

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

WENDI J. LEE,

Plaintiff,

v.

Case No.:8:10-cv-02904

PMSI, INC.,

Defendant.

_____ /

DEFENDANT’S ANSWERS AND DEFENSES

Defendant, PMSI, INC., by and through undersigned counsel, hereby files its Answer and Defendants to the Complaint filed by WENDI J. LEE. Defendant responds to each numbered paragraph of the Complaint in correspondingly numbered paragraphs, as follows:

1. Defendant admits that Plaintiff is attempting to bring an action under Title VII of the Civil Rights Act of 1964 as amended (“Title VII”) and the Florida Civil Rights Act (“FCRA”). Otherwise, Defendant denies any allegations of wrongdoing, expressed or implied, contained in paragraph 1 of the Complaint.

2. Defendant admits for jurisdictional purposes only. Otherwise, Defendant denies any allegations of wrongdoing, expressed or implied, contained in paragraph 2 of the Complaint.

3. Defendant admits for venue purposes only. Otherwise, Defendant denies any allegations of wrongdoing, expressed or implied, contained in paragraph 3 of the Complaint.

4. Defendant admits that Plaintiff was an employee. Otherwise, Defendant is without knowledge and therefore denies the remaining allegations contained in paragraph 4 of the Complaint.

5. Defendant admits the allegations contained in paragraph 5 of the Complaint.

6. Defendant admits the allegations contained in paragraph 6 of the Complaint.

7. Defendant denies the allegations contained in paragraph 7 of the Complaint.

8. Defendant admits that sometime during the course of her employment, Plaintiff made reference to her pregnancy.

9. Defendant denies the allegations contained in paragraph 9 of the Complaint.

10. Defendant denies the allegations contained in paragraph 10 of the Complaint.

11. Defendant denies the allegations contained in paragraph 11 of the Complaint.

12. Defendant denies the allegations contained in paragraph 12 of the Complaint.

13. Defendant admits Plaintiff filed a charge of Discrimination with the Equal Employment Opportunity Commission. Otherwise, Defendant is without knowledge and therefore denies the remaining allegations contained in paragraph 13 of the Complaint.

14. Defendant is without knowledge and therefore denies the allegations contained in paragraph 14 of the Complaint.

15. Defendant is without knowledge and therefore denies the allegations contained in paragraph 15 of the Complaint.

16. Defendant re-alleges and incorporates by reference herein previously stated answers to paragraphs 1 through 15 as if fully incorporated herein.

17. Defendant admits that sometime during the course of her employment Plaintiff made reference to her pregnancy.

18. Defendant admits the allegations contained in paragraph 18 of the Complaint.

19. Defendant denies the allegations contained in paragraph 19 of the Complaint.

20. Defendant admits the allegations contained in paragraph 20 of the Complaint.

21. Defendant denies the allegations contained in paragraph 21 of the Complaint.

22. Defendant admits that Plaintiff retained counsel in this action. Otherwise, Defendant denies any allegations of wrongdoing, expressed or implied, contained in paragraph 22 of the Complaint.

Defendant denies that Plaintiff is entitled to any of the relief requested in the “wherefore clause” following paragraph 22 of the Complaint.

23. Paragraph 23 of the Complaint is the subject of a Motion to Dismiss. Therefore, no response is necessary.

24. Paragraph 24 of the Complaint is the subject of a Motion to Dismiss. Therefore, no response is necessary.

25. Paragraph 25 of the Complaint is the subject of a Motion to Dismiss. Therefore, no response is necessary.

26. Paragraph 26 of the Complaint is the subject of a Motion to Dismiss. Therefore, no response is necessary.

27. Paragraph 27 of the Complaint is the subject of a Motion to Dismiss. Therefore, no response is necessary.

28. Paragraph 28 of the Complaint is the subject of a Motion to Dismiss. Therefore, no response is necessary.

DEFENSES

1. To the extent that the Complaint fails to state a cause of action, Plaintiff is not entitled to relief.

2. Because Defendant has legitimate non-discriminatory reasons for terminating Plaintiff, Plaintiff is not entitled to relief.

3. To the extent that Plaintiff has failed to satisfy the administrative prerequisites to bringing this action, Plaintiff is not entitled to relief.

4. To the extent that Plaintiff failed to mitigate her damages, in whole or in part, Plaintiff is not entitled to relief.

5. To the extent that any of the allegations contained in Plaintiff's Amended Complaint occurred more than 300 days prior to the filing of the Charge of Discrimination, those claims are untimely and Defendant is entitled to judgment as a matter of law.

6. To the extent that Plaintiff's claims are barred by the after-acquired evidence doctrine, Plaintiff is precluded from recovering damages against Defendant.

Defendant reserves the right to raise any and all other defenses that may become evident during discovery and any other proceeding in this action.

Respectfully submitted this 4th day of January, 2011.

/s/ Luis A. Cabassa
LUIS A. CABASSA
Florida Bar Number: 0053643
Wenzel Fenton Cabassa, P.A.
1110 North Florida Avenue, Suite 300
Tampa, FL 33602
(813) 224-0431 Telephone
(813) 229-8712 Facsimile
Email: lcabassa@wfclaw.com

RICHARD L. BRADFORD
Florida Bar No.: 0068497
BRADFORD & BRADFORD, P.A.
150 East Bloomingdale Ave., Suite 196
Brandon, FL 33511
(813) 413-2402 Telephone
(813) 413-2425 Facsimile
Email: rich@bradfordfirm.com
Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 4, 2011, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

Samuel R. Mandelbaum, Esq.
Scott K. Hewitt, Esq.
Madelbaum, Fitzsimmons & Hewitt, P.A.
Post Office Box 3373
Tampa, Florida 33601

/s/Luis A. Cabassa
LUIS A. CABASSA