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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA

3:12 cv 811

KARINA M. CRUZ,

Plaintiff,

vs.

ALLSTATE INSURANCE COMPANY.

Defendants.

COMPLAINT

AND

DEMAND FOR A JURY TRIAL

Now comes the Plaintiff and, complaining of the acts of the Defendant, says this:

SUMMARY

1. The Plaintiff was sexually harassed because she is a woman. The Plaintiff was also retaliated against for complaining about the sexual harassment she experienced. The Plaintiff was then forced to resign because she no longer felt safe working for the Defendant because the Defendant's management failed to stop the sexual harassment and retaliatory conduct.

JURISDICTION AND VENUE

2. The Plaintiff is asserting claims arising under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq.
3. A substantial number of the events giving rise to this action occurred in and around the City of Charlotte, North Carolina.
4. Among other things, the Defendant sells auto, property, life, and commercial insurance policies.
5. At all times relevant, the Defendant engaged in interstate commerce by, among other things, selling to North Carolina residents insurance policies that were written in Illinois and other states and by using goods and services in North Carolina that were purchased in other states.
6. At all times relevant to this action, the Defendant was an employer within the meaning of 42 U.S.C. § 2000e(b) and employed the Plaintiff within the meaning of 42 U.S.C. § 2000e(f).

7. The Plaintiff is an adult woman. At all times relevant, she resided in Concord, North Carolina.
8. The Defendant employed the Plaintiff from May 13, 2010 to June 21, 2011 in a direct sales position. Her workstation was located at the Defendant's direct sales offices on McCullough Drive in Charlotte, North Carolina.
9. At all times relevant, the Defendant issued the Plaintiff W-2 forms that identify the employer as "Allstate Insurance Company Human Resources Support Team 51 West Higgins Road, STE TGA, South Barrington IL, 60010" and Employer Identification Number 36-0719665.
10. At all times relevant, the Defendant issued the Plaintiff paychecks in the name of the Allstate Insurance Company, 2775 Sanders Road, Northbrook, IL, 60062.
11. The Allstate website identifies Thomas J. Wilson as the chairman, president, and chief executive officer of the Allstate Insurance Company and states that the corporate headquarters are located at 2775 Sanders Road, Northbrook, IL, 60062.

12. The Defendant employed more than five hundred persons in each calendar week of 2010.
13. The Defendant employed more than five hundred persons in each calendar week of 2011.
14. Within 180 days of the conduct complained of, the Plaintiff filed a Charge of Discrimination with the United State Equal Employment Opportunity Commission.
15. The Defendant received a copy of the Plaintiff's Charge and has actual notice of the allegations therein.
16. On September 12, 2012, the United States Equal Opportunity Commission issued the Plaintiff a "Right-to-Sue Letter" and the Plaintiff's attorney received it three days later.

FACTUAL ALLEGATIONS

17. Allstate also employed the Plaintiff's husband as a direct sales representative.

18. Beginning in October, 2010, a male member of the Plaintiff's sales team began sexually harassing her by making unwanted sexual advances and by accosting her in a sexual manner in the parking lot adjacent to the Defendant's direct sales offices on McCullough Drive in Charlotte, North Carolina.
19. The Plaintiff complained to her manager who promised to take care of it. Instead, he too began to sexually harass and threaten the Plaintiff.
20. In November, 2010, the Plaintiff complained to the Defendant's Human Resources Representatives who also promised to take of it. However, the Plaintiff's manager continued to sexually harass her.
21. The threats and harassment became worse. The Plaintiff's manager told her that if she complained to Human Resources, he would make her life so impossible that she would have to quit. He told her that he had done it before to another woman and that the Plaintiff should just quit now.
22. In January, 2011, the Plaintiff reported her manager's sexual harassing and threatening conduct to the division manager. In response, the division manager moved the Plaintiff's desk 10 feet and assigned her to another team.

23. In January, 2011, the Plaintiff's husband was assigned to the manager who was sexually harassing and threatening the Plaintiff. This manager made many false accusations against the Plaintiff's husband in retaliation for the Plaintiff's complaints about the manager's conduct toward the Plaintiff.
24. In response, the manager who was sexually harassing and threatening the Plaintiff began leaving pornographic magazines on her desk. The Plaintiff reported this to the Defendant's Human Resources department.
25. In February, 2011, the manager who was sexually harassing and threatening the Plaintiff left a condom on her desk and started following her around the building.
26. The Plaintiff reported this sexually harassing and threatening conduct to the Defendant's Human Resources representatives who thought it was funny.
27. In April, 2011, the manager who was sexually harassing and threatening the Plaintiff sent to ten of the Plaintiff's coworkers a pornographic email about the Plaintiff. He used the email address: "alroiovivo@live.com."

28. Shortly thereafter, the manager who was sexually harassing and threatening the Plaintiff used the Plaintiff's email address to fabricate an email that said insulting things about the manager. He falsely accused the Plaintiff of sending the email.
29. The Defendant's Human Resources representatives confronted the Plaintiff with the fabricated email and she denied sending it.
30. The Plaintiff's husband proved to the Human Resources representatives that it was possible for someone to use the corporate Outlook email system to create and send an email from someone else's email address.
31. In May, 2011, Human Resources representatives told the Plaintiff that they had found out who had actually sent the fabricated email and that the Plaintiff had been cleared. The Human Resources representative told the Plaintiff that the investigation was going to continue because they wanted to be prepared for a lawsuit.
32. On June 20, 2011, the manager who sexually harassed and threatened the Plaintiff sent to thirty six co-workers another pornographic and threatening email about the Plaintiff.

33. The Plaintiff saw the email on June 21, 2011 and immediately reported it to the Defendant's Human Resources representatives.
34. The Human Resources representatives were not concerned.
35. The Plaintiff resigned because she no longer felt safe working at Allstate.
36. Male employees in the Plaintiff's department were treated substantially better than the Plaintiff.
37. Male employees in the Plaintiff's department were not sexually harassed or threatened.
38. The Defendant is vicariously liable for the discriminatory, retaliatory, and otherwise unlawful conduct of its managers.
39. The Defendant's discriminatory, retaliatory, and otherwise unlawful conduct caused the Plaintiff great economic loss, emotional pain, inconvenience, and loss of enjoyment of life.

40. During her employment, the Defendant paid the Plaintiff a salary and sales commissions. The Plaintiff lost the salary and sales commissions when the Defendant wrongfully ended her employment.
41. During her employment with the Defendant, the Plaintiff was covered by health insurance provided by the Defendant. The Plaintiff lost this coverage when the Defendant wrongfully ended her employment.
42. During her employment with the Defendant, the Plaintiff was covered by life insurance provided by the Defendant. The Plaintiff lost this coverage when the Defendant wrongfully ended her employment.
43. During her employment with the Defendant, the Plaintiff was covered by disability insurance provided by the Defendant. The Plaintiff lost this coverage when the Defendant wrongfully ended her employment.
44. During her employment with the Defendant, the Defendant provided the Plaintiff with a retirement savings plan. The Plaintiff lost her ability to participate in this plan when the Defendant wrongfully ended her employment.

CLAIM FOR RELIEF
DISCRIMINATION AND RETALIATION

45. All preceding paragraphs are incorporated herein.
46. The Defendant violated Title VII of the Civil Rights Act of 1964, as amended, by illegally discriminating against the Plaintiff in the terms and conditions of her employment because the Plaintiff is a woman.
47. The Defendant also violated Title VII of the Civil Rights Act of 1964, as amended, by retaliating against the Plaintiff because she complained about the sexual harassment and discrimination she experienced.
48. The Defendant is vicariously liable for the discriminatory, retaliatory, and otherwise unlawful conduct of its managers.
49. As a direct and proximate result of the Defendant's violations of the law the Plaintiff has in the past and will in the future suffer adverse employment effects, loss of income and employment status, benefits, and other emoluments of employment.

50. As a direct and proximate result of the Defendant's violations of the law the Plaintiff has in the past and will in the future suffer emotional pain, anguish, embarrassment, humiliation, inconvenience, loss of enjoyment of life, and other non-pecuniary losses.
51. Because the Defendant violated Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, the Plaintiff is entitled to recover from the Defendant back pay and benefits and front pay or other equitable relief.
52. Because the Defendant violated Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, the Plaintiff is also entitled to recover compensatory damages for pecuniary losses, inconvenience, emotional pain, loss of enjoyment of life, and other non-pecuniary losses.
53. The Defendant's violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, justifies an award of punitive damages because the actions of the Defendant's managers were malicious or recklessly indifferent to the Plaintiff's federally protected rights.

PRAYER FOR RELIEF

Wherefore, the Plaintiff prays the court:

1. That the court declare the Defendant to be in violation of the law;
2. That the court enjoin the Defendant from further violations of the law;
3. That the Plaintiff have and recover from the Defendant back pay, front pay, or other equitable relief as allowed by law;
4. That the Plaintiff have and recover from the Defendant compensatory and punitive damages as allowed by law;
5. That the Plaintiff have and recover from the Defendant all pre-judgment and post-judgment interest allowed by law;
6. That the Plaintiff have and recover from the Defendant attorney fees as allowed by law;
7. That the costs of this action be taxed against the Defendant;

8. That the Plaintiff be granted a trial by jury on all issues so triable; and
9. That the Plaintiff be granted such other and further relief as the court may deem just and proper.

This, the 8th day of December, 2012.

/s/ Stephen A. Boyce
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