

CAUSE NO. 09-06233

FILED
2009 MAY 18 PM 2:40
GARY E. JOHNSON
CLERK
DALLAS COUNTY, TEXAS
44th-B JUDICIAL DEPT.

GINGER WEATHERSPOON,

Plaintiff,

v.

OFFICE OF THE ATTORNEY GENERAL
OF TEXAS,

Defendant.

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IN THE

JUDICIAL

DISTRICT COURT OF

DALLAS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

Plaintiff Ginger Weatherspoon files this Original Petition against Defendant Office of the Attorney General of Texas and shows the following:

I. INTRODUCTION

1. This is an action brought under the Texas Whistleblower Act. This action arises out of the Office of the Attorney General of Texas ("Defendant" or the "AG's office") taking adverse personnel action and ultimately firing an Assistant Attorney General, Plaintiff Ginger Weatherspoon ("Plaintiff").

2. Plaintiff alleges she was terminated because she made a good faith report to her Managing Attorney, Paula Crockett. Her report alleged that two of Defendant's Senior Regional Attorneys, James Jones and Harry Monck, violated the law by attempting to suborn perjured testimony from Plaintiff about a sitting Dallas District Court judge (the Hon. David Hanschen).

3. Plaintiff additionally alleges that both Jones and Monck confined her in a room against her will after she refused to sign a false affidavit regarding Judge Hanschen. Both Jones and Monck, as well as their supervisor, were publicly demoted because of their conduct.¹

4. Defendant's termination of Plaintiff in violation of the Whistleblower Act caused her to incur substantial damages, including, without limitation, lost wages, benefits, seniority, promotions, and merit pay increases, as well as attorney's fees.

II. DISCOVERY CONTROL PLAN

5. Plaintiff intends to conduct discovery under Level 2, pursuant to Rule 190.2 of the TEXAS RULES OF CIVIL PROCEDURE.

III. JURISDICTION AND VENUE

6. This Court has personal jurisdiction over Defendant because it is a governmental body of the State of Texas acting under the authority of the Texas Constitution. Defendant conducts most, if not all, of its activities in this State and employed Plaintiff in this State.

7. This Court has subject matter jurisdiction over Defendant because the amount in controversy exceeds the minimum jurisdictional limit of the Court.

8. Venue is proper in Dallas County, Texas pursuant to TEXAS GOVERNMENT CODE Section 554.007, or alternatively, TEXAS CIVIL PRACTICES AND REMEDIES CODE Section 15.002, because all or a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in Dallas County, Texas.

IV. PARTIES

9. Plaintiff is an individual residing in Tarrant County, Texas.

¹ Contemporary news reports noted the pressure exerted on the staff attorneys, and the subsequent disciplinary action. *See* Dallas Observer, April 10, 2008 ("Some of the staff lawyers solicited for affidavits feared they were getting roped into supporting unwarranted complaints of misconduct against sitting judges-not a healthy position for any lawyer to be in. Their worries prompted a review by the attorney general's office, which resulted in what a spokesman for the attorney general described as demotions.").

10. Defendant is the law enforcement agency that represents the State of Texas in all legal matters. Plaintiff worked as an Assistant Attorney General (“AAG”) at Defendant’s office located at 4221 South Walton Walker Blvd., Suite 150, Dallas, Texas 75236.

11. Defendant may be served with process by serving its registered agent or otherwise pursuant to applicable law.

V. FACTS

12. In July of 2006, Plaintiff began working for Defendant as an AAG in its Child Support Division.

13. Between July 2006 and February 2008, Plaintiff performed excellent work, received exceptional reviews, and was never reprimanded.

14. Plaintiff’s status dramatically changed in February 2008. Her rapid fall into disfavor was the direct result of her good faith report about the conduct of two senior supervising attorneys in the AG’s office: Senior Regional Attorney James Jones (“J. Jones”) and Senior Regional Attorney Harry Monck (“Monck”).

15. Specifically, Plaintiff reported the following illegal conduct: (1) their numerous attempts to coerce perjured testimony from Plaintiff, and (2) their confining her against her will. The alleged perjured testimony consisted of demanding that Plaintiff execute a false affidavit, under penalty of perjury, concerning Judge Hanschen.

16. On February 1, 2008, in response to J. Jones’s directive to report all interactions with Judge Hanschen, Plaintiff sent an e-mail to him containing the facts of a conversation she had on or about January 28, 2008 with Judge Hanschen.

17. On February 5, 2008, Assistant Attorney General Hank Voegtle, at J. Jones’s direction, sent an e-mail to Plaintiff attaching an affidavit he had prepared for her to sign.

18. The affidavit contained numerous misrepresentations about the facts of Plaintiff's conversation with Judge Hanschen, and mischaracterized the tone and nature of their conversation.

19. After receiving the deficient affidavit, Plaintiff informed both J. Jones and Voegtle that she would not sign the affidavit because it contained a number of misrepresentations and mischaracterizations.

20. On February 11, 2008, J. Jones sent an e-mail to Plaintiff, ordering her to sign the false affidavit by 2:00 p.m. that same day.

21. Plaintiff replied to the e-mail and explained that the affidavit, as prepared by Voegtle, was false. Specifically, Plaintiff explained that, contrary to the facts contained in the false affidavit:

- A. Plaintiff never witnessed Judge Hanschen treat an AAG adversely in court or issue a prejudicial ruling against an AAG; and
- B. Judge Hanschen never threatened the AG's office.

22. Plaintiff further explained in her e-mail that she did not want to sign any affidavit, but if forced to do so, she wanted to include a supplemental statement indicating among other things, her opinion that Judge Hanschen had not committed judicial misconduct and that she felt comfortable litigating in his court.

23. J. Jones rejected Plaintiff's request to make any changes to the prepared affidavit.

24. Plaintiff then sent a reply e-mail, stating that the:

affidavit that has been given to me to sign does not give a true and accurate reflection of what occurred or the context in which it happened. ... Without the appropriate changes I cannot sign the affidavit as it has been presented to me.

25. Jones replied, stating her signing the affidavit, as presented, "is a direct request."

26. Plaintiff made a good faith report to her Managing Attorney, Ms. Crockett, that J. Jones and others had been coercing her into signing a false affidavit. She further asserted that “the situation ha[d] now come to a head.”

27. The next day, February 12, 2009, J. Jones ordered Plaintiff to appear at Defendant’s administration office to sign the false affidavit concerning Judge Hanschen. Plaintiff refused three times. J. Jones then slammed his fist on the desk in front of Plaintiff and began yelling at her. During his tirade, he shouted that the Attorney General himself, Gregg Abbott, was “waiting on Plaintiff’s affidavit.”

28. Next, J. Jones ordered Plaintiff into an adjacent room and told her that she was not allowed to leave until she completed the statement against Judge Hanschen.

29. Plaintiff then requested Mark Jones (“M. Jones”), the supervisor of J. Jones and Monck, to come into the room where Defendant had been holding Plaintiff against her will. Plaintiff began making a good faith report to M. Jones that J. Jones and Monck had directed her to prepare a statement against her will, attempted to coerce her into signing a false affidavit against Judge Hanschen, and were keeping her in the room against her will. As Plaintiff was making her report to M. Jones, J. Jones came to the door and told M. Jones that he could not speak with Plaintiff or take her report.

30. Left with no other choice, Plaintiff prepared a type-written statement. The statement was truthful. The statement did not contain any allegations of judicial misconduct. J. Jones and Monck then allowed Plaintiff to leave the room.

31. Plaintiff immediately reported J. Jones and Monck’s unlawful conduct to her Managing Attorney, Ms. Crockett.

32. Plaintiff and Ms. Crockett drove away from the administration building together. As they were driving, Monck called Ms. Crockett on her cell phone and told her to “immediately” bring Plaintiff back to the administration building because Plaintiff needed to change her statement. Plaintiff, shaken by this somewhat unorthodox sequence of events, refused to go back. Plaintiff reported the foregoing unlawful conduct to other direct and indirect supervisors.

33. Defendant thereafter retaliated against Plaintiff because she reported J. Jones and Monck’s unlawful conduct to her Managing Attorney (Ms. Crockett), M. Jones, and other direct and indirect supervisors. First, Defendant removed Ms. Crockett – the person to whom she reported Defendant’s misconduct – as her immediate supervisor. Second, Defendant ignored Plaintiff’s doctor’s written instructions that she temporarily work under light-duty restrictions following her back surgery. Third, the Senior Regional Attorney, who became Plaintiff’s immediate supervisor when Ms. Crockett was removed, intentionally e-mailed instructions to Plaintiff knowing that she was in court and would be unable to access her e-mail until after the deadlines specified in the e-mails had passed. Finally, because of Plaintiff’s good faith reports of Defendant’s numerous acts of misconduct, Defendant fired Plaintiff.

VI. CONDITIONS PRECEDENT

34. All conditions precedent have been performed or have occurred. Before bringing this suit under the Whistleblower Act, Plaintiff initiated action as required under Defendant’s grievance procedures. Even though Plaintiff was not required to exhaust Defendant’s grievance procedure, she did so. Plaintiff brings this suit within the applicable time period as specified in GOVERNMENT CODE sections 554.005 and 554.006(c).

VII. CAUSE OF ACTION

Whistleblower Act

35. Plaintiff realleges and incorporates by reference the facts set forth above.

36. At all relevant times, Plaintiff was a public employee. Specifically, she worked as an AAG for Defendant.

37. Plaintiff acted in good faith, making multiple reports detailing violations of the law by Defendant and public employees of Defendant.

38. Plaintiff made the reports to an appropriate law enforcement authority.

39. Defendant, as an employing governmental entity, took adverse personnel action against Plaintiff, including firing her, because she made the reports. The retaliatory action, including her termination, would not have occurred when it did, but for the good faith reports she made to the law enforcement agency.

VIII. DAMAGES AND ATTORNEY'S FEES

40. Plaintiff seeks and is entitled to the following damages:

- A. Actual damages.
- B. Reinstatement to her former position or an equivalent position.
- C. Compensation for wages lost during the period of termination.
- D. Reinstatement of fringe benefits and seniority rights lost because of the termination.
- E. Damages for lost promotions and merit pay increases.
- F. Reasonable attorney's fees under the Whistleblower Act.
- G. Court costs.

41. Defendant's actions were made knowingly, willfully, and with malice sufficient to warrant the imposition of exemplary damages.

IX. JURY DEMAND

42. Plaintiff requests a jury trial on all questions of fact.

X. PRAYER

WHEREFORE, Plaintiff Ginger Weatherspoon prays that the Court issue citation for Defendant to appear and answer, and that she be awarded a judgment against Defendant for the following:

- A. Actual damages;
- B. Special damages;
- C. Exemplary damages;
- D. Reasonable attorney's fees;
- D. Prejudgment and postjudgment interest at the highest rates allowed by law;
- E. Court costs; and
- F. All other relief to which she is justly entitled.

Dated this 18th day of May, 2009.

Respectfully submitted,



By: _____
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