

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 18-CV62813-MOORE

CAROLINA MATAMOROS,

Plaintiff,

vs.

BROWARD SHERIFF'S OFFICE

Defendant.

AMENDED COMPLAINT

COMES NOW, Plaintiff, CAROLINA MATAMOROS ("Plaintiff"), by and through the undersigned counsel, hereby sues Defendant, BROWARD SHERIFF'S OFFICE ("Defendant"), and in support avers as follows:

GENERAL ALLEGATIONS

1. This is an action by the Plaintiff for damages for Defendant's violations of the Family and Medical Leave Act, 29 U.S.C. § 2601 *et seq.*, and the Florida Civil Rights Act of 1992, Florida Statutes, Chapter 760, *et seq.* ("FCRA"), to redress injuries resulting from Defendant's unlawful, conduct against Plaintiff.
2. This Court has jurisdiction over Plaintiff's claims pursuant to Fla. Stat. §§ 760.01-760.11.
3. Plaintiff was at all times relevant to this action, and continues to be, a resident of Miami Dade County Florida, and is otherwise sui juris. Plaintiff is a covered employee for purposes of the FCRA, and FMLA.
4. Plaintiff is an individual with a relationship or association with a person with a known disability. She is therefore a member of a class protected under the FCRA because the terms,

conditions, and privileges of her employment were altered because of her relationship or association with a person with a known disability.

5. Defendant, BROWARD SHERIFF'S OFFICE, is a government entity in Broward County.
6. Defendant has, at all times material, employed 15 or more employees for each working day in each of twenty or more calendar weeks in the current or preceding year in accordance with the FCRA (Fla. Stat. §760.02(7)).
7. On July 18, 2017, Plaintiff previously filed a timely charge of employment discrimination with the Equal Employment Opportunity Commission and dual filed with the Florida Commission on Human relations, the agencies which are responsible for investigating claims of employment discrimination.
8. Venue is proper in Broward County because all of the actions complained of herein occurred within Broward County.
9. The Florida Commission on Human Relations did not issue a finding on Plaintiff's charge within 180 days of the filing of said charge.
10. Declaratory, injunctive, legal and equitable relief sought pursuant to the laws set forth above together with attorneys' fees, costs and damages.
11. All conditions precedent for the filing of this action before this Court have been previously met, including the exhaustion of all pertinent administrative procedures and remedies.

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

12. Plaintiff began employment with Defendant on or about January 2010 as a Communications Operator 3.
13. Throughout Plaintiff's employment with Defendant, Plaintiff was able to perform the essential functions of her job duties and responsibilities, and at all relevant times she did perform her

job at satisfactory or above-satisfactory levels.

14. Plaintiff's son suffers from severe asthma. Beginning in 2016, Plaintiff's son disability exacerbated within each month. In fact, Plaintiff's son was hospitalized on eight (8) different occasions.
15. On or about March 2016, Plaintiff made a request under the Family Medical Leave Act.
16. Plaintiff's request was approved and Plaintiff was able to take intermittent leave.
17. On or about August 2016, Plaintiff found out that a part time position became available. Plaintiff informed her Superiors, Latasha Elmaadawya ("Ms. Elmaadawya") and Lisa Zarazinski ("Ms. Zarazinski").
18. Plaintiff followed the correct procedure in order to be chosen for the shift.
19. Part of the procedure, Plaintiff was required to identify the reason she was requesting the schedule change.
20. Defendant denied Plaintiff's request. Plaintiff was told that with her FMLA leave, she practically was a part time employee.
21. However, Defendant approved other employees' requests who had less seniority than Plaintiff but who were not associated with a disabled person.
22. On or about September 2016, Plaintiff made a second request under the Family Medical Leave Act.
23. Defendant advised Plaintiff that her request for leave was denied. Plaintiff was advised that she will be eligible to in March 2017.
24. Thereafter, Plaintiff was subjected to several disciplinary actions although her lack of attendance was due to her son's disability, which she communicated to her superiors.
25. On or about January 2017, Plaintiff received the part time position accompanied by an Internal

Affairs Investigation regarding her attendance placing Plaintiff under investigation.

26. On or about May 2017, Plaintiff was suspended without pay for two (2) months.
27. On or about July 2017, Plaintiff returned to work.
28. On or about July 18, 2017, due to the disparate treatment she continued to be subjected to, Plaintiff filed her charge of discrimination.
29. On or about August 2017, Plaintiff requested FMLA leave again.
30. Defendant, denied Plaintiff's request for leave.
31. On or about January 2018, Plaintiff was again suspended.
32. Plaintiff continued to be under Internal Affairs Investigation regarding her attendance and received a negative evaluation by Ms. Elmaadawya.
33. On or about April 2018, Plaintiff received a written counsel from Ms. Elmaadawya because of Plaintiff's alleged use of time.
34. Around the same time, Ms. Tangela Tucker, a new manager, was assigned as Plaintiff's supervisor. However, Ms. Elmaadawya still had control over Plaintiff's site.
35. During May 2018 and August 2018, Plaintiff had no absences. Nevertheless, on September 14, 2018, Plaintiff was once again suspended.
36. On or about November 26, 2018, Plaintiff was terminated allegedly for abuse of time.
37. Plaintiff's disciplinary actions, negative evaluations, suspensions and termination were predicated and/or motivated by her relationship to her disabled son and/or her request for Leave.

COUNT I

Interference with Rights under the FMLA

38. Plaintiff re-adopts each and every factual allegation as stated in paragraphs 1-37 above as if set out in full herein.

39. Plaintiff is an individual entitled to protection under the FMLA.
40. Plaintiff was eligible for FMLA leave due to her son's serious health condition.
41. At all times relevant hereto, Defendant was a covered employer under the FMLA, 29 U.S.C. § 2611(4)(A)(iii) in that it employed over 50 employees in 20 or more workweeks in the current or preceding calendar year.
42. On or about September 2016, Plaintiff applied for leave under the FMLA. Plaintiff was advised she had to wait until March of 2017 to reapply. Thereafter, Plaintiff was suspended for two months.
43. Subsequently, Defendant continued to suspend Plaintiff.
44. When Defendant suspended Plaintiff, Defendant interfered with Plaintiff's right to apply for FMLA leave and thus violated the FMLA.
45. As a result of Defendant's unlawful conduct, Plaintiff has suffered and continues to suffer damages.
46. Defendant, by and through its officers, and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct of its employees.

WHEREFORE, Plaintiff respectfully prays for the following relief against Defendant:

- A. Adjudge and decree that Defendant has violated the FMLA and has done so willfully, intentionally and with reckless disregard for Plaintiff's rights;
- B. Enter a judgment requiring that Defendant pay Plaintiff appropriate back pay, front pay, benefits' adjustment, and prejudgment interest at amounts to be proved at trial for the unlawful employment practices described herein;
- C. Require Defendant to reinstate Plaintiff to her position at the rate of pay and with the full benefits he would have, had he not been discriminated against by Defendant, or in lieu of

reinstatement, award her front pay

D. Award Plaintiff the costs of this action, together with a reasonable attorneys' fees; and

E. Grant Plaintiff such additional relief as the Court deems just and proper under the circumstances.

COUNT II

Disability Discrimination in Violation of the FCRA

47. Plaintiff re-adopts each and every factual allegation as stated in paragraphs 1-37 of this complaint as if set out in full herein.

48. Plaintiff is a member of a protected class under the FCRA.

49. By the conduct describe above, Defendant has engaged in discrimination against Plaintiff because of Plaintiff's close association with an individual who had a disability and subjected the Plaintiff to disability-based animosity.

50. Such discrimination was based upon the Plaintiff's close association with an individual who had a disability in that Plaintiff would not have been the object of discrimination but for the fact that Plaintiff has close association with an individual who suffered a disability.

51. Defendant's conduct complained of herein was willful and in disregard of Plaintiff's protected rights. Defendant and its supervisory personnel were aware that discrimination on the basis of Plaintiff's close association with an individual, who had a disability due to suffering from a stroke, was unlawful but acted in reckless disregard of the law.

52. At all times material hereto, the employees exhibiting discriminatory conduct towards Plaintiff possessed the authority to affect the terms, conditions, and privileges of Plaintiff's employment with the Defendant.

53. Defendant retained all employees who exhibited discriminatory conduct toward the Plaintiff and did so despite the knowledge of said employees engaging in discriminatory

actions.

54. As a result of Defendant's actions, as alleged herein, Plaintiff has been deprived of rights, has been exposed to ridicule and embarrassment, and has suffered emotional distress and damage.

55. The conduct of Defendant, by and through the conduct of its agents, employees, and/or representatives, and the Defendant's failure to make prompt remedial action to prevent continued discrimination against the Plaintiff, deprived the Plaintiff of statutory rights under federal law.

56. Plaintiff has suffered and will continue to suffer both irreparable injury and compensable damages as a result of Defendant's discriminatory practices unless and until this Honorable Court grants relief.

WHEREFORE, Plaintiff respectfully prays for the following relief against Defendant:

- A. Adjudge and decree that Defendant has violated the FCRA, and has done so willfully, intentionally, and with reckless disregard for Plaintiff's rights;
- B. Enter a judgment requiring that Defendant pay Plaintiff appropriate back pay, benefits' adjustment, and prejudgment interest at amounts to be proved at trial for the unlawful employment practices described herein;
- C. Enter an award against Defendant and award Plaintiff compensatory damages for mental anguish, personal suffering, and loss of enjoyment of life;
- D. Require Defendant to reinstate Plaintiff to the position at the rate of pay and with the full benefits Plaintiff would have had Plaintiff not been discriminated against by Defendant, or in lieu of reinstatement, award front pay;
- E. Award Plaintiff the costs of this action, together with a reasonable attorneys' fees;

and

F. Grant Plaintiff such additional relief as the Court deems just and proper under the circumstances.

COUNT III
Retaliation in Violation of the FCRA

57. Plaintiff re-adopts each and every factual allegation as stated in paragraphs 1-37 of this complaint as if set out in full herein.

58. Plaintiff is a member of a protected class under the FCRA.

59. By the conduct describe above, Defendant retaliated against Plaintiff for exercising rights protected under the FCRA.

60. Defendant's conduct complained of herein was willful and in disregard of Plaintiff's protected rights. Defendant and its supervisory personnel were aware that discrimination on the basis of Plaintiff's sex, national origin and/or disability was unlawful but acted in reckless disregard of the law.

61. As a result of Defendant's actions, as alleged herein, Plaintiff has been deprived of rights, has been exposed to ridicule and embarrassment, and has suffered emotional distress and damage.

62. The conduct of Defendant, by and through the conduct of its agents, employees, and/or representatives, and the Defendant's failure to make prompt remedial action to prevent continued discrimination against the Plaintiff, deprived the Plaintiff of statutory rights under state law.

63. Plaintiff has suffered and will continue to suffer both irreparable injury and compensable damages as a result of Defendant's discriminatory practices unless and until this Honorable Court grants relief.

WHEREFORE, Plaintiff respectfully prays for the following relief against Defendant:

- A. Adjudge and decree that Defendant has violated the FCRA, and has done so willfully, intentionally, and with reckless disregard for Plaintiff's rights;
- B. Enter an award against Defendant and award Plaintiff compensatory damages for mental anguish, personal suffering, and loss of enjoyment of life;
- C. Require Defendant to place Plaintiff to the position of full time Patrol Officer at the rate of pay and with the full benefits Plaintiff would have had Plaintiff not been discriminated against by Defendant, or in lieu of reinstatement;
- D. Award Plaintiff the costs of this action, together with a reasonable attorneys' fees; and Grant Plaintiff such additional relief as the Court deems just and proper under the circumstances.

COUNT IV
Retaliation under the FMLA

- 64. Plaintiff re-adopts each and every factual allegation as stated in paragraphs 1-37 above as if set out in full herein.
- 65. Plaintiff is an individual entitled to protection under the FMLA.
- 66. Plaintiff is an employee within the meaning of the FMLA in that she was employed for at least 12 months and at least 1,250 hours prior to her request for leave due to suffering a serious health condition. Plaintiff is therefore an "employee" under 29 U.S.C. § 2611(2).
- 67. At all times relevant hereto, Defendant was a covered employer under the FMLA, 29 U.S.C. § 2611(4)(A)(iii) in that it employed over 50 employees in 20 or more workweeks in the current or preceding calendar year.
- 68. Plaintiff gave Defendant sufficient notice of her need for leave under FMLA. Such leave was approved by Defendant.

69. Plaintiff then did take intermittent leave on or about March 2016.

70. Thereafter, Plaintiff was placed on suspension several times without pay.

71. The fact that Plaintiff took leave was a “protected activity” under the FMLA.

72. Plaintiff’s leave was, at minimum, a motivating factor in Defendant’s decision to suspend and ultimately terminate her employment.

73. Defendant’s purported reason(s) for terminating Plaintiff are pretextual.

74. Defendant, by and through its officers, and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct of other employees. Therefore, the actions of Defendant’s employees should be imputed to Defendant.

75. As a result of Defendant’s unlawful conduct, Plaintiff has suffered and continues to suffer damages.

WHEREFORE, Plaintiff respectfully prays for the following relief against Defendant:

- A. Adjudge and decree that Defendant has violated the FMLA and has done so willfully, intentionally and with reckless disregard for Plaintiff’s rights;
- B. Enter a judgment requiring that Defendant pay Plaintiff appropriate back pay, front pay, benefits' adjustment, and prejudgment interest at amounts to be proved at trial for the unlawful employment practices described herein;
- C. Enter an award against Defendant and award Plaintiff compensatory damages for mental anguish, personal suffering, and loss of enjoyment of life;
- D. Require Defendant to reinstate Plaintiff to her position at the rate of pay and with the full benefits he would have, had he not been discriminated against by Defendant, or in lieu of reinstatement, award her front pay;
- E. Award Plaintiff the costs of this action, together with a reasonable attorneys' fees;

and

F. Grant Plaintiff such additional relief as the Court deems just and proper under the circumstances.

JURY DEMAND

Plaintiff demands trial by jury of all issues triable as of right by jury.

Dated: December 17, 2018.

Respectfully submitted,

/s/Nathaly Lewis
Peter M. Hoogerwoerd, Esq.
Florida Bar No.: 188239
pmh@rgpattorneys.com
Nathaly Lewis, Esq.
Florida Bar No.: 118315
nl@rgpattorneys.com

REMER & GEORGES-PIERRE, PLLC
44 West Flagler Street, Suite 2200
Miami, FL 33130
Telephone: (305) 416-5000
Facsimile: (305) 416-5005

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 17, 2018 I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/Nathaly Lewis
NATHALY LEWIS, ESQ.

SERVICE LIST

Peter Michael Hoogerwoerd, Esq.

Florida Bar No.: 188239

pmh@rgpattorneys.com

Nathaly Lewis, Esq.

Florida Bar No.: 118315

nl@rgpattorneys.com

REMER & GEORGES-PIERRE, PLLC

44 West Flagler Street, Suite 2200

Miami, Florida 33130

Telephone: (305) 416-5000

Facsimile: (305) 416-5005

Attorneys for Plaintiff

Gale Ciceric Payne, Esq.

Florida Bar No. 306967

Email: gcpattorney@aol.com

Gale Payne & Associates

1220 East Broward Boulevard

Fort Lauderdale, FL 33301

Telephone Number: (954) 821-4500

Attorney for Defendant