

CAUSE NO. _____

DEBORAH SHAKLEE,

Plaintiff,

v.

CITY OF DENTON,

Defendant.

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IN THE DISTRICT COURT

_____ JUDICIAL DISTRICT

DENTON COUNTY, TEXAS

PLAINTIFF’S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE

TO THE HONORABLE DISTRICT COURT JUDGE:

NOW COMES Plaintiff, Deborah Shaklee, and files this, her Original Petition and Request for Disclosure, and respectfully shows the following:

I
DISCOVERY CONTROL PLAN

- 1. Plaintiff intends that this suit be governed by discovery control level two.

II
PARTIES

- 2. Plaintiff Deborah Shaklee is an individual who resides in Denton County, Texas.
- 3. Defendant City of Denton (“the City”) is a city in Denton County, Texas and can be served by serving its mayor, Mark Burroughs, at 215 E. McKinney Street, Denton, TX 76201 pursuant to Tex. Civ. Prac. & Rem. Code Ann. § 17.024(b).

III
JURISDICTION AND VENUE

- 4. Jurisdiction is appropriate because the City of Denton is in Denton County, Texas. This case arises under the Texas Labor Code and sovereign immunity has been waived for municipalities under Tex. Lab. Code § 21.002(d).

5. Venue is appropriate because the acts giving rise to this lawsuit occurred within Denton County, Texas.

IV FACTS

6. Ms. Shaklee first began working for the City of Denton as a Code Enforcement Officer in March 2007.

7. Ms. Shaklee is in charge of investigating nuisance, zoning and environmental issues.

8. In 2009, the City hired Todd Varner to work as a Code Enforcement Supervisor.

9. After Mr. Varner was hired, Ms. Shaklee reported to both Mr. Varner and Jamie Wicker.

10. From the start of Mr. Varner's employment with the City, Mr. Varner engaged in sexual harassment against female employees.

11. For instance, during his first week of employment, Mr. Varner had a complaint made against him by a female employee for rubbing her shoulders.

12. While Mr. Varner was eventually told to stop this practice, he has continued to engage in other sexually inappropriate behavior towards Ms. Shaklee.

13. During meetings, Mr. Varner would sit with his legs spread apart in full view of Ms. Shaklee and grab his crotch.

14. Mr. Varner would also often stand up during meetings and grab his crotch in front of all of the meeting participants.

15. Mr. Varner has thrust his crotch at Ms. Shaklee.

16. Mr. Varner has mimicked sexual activity by thrusting the air in front of Ms. Shaklee during private meetings where City business was being conducted.

17. Mr. Varner has touched himself inappropriately through his clothing while talking to Ms. Shaklee.

18. Mr. Varner would walk into Ms. Shaklee's office, prop his leg up on a chair and grab his crotch in full view of the entire office.

19. Ms. Shaklee first complained about Mr. Varner's inappropriate behavior in the spring of 2011 to Carri Byrd, the Human Resources Consultant for the City.

20. However, to the best of Ms. Shaklee's knowledge, nothing was done to remedy the situation after Ms. Shaklee's complaint.

21. Ms. Shaklee complained again in August 2011.

22. This time the City retaliated against Ms. Shaklee by starting to reprimand her for frivolous and unfounded performance issues. Up until this time, Ms. Shaklee had not been reprimanded for performance issues.

23. Furthermore, Ms. Shaklee was required to provide daily logs of her work so that her supervisor, Ms. Wicker, could oversee Ms. Shaklee's productivity.

24. No other similarly situated Officer was subject to such close monitoring and oversight. Ms. Shaklee was never required to submit productivity logs until she complained about Mr. Varner.

25. At the end of August 2011, Ms. Shaklee was called into a meeting with two Human Resources consultants and the Code Enforcement Manager, Lancine Bentley.

26. During this meeting, Ms. Shaklee was threatened and intimidated about her complaints of Mr. Varner's behavior.

27. Ms. Shaklee's supervisor, Ms. Wicker was repeatedly told by Ms. Bentley to reprimand Ms. Shaklee for performance issues.

28. When Ms. Wicker refused to reprimand Ms. Shaklee for nonexistent issues, Ms. Wicker was terminated.

29. The harassment and retaliation became so severe for Ms. Shaklee that she was forced to take a medical leave of absence.

30. When she returned, the harassment and retaliation intensified.

31. On April 30, 2012, Ms. Shaklee filed a charge of discrimination with the EEOC alleging sex discrimination and retaliation.

32. When the City found out that Ms. Shaklee had filed an EEOC charge, the City asked the Texas Rangers to investigate Ms. Shaklee.

33. The issue for which the Texas Rangers investigated Ms. Shaklee involved a complaint made against her in April 2012 for stopping some citizens from cleaning and clearing land near her house. Mr. Varner had, in fact, already resolved the issue on April 25, 2012.

34. It was only after Ms. Shaklee filed an EEOC charge of discrimination alleging sex discrimination and retaliation that the City reopened the case and asked the Texas Rangers to investigate Ms. Shaklee.

35. When complaints are made against other Code Enforcement Officers, there is usually an investigation completed by the City or the police department. The Texas Rangers are not usually asked to investigate.

36. The reason the City referred this case to the Texas Rangers was to intimidate, threaten, and coerce Ms. Shaklee into dropping her complaint of sexual harassment and sex discrimination against the City.

37. On June 22, 2012, Ms. Shaklee was interviewed by Texas Ranger Pettigrew. During this interview, Ms. Shaklee was accused of violating city ordinances.

38. On July 2, 2012, Ms. Shaklee filed a second charge of discrimination against the City for retaliation.

39. Since that time, the City has continued to retaliate against Ms. Shaklee.

40. For instance, the City, suddenly and without warning, removed Ms. Shaklee's sign and zoning duties and reassigned them to another, less experienced Officer in September 2012.

41. On October 4, 2012, Mr. Varner stated to Ronny Knox that there were only two people still employed with the City who had complained about Mr. Varner and that it would not happen again.

42. The City has systematically removed employees who complain about Mr. Varner. Besides Ms. Shaklee and Mr. Knox, the two other employees had complained about Mr. Varner's inappropriate conduct were terminated.

43. Mr. Varner has threatened to terminate Ms. Shaklee and Mr. Knox, directly telling Mr. Knox that he hoped the City would hire two new people just like the other new employees the City hired to replace the employees who complained, clearly implying an intent to terminate Ms. Shaklee and Mr. Knox.

44. Ms. Shaklee received a right to sue letter from the TWC on January 8, 2013.

45. All conditions precedent to the bringing of this lawsuit have been satisfied and fulfilled.

V
SEX DISCRIMINATION

46. Paragraphs 1-45 are incorporated herein.

47. Defendant violated Texas Labor Code when it sexually harassed Plaintiff at work.

48. Defendant is engaged in an industry affecting commerce and had 15 or more employees during the relevant time period.

49. Plaintiff is female.

50. The sexual harassment was unwelcome.

51. The harassment was based on sex or gender.

52. The harassment was so severe that it affected a term, condition, or privilege of employment.

53. Defendant knew of the harassment, as Ms. Shaklee complained multiple times, but failed to take remedial action.

54. Because of the actions of the Defendant, Plaintiff suffered damages within the jurisdictional limits of this Court.

VI
RETALIATION

55. Paragraphs 1-54 are incorporated herein.

56. Defendant violated the Texas Labor Code when it retaliated against Plaintiff for engaging in protected activity.

57. Plaintiff engaged in protected activity when she complained multiple times of sex discrimination and sexual harassment in spring 2011, August 2011, April 2012, and July 2012.

58. Defendant retaliated against Plaintiff when it reprimanded and disciplined Plaintiff for frivolous and unfounded issues.

59. Defendant retaliated against Plaintiff when, without legitimate reason, it reopened a complaint and asked the Texas Rangers to investigate an already resolved matter.

60. Because of the actions of the Defendant, Plaintiff suffered damages within the jurisdictional limits of this Court.

VII JURY DEMAND

61. Plaintiff demands trial by jury and has tendered the appropriate fee.

VIII REQUEST FOR DISCLOSURE

62. Defendant is requested to disclose, within 50 days of service of this request, the information and material described in Rule 194.2.

IX DAMAGES

63. Plaintiff seeks all damages allowed under the Texas Labor Code, including:

(a) Plaintiff seeks an injunction, prohibiting Defendant from engaging in unlawful employment practices.

(b) Plaintiff seeks additional equitable relief as may be appropriate such as reinstatement, promotion, back pay, front pay, and court costs.

(c) Plaintiff seeks compensatory damages for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses.

(d) Plaintiff seeks reasonable attorney's fees and costs including reasonable expert fees.

(e) Plaintiff seeks pre and post judgment interest at the maximum rate allowed by law.

WHEREFORE, premises considered, Plaintiff respectfully prays that Defendant be cited to appear and that, upon a trial on the merits, all relief requested be awarded to Plaintiff, and for such other and further relief to which Plaintiff is justly entitled.

Respectfully submitted,
ROB WILEY, P.C.

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