Case: 1:17-cv-00082-SA-DAS Doc #: 1 Filed: 05/19/17 1 of 5 PageID #: 1

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF MISSISSIPPI ABERDEEN DIVISION

SARAH MCANALLY HEINKEL

PLAINTIFF

VERSUS

CAUSE NO. 1:17cv082-SA-DAS

YOKOHAMA TIRE MANUFACTURING MISSISSIPPI, LLC

DEFENDANT

JURY TRIAL DEMANDED

COMPLAINT

This is an action to recover actual and punitive damages for violation of anti-retaliation provisions of federal law and for violation of Mississippi public policy. The following facts support this action:

1.

Plaintiff SARAH McANALLY HEINKEL is an adult resident citizen of 247 Oakridge Circle, Columbus, MS 39705.

2.

Defendant YOKOHAMA TIRE MANUFACTURING MISSISSIPPI, LLC ("YTMM") is a Delaware limited liability company, operating in the State of Mississippi. Defendant may be served with process by service upon its registered agent, C T Corporation System, 645 Lakeland East Drive, Suite 101, Flowood, Mississippi 39232.

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3.

This Court has federal question jurisdiction under 28 U.S.C. § 1331, and civil rights jurisdiction under 28 U.S.C. § 1343, for a cause of action arising under Title VII of the Civil Rights Act of 1964, as amended. The Court has supplemental jurisdiction over Plaintiff's state law claims.

4.

On June 22, 2016, Plaintiff filed the EEOC charge attached hereto as Exhibit "A." Plaintiff has received the right-to-sue letter dated February 24, 2017, attached hereto as Exhibit "B." On July 27, 2016, Plaintiff filed a second EEOC charge attached hereto as Exhibit "C," and has received the right-to-sue letter dated February 24, 2017, attached hereto as Exhibit "D."

5.

After a history of good performance in other employment, Plaintiff was hired by Defendant as its environmental health and safety manager on or about March 3, 2014.

6.

On or about January 13, 2016, Plaintiff opposed illegal activity, by complaining that Defendant was discriminating against an employee because of pregnancy. Plaintiff's complaint was that Defendant had moved the employee to a less desirable work station because of her pregnancy. Plaintiff's complaint constituted opposition to a discriminatory practice and was, therefore, protected activity under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-3(a).

7.

After Plaintiff's initial complaint that Defendant had made a discriminatory move of the employee, Plaintiff subsequently complained that Defendant would not provide reasonable accommodations to the pregnant employee. This was also protected activity both under Title VII

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and also under the anti-opposition provisions of the Americans with Disabilities Act Amendments Act, 42 U.S.C. § 12203(a).

8.

Plaintiff's opposition to the unlawful discrimination against the pregnant employee followed Plaintiff's complaints about other illegal activity by Defendant. Specifically:

- (A) Plaintiff complained that Melissa Orman had covered up sexual harassment charges filed by a company employee against employee Joe Gallagher. Plaintiff's activity in this respect was also protected by the anti-retaliation provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-3(a).
- (B) Plaintiff had complained that Joe Gallagher, a company employee, had misappropriated company resources by utilizing those resources to pay prostitutes for Defendant's employees during an overseas trip. Plaintiff's complaints of this stealing of company funds constituted a complaint about criminal activity and was, thus, protected activity under the public policy of the state of Mississippi.

9.

As a proximate result of Plaintiff's opposition to discrimination against the pregnant employee on January 13, 2016, on March 29, 2016, Defendant gave Plaintiff a below-average performance rating and gave her a lower raise than other managers. Defendant then finally discharged Plaintiff on June 20, 2016.

10.

The "but for" cause of Plaintiff's discharge were her two complaints opposing discrimination against a pregnant employee, as protected by the anti-retaliation provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-3(a). The complaints described in paragraphs 8(A) and (B) above may have also been "but for" causes of Plaintiff's termination.

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11.

Since Plaintiff's discharge, Orman and Gallagher have both been discharged. Upon information and belief, the probable reason for their discharge was that the company had learned about the retaliatory and illegal behavior of Gallagher and Orman.

12.

Plaintiff has suffered lost income and mental anxiety and stress, and damage to reputation as a result of her wrongful discharge.

13.

Plaintiff, therefore, sues, alleging that Defendants are liable to Plaintiff for violation of the anti-retaliation provisions of civil rights laws of the United States, and for violation of the public policy of the State of Mississippi.

14.

Plaintiff's discharge was outrageous, such that punitive damages are due.

REQUEST FOR RELIEF

Plaintiff requests actual and punitive damages in an amount to be determined by a jury, for reinstatement, and for reasonable attorneys' fees, costs and expenses.

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RESPECTFULLY SUBMITTED, this the 19th day of May, 2017.

SARAH MCANALLY HEINKEL, Plaintiff

By: /s/ Jim Waide

Jim Waide, MS Bar No. 6857

waide@waidelaw.com

WAIDE & ASSOCIATES, P.A.

Post Office Box 1357 Tupelo, MS 38802-1357 (662) 842-7324 / Telephone (662) 842-8056 / Facsimile

ATTORNEYS FOR PLAINTIFF

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PAGE 03

EEOC Form 5 (11/09)							
CHARGE OF DISCRIMINATION	Charge	Presented To:	Agency(es) Charge No(s):			
This form is affected by the Privacy Act of 1974. See anclosed Privacy Act		FEPA	_ ,,				
Statement and other Information before completing this form,		EEOC	423	-2016-01708			
				and EEOC			
State or local Ago	ency, if any			3110 EGOC			
Name (indicate Mr., Ms., Mrs.)		Home Phone (Incl. Area	Code)	Date of Blrth			
Ms. Sarah Heinkel	ļ	(662) 386-92	97	08-26-1975			
Street Address City, State and ZIP Code							
1865 Taylor Thurston Road, Columbus, MS 39701							
Named is the Employer, Labor Organization, Employment Agency, Apprenticest Discriminated Against Me or Others. (If more than two, list under PARTICULAR	hip Committee, or SI ?\$ <i>below</i> .)	ate or Local Governme	ent Agenc	y That I Gelleve			
Name		No. Employees, Mombers	Phone f	No. (Include Area Cade)			
YOKOHOMA TIRE MANUFACTURING MS INC		500 or More	(6)	62) 854-4936			
· * ·	e and ZIP Code						
1 Yokohoma Blvd, West Point, MS 39701	RECE	VED	•				
Name	JUN Z Ž	No. Employabs, Members	Phone	No. (Include Area Code)			
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Street Address City, State	J.S. EC	C/J/N	<u>. </u>				
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- Complained about a protected activity made unlawful	hv Title VII in	regarde to are	annatio	- nlous			
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below average job performance rating and a lower wa	ge increase f	rom any other	manage	>r, ≥r,			
I believe I have been discriminated against in retaliati	ion in violatio	of Title VII of	The Civ	il Rights Act			
of 1964 as amended due to my confronting managem the pregnant employee and the Worker's Company	ient about pot	entially illegal a	ictions	concerning			
the pregnant employee and the Worker's Compensation claim. I have also questioned other unethical and illegal activities including hiring and pay practices.							
	-, p. de noce,						
		•					
I want this charge filed with both the FEOC and the State or local Agency, if any, I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.	NOTARY - When no	acessary for State and Lo	sel Agency	RA((virements			
I declare under penalty of perjury that the above is true and correct.	I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.			and that it is true to			
	SIGNATURE OF CO	MPLAINANT		·			
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Charging Party Signature.							
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EEOC Form 161-B (11/16)

Santa Ana, CA 92707

Tupelo, MS 38802

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

То:		Heinkel aylor Thurston Road bus, MS 39701	Fr	om:	Jackson Area Office 100 West Capitol Street Suite 338 Jackson, MS 39269	
		On behalf of person(s) aggrieved CONFIDENTIAL (29 CFR §1601				
EEO	C Charge	No.	EEOC Representative		Tele	phone No.
			Kimberly J. Knighten,			
423	-2016-0	1708	Enforcement Investigator			1) 948-8445
Nor	re to THI	PERSON AGGRIEVED:	(See	also t	he additional information end	closed with this form.)
Act (been of you	GINA): issued a our rece	This is your Notice of Right to a at your request. Your lawsuit u	ne Americans with Disabilities Act (A Sue, issued under Title VII, the ADA or under Title VII, the ADA or GINA must t to sue based on this charge will be los	GINA be file	based on the above-numbered in a federal or state cour	red charge. It has t <u>WITHIN 90 DAYS</u>
	X	More than 180 days have pas	ssed since the filing of this charge.			
			ssed since the filing of this charge, but histrative processing within 180 days fro			that the EEOC will
	X	The EEOC is terminating its	processing of this charge.			
		The EEOC will continue to pr	ocess this charge.			
90 da	Discrim ays after case:	you receive notice that we ha The EEOC is closing your ca	ADEA): You may sue under the ADEA ve completed action on the charge. In use. Therefore, your lawsuit under the this Notice. Otherwise, your right to see	this re	egard, the paragraph marke must be filed in federal or	d below applies to state court <u>WITHIN</u>
			andling of your ADEA case. However, state court under the ADEA at this tim		days have passed since the	filing of the charge,
in fe	deral or s	state court within 2 years (3 yea	e right to sue under the EPA (filing an Ears for willful violations) of the alleged EF 2 years (3 years) before you file suit	PA und	derpayment. This means tha	
if you	u file suit	, based on this charge, please	send a copy of your court complaint to t	his off	ice.	
			On behalf of th	e Con	nmission	
End	closures	's)	Wilma Scot Area Directo	•	mo Dott 3	Date Mailed)
cc:		Sr. HR Director	Jim Waide Waide & Associates, P.A. Attorneys & Counselors At Law P.O. Box 1357			

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PAGE 02

EEOC Form 5 (11/09)					
CHARGE OF DISCRIMINATION	Charge	Presented To:	Agericy(res) Charge No(s)		
This form is affected by the Privacy Act of 1974. See enclosed Privacy Act	الله الله	FEPA	,		
Statement and other information before completing this form		EEOC	423-2016-01961		
			and EEOC		
Slate or local Agen	icy, if any		810 5500		
Name (indicate Mr., Ms., Mrs.)		Home Phone (Incl. Area	a Code) Date of Birth		
Ms. Sarah Heinkel		(662) 386-92	297 08-26-1975		
1865 Taylor Thurston Road, Columbus, MS 39701	and ZIP Code				
Named is the Employer, Labor Organization, Employment Agancy, Apprenticeship Discriminated Against Me or Others. (If more than two, list under PARTICULARS	p Committee, or St S <i>below</i>)	ate or Local Governm	ent Agency That I Believe		
Name		No Employees, Mambers	Phone No. (Include Area Code		
YOKOHAMA TIRE MANUFACTURING MS		201 - 500	(662) 854-4600		
Street Address City. State at 1 Yokohama Blvd, West Point, MS 39773	and ZIP Code				
Name MECEIVED		No Employees, Members	Phone No Hindude Area Code		
<u>JUL 2 7 2016</u>					
U.S. EEOC/JAO	and ZIP Code				
DISCRIMINATION BASED ON (Check appropriate box(as).)		DATE(S) DISC	RIMINATION TOOK PLACE		
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OTHER (Specify) CONTINUE					
THE PARTICULARS ARE (if additional paper is needed, attach exira sheet(s)). On June 20, 2016, I was discharged. I was employed:	as an Enviro	nment Health a	and Safety Manager.		
My employer informed me that I was being discharged	l poor ĵob pe	rformance.	•		
I believe I have been discriminated against in retaliation of 1964 as amended inasmuch as:	on in violatio	л of Title VII of	The Civil Rights Act		
I recently filed a charge of discrimination (423 2016 01708) that is currently pending with the U.S. EEOC.					
cooperate fully with them in the processing of my charge in accordance with their	NOTARY . When a	ficessary for State and Lo	ocal Agency Requirements		
decists under conclused and the state of the	the pestrol my kn	I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT			
7-10 10 Caral ADTACL Charging Ranky Signature	SWORN TO BEFORE N	TO BEFORE ME THIS DATE			

EXHIBIT

EEOC Form 161-B (11/16)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To:	1865 T	Heinkel aylor Thurston Road bus, MS 39701		From:	Jackson Area Office 100 West Capitol Street Suite 338 Jackson, MS 39269		
[On behalf of person(s) aggrieved CONFIDENTIAL (29 CFR §1601					
EEO	C Charge	No.	EEOC Representative		Telephone No.		
			Kimberly J. Knighten,				
423	-2016-0	1961	Enforcement Investigato	r	(601) 948-8445		
		E PERSON AGGRIEVED:		•	the additional information enclosed with this or the Genetic Information Nondiscrimin	·	
Act (been of yo	GINA): issued a ur recei	This is your Notice of Right to at your request. Your lawsuit	Sue, issued under Title VII, the ADA under Title VII, the ADA or GINA mu	or GINA Ist be fil	A based on the above-numbered charge. It led in a federal or state court WITHIN 90 The time limit for filing suit based on a claim	has DAYS	
	X	More than 180 days have pa	ssed since the filing of this charge.				
			ssed since the filing of this charge, b nistrative processing within 180 days		e determined that it is unlikely that the EEO ne filing of this charge.	C will	
	X	The EEOC is terminating its	processing of this charge.				
		. The EEOC will continue to p	rocess this charge.				
90 da	Discrimays after case:	you receive notice that we ha	ive completed action on the charge.	In this r	ny time from 60 days after the charge was fi regard, the paragraph marked below appl A must be filed in federal or state court <u>V</u>	ies to	
	<u></u>				ased on the above-numbered charge will be		
	The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.						
in fed	deral or	state court within 2 years (3 years	ne right to sue under the EPA (filing a ars for willful violations) of the alleged 2 years (3 years) before you file s	I EPA un	charge is not required.) EPA suits must be inderpayment. This means that backpay durinot be collectible.	brought e for	
lf you	u file suit	t, based on this charge, please	send a copy of your court complaint	to this of	ffice.		
			On behalf o	f the Co	mmission		
			Wilm	ia G	jomo Destt 21241	17	
Enclosures(s)		(s)	Wilma So Area Dire		¹ (Date Mailbo)	
cc:		Stephanie Beaulac Sr. HR Director YOKOHAMA TIRE CORP. 1 McArthur Place Santa Ana, CA 92707	Jim Waide Waide & Associates, P.A. Attorneys & Counselors At Law P.O. Box 1357 Tupelo, MS 38802				

Case: 1:17-cv-00082-SA-PAS DOO #:15 5 FIRE D5/19/17:110fcb Page BA#DAS

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

purpose of initiating the civil de			HIS FORM.)	y, i, is required for the use of	and create of countries and
I. (a) PLAINTIFFS Sarah McAnally Heinkel			DEFENDANTS Yokohama Tire Manufacturing Mississippi, LLC		
(b) County of Residence of First Listed Plaintiff Lowndes (EXCEPT IN U.S. PLAINTIFF CASES) (c) Attorneys (Firm Name, Address, and Telephone Number) Jim Waide, Waide & Associates, P.A., P.O. Box 1357, Tupelo, MS - 662,842,7324			NOTE: IN LAND CO THE TRACT	of First Listed Defendant (IN U.S. PLAINTIFF CASES O DNDEMNATION CASES, USE TI OF LAND INVOLVED.	
II. BASIS OF JURISDI	CTION (Place an "X" in O	ne Box Only)		RINCIPAL PARTIES	(Place an "X" in One Box for Plaintif
☐ 1 U.S. Government Plaintiff	★ 3 Federal Question (U.S. Government I	Not a Party)		IF DEF 1 □ 1 Incorporated <i>or</i> Pri of Business In T	
☐ 2 U.S. Government Defendant	☐ 4 Diversity (Indicate Citizensh.)	ip of Parties in Item III)	Citizen of Another State	2 🗖 2 Incorporated and P of Business In A	
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IV. NATURE OF SUIT				Click here for: Nature of Sui	
CONTRACT ☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment	PERSONAL INJURY 310 Airplane 315 Airplane Product Liability 320 Assault, Libel &	PERSONAL INJURY 365 Personal Injury - Product Liability 367 Health Care/ Pharmaceutical Personal Injury Product Liability 368 Asbestos Personal Injury Product Liability 368 Asbestos Personal Injury Product Liability 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage 385 Property Damage 385 Property Damage 385 Property Damage 463 Alien Detainee 510 Motions to Vacate Sentence 530 General 535 Death Penalty Other: 540 Mandamus & Other 550 Civil Rights 555 Prison Condition 560 Civil Detainee - Conditions of Confinement	FORFEITURE/PENALTY 625 Drug Related Seizure of Property 21 USC 881 690 Other LABOR	BANKRUPTCY □ 422 Appeal 28 USC 158 □ 423 Withdrawal 28 USC 157 PROPERTY RIGHTS □ 820 Copyrights □ 830 Patent □ 840 Trademark SOCIAL SECURITY □ 861 HIA (1395ff) □ 862 Black Lung (923) □ 863 DIWC/DIWW (405(g)) □ 864 SSID Title XVI □ 865 RSI (405(g)) FEDERAL TAX SUITS □ 870 Taxes (U.S. Plaintiff or Defendant) □ 871 IRS—Third Party 26 USC 7609	OTHER STATUTES 375 False Claims Act 376 Qui Tam (31 USC 3729(a)) 400 State Reapportionment 410 Antitrust 430 Banks and Banking 450 Commerce 460 Deportation 470 Racketeer Influenced and Corrupt Organizations 480 Consumer Credit 490 Cable/Sat TV 850 Securities/Commodities/ Exchange 890 Other Statutory Actions 891 Agricultural Acts 893 Environmental Matters 895 Freedom of Information Act 896 Arbitration 899 Administrative Procedure Act/Review or Appeal of Agency Decision 950 Constitutionality of State Statutes
	Cite the U.S. Civil Sta 28 USC Sec 133 Brief description of ca This is an action CHECK IF THIS UNDER RULE 2	Appellate Court tute under which you are fi 1; 28 USC Sec 1343. tuse: to recover damages fo IS A CLASS ACTION 3, F.R.Cv.P.	(specify,	aliation provisions of fede CHECK YES only JURY DEMAND:	Litigation - Direct File aral law; MS public policy. if demanded in complaint:
DATE 05/19/2017		SIGNATURE OF ATTOR /S/ JIM WAIDE	RNEY OF RECORD	DOCKET NUMBER	
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