

**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.

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

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.

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.

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

EEOC Form 161-B (11/16)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Sarah Heinkel
1865 Taylor Thurston Road
Columbus, MS 39701

From: Jackson Area Office
100 West Capitol Street
Suite 338
Jackson, MS 39269

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No. 423-2016-01708
EEOC Representative Kimberly J. Knighten, Enforcement Investigator
Telephone No. (601) 948-8445

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

- X More than 180 days have passed since the filing of this charge.
Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.
X The EEOC is terminating its processing of this charge.
The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.
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.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

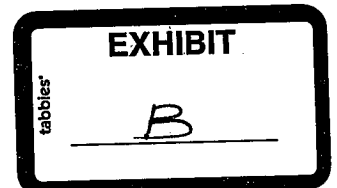
On behalf of the Commission

Wilma Scott, Area Director

2/24/17 (Date Mailed)

Enclosures(s)

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



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

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1865 Taylor Thurston Road
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100 West Capitol Street
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On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No. 423-2016-01961
EEOC Representative Kimberly J. Knighten, Enforcement Investigator
Telephone No. (601) 948-8445

(See also the additional information enclosed with this form.)

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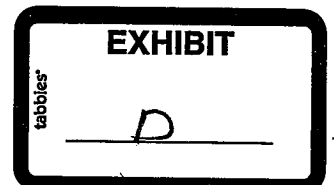
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Enclosures(s)

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



CIVIL COVER SHEET

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.)

I. (a) PLAINTIFFS
Sarah McAnally Heinkel
(b) County of Residence of First Listed Plaintiff Lowndes
(c) Attorneys (Firm Name, Address, and Telephone Number)
Jim Waide, Waide & Associates, P.A., P.O. Box 1357, Tupelo, MS 38802 - 662.842.7324

DEFENDANTS
Yokohama Tire Manufacturing Mississippi, LLC
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: Nature of Suit Code Descriptions.

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories and checkboxes.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC Sec 1331; 28 USC Sec 1343.
Brief description of cause:
This is an action to recover damages for violation of the anti-retaliation provisions of federal law; MS public policy.

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$
CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY
(See instructions): JUDGE DOCKET NUMBER

DATE 05/19/2017 SIGNATURE OF ATTORNEY OF RECORD /s/ JIM WAIDE

FOR OFFICE USE ONLY
RECEIPT # 1437531 AMOUNT \$400 APPLYING IFP JUDGE Ayccock MAG. JUDGE Sanders