complained of herein above has been to deprive Plaintiff of equal employment opportunities and otherwise adversely affect her status as an employee because of her sex and/or in retaliation for her opposition to unlawful employment practices.

32. Defendant, TOWN OF DAVIE's fire department has had a long well known history of engaging in, promoting, and tolerating discrimination based upon pregnancy status and gender. On September 2012 Defendant, TOWN OF DAVIE entered into a consent Decree in the Case of United States of America v. Town of Davie Florida Case No: 12-61249, prohibiting Defendant, TOWN OF DAVIE from engaging in the type of pregnancy and gender based discriminatory conduct alleged herein.

33. The unlawful conduct of Defendant, TOWN OF DAVIE, described above was done with oppression and malice; with a reckless and conscious disregard for Plaintiff's rights; and with intent, design and purpose of injuring Plaintiff. Defendant through its officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct in that Defendants, knew or should have known of the complained of sexual harassment by Plaintiff and failed to take any disciplinary or remedial action. By reason thereof, Plaintiff is entitled to punitive or exemplary damages from Defendant in a sum according to proof presented at trial.

34. Defendant, TOWN OF DAVIE's unlawful acts of discrimination and retaliation were intentional and done with malice or reckless indifference to Plaintiff's rights protected by federal and state law.

35. As a direct and proximate result of Defendant, TOWN OF DAVIE's violation of existing law, as described herein, Plaintiff has been compelled to retain the services of counsel and has thereby incurred, and will continue to incur, legal fees and costs. Plaintiff is entitled to recovery of attorney's fees and costs pursuant to 42 U.S.C. 2000e-5(K) and Federal Rule of Civil Procedure 54, and Florida Statute Section 760.10(5).

COUNT: II
DISCRIMINATION IN VIOLATION OF THE PREGNANCY DISCRIMINATION
ACT

36. Plaintiff, ROHRER repeats and realleges each and every allegation set forth in Paragraphs 1 through 20 as if full set forth herein again at length.

37. Since at least 2010 and continuing to date, Defendant, TOWN OF DAVIE engaged in unlawful employment practices in Broward County Florida in violation of Florida Civil Rights Act of 1992, Florida Statute Section 760, Et, Seq., in that

a. Plaintiff was subjected to sexual harassment by her direct supervisor(s) and co-workers in the form of discrimination based upon her pregnancy status and gender.

b. Plaintiff was discriminated in the terms and conditions of her employment based on her pregnancy status and gender;

c. Plaintiff was subjected to a pervasive hostile work environment based on her pregnancy status and gender.

d. Defendants retaliated against Plaintiff for complaining of the unlawful sexual harassment by denying her the use of accumulated "banked time", by denying her

promotion, and by creating a pervasive and continuing hostile work environment.

e. Plaintiff, based solely on her pregnancy status and gender, was treated dissimilarly than other similarly situated employees, who by contrast were permitted to use "banked time", and who were afforded opportunities to increase their pay and experience through promotion, and who were not subject to a gender based hostile work environment.

38. The effect of the conduct complained of herein above has been to deprive Plaintiff of equal employment opportunities and otherwise adversely affect her status as an employee because of her sex and/or in retaliation for her opposition to unlawful employment practices.

39. The unlawful conduct of Defendant, TOWN OF DAVIE, described above was done with oppression and malice; with a reckless and conscious disregard for Plaintiff's rights; and with intent, design and purpose of injuring Plaintiff. Defendant through its officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct in that Defendants, knew or should have known of the complained of sexual harassment by Plaintiff and failed to take any disciplinary or remedial action. By reason thereof, Plaintiff is entitled to punitive or exemplary damages from Defendant in a sum according to proof presented at trial.

40. Defendant, TOWN OF DAVIE's unlawful acts of discrimination and retaliation were intentional and done with malice or reckless indifference to Plaintiff's rights protected by federal and state law.

41. As a direct and proximate result of Defendant, TOWN OF DAVIE's violation of existing law, as described herein, Plaintiff has been compelled to retain the services of counsel and has thereby incurred, and will continue to incur, legal fees and costs. Plaintiff is

entitled to recovery of attorney's fees and costs pursuant to 42 U.S.C. 2000e-5(K) and Federal Rule of Civil Procedure 54, and Florida Statute Section 760.10(5).

COUNT: III
UNLAWFUL SEXUAL DISCRIMINATION AND RETALIATION IN VIOLATION
OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED 42 U.S.C.
2000E ET. SEQ.

42. Plaintiff, ROHRER repeats and realleges each and every allegation set forth in Paragraphs 1 through 20 as if full set forth herein again at length.

43. Since at least 2010, Defendant, TOWN OF DAVIE, engaged in unlawful employment practices in Broward County Florida in violation of Title VII of The Civil Rights Act of 1964, as amended 42 U.S.C. 2000E et. Seq., in that

a. Plaintiff was subjected to sexual harassment by her direct supervisor(s) and co-workers in the form of discrimination based upon her pregnancy status and gender.

b. Plaintiff was discriminated in the terms and conditions of her employment based on her pregnancy status and gender;

c. Plaintiff was subjected to a pervasive hostile work environment, including daily ridicule and embarrassment based on her pregnancy status and gender.

d. Defendants retaliated against Plaintiff for complaining of the unlawful sexual harassment, by denying her the use of accumulated "banked time", by denying her promotion, and by creating a continuous hostile work environment.

e. Plaintiff, based solely on her pregnancy and gender, was treated dissimilarly than other similarly situated employees, who by contrast were permitted to use "banked time", who were afforded opportunities to increase their pay and experience through promotion, and who were not subject to a gender based hostile work environment.

44. The effect of the conduct complained of herein above has been to deprive Plaintiff of equal employment opportunities and otherwise adversely affect her status as an employee because of her sex and/or in retaliation for her opposition to unlawful employment practices.

45. The unlawful conduct of Defendant, TOWN OF DAVIE, described above was done with oppression and malice; with a reckless and conscious disregard for Plaintiff's rights; and with intent, design and purpose of injuring Plaintiff. Defendant through its officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct in that Defendants, knew or should have known of the complained of sexual harassment by Plaintiff and failed to take any disciplinary or remedial action. By reason thereof, Plaintiff is entitled to punitive or exemplary damages from Defendant in a sum according to proof presented at trial.

46. Defendant, TOWN OF DAVIE's unlawful acts of discrimination and retaliation were intentional and done with malice or reckless indifference to Plaintiff's rights protected by federal and state law.

47. As a direct and proximate result of Defendant, TOWN OF DAVIE's violation of existing law, as described herein, Plaintiff has been compelled to retain the services of counsel and has thereby incurred, and will continue to incur, legal fees and costs. Plaintiff is entitled to recovery of attorney's fees and costs pursuant to 42 U.S.C. 2000e-5(K) and Federal Rule of Civil Procedure 54, and Florida Statute Section 760.10(5).

DEMAND FOR RELIEF

WHEREFORE, Plaintiff KRISTEN ROHRER respectfully requests that the Court order the following:

(A) Grant a permanent injunction enjoining the Town of Davie and the Town of Davie's Fire Department, 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 gender;

(B) Order the Town of Davie to make Ms. Rohrer whole by compensating her for lost wages, benefits, including any diminished front pay, back pay with prejudgment interest and other remuneration for unlawful gender treatment by the Town of Davie.

(C) Award compensation for mental pain and suffering.

(D) Award Attorneys' fees pursuant to 42 U.S.C. §§ 1988 and 2000e-5(k), and other applicable federal statutes;

(E) Costs of this action;

(F) Issue a declaratory judgment that the acts, policies, practices, and procedures of Defendant complained of herein violated Plaintiff's rights under Title VII of the Civil Rights Act (42 U.S.C. §2000e);

(G) For actual damages in the amount to be determined according to proof;

(H) For consequential damages in an amount to be determined according to proof;

(I) For general damages in an amount to be determined according to general proof;

(J) For special damages in an amount to be determined according to proof;

(K) For exemplary, damages; For nominal damages; and For such other

(L) relief as this Court deems just and proper.

JURY DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all questions of fact raised by her Complaint and on all other issues so triable.

DATED this 2nd day of July, 2014.

Respectfully submitted,

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By _____
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By _____
Joshua M. Entin, Esquire
Fl. Bar No.

JURY DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all questions of fact raised by her Complaint and on all other issues so triable.

DATED this 3rd day of July, 2014.

Respectfully submitted,

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