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EJG

3RD JUDICIAL DISTRICT COURT
DOÑA ANA COUNTY NM
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4/10/2014 8:40:43 AM
NORMAN E OSBORNE
DISTRICT COURT CLERK

STATE OF NEW MEXICO
IN THE THIRD JUDICIAL DISTRICT COURT
DONA ANA COUNTY

ROBIN HOWZELL,

Plaintiff

NO. D-307-CV-2014-00677
JUDGE: _____

vs.

ALLSTATE INSURANCE COMPANY,

Defendant.

**PLAINTIFF'S ORIGINAL COMPLAINT FOR RACE DISCRIMINATION,
WRONGFUL TERMINATION, RETALIATORY DISCHARGE, VIOLATIONS OF
THE NEW MEXICO HUMAN RIGHTS ACT and APPEAL FROM ORDER OF
NONDETERMINATION**

COMES NOW, ROBIN HOWZELL ("Howzell"), Plaintiff, complaining of ALLSTATE INSURANCE COMPANY ("Allstate"), Defendant, and files this Plaintiff's Original Complaint for Race Discrimination, Wrongful Termination, Retaliatory Discharge, Violations of the New Mexico Human Rights Act and Appeal from Order of Nondetermination and for cause of action would show as follows:

**I.
PARTIES**

1.1 Plaintiff Howzell is a resident of Las Cruces, New Mexico.

1.2 Defendant Allstate is a for-profit corporation and is the largest publicly held personal lines property and casualty insurer in America. This Defendant may be served with process by delivering a copy of Plaintiff's Original Complaint to its Chairman, President and Chief Executive Officer, Thomas J. Wilson, through commercial courier

**PLAINTIFF'S ORIGINAL COMPLAINT FOR RACE DISCRIMINATION, WRONGFUL TERMINATION, RETALIATORY
DISCHARGE, VIOLATIONS OF THE NEW MEXICO HUMAN RIGHTS ACT and APPEAL FROM ORDER OF
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EXHIBIT

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service, at 2775 Sanders Road, Northbrook, IL 60062, as allowed by Rule 1-004 (E) (3) NMRA.

II. JURISDICTION AND VENUE

2.1 This Court has subject matter jurisdiction over this case.

2.2 Venue is proper in Dona Ana County, New Mexico because the acts of discrimination, wrongful termination, and other employment practices occurred in Dona Ana County.

III. FACTUAL BACKGROUND

3.1 Robin Howzell was hired by Allstate on March 27, 2013 as a Customer Service Specialist (CSS) at the Allstate Call Center located in Las Cruces, New Mexico. Howzell quickly became the highest achieving CSS and was featured in the company newsletter, the Claims Compass Journal, as outstanding CSS until September 16, 2013 when she was wrongfully terminated. Howzell worked hard and she was proud of her accomplishments as an employee of Allstate.

3.2 As an employee of Allstate she received many accolades from her trainers and she successfully graduated from the training environment to the production floor.

3.3 A situation developed that had never been discussed nor addressed in the six weeks of training. The Team Leader, Britney Millet, and the Team Mentor, Kristen Kyna Santiago, stated that Howzell's "tone of voice" was "too extreme." This style of abuse continued on a weekly basis.

3.4 Knowing that the calls were being monitored, Howzell remained professional at all times and focused on serving each customer fairly. Although Howzell was receiving high praise for her work and was the highest achieving CSS at the site, the criticisms escalated. She was consistently admonished that her tone was "too harsh" with customers. Howzell was asked to "change the way you speak" by her team leader and team mentor. Howzell asked if they were referring to the fact that she sounded "black" because they had mentioned to Howzell that she did not talk or sound like the "other women". The other women were not black women.

3.5 Howzell never made any references to anyone else's ethnicity. Her voice had become a very contentious issue and Howzell reminded Millet that in the six weeks of training and dozens of "mock" phone calls, she was complimented routinely for her diction, tone, and tact.

3.6 Howzell was then told that she had ended a call by "hanging up" on a customer. Howzell explained that the call had been dropped. This was an issue that had been occurring on her telephone system and she was advised that it had been remedied. She had been documenting each instance and this time she had no alternative but to assist the next waiting customer.

3.7 Howzell was removed from the phone and her Team Lead, Britney Millet, the Frontline Performance Leader (FPL), Jorge Guajardo, and a person from Human Resources told her there was nothing else needed and was told not to worry about anything.

3.8 The next day she was removed again from the phone by Millet, taken to an office where Millet and an unidentified woman told her she was terminated.

3.9 When Howzell kept asking Millet to give her a reason for her termination, Millet simply responded by telling Howzell that her "conduct was unacceptable". When Howzell again asked "what type of conduct are you talking about?" Millet did not respond.

3.10 Howzell believes that the reasons given for her termination were a pretext for the real reason which is race discrimination.

IV. CAUSES OF ACTION AGAINST ALLSTATE

4.1 The actions of Allstate, by and through its managers, constitute race discrimination, wrongful termination, retaliatory discharge and violations of the New Mexico Human Rights Act.

4.2 The actions of Allstate, by and through its managers, amount to intentional race discrimination against Howzell because she is an African-American.

4.3 The foregoing conduct by Allstate and its managers, Britney Millet and Kristen Kyna Santiago, acting in the course and scope of their management authority for Allstate, amounts to wrongful termination and retaliatory discharge. The conduct of Allstate, Britney Millet, and Kristen Kyna Santiago, violates the New Mexico Human Rights Act and as a consequence violates the public policy of the State of New Mexico.

V.
DAMAGES

5.1 As a result of Allstate's conduct, Howzell is entitled to recover damages for lost wages, both in the past and in the future; lost benefits, both in the past and in the future; and emotional distress, both in the past and in the future; all consequences of Allstate's violations of the New Mexico Human Rights Act, race discrimination, wrongful termination, and retaliatory discharge.

5.2 As a result of the wrongful termination and retaliatory discharge, Howzell seeks punitive damages to punish Allstate for its conduct.

VI.
EXHAUSTION OF ADMINISTRATIVE REMEDIES

6.1 Less than 300 days after the last discriminatory act hereinbefore alleged, Howzell filed a charge of discrimination with the Human Rights Division of the New Mexico Department of Labor.

6.2 Thereafter, the Director of the Human Rights Division issued a document entitled "Order of Nondetermination", notifying Howzell of her right to appeal such order by filing a notice of appeal in the appropriate District Court.

6.3 This suit was filed on or before the 90th day after service of the Order of Nondetermination, in accordance with NMSA 1978 Section 28-1-13(A) (2005).

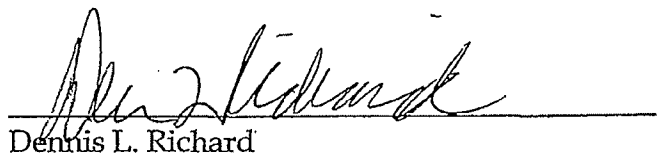
VII.
PRE-JUDGMENT AND POST-JUDGMENT INTEREST

7.1 Plaintiff seeks pre-judgment and post-judgment interest as allowed by law.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendant be cited to appear and answer herein, that this cause be set down for trial, and that Plaintiff recover judgment of and from the Defendant for her actual damages and punitive damages in such amount as the evidence may show and the jury may determine to be proper, together with pre-judgment interest, post-judgment interest, costs of suit, and such other and further relief to which Plaintiff may show herself to be justly entitled.

Respectfully submitted,



Dennis L. Richard

SBN: 4841

LAW OFFICE OF DENNIS L. RICHARD

4171 North Mesa, Suite B-201

El Paso, TX 79902

Telephone: (915) 533-2211

Telecopier: (915) 533-2244

Dated: April 9, 2014.

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JURY DEMAND

Plaintiff, through her undersigned attorney, demands trial by a twelve person jury
of all issues triable of right by jury and hereby tenders the sum of \$300.00 for jury fee.

Respectfully submitted,

/S/ Dennis L. Richard
Dennis L. Richard
SBN: 4841
LAW OFFICE OF DENNIS L. RICHARD
4171 North Mesa, Suite B-201
El Paso, TX 79902
Telephone: (915) 533-2211
Telecopier: (915) 533-2244

Dated: April 10, 2014.

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