

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

TANYA M. BOROKWA,
Plaintiff,

Case No.
Hon.

V.

PLANNED PARENTHOOD OF MICHIGAN,
And ROBERT LOCKETT, an individual,
Defendants.

AVANTI LAW GROUP, PLLC Robert Anthony Alvarez (P66954) Attorneys for Plaintiff 600 28th St. SW Wyoming, MI 49509 (616) 257-6807	
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**PLAINTIFF'S ORIGINAL COMPLAINT
AND DEMAND FOR JURY TRIAL**

NATURE OF ACTION

1. This is an action brought under Title VII of the Civil Rights Act of 1964, as amended, the same being 42 U.S.C. §2000e, *et. seq.* and the Elliott-Larsen Civil Rights Act (hereinafter "ELCRA"), M.C.L. § 37.2101 *et seq.* to correct unlawful employment practices on the basis of sex and to provide appropriate relief to Plaintiff for having been adversely affected by Defendants. Plaintiff alleges that she was the victim of sexual harassment during her employment, that she was treated differently because of her sex, and that her employment was

adversely affected and eventually terminated in retaliation to her filing a sexual harassment complaint against Defendant.

JURISDICTION

2. This Court has federal question jurisdiction over this action pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1343 and 42 U.S.C. § 2000(e).

3. This Court has supplemental jurisdiction over the state law claim asserted herein pursuant to 28 U.S.C. § 1367.

4. Supplemental jurisdiction is appropriate because Plaintiff's state law claim shares a common nucleus of operative fact with Plaintiff's federal claim and are most efficiently resolved together in one court.

5. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Western District of Michigan.

6. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(1) because the Irwin/Martin Health Center, a branch of Defendant Planned Parenthood of Michigan, is located in this district, and all Defendants are residents of the State of Michigan.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claims pled in this complaint occurred in this District.

8. Plaintiff has fulfilled all the conditions precedent to the institution of this action under 29 U.S.C. § 626(d).

9. On or about February 20, 2019 Plaintiff filed a timely charge of discrimination, EEOC #471-2018-04690 (hereinafter the “Charges”), with the Equal Employment Opportunity Commission (hereinafter “EEOC”). The Charges alleged that she had been discriminated against on the basis of her sex in violation of Title VII of the Civil Rights Act of 1964.

10. On March 13, 2019, the EEOC concluded its investigation and issued a Dismissal and Notice of Rights letter to Plaintiff. *Exhibit A*.

11. Plaintiff received the Notice of Rights letter on March 16, 2019.

12. Plaintiff filed her Original Complaint within ninety (90) days of receipt of the Notice.

13. Plaintiff is a resident of Kent County, Michigan.

14. Defendant Planned Parenthood of Michigan (hereinafter referred to as “PPM”) has a principal place of business located within Kent County, Michigan.

15. Upon information and belief, Defendant Robert Lockett is a resident of Washtenaw County, State of Michigan.

PARTIES

16. Plaintiff Tanya Borokwa is female who was last rehired and employed by Defendant PPM from 2011 to May 23, 2018, and who resided in the county of Kent, State of Michigan during her employment with Defendant PPM.

17. Defendant PPM is incorporated under the laws of the State of Michigan and has a registered address of 950 Victors Way, Ste 100, Ann Arbor, Michigan.

18. Defendant Robert Lockett is a male.

19. Defendant Lockett is the Director of Revenue Cycle Management for Defendant PPM and directly supervised Plaintiff at all times relevant to the claims.

20. Defendant Lockett was hired as the Director of Revenue Cycle Management for Defendant PPM on or around February of 2017.

GENERAL ALLEGATIONS

21. Plaintiff was employed by Defendant PPM for three different periods between 2002 and 2018.

22. Plaintiff was last rehired by Defendant PPM as a Billing Specialist in 2011.

23. In 2014, Plaintiff was promoted to Billing Coordinator.

24. In 2015, Plaintiff was promoted to Billing Supervisor.

25. On or around July 2017, Plaintiff was promoted to her most recent position as Billing Manager, a position she held until she was terminated on May 23, 2018.

26. Defendant Lockett promoted Plaintiff from Billing Supervisor to Billing Manager.

27. Plaintiff worked for Defendant PPM at their office located at 425 Cherry St SE, Grand Rapids, MI 49503 at all times relevant to this complaint.

28. Plaintiff was continually harassed by Defendant Lockett during her employment with Defendant PPM.

29. Plaintiff reported this harassment to Tom Gannon, Director of Human Resources, Lori Carpentier, President and CEO, and Danielle Bessant, Vice President of Organizational Development, but the harassment continued.

30. Plaintiff made continuous complaints and no action was taken to address her concerns and cease the continued harassment by Defendant Lockett.

31. Plaintiff attended meetings, where Defendant Lockett was present, one to two times a month.

32. Plaintiff was subject to discriminatory and harassing behavior when interacting with Defendant Lockett during the meetings stated in paragraph 31.

33. In November 2017, Plaintiff traveled to Defendant PPM's Ann Arbor location for a training.

34. At the end of the training, Defendant Lockett asked Plaintiff if she "wanted to go out for dinner somewhere", to which Plaintiff declined.

35. The following day, at the conclusion of the training, Defendant Lockett hugged Plaintiff goodbye, when doing so he rubbed his hand down her back to her butt, and kissed her on the forehead.

36. On November 22, 2017, after discussing Defendant Lockett's inappropriate behavior with her female coworkers, Plaintiff's female coworker sent an email on behalf of a group of female employees, including Plaintiff, as a complaint to Tom Gannon regarding Defendant Lockett's inappropriate behavior.

37. The complaint was sent after Plaintiff and her female coworkers were subjected to Defendant Lockett's inappropriate behavior.

38. After the complaint was emailed, Defendant PPM contacted the coworker who sent the email, but no other individuals, regarding the matter.

39. No response was received by Plaintiff to the complaint sent via email, even though the complaint was sent on her behalf as well.

40. On December 14, 2017, Plaintiff called Tom Gannon and made a complaint about Defendant Lockett's behavior once more.

41. No action was taken after this complaint was made to Tom Gannon.

42. Due to Plaintiff's complaints, Defendant Lockett stopped responding to Plaintiff's emails, disrespected Plaintiff, and did not allow Plaintiff to complete her obligations and responsibilities as a Billing Manager.

43. In March of 2018, Defendant Lockett placed Plaintiff on a Professional Development Plan due to her "not being able to do her job".

44. Defendant Lockett's behavior was in retaliation to an anonymous complaint that he believed to have been submitted by Plaintiff.

45. On March 13, 2018, Plaintiff sent an email to Tom Gannon and Lori Carpentier reporting Defendant Lockett's retaliatory behavior.

46. Plaintiff was advised that an investigation was open regarding the harassment matter.

47. Plaintiff was never approached by any team member regarding the investigation.

SEX DISCRIMINATION

48. Plaintiff hereby incorporates and realleges all paragraphs as stated above.

49. Defendant PPM was made aware of Defendant Lockett's harassment and discrimination towards Plaintiff, and at least two other individuals due to their sex.

50. Defendant PPM allowed Defendant Lockett's harassment and discrimination to continue after being made aware of the ongoing harassment and discrimination.

51. A female coworker reported the harassment and discrimination to the Director of Human Resources, Tom Gannon.

52. An anonymous, interoffice complaint was filed against Defendant Lockett regarding his harassment and discrimination of female employees.

53. Plaintiff was the subject of harassment by Defendant Lockett due to her sex.

54. Had Plaintiff been a male she would not have been subjected to this discriminatory behavior.

RETALIATION

55. Plaintiff hereby incorporates and realleges all paragraphs as stated above.

56. Defendant Lockett began working for Defendant PPM in approximately January 2017.

57. In approximately January 2017, at the time of hire, Defendant Lockett became Plaintiff's direct supervisor.

58. On or around July 2017, Defendant Lockett promoted Plaintiff to Billing Manager.

59. Around approximately September 2017 Defendant Lockett gave Plaintiff a bonus.

60. In November 2017, Plaintiff attended company training in Ann Arbor where she was subject to discrimination based on sex and sexual harrassment.

61. Plaintiff subsequently discussed the matter with her coworkers, and they made Defendant PPM, through Tom Gannon, aware of Defendant Lockett's discriminatory actions.

62. On or around December 14, 2017, Plaintiff reached out to Tom Gannon made a complaint about Defendant Lockett's behavior once more.

63. At some point, an anonymous complaint was also filed against Defendant Lockett.

64. At Plaintiff's next performance review, following her coworker's email to Tom Gannon, her complaint to Tom Gannon, and the anonymous complaint filed against Defendant Lockett, Defendant Lockett placed Plaintiff on a Professional Development Plan.

65. Prior to this performance review, Plaintiff did not have any issues in her performance reviews.

66. Part of Plaintiff's Professional Development Plan included her conducting weekly phone meetings with Defendant Lockett and Tom Gannon.

67. During these meetings, Defendant Lockett continued to retaliate against Plaintiff, frequently interrupting her and cutting her off from speaking.

68. Plaintiff was unable to "improve" her performance as Defendant Lockett continued to retaliate against her and would not give her specific areas in which to improve.

69. Plaintiff was terminated on May 23, 2018, and was told the reason for her termination was because she was "not fit for the company."

70. Plaintiff was meeting all of her goals, had been working for Defendant PPM for years, and had not been the subject of disciplinary action up until she reported Defendant Lockett's behavior.

71. Plaintiff was retaliated against for her sexual harassment complaint against Defendant Lockett by being placed on a Professional Development Plan and by being terminated.

72. Plaintiff would not have been retaliated against and/or terminated had she not complained about Defendant Lockett's sexual harassment against Plaintiff.

COUNT I
SEX DISCRIMINATION AND SEXUAL HARASSMENT IN VIOLATION OF
TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, 42 U.S.C. §2000e, ET SEQ.

73. Plaintiff incorporates by reference all previous paragraphs as if fully stated herein.

74. Defendants, by their conduct as aforesaid, violated 42 U.S.C. §2000(e-2a) in that they knowingly allowed a sexually harassing hostile work environment and sexual assaults in their workplace, including harassment and assaults of Plaintiff.

75. Defendant PPM, through management, was aware of the sexual harassment by Defendant Lockett, not only through specific verbal and written complaints to Tom Gannon, but by other management witnessing the harassment and assaults.

76. The conduct of Mr. Lockett was severe and pervasive.

77. The conduct and communications Mr. Lockett had the purpose and effect of substantially interfering with Plaintiff's employment by creating an intimidating, hostile, or offensive employment environment and was unwelcomed by the Plaintiff.

78. Defendant entity is liable for the actions of Mr. Lockett as Defendants had actual and constructive notice of the hostile environment and sexual assaults and failed to take appropriate, prompt, and remedial action to remedy the harassment.

79. Plaintiff was terminated via constructive discharge as Defendant would not remedy the hostile environment in which she worked.

80. As a result of the foregoing, Plaintiff lost earnings and benefits and suffered mental anguish, and emotional distress for which Defendant is liable.

COUNT II
RETALIATION IN VIOLATION OF
TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, 42 U.S.C. §2000e, ET SEQ.

81. Plaintiff incorporates by reference all previous paragraphs as if fully stated herein.

82. Defendant retaliated against Plaintiff with regard to the terms and conditions of her employment, ultimately, her constructive discharge, due to her engagement in protected activities including making complaints to her supervisor and/or human resources, regarding harassment and/or a hostile workplace based upon her sex (female), or alternatively, what Plaintiff reasonably believed to be harassment and/or a hostile workplace, all of which Defendant PPM was aware of.

83. Plaintiff's complaints to Defendant PPM were protected activities.

84. This retaliation against Plaintiff for engaging in protected activities constituted a violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq.

85. Defendants' conduct was motivated by malice, spite and ill will; was willful and wanton, and evinced conscious disregard for the rights of Plaintiff.

86. Defendants' acts of malice, spite, and ill will which evince a conscious disregard for the rights of Plaintiff include, but are not limited to: harassing and retaliating against her due to her engagement in protected activity, or allowing such harassment and retaliation, and constructively discharging her because of her engagement in protected activity.

87. Defendants' acts and omissions were calculated to lead to her constructive discharge

88. As a direct and proximate result of Defendants' actions, Plaintiff has suffered and continues to suffer economic and non-economic damages, including lost back pay, lost front pay, lost benefits and other wages, emotional distress, punitive damages, and attorney's fees and costs.

COUNT III
SEX DISCRIMINATION AND SEXUAL HARASSMENT IN VIOLATION OF
THE ELLIOTT-LARSEN CIVIL RIGHTS ACT, M.C.L. § 37.2101 ET SEQ.

89. Plaintiff incorporates by reference all previous paragraphs as if fully stated herein.

90. At all material times, Plaintiff was an employee, and Defendants were her employer, covered by and within the meaning of the Michigan Elliott Larsen Civil Rights Act, MCL 37.2101 et seq.

91. Plaintiff's sex was at least one factor that made a difference in Defendant Lockett's decision to harass and discriminate Plaintiff.

92. Plaintiff's sex, and her reporting of the harrasment and discrimination, was at least one factor that made a difference in Defendant PPM's conconstructive discharge.

93. If Plaintiff had been of a different sex, she would not have been subject to the harassment and discrimination by Defendant Lockett.

94. If Plaintiff had been of a different sex, Defendants would have made attempts to accommodate Plaintiff and taken further steps to stop the harassment.

95. Defendants, through their agents, representatives and employees, was predisposed to discriminate on the basis of sex and acted according to that predisposition.

96. The effect of the practices complained of in the paragraphs above has been to deprive the Plaintiff of equal employment opportunities and otherwise adversely affected her status as an employee, because of her sex.

97. The unlawful employment practices complained of in the paragraphs above were and are intentional.

98. The unlawful employment practices complained of in the paragraphs above were and are done with malice or with reckless indifference to the federally protected rights of the Plaintiff.

99. As a direct and proximate result of Defendants' wrongful acts and omissions, Plaintiff has sustained a loss of earnings, earning capacity, benefits, has suffered mental anguish, physical and emotional distress, humiliation, and embarrassment.

COUNT IV
RETALIATION IN VIOLATION OF
THE ELLIOTT-LARSEN CIVIL RIGHTS ACT, M.C.L. § 37.2101 ET SEQ.

100. Plaintiff incorporates by reference all previous paragraphs as if fully stated herein.

101. At all material times, Plaintiff was an employee, and Defendants were her employer, covered by and within the meaning of the Michigan Elliott Larsen Civil Rights Act, MCL 37.2101 et seq.

102. Plaintiff's reporting of discrimination was a factor that made a difference in the Defendants' decision to place Plaintiff on a Professional Development Plan, which ultimately lead to her termination.

103. If Plaintiff had not complained of discrimination and harassment, she would not have been retaliated against.

104. If Plaintiff had not complained of discrimination and harassment, she would not have been terminated.

105. Defendants, through their agents, representatives and employees, treated Plaintiff differently from similarly situated individuals who had not complained of discrimination and harassment.

106. The effect of the practices complained of in the paragraphs above has been to deprive the Plaintiff of equal employment opportunities and otherwise adversely affected her status as an employee, because of her reporting and complaining of actions that she felt were discriminatory.

107. The unlawful retaliatory employment practices complained of in the paragraphs above were and are intentional.

108. The unlawful employment practices complained of in the paragraphs above were and are done with malice or with reckless indifference to the protected rights of the Plaintiff.

109. As a direct and proximate result of Defendants' wrongful acts and omissions, Plaintiff has sustained a loss of earnings, earning capacity, benefits, has suffered mental anguish, physical and emotional distress, humiliation, and embarrassment.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter Judgment in her favor against Defendants for the following relief:

- A. Lost wages and benefits, past and future, in whatever amount Plaintiff is found to be entitled;
- B. Other compensatory damages in whatever amount Plaintiff is found to be entitled;
- C. Punitive and exemplary damages commensurate with the wrong;
- D. An award of interest, costs, and reasonable, actual attorney fees; and
- E. The Court grant such other and further relief as the Court may deem just or equitable.

Date: June 14, 2019

Respectfully Submitted,

/s/ Robert Anthony Alvarez
Robert Anthony Alvarez (P66954)
Attorney for Plaintiff
Avanti Law Group, PLLC
600 28th Street SW
Wyoming, MI 49509
(616) 257-6807
ralvarez@avantilaw.com

REQUEST FOR TRIAL BY JURY

NOW COMES Plaintiff, Tanya Borokwa, by and through her attorney, Robert Anthony Alvarez, and hereby requests a trial by jury pursuant to Fed. Civ. Pro. Rule 38.

Date: June 14, 2019

Respectfully Submitted,

Robert Anthony Alvarez
Robert Anthony Alvarez (P66954)
Attorney for Plaintiff
Avanti Law Group, PLLC
600 28th Street SW
Wyoming, MI 49509
(616) 257-6807
ralvarez@avantilaw.com

VERIFICATION

I declare under penalty of perjury that the statements outlined above in this Complaint are true and accurate to the best of my knowledge, information, and belief.

Date: 6/13/19

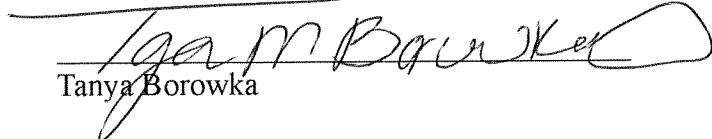

Tanya Borowka

EXHIBIT A

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Tanya M. Borokwa**
3812 Michael Ave SW
Wyoming, MI 49509

From: **Detroit Field Office**
477 Michigan Avenue
Room 865
Detroit, MI 48226

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

EEOC Charge No.	EEOC Representative	Telephone No.
471-2018-04690	Alexa K. Moore, Investigator	(313) 226-4626

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

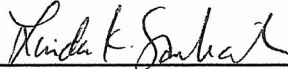
- The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- Your allegations did not involve a disability as defined by the Americans With Disabilities Act.
- The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge
- The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- Other (*briefly state*)

- NOTICE OF SUIT RIGHTS -
(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed 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.**

On behalf of the Commission



**Michelle Eisele,
 District Director**

03-13-19

(Date Mailed)

Enclosures(s)

cc: **Denise A. Thal**
Executive VP of Business Operations
PLANNED PARENTHOOD MID & SOUTH MICHIGAN
P.O. Box 3673
Ann Arbor, MI 48106

**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),
the Genetic Information Nondiscrimination Act (GINA), or the Age
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Courts often require that a copy of your charge must be attached to the complaint you file in court. If so, you should remove your birth date from the charge. Some courts will not accept your complaint where the charge includes a date of birth. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10** – *not* 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice **and** within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do **not** relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.