

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

FILED
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2019 FEB 23 10:04 AM
U.S. DISTRICT COURT
TAMPA, FLORIDA

STEPHANIE MONAHAN,)
)
Plaintiff,)
v.)
)
MORAN FOODS, INC.,)
d/b/a SAVE-A-LOT,)
)
Defendant.)

CASE NO: 8'02-CV-301-T-26 MMP

COMPLAINT

COMES NOW, Plaintiff, STEPHANIE MONAHAN, by and through her undersigned counsel and sues the Defendant, MORAN FOODS, INC., d/b/a SAVE-A-LOT, and states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction pursuant to 28 U.S.C. 1331 and 1343(4).
2. Venue lies within the Middle District of Florida pursuant to 28 U.S.C. 1391 (b) because a substantial part of the events giving rise to this claim arose in this Judicial District.
3. Plaintiff further invokes the pendant jurisdiction of this Court to hear and decide claims arising under the laws of the State of Florida pursuant to 28 U.S.C. 1367.

ADMINISTRATIVE PREREQUISITES

4. All conditions precedent to bringing this action have occurred.
5. Plaintiff timely filed a charge of discrimination with the Equal Employment Opportunity Commission ("EEOC") and the Florida Commission on Human Relations ("FCHR"). A copy of the charge is attached as Exhibit 'A'.
6. A Notification of Right to Sue was received from the EEOC and a copy of which is

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attached as Exhibit 'B'. This Complaint has been filed within ninety (90) days of receipt thereof.

7. Jurisdiction over this claim is appropriate pursuant to Fla. Stat. Chap. 760 because more than 180 days have passed since the filing of the charge.

PARTIES

8. Plaintiff, STEPHANIE MONAHAN, is a citizen and resident of Pasco County.

9. Defendant, MORAN FOODS, INC., d/b/a SAVE-A-LOT, is a corporation authorized and doing business in this Judicial District.

10. Defendant is an employer as defined by the laws under which this action is brought and employs the required number of employees.

GENERAL ALLEGATIONS

11. At all times material, Defendant, MORAN FOODS, INC., d/b/a SAVE-A-LOT, acted with malice and with reckless disregard for Plaintiff's Federal and State protected rights.

12. At all times material, Plaintiff was qualified to perform the job of cashier/store clerk within the legitimate expectations of her employer.

13. Plaintiff has been required to retain the undersigned counsel to represent her in this action and is obligated to pay them a reasonable fee for their services pursuant to 29 U.S.C. 216(b).

14. Plaintiff requests a jury trial for all issues so triable.

FACTS

15. Plaintiff, STEPHANIE MONAHAN, began her employment with Defendant in approximately October, 2000 as a cashier/store clerk.

16. In approximately December, 2000, Plaintiff was trained for the meat and produce section which she worked in addition to the store clerk position.

17. In approximately February, 2001, Plaintiff informed her Supervisor, Carl Vetzal, that

she was pregnant.

18. Thereafter, Plaintiff's hours were cut from 35 hours to 40 hours per week.

19. Plaintiff provided her Supervisor with a physician's statement limiting her lifting to 10 pounds.

20. Shortly thereafter, Plaintiff's hours were cut to 14 hours to 18 hours per week.

21. When Plaintiff approached her Supervisor, Carl Vetzal, about her hours being cut, he told her that her pregnancy "was a problem."

22. Approximately one week later, Plaintiff approached District Manager, Dave (last name unknown) about her hours being cut and he told her that she should find another job.

23. Approximately 2 or 3 weeks later, Kim (last name unknown) from Human Resources called Plaintiff into the office and told Plaintiff that as long as she was pregnant, she could not work for Save-A-Lot.

24. Plaintiff was asked to sign a leave of absence document and that if she did not sign the document, it would be indicated on the document that Plaintiff had quit her job.

25. Due to the foregoing discrimination, Plaintiff was constructively discharged from her position on or about March, 2001.

COUNT I
TITLE VII - PREGNANCY DISCRIMINATION

26. Plaintiff realleges and adopts, as if fully set forth herein, the allegations stated in Paragraphs 1 - 25.

27. Plaintiff is a member of a protected class.

28. The discrimination was sufficiently severe and/or pervasive to alter the terms and conditions of Plaintiff's employment.

28. The Defendant knew or should have known of the discrimination of Plaintiff.

29. The aforementioned actions constitutes discrimination on the basis of sex, i.e. pregnancy, in violation of Title VII.

30. The discrimination interfered with Plaintiff's ability to perform her job and resulted in her constructive discharge.

31. As a direct and proximate result of Defendant's discriminatory actions, Plaintiff has suffered damages.

WHEREFORE, Plaintiff prays for:

- a. Back pay and benefits;
- b. Interest on back pay and benefits;
- c. Front pay and future benefits;
- d. Compensatory damages for emotional damages;
- e. Other nonpecuniary losses;
- f. Punitive damages;
- g. Injunctive relief;
- h. Attorneys fees and costs;
- i. For such other relief this Court deems just and equitable.

COUNT II
FLA. STAT. CHAPTER 760 - SEXUAL DISCRIMINATION

32. Plaintiff realleges and adopts, as if fully set forth herein, the allegations stated in Paragraphs 1 - 25.

33. Plaintiff is a member of a protected class.

34. The aforementioned actions by Defendant constitute sexual discrimination.

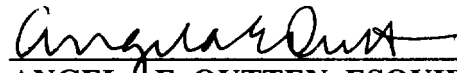
35. The discrimination was sufficiently severe and/or pervasive to alter the terms and conditions of Plaintiff's employment.

36. The Defendant knew or should have known of the discrimination of Plaintiff.
37. The aforementioned actions constitute a violation of the Fla. Stat. Chapter 760.
38. The Defendant's actions were intentional and encouraged an environment where discrimination based on sex was common and tolerated.
39. As a result of Defendant's unlawful discrimination, Plaintiff has suffered and continues to suffer damages.

WHEREFORE, Plaintiff prays for:

- a. Back pay and benefits;
- b. Interest in back pay and benefits;
- c. Front pay and future benefits;
- d. Compensatory damages for emotional damages;
- e. Other non-pecuniary damages;
- f. Punitive damages;
- g. Injunctive relief;
- h. Attorneys fees and costs;
- i. For any other relief this Court deems just and equitable.

FLORIN, ROEBIG & WALKER, P.A.



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FL Bar Nos.: 0002569, 907804 & 902004
Attorneys for Plaintiff
Dated: 2/13/02

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.

AGENCY CHARGE NUMBER
✓ FEPA
✓ EEOC

State or local agency, if any: Florida Commission On Human Relations and EEOC

Name (Indicate Mr., Mrs., Ms.) Ms. Stephanie Monahan HOME TELEPHONE (Include Area Code) (727) 937-5668

STREET ADDRESS CITY, STATE AND ZIP CODE DATE OF BIRTH
2017 Wallace Boulevard Holiday, Florida 34691 05/11/79

NAME OF THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one, list below)

NAME NUMBER OF EMPLOYEES, MEMBERS TELEPHONE (Include area code)
Save-A-Lot 15+ (727) 845-8154

STREET ADDRESS CITY, STATE AND ZIP CODE COUNTY
U.S. 19 Holiday, FL Pasco

NAME NUMBER OF EMPLOYEES, MEMBERS TELEPHONE (Include area code)

STREET ADDRESS CITY, STATE AND ZIP CODE COUNTY

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es)) DATE DISCRIMINATION TOOK PLACE

RACE ___ COLOR ___ SEX [X] RELIGION ___ NATIONAL ORIGIN ___ EARLIEST LATEST
RETALIATION ___ AGE ___ DISABILITY ___ OTHER (Specify) ___ 10 / /00 03 / /01
CONTINUING ACTION ___

THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s))

I: PERSONAL HARM: In approximately October 2000, I began my employment as a cashier/store clerk for Save-A-Lot. I informed my supervisor that I was pregnant on or about February 26, 2001. Soon after, my hours were cut. My supervisor, Carl Vetzal, told me my pregnancy was a problem. I was forced to take a leave of absence.

II: RESPONDENT'S REASON FOR ADVERSE ACTION: No reason was given.

III: STATEMENT OF DISCRIMINATION: I believe I was discriminated against because of my gender, female, in that I am pregnant, in violation of Title VII of the Civil Rights Act of 1964, as amended, and Florida Statutes Chapter 760.

[X] I want this charge filed with both the EEOC and the State or local agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the foregoing is true and correct.

X: Stephanie Monahan

DATE 05-15-01 CHARGING PARTY (Signature) EEOC FORM 5 (Rev. 06/92)

NOTARY (When necessary for State and Local Requirements)

Kimberly R. Griner
I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year) 5/15/01



EXHIBIT A

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To:

Stephanie Monahan
2017 Wallace Boulevard
Holiday, FL 34691

From:

U. S. Equal Employment Opportunity Commission
Tampa Area Office
501 E. Polk Street, Room 1020
Tampa, Florida 33602

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))

Charge No.
151A11385

EEOC Representative
Julie Diaz, Investigator

Telephone No.
(813) 228-2310

(See also the additional information attached to this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964 and/or the Americans with Disabilities Act (ADA): This is your Notice of Right to Sue, issued under Title VII and/or the ADA based on the above-numbered charge. It has been issued at your request. Your suit under Title VII or the ADA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice.** Otherwise, your right to sue based on the above-numbered charge will be lost.

- More than 180 days have passed since the filing of this charge.
- Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of the charge.
- The EEOC is terminating its processing of this charge.
- The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, **the paragraph marked below applies to your case:**

- The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice.** Otherwise, your right to sue based on the above-numbered charge will be lost.
- The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of your charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required). EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

If you file suit based this charge, please send a copy of your court complaint to this office.

On behalf of the Commission


Manuel Zurita, Area Director

12/28/01
(Date Mailed)

Enclosure(s)
Copy of Charge

cc: A. F. Uhlemeyer
Vice President.
Moran Foods, Inc.
d/b/a Save-A-Lot
100 Corporate Office Drive
Earth City, MO 63045

Angela E. Outten
Attorney at Law
Florin, Roebig & Walker, P.A.
777 Alderman Road
Palm Harbor, FL 34683.

EXHIBIT 'B'