

FILED

MAR - 1 2017

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

DAVID CREWS, CLERK
BY  Deputy

ELOIS B. SMITH

PLAINTIFF

V.

CAUSE NO.: 1:17CV35-SA-DAS

MISSISSIPPI STATE UNIVERSITY,
DR. REUBEN MOORE, DR. PAULA THREADGILL,
DR. LINDA MITCHELL, and JULIE RESTER

DEFENDANTS

COMPLAINT
(Jury Trial Demanded)

COMES NOW Plaintiff Elois B. Smith (hereinafter "Plaintiff"), by and through her attorney of record, and files this her *Complaint* for damages against Defendants MISSISSIPPI STATE UNIVERSITY, DR. REUBEN MOORE, DR. PAULA THREADGILL, DR. LINDA MITCHELL, and JULIE RESTER (hereinafter "Defendant MSU," "Defendant Dr. Moore," "Defendant Dr. Threadgill," "Defendant Dr. Mitchell," "Defendant Rester," or collectively "Defendants") and for cause would show unto the Court the following:

PARTIES

1. Plaintiff is an adult resident citizen of Lowndes County, Mississippi, residing at 400 Hemlock Street, Columbus, MS 39702.
2. Defendant MSU is a university within the State of Mississippi. MSU may be served with process by and through Mark E. Keenum, the President of Mississippi State University, at 75 B. S. Hood Drive, Mississippi State University, MS 39762.
3. Defendant Dr. Moore is an adult citizen of Mississippi, employed in MAFES Administration and as Interim Regional Director, and may be served with process at 804 Azalea Drive, Philadelphia, MS 39350. Moore's actions at all relevant times

as outlined herein occurred while he was acting within the scope of his employment on or about March 9, 2016.

4. Defendant Dr. Threadgill is an adult resident citizen of Mississippi, employed within MSU – ES Administration as Department Chair, and may be served with process at 97 Cow Creed Road, Starkville, MS 39759. Threadgill's actions at all relevant times as outlined herein occurred while she was acting within the scope of her employment on or about March 9, 2016.
5. Defendant Dr. Mitchell is an adult resident citizen of Mississippi, employed within MSU as Extension Professor and Regional Extension Coordinator, and may be served with process at 190 Bost North, No. 402, Mississippi State, MS 39762. Mitchell's actions at all relevant times as outlined herein occurred while she was acting within the scope of her employment on or about March 9, 2016.
6. Defendant Rester is an adult resident citizen of Mississippi, employed within MSU as Senior Human Resources Generalist, and may be served with process at 245 Barr Avenue, Starkville, MS 39759 (McArthur Hall, Room 150). Rester's actions at all relevant times as outlined herein occurred while she was acting within the scope of her employment on or about March 9, 2016.

JURISDICTION AND VENUE

7. This action is being brought pursuant to 28 U.S.C. §1331, 28 U.S.C. §1343(a)(3) and 42 U.S.C. §1983 and includes any and all federal law claims plead herein for which jurisdiction and venue are attached.

8. Venue is proper in the Northern District of Mississippi, pursuant to 28 U.S.C. §1391 since a substantial part of the events and omissions giving rise to this claim occurred in this judicial district.

FACTS

9. At all times material hereto, Defendants Dr. Moore, Dr. Threadgill, Dr. Mitchell, and Rester were employees of the Defendant MSU.
10. On October 1, 2014, Plaintiff, an African American woman, began her employment with Defendant MSU as a Family Consumer Science Extension Agent.
11. Since Plaintiff's employment with Defendant MSU, she has endured sexual harassment, hostility, and racial insensitivity from her peers and superiors within MSU. Plaintiff reported a claim for sexual harassment to the Human Resources Department, but received no response until approximately two (2) weeks later.
12. Additionally, during her employment, Defendants subjected Plaintiff to offensive racial remarks and slurs, such as "spook" and "nigger bitch." Moreover, Plaintiff began noticing that a majority of the African-American employees were terminated.
13. On or about January 6, 2016, Plaintiff met with Defendant Dr. Threadgill and another individual. During this meeting, Defendant Dr. Threadgill and the individual alleged that Plaintiff's behavior was unprofessional towards a County Extension Sponsor. Consequently, Plaintiff was disciplined via a "write-up" and placed on an eight (8) week administrative leave.
14. Plaintiff contacted the subject County Extension Sponsor regarding the allegations. The County Extension Sponsor denied any unprofessional behavior of

Plaintiff and submitted a statement regarding the same to the Equal Employment Opportunity Commission.

15. Thereafter, Plaintiff met with Defendants regarding Plaintiff's complaints of sexual harassment. During the meeting, Plaintiff was advised that her pay would increase as an incentive to cease all assertions by Plaintiff of sexual harassment. Subsequently, MSU management employees excluded Plaintiff from office planning meetings directly related to her position and instructed Plaintiff's co-workers not to associate with her.
16. On or about February 1, 2016, Plaintiff filed her initial charge of discrimination.
17. On or about March 9, 2016, Plaintiff met with Defendants Dr. Moore, Dr. Threadgill, Dr. Mitchell, and Rester regarding Plaintiff's employment. Named Defendants advised that they reviewed Plaintiff's job performance and it would be in the best interest of the university to terminate her employment. Further, Defendant Dr. Moore advised Plaintiff, "I do not want to hear anything you have to say, and you should turn in any MSU property within your possession."
18. Plaintiff received a termination letter that indicated "[i]t is in the best interest of MSU to terminate your employment; Reason being: unprofessional behavior.
19. On March 21, 2016, Plaintiff filed her 2nd charge of discrimination based on retaliation.
20. Plaintiff was discriminated and retaliated against in violation of Title VII of the Civil Rights Act of 1964, as amended, because she engaged in the protected activity of voicing and filing a discrimination complaint with the Equal Employment

Opportunity Commission. As a result of filing discrimination charges against Defendants, Plaintiff's employment was terminated.

ADMINISTRATIVE PROCEDURE

21. On or about February 1st and March 21st, 2016, Plaintiff filed charges of discrimination, satisfying the requirements of 42 U.S.C. Section 2000(e) with the EEOC in Jackson, Mississippi. Such charge was filed within one hundred and eighty (180) days after the last unlawful employment practice occurred.
22. The EEOC conducted an investigation on both claims. On December 30, 2016, the EEOC issued a determination. According to the determination, "the EEOC is unable to conclude that the information obtained establishes a violation of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge."
23. The *Complaint* is being filed within ninety (90) days of the Plaintiff's receipt of the Notice of Right to Sue. Plaintiff has complied with all statutory and administrative prerequisite to filing suit.

CAUSE OF ACTION

COUNT I SEX DISCRIMINATION

24. Plaintiff re-alleges all prior paragraphs of the *Complaint* as if set out herein in full.
25. Plaintiff is a member of a protected class who has been consistently subjected to actions creating a hostile working environment for Plaintiff because of her gender and/or sex in violation of Title VII of the Civil Rights Act of 1964.

26. The acts and violations of Defendants resulted in a knowing, willful, and intentional violation of Plaintiff's rights guaranteed under Title VII of the Civil Rights Act of 1964. Such unlawful employment practices violate 4 U.S.C. Section 2000e-3.
27. As a direct and proximate result of Defendants unlawful and discriminatory conduct toward Plaintiff, Plaintiff has lost wages and benefits and has sustained other pecuniary loss.
28. Defendants' discriminatory practices, insults, contempt, and disdain have been demeaning to Plaintiff and have caused her to suffer deep pain, humiliation, anxiety, and emotional distress.
29. The unlawful actions of Defendants complained of above were intentional, malicious, and taken in reckless disregard of the statutory rights of Plaintiff.

COUNT II
RACE DISCRIMINATION

30. Plaintiff re-alleges all prior paragraphs of the *Complaint* as if set out herein in full.
31. Plaintiff is a member of a protected class who has been consistently subjected to actions creating a hostile working environment for Plaintiff because of her race in violation of Title VII of the Civil Rights Act of 1964.
32. The acts and violations of Defendants resulted in a knowing, willful, and intentional violation of Plaintiff's rights guaranteed under Title VII of the Civil Rights Act of 1964. Such unlawful employment practices violate 42 U.S.C. Section 2000e-3.
33. As a direct and proximate result of Defendants unlawful and discriminatory conduct toward Plaintiff, Plaintiff has lost wages and benefits and sustained other pecuniary loss.

34. Defendants' discriminatory practices, insults, contempt, and disdain have been demeaning to Plaintiff and have caused her to suffer deep pain, humiliation, anxiety, and emotional distress.

35. The unlawful actions of Defendants complained of above were intentional, malicious, and taken in reckless disregard of the statutory rights of Plaintiff.

COUNT III
RETALIATORY DISCHARGE

36. Plaintiff re-alleges all prior paragraphs of the *Complaint* as if set out herein in full.

37. Plaintiff engaged in activity protected under Title VII of the Civil Rights Act of 1964. Defendants and agents and employees of Defendants, retaliated against Plaintiff after she made reports of discrimination to the EEOC. Plaintiff was retaliated against by unjustly subjecting her to unjust scrutiny, exclusions, and termination.

38. Defendants have no legitimate reason for any such acts.

39. Defendants' actions demonstrate a direct and causal connection between Plaintiff invoking her constitutional rights and the resulting termination by her employer.

40. Such unlawful practices violate 42 U.S.C. Section 2000e-3.

COUNT IV
CONSTITUTIONAL VIOLATIONS UNDER 42 U.S.C. SECTION 1983

41. Plaintiff re-alleges all prior paragraphs of the *Complaint* as if set out herein in full.

42. Plaintiff was subjected to adverse and hostile employment conditions at Mississippi State University due to the actions of Defendants and agents and employees thereof.

43. Defendants unreasonably terminated Plaintiff from her position for unlawful reasons and motivations.

44. The actions of Defendants violate 42 U.S.C Section 1983 in violation of Plaintiff's rights secured and guaranteed to her by the 1st and 14th Amendments of the United States Constitution. Because of this violation, Plaintiff has been deprived of federal rights under the color of state law.

45. By Defendants' actions, it shows a direct and casual connection between Plaintiff invoking her constitutional rights and the resulting termination by her employer. Such unlawful employment practices violate 42 U.S.C. Section 1983, Section 1981, Title VII of the Civil Rights Act of 1964, as amended, as well as 42 U.S.C. Section 2000e, et. seq.

DAMAGES

46. As a consequence of the foregoing misconduct of Defendants, Plaintiff sustained economic damages, pain and suffering, great mental stress, depression, insomnia, shock, and humiliation.

47. As a consequence of the foregoing conduct of Defendants, Plaintiff has damages in an amount exceeding the jurisdictional requirements of the Court.

RELIEF

48. Plaintiff requests that the Court issue the following relief:

- a. Enter declaratory relief declaring that Defendants have engaged in sex discrimination, race discrimination, retaliation, and constitutional violations under 42 U.S.C. Section 1983;
- b. Award Plaintiff compensatory and punitive damages for all the mentioned causes of action in an amount to be determined by a jury of her peers;
- c. Award Plaintiff attorney's fees, cost and expenses of litigation; and

d. Award such other relief to which Plaintiff may be entitled to under law.

WHEREFORE, PREMISES CONSIDERED, Plaintiff demands judgment against Defendants in an amount exceeding the jurisdictional requirements of this Court, all together with Court costs, including attorney's fees, plus pre and post judgment interest, and for any other relief which this Court deems just and proper.

Respectfully submitted, this the 2nd day of February, 2017.

ELOIS B. SMITH, PLAINTIFF

BY: Carlos E. Moore
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