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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MONIQUE BLACK,

Plaintiff,

_____ Civ. _____
ECF Case

-- against --

**COMPLAINT AND
JURY DEMAND**

PLANNED PARENTHOOD HUDSON
PECONIC, INC.,

Defendant.

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Plaintiff Monique Black, by and through her attorneys Bantle & Levy LLP, for her complaint, alleges as follows:

NATURE OF THE ACTION

1. This is an action for violations of federal and state labor laws by Planned Parenthood Hudson Peconic, Inc. based on the organization’s failure to pay Plaintiff for certain overtime hours worked and the retaliatory termination of Plaintiff’s employment after she complained about the failure to pay overtime wages. Plaintiff seeks relief pursuant to the Fair Labor Standards Act of 1938, 29 U.S.C. § 201 *et seq.*, as amended (“FLSA”), Articles 6 and 19 of the New York Labor Law, § 190 *et seq.* and § 650 *et seq.* (“NYLL”), and 12 N.Y.C.R.R. § 142-2.2 (the “Overtime Rate Order”), including applicable liquidated damages, interest, attorneys’ fees, and costs. Plaintiff also brings this action based on the retaliatory termination of her employment in violation of the FLSA, 29 U.S.C. § 201 *et seq.*, and NYLL, § 200 *et seq.*

JURISDICTION AND VENUE

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (“federal question”) and the FLSA, 29 U.S.C. § 216. The Court has supplemental jurisdiction over Plaintiff’s NYLL and Overtime Rate Order claims pursuant to 28 U.S.C. § 1367(a).

3. Venue is properly lodged in this Court pursuant to 28 U.S.C. § 1391(b) because a substantial part of the unlawful acts and discriminatory practices alleged herein were committed within the district of the United States District Court for the Southern District of New York.

PARTIES

4. Plaintiff Monique Black (“Black” or “Plaintiff”) is an African-American citizen of the United States and currently resides in the City and State of New York, in Bronx County.

5. Upon information and belief, Defendant Planned Parenthood Hudson Peconic, Inc. (“Planned Parenthood” or “Defendant”) is a domestic not-for-profit corporation, existing under the laws of the State of New York, with its principal place of business at 4 Skyline Drive, Hawthorne, New York 10532.

6. At all times relevant to Plaintiff’s claims, Defendant was an employer within the meaning of, *inter alia*, the FLSA, 29 U.S.C. § 203(d) & (e), the NYLL, §§ 190(2) & (3) and 651(5) & (6), and 12 N.Y.C.R.R. § 142-2.14(a).

7. At all times relevant to Plaintiff’s claims, Plaintiff was employed by Defendant within the meaning of Section 3(g) of the FLSA, 29 U.S.C. § 203(g) in an enterprise engaged in interstate commerce or in the production of goods for commerce within the meaning of the FLSA, 29 U.S.C. § 207.

STATEMENT OF FACTS

Plaintiff's Initial Employment at Planned Parenthood

8. In March 2017, Black was hired by Planned Parenthood to work as a Health Care Assistant 1 (“HCA1”) in Planned Parenthood’s Mount Vernon Center, located at 5 Gramatan Avenue, Mount Vernon, New York.

9. In her capacity as an HCA1, Black was responsible for, *inter alia*, triaging patients, drawing blood and taking specimens, preparing examination rooms and handling various patient-related administrative functions.

10. Black performed ably as an HCA1.

11. In or about the summer of 2017, Black complained of being subjected to a hostile work environment at the Mount Vernon Center – including being subjected to at least three instances of aggressive physical contact by the Mount Vernon Center’s Senior Clinician.

12. Subsequent to her complaints about the workplace treatment she was being subjected to at the Mount Vernon Center, Black was transferred out of the Mount Vernon Center by Planned Parenthood and assigned to split her time between Planned Parenthood’s Yonkers Center and Planned Parenthood’s New Rochelle Center.

13. As result of her reassignment, Black was forced to assume a six day per week schedule where she worked at the Yonkers Center on Monday, Tuesday and Wednesday, and at the New Rochelle Center on Thursday, Friday and Saturday.

14. At Planned Parenthood’s direction, Black also occasionally filled in at Planned Parenthood’s White Plains Center when that Center had staffing needs.

15. In or about February 2018, Black received a so-called annual performance review from her supervisors at the New Rochelle and Yonkers centers. In that review, Black was rated

“demonstrates competency” – the highest rating category – for every skill competency applicable to the performance of her duties as an HCA1. Black also was deemed to have met her job requirements in all aspects of her job performance. Notably, Black was not rated as needing improvement or performing unsatisfactorily in a single aspect of her job.

16. Among other praise in the evaluation, Black’s direct supervisor at the New Rochelle Center described Black as having “high motivation”, “work[ing] efficiently” and being “well-liked” by patients and “always courteous and kind.” Black also was described as having quickly “excelled” in product of conception (“POC”) and successfully training another in this process.

17. Among other praise in the evaluation, Black’s direct supervisor at the Yonkers Center described Black, “as an asset to the Yonkers team,” who is “well liked by coworkers and patients,” and “demonstrates ... knowledge and understanding with every interaction.”

Plaintiff Complains About Unpaid Overtime

18. Commencing in or about November 2017, Black repeatedly notified Planned Parenthood’s Director of Patient Services, Ann Marie Bentsi-Addison (“Bentsi-Addison”), verbally and in writing, that she was not being fully compensated for all of the overtime hours she was working at Planned Parenthood.

19. Black advised Bentsi-Addison that due to lack of adequate staffing she was being forced to work extra hours at the end of her shift but not permitted to enter those hours into Planned Parenthood’s timekeeping system.

20. Black also notified Bentsi-Addison that at least one of her supervisors in the New Rochelle Center had overridden time entries she had entered into Planned Parenthood’s timekeeping system in order to deny Black payment for overtime hours she had worked.

21. In addition to raising concerns about non-payment of overtime hours, in or about February 2018, Black advised Bentsi-Addison that treatment services that had not been provided were being written into patient charts and billed to Medicaid.

22. Similarly, on or about January 8, 2018, Black notified Bentsi-Addison that she had not been fully compensated for certain pre-approved overtime hours worked, receiving pay for only 0.75 overtime hours of overtime for 4.75 overtime hours worked.

Plaintiff is Fired for Pretextual Reasons

23. In or about late February 2018, shortly after Black again complained to Bentsi-Addison about Planned Parenthood's failure to fully and properly pay her for overtime hours worked, the circumstances of Black's employment took a substantial turn for the worse.

24. On or about February 26, 2018, only two weeks after Black had received a highly positive performance review in which no performance problems were raised, Bentsi-Addison approached Black and accused her of alleged workplace misconduct.

25. Specifically, Bentsi-Addison accused Black of posting a video on Facebook purportedly taken within a Planned Parenthood Center that showed fetal matter.

26. Black immediately denied having any knowledge of or involvement in the alleged video, informing Bentsi-Addison, among other things, that she did not even have a Facebook account.

27. Met with Black's denial, Bentsi-Addison switched gears and then claimed the inappropriate video was posted on Snapchat, a social media modality that she apparently was aware that Black utilized.

28. Black immediately denied this revised allegation, including handing Bentsi-Addison her cell phone and permitting Bentsi-Addison to review her Snapchat account to verify she had made no such posting.

29. After reviewing Black's Snapchat account, Bentsi-Addison asked Black if she had ever used her cell phone to take video at a Planned Parenthood center.

30. Black responded that in keeping with Planned Parenthood policy she had never taken a video at a Planned Parenthood center, but candidly added that on one occasion, in December 2017, she had used her cell phone to take a picture of a co-worker in her work scrubs at her request.

31. Thereafter, Bentsi-Addison thanked Black for her candor and ended the conversation.

32. On March 11, 2018, Bentsi-Addison abruptly terminated Black's employment with Planned Parenthood. Bentsi-Addison stated that Black was being terminated for purportedly engaging in employee misconduct when she had photographed her co-worker in December 2017.

33. Upon information and belief, the Planned Parenthood Employee Handbook provided to Black when she became employed at Planned Parenthood does not prohibit taking photographs within a Planned Parenthood Center.

34. Upon information and belief, the Employee Handbook in effect at Planned Parenthood in December 2017 – the only Employee Handbook ever provided to Black during her employment at Planned Parenthood – listed no less than twenty-four (24) types of behavior that Planned Parenthood “considers inappropriate,” but taking photographs at a treatment center is not among them.

35. Further, upon information and belief, the Planned Parenthood cell phone/smart phone policy in the Employee Handbook in effect at Planned Parenthood in December 2017 prohibits using cell phones as video recorders, but does not either expressly or implicitly prohibit using the cell phone to take photographs.

36. Upon information and belief, the reason given to Black for her termination was pretextual and the real reason for plaintiff's termination was her repeated complaints about not being fully paid for her overtime hours.

FIRST CAUSE OF ACTION
Overtime Wages Pursuant to the FLSA, 29 U.S.C. § 201 et seq.

37. Plaintiff repeats and realleges each and every allegation contained in the preceding paragraphs as if fully set forth herein.

38. At all times relevant to Plaintiff's claims, Defendant was the employer of Plaintiff and Plaintiff was an employee of Defendant within the meaning of the FLSA, 29 U.S.C. § 203(d) & (e).

39. At all times relevant to her claims, Plaintiff was employed by Defendant in an enterprise engaged in commerce within the meaning of the FLSA 29 U.S.C. § 203(s)(1).

40. During her tenure at Planned Parenthood, Black consistently worked overtime hours for which she was not compensated by Planned Parenthood, with the majority of these uncompensated overtime hours occurring after she was reassigned to the New Rochelle and Yonkers centers in or about the summer of 2017.

41. During her tenure at Planned Parenthood, Black worked approximately sixty (60) hours of overtime for which she was not paid, with such hours not paid by Planned Parenthood because she was directed not to record such hours in Planned Parenthood's timekeeping system and/or had such hours removed from the timekeeping system by her supervisors.

42. Defendant failed to pay Plaintiff overtime compensation at a rate of not less than one and one-half (1 ½) times Plaintiff's regular rate of pay for each hour of work over forty (40) hours per week in violation of the FLSA 29 U.S.C. § 207(a)(1).

43. Defendant had no reasonable grounds for believing its failure to pay Plaintiff overtime compensation was not a violation of the FLSA. Defendant's failure to pay Plaintiff overtime compensation was willful and not in good faith.

44. Plaintiff has been damaged in an amount to be determined at trial.

SECOND CAUSE OF ACTION
Overtime Wages Pursuant to Article 19 of the NYLL, § 650 et seq.

45. Plaintiff repeats and realleges each and every allegation contained in the preceding paragraphs as if fully set forth herein.

46. At all times relevant to Plaintiff's claims, Defendant was the employer of Plaintiff and Plaintiff was an employee of Defendant within the meaning of the NYLL § 651(5) & (6).

47. During her tenure at Planned Parenthood, Black consistently worked overtime hours for which she was not compensated by Planned Parenthood, with the majority of these uncompensated overtime hours occurring after she was reassigned to the New Rochelle and Yonkers centers in or about the summer of 2017.

48. During her tenure at Planned Parenthood, Black worked approximately sixty (60) hours of overtime for which she was not paid, with such hours not paid by Planned Parenthood because she was directed not to record such hours in Planned Parenthood's timekeeping system and/or had such hours removed from the timekeeping system by her supervisors.

49. Defendant failed to pay Plaintiff overtime compensation at a rate of one and one-half (1 ½) times Plaintiff's regular rate of pay for each hour of work over forty (40) hours per

week in violation of Article 19 of the NYLL and the implementing regulations of the New York State Department of Labor, NYLL § 650 *et seq.*; 12 NYCRR 142-2.2.

50. Defendant had no reasonable grounds for believing its failure to pay Plaintiff overtime compensation was not a violation of the NYLL. Defendant's failure to pay Plaintiff overtime compensation was willful and not in good faith.

51. Plaintiff has been damaged in an amount to be determined at trial.

THIRD CAUSE OF ACTION
FLSA Retaliation

52. Plaintiff repeats and realleges each and every allegation contained in the preceding paragraphs as if fully set forth herein.

53. Black filed a complaint within the meaning of the FLSA retaliation statute, 29 U.S.C. § 215(a)(3), when she complained to Planned Parenthood's Director of Patient Services that Planned Parenthood was not paying her overtime for the hours she worked in excess of 40 hours per week.

54. Defendant terminated Black in retaliation for having filed such a complaint in violation of 29 U.S.C. § 215(a)(3) which provides that it is illegal for an employer to discharge an employee because the employee "has filed any complaint or instituted or caused to be instituted any proceeding under or related to this chapter."

55. As a result of this retaliatory discharge, Black will suffer past and future economic losses, including fringe and retirement benefits, attorneys' fees and emotional distress.

FOURTH CAUSE OF ACTION
NYLL Retaliation

56. Plaintiff repeats and realleges each and every allegation contained in the preceding paragraphs as if fully set forth herein.

57. Black made a complaint within the meaning of the NYLL retaliation statute, NYLL § 215, when she complained to Planned Parenthood's Director of Patient Services that Planned Parenthood was not paying her overtime for the hours she worked in excess of 40 hours per week.

58. Defendant terminated Black in retaliation for having made a complaint in violation of NYLL § 215 which provides that it is illegal for an employer to discharge an employee because the employee "has made a complaint to his or her employer ... that the employer has engaged in conduct that the employee, reasonably and in good faith, believes violates any provision of this chapter"

59. As a result of this retaliatory discharge, Black will suffer past and future economic losses, including fringe and retirement benefits, attorneys' fees and emotional distress.

WHEREFORE, Plaintiff respectfully requests that this court grant judgment for Plaintiff and that it order and award Plaintiff the following relief against Defendant:

(1) A declaratory judgment that the acts complained of herein violated the overtime provisions of the FLSA, 29 U.S.C. § 201 *et seq.*;

(2) A declaratory judgment that the acts complained of herein violated the payment of wages and overtime provisions of Article 6 and Article 19 of the NYLL, § 190 *et seq.* and § 651 *et seq.*;

(3) Reinstatement to her position as an HCA1 or front pay in an amount to be shown at trial, but estimated to be not less than One Hundred Thousand Dollars (\$100,000.00);

(4) Actual damages in the form of back pay, unpaid wages and overtime compensation, in an amount to be shown at trial, but estimated to be not less than One Hundred Twenty Five Thousand Dollars (\$125,000.00);

(5) Emotional distress damages in an amount to be shown at trial, but estimated to be not less than One Hundred Fifty Thousand Dollars (\$150,000.00);

(6) Liquidated damages as provided for by the FLSA and NYLL, in an amount to be shown at trial, but estimated to be not less than One Hundred Thousand Dollars (\$100,000);

(7) Statutory attorneys' fees;

(8) Costs and disbursements;

(9) Interest; and

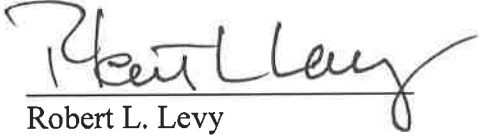
(10) Such other and further relief as this Court may deem just and proper.

JURY DEMAND

Plaintiff hereby demands trial by jury.

Dated: New York, New York
September 10, 2018

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