

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

JACQUELINE R. MARS,

Plaintiff,

v. Case No: 2:14-cv-54-FtM-29CM

URBAN TRUST BANK, a Florida
corporation,

Defendant.

OPINION AND ORDER

This matter comes before the Court on review of defendant's Motion to Dismiss Third Amended Complaint with Prejudice (Doc. #33) filed on October 15, 2014. Plaintiff filed a Response in Opposition to Defendant's Motion to Dismiss Third Amended Complaint (Doc. #34) on October 26, 2014.

On August 14, 2013, plaintiff Jacqueline Mars (plaintiff) filed a five-count Complaint against her former employer, Urban Trust Bank (defendant). (Doc. #1.) Defendant filed a motion to dismiss (Doc. #11), and in response, plaintiff filed an Amended Complaint asserting claims for: (1) disparate treatment in violation of the Age Discrimination and Employment Act of 1967 (ADEA); (2) age discrimination in violation of the Florida Civil Rights Act (FCRA); (3) retaliation in violation of Title VII of the Civil Rights Act of 1964 (Title VII); (4) unlawful gender

discrimination in violation of Title VII; and (5) unlawful racial discrimination in violation of Title VII (Doc. #12). Defendant filed a second motion to dismiss (Doc. #15), which the Court granted. The Amended Complaint was dismissed without prejudice because plaintiff failed to plausibly allege that she was constructively discharged or subjected to any discriminatory action that caused a serious and material change in the terms, conditions, or privileges of her employment. (Doc. #22.)

Plaintiff filed a Second Amended Complaint on May 26, 2014, asserting claims identical to those in the Amended Complaint. (Doc. #23.) Defendant responded to the Second Amended Complaint on June 5, 2014, by filing another motion to dismiss. (Doc. #24.) The Court granted defendant's motion for the same reasons set forth in its previous Opinion and Order and provided plaintiff with one more opportunity to amend. (Doc. #30.) Plaintiff took advantage of the opportunity to amend and filed a Third Amended Complaint on October 2, 2014. (Doc. #32.)

Defendant argues that the Third Amended Complaint should be dismissed because it is riddled with errors and fails to state a plausible claim for relief. (Doc. #33.) The Court disagrees.¹ Plaintiff added more than thirty paragraphs of new factual

¹The applicable legal standards, as set forth in the Court's Opinion and Order dismissing plaintiff's Amended Complaint, are incorporated herein. (Doc. #22, pp. 3-6, 8.)

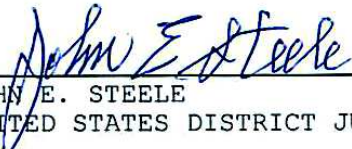
allegations to the Third Amended Complaint in order to cure the deficiencies in her prior pleadings. At this stage of the proceedings, the Court finds that these allegations, accepted as true, are sufficient to plausibly state a claim for age discrimination, gender discrimination, racial discrimination, and retaliation.

Accordingly, it is now

ORDERED:

Defendant's Motion to Dismiss Third Amended Complaint with Prejudice (Doc. #33) is **DENIED**.

DONE AND ORDERED at Fort Myers, Florida, this 11th day of February, 2015.



JOHN E. STEELE
UNITED STATES DISTRICT JUDGE

Copies:

Counsel of record