

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

<p>TERRELL HAMBRICK,</p> <p>Plaintiff,</p> <p>v.</p> <p>PLANNED PARENTHOOD OF GREATER IOWA, INC, JENNIFER WARREN-ULRICK, MONICA STOVALL, and ANN ESSY</p> <p>Defendants.</p>	<p>CASE NUMBER _____</p> <p>COMPLAINT AND JURY DEMAND</p>
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COMES NOW the Plaintiff, Terrell Hambrick, and for her complaint against the Defendants, respectfully states the following:

INTRODUCTION

1. This is an action alleging race and disability discrimination, retaliation for making or participating in a proceeding wherein race and disability discrimination were alleged and for interference with and retaliation relating to Family and Medical Leave Act rights.

2. Federal question jurisdiction lies in this Court for the claims in this action pursuant to 28 U.S.C. §1331 for violation of rights under the Civil Rights Act of 1964, as amended, for race discrimination and under the Americans With Disabilities Act for disability discrimination, under 42 U.S.C. §1981 for race discrimination, and pursuant to 28 U.S.C. §1331 and 29 U.S.C. §2601 *et seq* for claims of violation of the Family and Medical Leave Act of 1993, as amended,

(sometimes referred to herein as “FMLA”). Pendant jurisdiction of state claims exists under 28 U.S.C. §1367.

FACTUAL BACKGROUND

3. At all times pertinent hereto, Plaintiff, Terrell Hambrick was and is a resident of Polk County, Iowa.

4. At all times pertinent here, Defendant, Planned Parenthood of Greater Iowa, Inc., (“PPGI”) was and is a corporation formed under the laws of the State of Iowa with a principal place of business in Polk County, Iowa.

5. Upon information and belief, Defendant, Jennifer Warren-Ulrick, (“Warren-Ulrick”) was and is a resident of the State of Iowa in Polk County, Iowa and an employee of PPGI.

6. Upon information and belief, Defendant, Monica Stovall, (“Stovall”) was and is a resident of the State of Iowa in Polk County, Iowa and an employee of PPGI.

7. Upon information and belief, Defendant, Ann Essy, (Essy”) was and is a resident of the State of Iowa in Polk County, Iowa and an employee of PPGI.

8. At all pertinent times herein Warren-Ulrick was the Regional Director for PPGI.

9. At all times pertinent hereto Stovall was the Call Center Supervisor for PPGI and was Plaintiff’s immediate supervisor.

10. At all time pertinent hereto Essy was the Human Resource Director for PPGI.

11. The Defendants, Warren-Ulrick, Stovall and Essy were, at all times herein, acting in their capacity as supervisors, employees and/or agents of Defendant PPGI and within the scope of their employment.

12. Plaintiff began employment with the PPGI on July 5, 2006 as a call center representative.

13. In August 2007, the Plaintiff learned that the employees of the Call Center in which she worked would receive a 3 percent raise.

14. It was the Plaintiff's understanding that her pay raise when given would be retroactive and in the same amount.

15. Plaintiff was advised on or about October 4, 2007 that Defendants PPGI and Warren-Ulrick would not make the Plaintiff's wage increase equal to the other employees' raises.

16. On September 14, 2007, the Plaintiff met with her Supervisor, Stovall, and the Regional Director of the Defendant PPGI, Warren-Ulrick, for her annual evaluation.

17. During that evaluation, Warren-Ulrick informed Plaintiff that PPGI was in the process of creating several new positions.

18. The positions were to be a Caseworker for the Iowa Medical Aid Fund, an IFPN Specialist.

19. Warren-Ulrick advised the Plaintiff that she had viewed her resume and saw that she had previous caseworker experience.

20. The Plaintiff was told that PPGI would be hiring internally, as PPGI wanted experienced people that were familiar with the program.

21. The Plaintiff was advised to watch the Defendant PPGI's website for the posting of this position.

22. On November 19, 2007, at a company function, a white co-worker, who had just returned from maternity leave, announced that she had been hired for one of the Caseworker positions. To Plaintiff's knowledge, this person had no previous caseworker experience.

23. This Caseworker position had never been posted on the company website.

24. Defendant PPGI had several of such positions available which were filled by persons other than Plaintiff.

25. The last IFPN Specialist (Caseworker) position available was at PPGI's West Clinic.

26. On December 5, 2007, the Plaintiff interviewed with Stacy York and Mary Fox, who were managers at the West Clinic of PPGI.

27. During the interview Ms. York and Ms. Fox, as employees and representatives of PPGI, asked questions that the Plaintiff contends were racially motivated, discriminatory in nature and otherwise inappropriate.

28. After the interview, York and Fox reported to Warren-Ulrick that Plaintiff was qualified for the position.

29. The Defendants PPGI and Warren-Ulrick hired a 24 year-old Caucasian employee from outside the company to fill the position.

30. Plaintiff was equally or more qualified for the position.

31. Defendant PPGI has a policy that provides a specific promotion preference for internal positions.

32. Plaintiff should have, under this policy, been promoted to the open caseworker position.

33. Defendant PPGI has a policy that provides, "In positions where the final group of candidates contains minorities with similar qualifications to the other candidates, hiring managers are asked to give careful consideration to such applicant(s)."

34. Plaintiff, under this policy, should have been promoted into the open caseworker position.

35. At the time the Plaintiff applied for this position, PPGI's West Clinic had zero African American employees.

36. A small percentage of the customers at the West Clinic are minorities.

37. In December, 2007, after the Plaintiff was not promoted to the West Clinic position, the Regional Director, Warren-Ulrick, offered Plaintiff the same position only at the Ames Clinic.

38. This position in Ames, Iowa, was over a one hour drive from where Plaintiff resides in Polk County.

39. On January 7, 2007, the Plaintiff underwent major surgery and was required to take medication for anxiety, depression, mood swings and high blood pressure on an ongoing basis.

40. On February 12, 2008, the Plaintiff filed a Complaint with the Iowa Civil Rights Commission and the Equal Opportunity Commission alleging discrimination based on race discrimination in the areas of failure to promote, equal pay and being treated differently.

41. Beginning in February, 2008 and continuing to October 8, 2008, the Defendant PPGI disciplined the Plaintiff numerous times for absenteeism, use of Respondent's property for personal gain and creating a hostile work environment in the unit. A report of hostile work environment prompted an investigation by the Defendant PPGI and several employees were interviewed.

42. On March 5, 2008, the Defendant Stovall gave the Plaintiff a written warning for the use of electronic equipment. The Plaintiff was also called into a meeting questioning her on her unavailable time on the phone and break time issues.

43. On April 14, 2008, the Plaintiff filed a second Complaint with the Iowa Civil Rights Commission and the Equal Employment Opportunity Commission alleging discrimination based on retaliation and that she was disciplined, harassed and treated differently for filing her initial Complaint on February 12, 2008 with the Iowa Civil Rights Commission.

44. The Plaintiff was disciplined numerous times beginning in February and continuing to October 8, 2008.

45. The Plaintiff first requested FMLA leave on August 18, 2008. On August 22, 2008, the Plaintiff submitted her second request for FMLA leave. On September 2 or 3rd, 2008, the Plaintiff submitted her third request for FMLA leave.

46. The Defendants PPGI and Essy alleged the medical certification information was insufficient to approve FMLA leave. After the medical certification information was rejected by Defendant Essy several times, the Plaintiff's doctor requested a release be signed by the Plaintiff so he could provide the information directly to the Defendant.

47. Such information was supplied and the Plaintiff's personal physician's office provided all information required for the allowance of FMLA leave.

48. On or about September 26, 2008, the Defendant PPGI gave the Plaintiff the names of two doctors PPGI approved to get a second opinion.

49. One such doctor would not schedule an appointment with Plaintiff.

50. The other doctor was not immediately available and an appointment was set for the first such time available being November 6, 2008.

51. PPGI, Stovall and Essy were notified of this medical appointment.

52. On October 6, 2008, Plaintiff missed work due to her FMLA conditions and the Plaintiff received a written warning for excessive absenteeism.

53. The Plaintiff was absent from her employment on October 8, 2008.

54. Plaintiff had been released to be off work by her doctor from October 7, 2008 to October 9, 2008.

55. When the Plaintiff was absent, the Defendants PPGI and Essy continued their investigation of the Plaintiff.

56. On October 8, 2008, the Plaintiff was called by the Defendant PPGI and Stovall and was told that she had been terminated.

57. The Plaintiff was wrongfully terminated by the Defendants on October 8, 2008.

58. On October 23, 2008, the Plaintiff filed her third Complaint with the Iowa Civil Rights Commission and the Equal Employment Opportunity Commission alleging discrimination based on discriminatory discipline, failure to provide reasonable accommodation, discriminatory discharge, discriminatory retaliation, discrimination based on a physical disability and discrimination based on a mental disability.

59. On February 12, 2009, Plaintiff received a right to sue letter from the Iowa Civil Rights Commission and on February 25, 2009 from the EEOC relating to her complaint filed on February 12, 2008, based on employment, for race discrimination and wages promotion.

60. On March 5, 2009, Plaintiff received a right to sue letter from the Iowa Civil Rights Commission and on March 19, 2009 from the EEOC relating to her complaint filed on April 14, 2008, based on discriminatory discipline, harassment and retaliation.

61. On March 18, 2009, Plaintiff received a right to sue letter from the Iowa Civil Rights Commission and a right to sue letter from the EEOC on April 9, 2009 relating to her complaint filed on October 23, 2008, based on employment, discipline, reasonable accommodation, discharge, retaliation, physical disability and mental disability.

62. This suit is timely filed and after the receipt of such right to sue releases.

COUNT I – RACE DISCRIMINATION AND RETALIATION - TITLE VII

63. Plaintiff restates paragraphs 1-62.

64. Plaintiff is an African-American.

65. Defendant PPGI discriminated against the Plaintiff based on her race in violation of Title VII of the Civil Rights Act of 1964, as amended, and 42 USC §1981.

66. Plaintiff engaged in the protected activity of reporting race discrimination.

67. Defendant PPGI retaliated against the Plaintiff based on the Plaintiff's complaints of race discrimination in violation of Title VII of the Civil Rights of Act of 1964 and 42 USC §1981.

68. Defendant PPGI took adverse employment actions against the Plaintiff, including termination.

69. Defendant PPGI's adverse employment actions were based in part on the Plaintiff's race and in retaliation for Plaintiff making and pursuing a complaint of race discrimination.

70. Defendant PPGI's actions were the direct and proximate cause of damages to the Plaintiff.

**COUNT II – RACE DISCRIMINATION AND RETALIATION - IOWA CIVIL
RIGHTS ACT**

71. Plaintiff restates paragraphs 1-62.

72. Plaintiff is an African-American.

73. The Defendants discriminated against the Plaintiff based on her race in violation of Iowa Civil Rights Act.

74. Plaintiff engaged in the protected activity of reporting race discrimination.

75. The Defendants retaliated against the Plaintiff based on the Plaintiff's complaints of race discrimination in violation of the Iowa Civil Rights of Act.

76. The Defendants took adverse employment actions against the Plaintiff, including termination.

77. The Defendants' adverse employment actions were in part based on the Plaintiff's race and in retaliation for Plaintiff making and pursuing a complaint of race discrimination.

78. The Defendants' actions were the direct and proximate cause of damages to the Plaintiff.

COUNT III – RACE DISCRIMINATION AND RETALIATION (42 USC §1981)

79. Plaintiff restates paragraphs 1-62.

80. Plaintiff is an African-American.

81. The Defendants discriminated against the Plaintiff based on her race in violation of 42 USC §1981.

82. Plaintiff engaged in the protected activity of reporting race discrimination.

83. The Defendants retaliated against the Plaintiff based on the Plaintiff's complaints of race discrimination in violation of 42 USC §1981.

84. The Defendants took adverse employment actions against the Plaintiff, including termination.

85. The Defendants' adverse employment actions were in part based on the Plaintiff's reports of race discrimination and in retaliation for Plaintiff making and pursuing a complaint of race discrimination.

86. The Defendants' actions were the direct and proximate cause of damages to the Plaintiff.

COUNT IV – DISABILITY DISCRIMINATION (AMERICANS WITH DISABILITIES ACT)

87. Plaintiff restates paragraphs 1-62.

88. Defendant PPGI discriminated against the Plaintiff based on her disability or regarded her as disabled.

89. Defendant PPGI took adverse employment actions against the Plaintiff, including termination.

90. Plaintiff suffers from a disability.

91. The Defendant PPGI refused to accommodate Plaintiff's disability.

92. Defendant's adverse employment actions were based in part on the Plaintiff's disability or regarded her as disabled.

93. Defendant's actions were the direct and proximate cause of damages to the Plaintiff.

COUNT V – DISABILITY DISCRIMINATION (IOWA CIVIL RIGHTS ACT)

94. Plaintiff restates paragraphs 1-62.

95. Plaintiff suffers from a disability.

96. The Defendants discriminated against the Plaintiff based on her disability or regarded her as disabled.

97. The Defendants took adverse employment actions against the Plaintiff, including termination.

98. The Defendants refused to accommodate Plaintiff's disability.

99. Defendants' adverse employment actions were based in part on the Plaintiff's disability, or because they regarded her as disabled.

100. Defendants' actions were the direct and proximate cause of damages to the Plaintiff.

COUNT VI – FAMILY MEDICAL LEAVE ACT - INTERFERENCE

101. Plaintiff restates paragraphs 1-62.

102. Plaintiff was entitled to FMLA leave.

103. The Defendants refused, delayed and denied the Plaintiff FMLA leave.

104. The Defendants' refusal, delay of and denial of FMLA leave violated the FMLA.

105. The Defendants' actions were the direct and proximate cause of damages to the Plaintiff.

COUNT VII – FAMILY AND MEDICAL LEAVE ACT - RETALIATION

106. Plaintiff restates paragraphs 1-62.

107. Plaintiff requested FMLA leave.

108. The Defendants knew the Plaintiff was requesting FMLA leave.

109. The Defendants took adverse employment actions against the Plaintiff, including termination, in part based on the Plaintiff's requests for and taking of FMLA leave.

110. The Defendants' actions were the direct and proximate cause of damages to the Plaintiff.

AS TO ALL COUNTS

111. As a result of the aforesaid, the Plaintiff has lost and will in the future lose wages, has incurred medical expenses and will in the future incur medical expenses, has lost function of her mind and body and suffered great emotional and physical pain and suffering and incurred such other damages as are shown by the evidence.

112. As a result of the aforesaid, the Plaintiff has been damaged in a sum to be determined as reasonable and proper.

113. The actions of the Defendants are such as to justify the imposition of punitive or exemplary damages in an amount deemed reasonable and proper and within an amount as allowed by law.

114. The Court should award to Plaintiff her appropriate attorney fees in the processing of this action.

WHEREFORE, the Plaintiff prays:

1. Enter judgment that Defendants' wrongful course of conduct including imposition of discipline and termination of Plaintiff violated Plaintiff's rights as alleged;

2. Issue a mandatory injunction and direct the Defendants to rehire the Plaintiff retroactive to 10/8/08 with appropriate promotion or to her prior position as allowed under the law, all with appropriate wage and benefits;

3. Issue a mandatory injunction directing the Defendants to place Plaintiff on appropriate FMLA leave as required by statute, retroactive to 8/18/08;

4. Issue a mandatory injunction directing Defendants to reinstate all of Plaintiff's employment benefits, including, but not limited to, health insurance, retroactive to 10/8/08;

5. Enter judgment against Defendants in favor of Plaintiff for the monetary losses Plaintiff has sustained as a direct result of Plaintiff's discharge;


6. Enter judgment against Defendants in favor of Plaintiff for a sum determined as reasonable and proper for compensatory damages,

7. Enter judgment against Defendants in favor of Plaintiff for punitive damages in an amount deemed reasonable and proper if and as allowed by law;

8. Enter a judgment against the Defendants in favor of Plaintiff for reasonable attorney's fees and costs incurred by Plaintiff in connection with the instant action; and

9. Award Plaintiff such further and additional relief, including back pay, loss of future pay and/or front pay, for interest and costs and for such other and further relief as the Court may deem just and proper.

Respectfully Submitted,



By: _____

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JURY DEMAND

COMES NOW the Plaintiff, Terrell Hambrick, and demands a trial by jury for all issues properly tried before a jury.

Respectfully Submitted,



By: _____

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