

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

HEATHER HILLIARD

versus

PARISH OF JEFFERSON

**** ** ** ** ****

*** CIVIL ACTION
* NO. 2:13-cv-171
*
* JUDGE
*
* MAGISTRATE
* JURY TRIAL DEMANDED**

**COMPLAINT: SEXUAL HARASSMENT/HOSTILE WORK ENVIRONMENT
AND RETALIATION; EQUAL PAY ACT VIOLATION**

This Complaint is brought by Heather Hilliard, a female of the full age of majority and a resident of the parish of Jefferson. It is an action for damages and injunctive relief for violation of civil rights secured to the Plaintiff by Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.* (hereafter, Title VII) and also a willful violation of Sect. 16(b) of the Fair Labor Standards Act of 1938, 52 Stat. 1060; 29 U.S.C. § 201 *et seq.*, as amended by the Equal Pay Act, 77 Stat. 56; 29 U.S.C. § 206(d) (hereafter, the Act). Jurisdiction is conferred upon this Court by 42 U.S.C. § 2000e-5(f) and also by the Act.

JURISDICTION AND VENUE

1. Plaintiff has complied fully with all prerequisites to jurisdiction in this Court under Title VII. Jurisdiction of this Court is proper under § 2000e-5(f)(3) of Title VII, 42 U.S.C. § 2000e-5(f)(3). Jurisdiction of the claim under La. R.S. 23:332 *et seq.* and other state law is invoked pursuant to the diversity jurisdiction of the Court. The amount in controversy exceeds \$50,000.
2. As the unlawful employment practices complained of herein occurred within the Eastern District of Louisiana, venue is proper in this District pursuant to § 706(f)(3) of Title VII, 42 U.S.C. § 2000e-5(f)(3).

PARTIES

3. Plaintiff was employed as a senior administrator in overall charge of emergency preparedness by the Parish of Jefferson for over a year, until the involuntary termination of her employment on or about May 24th, 2012.

4. Defendant, the Parish of Jefferson, is a political subdivision of the State of Louisiana. Jefferson Parish lies wholly within the Eastern District.

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

5. Plaintiff was hired as Senior Administrative Assistant for broad areas of public safety including fire, homeland security and disaster relief in Jefferson Parish on December 13, 2010. Her official title was Chief Administrative Assistant for Public Safety; as such she was regarded as a senior administrator. She replaced Deano Bonnano in the position and assumed additional responsibilities. When she came to Jefferson she was a published Adjunct Professor at Tulane University in public safety administration and one of only 1500 certified public safety administrators in the world. Her immediate job responsibilities included oversight of the Departments of Emergency Management, Community Justice Agency, Office of Juvenile Services, Fire Departments, Environmental Affairs, the Office of Telecommunications, oil spill response and recovery, homeland security, preparedness and response, court-appointed community service projects, and various other department activities which later included Library Services, Personnel, and Vietnamese and Hispanic Outreach.

6. Plaintiff worked well and to the satisfaction of Parish President John F. Young (John Young), until she complained about constant and humiliating on-the-job sexual harassment she received from her direct supervisor, Richard Hart.

7. Richard Hart (Hart) was hired on January 12, 2011 by Jefferson Parish as its Deputy Chief Operating Officer. As Deputy Chief Operating Officer, Hart occupied the third highest and most powerful position in Jefferson Parish government. He worked under the direct supervision of R. Christopher Cox (Christopher or Chris Cox), Chief Operating Officer who in turn was directly responsible to Parish President John Young. Richard Hart was then and, on information and belief remains, a staunch political supporter and personal friend of John Young.

8. In February 2011 Hart began harassing Plaintiff. He habitually used sexually offensive language and made vulgar comments. Plaintiff asked him to stop his harassing conduct numerous times over the next several months, but he persisted, and even increased his sexually offensive conduct.

9. Plaintiff complained both in person and via email and in writing about Richard Hart's repeated gender related insults and actions. At first, beginning in March 2011, she complained in person to Hart's supervisor Chris Cox and when that proved fruitless, to Ms. Peggy Barton, Director of Human Resources, the Parish attorney and to others. At all times pertinent hereto Jefferson Parish maintained no written harassment policy which applied to senior administrators.

10. Plaintiff followed up her verbal protests with written complaints to Chris Cox on March 16, 2011, to Deborah Foshee on March 21, 25th and 29th; to Chris Cox on June 20, August 9 and 12th; again to Deborah Foshee on August 13, 18, 19th; again to Deborah Foshee October 21; to Assistant Parish Attorney Ross Buckley to request a grievance process and again to Deborah Foshee on November 20 and 2 December 2011.

11. In June of 2012 John Young made the decision to remove the oversight of the Jefferson Parish Department of Emergency Management from Ms. Hilliard and give it to Richard Hart.

This action not only diminished Plaintiff's job responsibilities in a significant way, but also obliged Plaintiff to work for, and report directly to, Richard Hart--her tormentor.

12. Finally, on or about November, 2011 Peggy Barton, Director of Human Resources, determined that the Parish Risk Management Department should and would conduct an investigation into Plaintiff's complaints. Accordingly, DMM & Associates, LLC (DMM) was hired by William Fortenberry, Director of Risk Management, to investigate the complaints.

13. On Monday December 12, 2011 Christopher Cox, Chief Operating Officer of the Parish informed DMM that the investigation "would be handled internally" and DMM's services were no longer needed. But on Friday, December 16 Deborah Foshee, Parish Attorney, contacted DMM to re-engage their services for the investigation.

14. The above referenced investigation involved interviewing twenty-one witnesses. Most of the witnesses corroborated Plaintiff's complaints of sexual harassment against Richard Hart. The witnesses characterized Hart's characteristic behavior as demeaning and rude, often diminishing the authority of female managers and supervisors by directing questions to their male subordinates. The witnesses expressed a fear of Hart because they believed that he carried a gun at work. More specifically they described Hart making inappropriate hand gestures such as "jerking off" when belittling a situation, and referring to an attractive Jefferson Parish female employee as "princess".

15. The report, which was rendered on Friday, February 10, 2012, concluded that Richard Hart violated Jefferson Parish Government Policy No. 2.02 Section 2 (8/09/96) Workplace Harassment, and the report found that Hart's gender harassment was "systematic," that his approach to dealing with employees consistently demonstrated retaliatory reactions. The

investigation concluded with the recommendation that Hart should be terminated or allowed to resign.

16. Hart resigned two days after the report was rendered, on Sunday, February 12, 2012. The report was immediately given to Parish President Young, but Young publically called Hart's resignation "a tremendous loss to the parish", adding "Richard Hart has been integral to the reform efforts undertaken during the first year of this administration. I am disappointed to lose his vision, energy and expertise."

17. On March 1, 2012 Plaintiff received her first unclassified employee performance evaluation from Christopher Cox. Plaintiff received "needs improvement" in four out of five required performance factors. In the comments, Plaintiff was accused of failing to comprehend her managerial role in supporting her directors rather than inhibiting and supplanting them. She was also accused of frequently ignoring guidance and directions, of failing to listen, and of belittling and chastising other directors. The comments concluded that Plaintiff needed instruction and training on team-building and interpersonal skills.

18. On May 24, 2012 Plaintiff was terminated from all employment with Jefferson Parish. Plaintiff was informed at her exit interview simply that she "wasn't working out." John Young was initially present for the meeting, but walked out of the meeting without speaking. No other explanation was given for Plaintiff's termination until Jefferson Parish replied to a request for information from the Plaintiff.

19. All explanations which have been offered by Jefferson Parish and John Young for her termination are pretextual; the true reason Plaintiff was terminated was in retaliation for her complaining about John Young's good friend and political supporter Richard Hart.

20 As a direct result of Hart's sexual harassment of Plaintiff and John Young's retaliatory firing of Plaintiff, Plaintiff has suffered the harms and losses set forth with more particularity below at paragraph 30.

*COUNT ONE: HOSTILE WORK ENVIRONMENT
IN VIOLATION OF TITLE VII AND STATE LAW*

21. Plaintiff was harassed by Richard Hart because of her gender. Defendant Jefferson Parish is responsible for the harassing conduct in part because it failed promptly to investigate, and when it did investigate, failed to protect Plaintiff against retaliation perpetrated by John Young for whom it is legally responsible.

22. Hart's harassment of Plaintiff was both severe and pervasive. His harassment of Plaintiff most often happened on a daily basis, and never less than on a weekly basis. The harassment was conducted by her direct supervisor. It frequently involved humiliating actions and words which intimidated and ridiculed Plaintiff; occasionally Hart's harassment became physically threatening largely because of Hart's reputation for carrying concealed firearms at work.

23. Plaintiff reported Hart's harassment and abuse of her numerous times orally and in writing to the Parish Human Resources Director as well as to other senior members of Jefferson Parish government. In addition, Hart's harassment of Plaintiff was so open and obvious that Defendant should have known of it in any case.

24. The remedial action taken by Defendant resulted in a factual finding of gender harassment against Richard Hart, but the investigation was not prompt, occurring as it did at least six months after Plaintiff had properly reported the problem. It was also ineffective because shortly after the investigative report was rendered Plaintiff suffered retaliation including adverse job evaluations and termination.

COUNT TWO: RETALIATION IN VIOLATION OF TITLE VII AND STATE LAW

25. Plaintiff, in good faith, protested gender harassment which was violative of Title VII and of State law.

26. As a direct and immediate result of Plaintiff opposing practices made unlawful by Federal and State law, her job performance was unfairly evaluated and she was soon terminated, at least in part, for pretextual reasons. Plaintiff occupied a senior administrative position in Jefferson Parish government and John Young's treatment of her could well dissuade reasonable workers from making or supporting a charge of discrimination.

COUNT THREE: VIOLATION OF THE EQUAL PAY ACT

27. Plaintiff was a governmental employee who was employed by a governmental entity which is routinely engaged in commerce.

28. Since the day Plaintiff was hired Defendant Jefferson Parish repeatedly and willfully violated Section 6(d) of the equal pay provisions of the Fair Labor Standards Act in that Jefferson Parish, in Plaintiff's case, has discriminated on the basis of sex by paying higher wages to male employees in the same establishment for equal work on jobs the performance of which requires equal skill, effort and responsibility, and which were performed under similar working conditions.

29. More particularly, Plaintiff was paid significantly less than her male predecessor, and significantly less than her male successor, although the positions required equal skill, effort and responsibility and were performed under similar working conditions.

DAMAGES

30. As a direct result of Defendant's conduct, and the conduct of those for whom it is responsible, Plaintiff has sustained harms and losses in the following non-exclusive particulars:

(1) economic loss, including back pay and benefits, especially the loss of a highly lucrative and advantageous retirement benefit to which Plaintiff would have become entitled; (2) compensatory damages including emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life and loss of professional reputation; (3) an amount equal to the difference between the wages actually received by Plaintiff and wages paid to male employees for equal work within the meaning of the Equal Pay Act together with an additional equal amount as liquidated damages as authorized by Section 16(b) and Section 6(d)(3) of that Act.

PRAYER FOR RELIEF

WHEREFORE, cause having been shown, Plaintiff prays that judgment be granted:

- a) Declaring that the acts and practices complained of herein are in violation of Title VII, the Equal Pay Act and Louisiana law;
- b) Enjoining and permanently restraining these violations;
- c) Directing Defendant to take such affirmative action as is necessary to ensure that the effects of these unlawful employment practices are eliminated and do not continue to affect Plaintiff's employment opportunities;
- d) Directing Defendant to place Plaintiff in the position she would have occupied but for Defendant's discriminatory and retaliatory treatment of her, and make her whole for all earnings and employment benefits she would have received but for Defendant's discriminatory and retaliatory treatment, including, but not limited to, wages, pension and other lost benefits;
- e) Awarding Plaintiff compensatory damages in an amount supported by the evidence, in accordance with law;

- f) Awarding plaintiff the costs of this action together with attorneys' fees, as provided by Title VII, 42 U.S.C. §2000e-6(k) and by the Equal Pay Act, 29 U.S.C. §216(b);
- g) Directing Defendant to pay Plaintiff compensatory damages and damages for her mental anguish, humiliation, loss of professional reputation and other non-pecuniary damages; and
- h) Granting such other and further relief as this Court deems necessary and proper.

DEMAND FOR A TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury in this action.

Respectfully submitted,
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