

**IN THE UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF OKLAHOMA**

1.	JOANIE PORTER,)	
)	
	Plaintiff,)	
)	
v.)	CIV-10-
)	
1.	METROPOLITAN LIBRARY SYSTEM, a political subdivision which is sued in the name of the METROPOLITAN LIBRARY COMMISSION)	
)	
)	Arising in Okla. Cnty. Jury Trial Demanded Attorney Lien Claimed
)	
	Defendant.)	

COMPLAINT

COMES NOW THE PLAINTIFF and for her causes of action herein alleges:

PARTIES

1. The Plaintiff is Joanie Porter, an adult black female over the age of forty (40), who resides in Oklahoma County, Oklahoma.
2. The Defendant is Metropolitan Library System, a business entity doing business in Oklahoma County, Oklahoma.

JURISDICTION AND VENUE

3. Plaintiff's claims are for race and gender discrimination (including retaliation for complaining of race discrimination) which is prohibited by Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 1981 and by Oklahoma's clearly established public policies in 25 O.S. §§1101, et seq. Plaintiff also brings claims for disability discrimination and retaliation including termination for requesting accommodations under the Americans with Disabilities Act as set forth in 42 U.S.C. § 12111, et seq., and Oklahoma's Handicap Discrimination Act, 25 O.S. §§ 1101, 1901, *inter alia*, and for age discrimination in violation of the Age Discrimination in Employment Act (ADEA). Plaintiff also brings a state law claim for age, race and gender

discrimination as prohibited by Oklahoma's public policy as set forth in the *Burk/Saint/Shirazi* doctrine. Jurisdiction for the federal claims is vested under 29 U.S.C. § 626(c), 42 U.S.C. §§ 2000e-5(f)(1) and 12117(a) and 28 U.S.C. § 1331. Because the state law claims arise out of the same core of facts, jurisdiction is vested over those claims under 28 U.S.C. § 1367(a).

4. All of the actions complained of occurred in Oklahoma County, Oklahoma and the Defendant may be served in that county. Oklahoma County is within the Western District of the United States District Courts for Oklahoma wherefore venue is proper in this Court under 28 U.S.C. § 1391(b) and 42 U.S.C. § 2000e-5(f)(3).

STATEMENT OF FACTS

5. Plaintiff Porter is a black female over the age of forty (40) who was employed as a librarian by Defendant Metropolitan Library System from approximately June 2007 until her termination around March 2010. Plaintiff was fifty-four (54) years old at the time of her termination.
6. Around October 2008, Michael Owens became Plaintiff's supervisor. Mr. Owens is a black male, approximately 10 years younger than Plaintiff. Since becoming a supervisor, Mr. Owens has exhibited a pattern of hiring younger white females and treating them more favorably than black females.
7. Shortly after Mr. Owens became Plaintiff's supervisor, he gave Plaintiff inconsistent information about how to perform her job duties and then reprimanded her for performance of those job duties per his instruction. One example was in the area of "shelf management". Mr. Owens would instruct Plaintiff to withdraw books, but when she did, he would then tell Plaintiff to re-shelve them or verbally reprimand her for withdrawing the books. Around the Spring of 2009, Mr. Owens formally reprimanded Plaintiff for shelf management. Plaintiff complained to supervisor Denyvetta Davis that Mr. Owens was discriminating against her because he did not treat the white

librarians the same way.

8. Several times after Mr. Owens became Plaintiff's supervisor, Plaintiff requested to attend various training sessions, but Mr. Owens routinely denied Plaintiff's requests. On more than one occasion, Plaintiff learned that Mr. Owens scheduled a younger white librarian, Kim Fantrell (mid-20's) to attend training sessions. On more than one occasion, Plaintiff was forced to confront Mr. Owens about Ms. Fantrell's scheduled attendance in order to gain permission for her own attendance at training sessions.
9. Another example of Mr. Owens' preferential treatment of white females over black employees occurred around the summer of 2009 when Mr. Owens reduced the work hours of two black library pages Kiara Calip, and Warren Anderson. Prior to Mr. Owens becoming supervisor, Plaintiff had hired Ms. Calip (a black female) and Mr. Anderson (a black male) as part-time pages. Around June 2009, Mr. Owens hired Hannah Rudek, (a white female in her 20's) and reduced the hours of the two black pages. Ms. Calip complained to Mr. Owens of the discriminatory treatment and requested her hours back. When Mr. Owens refused to reinstate her to her previous hours, Ms. Calip was forced to quit her employment.
10. Plaintiff was hurt on the job and suffered a back injury around June 2009, and was placed on temporary lifting restrictions of ten (10) pounds. Despite the restriction, Plaintiff was able to continue performing all of her essential job functions. On January 12, 2010, Plaintiff's restrictions became permanent, and she was involuntarily placed on administrative leave. Prior to being placed on leave, Plaintiff informed her supervisors Rick Reed and Michael Owens, that she could perform all essential job functions, with the exception of moving a forty (40) pound rug for children's story time. Plaintiff told Mr. Owens and Mr. Reed that the only accommodation she required to perform her job duties was assistance in rolling out the children's rug at story time which she was required to do approximately three times per week.

Defendant denied Plaintiff's request for accommodation.

11. While Plaintiff was on administrative leave, Plaintiff's supervisors weighed all of the items in the library - including book carts, chairs and individual books to demonstrate that Plaintiff could not perform her job duties. Defendant never weighed each item in the library when a white employee was placed on lifting restrictions. Defendant claimed that the heavy book carts violated Plaintiff's weight restrictions. However, this argument is pretextual because the book carts rolled on wheels and the fact that lifting a book cart would violate Plaintiff's weight restrictions, has no bearing on Plaintiff's ability to push the cart on wheels.
12. Around March 12, 2010, Plaintiff was terminated for not being able to perform her essential job functions. This reason is illegitimate and pretextual because she had been performing all essential job functions up until the time of her termination and because other employees with similar restrictions have not been terminated. The employees with similar restrictions who have kept their jobs are either white or male or at least ten (10) years younger than Plaintiff.
13. After Plaintiff's termination, she was replaced by Anna Todd (a white female in her 20's) and Taryn (LNU) (also a white female in her 20's).
14. Following Plaintiff's termination, Mr. Owens ordered significantly lighter carts for the younger white librarians, even though they did not have weight restrictions.
15. As a direct result of Defendant's actions Plaintiff has suffered, and continues to suffer, lost wages and emotional distress/dignitary harm symptoms for which she is entitled to compensation.
16. This is, at the least, a mixed motive case in that, to the extent that there were legitimate motives for the discrimination, retaliation and/or termination, those actions were also motivated by a mixture of discrimination based on her age, gender, race, her complaints of race discrimination, her disability and retaliation for requesting a

reasonable accommodation.

17. Plaintiff has exhausted her administrative remedies by timely filing an EEOC charge of discrimination on April 8, 2010. The EEOC issued Plaintiff's right to sue letter on August 26, 2010 and Plaintiff received such letter thereafter. This complaint is timely filed within 90 days of Plaintiff's receipt of her right to sue letter.

COUNT I

For her first count, Plaintiff incorporates all prior allegations and further alleges:

18. Discrimination based on age (including termination) is a violation of the Age Discrimination in Employment Act (ADEA) and Oklahoma's public policy precluding age discrimination in employment as set out in the *Burk/Saint/Shirazi* doctrine.
19. Under this Count, Plaintiff is entitled to lost wages (including back, present and front pay) and attorney fees and costs.
20. Additionally, under Oklahoma's public policy, Plaintiff is entitled to damages for the emotional distress/dignitary harm suffered including embarrassment, anxiety, worry and other like emotions.
21. Because Defendant's action were willful, Plaintiff is entitled to an award of liquidated damages (equal to Plaintiff's lost wages through the date of trial) under the ADEA and punitive damages under Oklahoma's public policy.

COUNT II

For her second count, Plaintiff incorporates all prior allegations and further alleges:

22. Discrimination on the basis of race and retaliation for complaining of race discrimination (including termination) is a violation of 42 U.S.C. § 1981, Title VII of the Civil Rights Act of 1964 and the *Burk* doctrine.
23. Under this Count Plaintiff is entitled to compensation for her lost earnings, past, present and future, dignitary and emotional distress harms, and attorney fees and costs.

24. Because the actions of the Defendants were willful and malicious or, at the least, in reckless disregard of Plaintiff's federally and state protected rights, Plaintiff is entitled to an award of punitive damages.

COUNT III

For her third count, Plaintiff incorporates all prior allegations and further alleges:

25. Discrimination on the basis of gender (including termination) is a violation of 42 U.S.C. § 1981, Title VII of the Civil Rights Act of 1964 and the *Burk* doctrine.
26. Under this Count Plaintiff is entitled to compensation for her lost earnings, past, present and future, dignitary and emotional distress harms, and attorney fees and costs.
27. Because the actions of the Defendants were willful and malicious or, at the least, in reckless disregard of Plaintiff's federally and state protected rights, Plaintiff is entitled to an award of punitive damages.

COUNT IV

For her fourth count, Plaintiff incorporates all prior allegations and further alleges:

28. Discrimination on the basis of a disability and retaliation for Plaintiff's requests for reasonable accommodations is a violation of the Americans with Disabilities Act, Oklahoma's Handicap Discrimination Act, and the *Burk* doctrine.
29. Under both the ADA, Oklahoma's Handicap Discrimination Act and Oklahoma's public policy, Plaintiff is entitled to compensation for her lost earnings (past, present and future), emotional distress/dignitary damages, attorney fees and costs.
30. Because the actions described above were willful, malicious, or, at the least, in reckless disregard of Plaintiff's state and federal rights, Plaintiff is entitled to an award of punitive damages against the Defendant under both federal and state law.

WHEREFORE, Plaintiff prays that she be granted judgment in her favor and against the Defendant on all of her claims and that this Court grant the Plaintiff all available

compensatory damages, punitive damages, liquidated damages, pre- and post-judgment interest, costs, attorney's fees and any other legal or equitable relief allowed by law.

RESPECTFULLY SUBMITTED THIS 8th DAY OF NOVEMBER, 2010.

HAMMONS, GOWENS & HURST

s/ Jennifer Boyle

Mark Hammons, OBA #3784

Jennifer Boyle OBA#22822

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JURY TRIAL DEMANDED

ATTORNEY'S LIEN CLAIMED