

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ALABAMA
NORTHERN DIVISION**

SAMERA MOHAMMED,)	
)	
Plaintiff,)	CIVIL ACTION NO.:
)	20-575
v.)	JURY DEMAND
)	
FOSTER FARMS,)	
)	
Defendant.)	

COMPLAINT

I. JURISDICTION

1. Jurisdiction of this Court is invoked pursuant to 42 U.S.C. §12117, 28 U.S.C. §1331. The jurisdiction of this court is invoked to secure protection of and redress deprivation of rights secured by the Americans With Disabilities of Act 1990, as amended, 42 U.S.C. Section 12101, *et seq.* providing for injunctive and other relief against employment discrimination and retaliation.

2. Plaintiff has fulfilled all conditions precedent to the institution of this action under 42 U.S.C. §12117. Plaintiff timely filed her charge of discrimination within 180 days of occurrence of the last discriminatory act. Plaintiff also timely filed this complaint within ninety (90) days of the receipt of a Notice of Right To Sue issued by the Equal Employment Opportunity Commission. Plaintiff received a “cause” finding from the Equal Employment Opportunity Commission.

II. PARTIES

3. Plaintiff, Samera Mohammed (hereinafter “Mohammed” or “Plaintiff”) is a citizen of the United States and a resident of Monroe, North Carolina. At all time relevant to this lawsuit, the plaintiff was employed at one of the defendant’s locations in Marengo County, Alabama.

4. Defendant, Foster Farms (hereinafter “Foster Farms” or “Defendant”) is an employer pursuant to 42 U.S.C. §12111(5) and is doing business in Marengo County, Alabama.

III. FACTUAL ALLEGATIONS

5. The plaintiff adopts and incorporate by reference the allegations contained in paragraphs 1-4 above.

6. Plaintiff suffers from diabetes which substantially limits the function of her endocrine system which is a major life activity under the ADAAA.

7. Plaintiff was hired by Defendant around November 7, 2018. On the Medical History Form that she was required to complete, Plaintiff informed Defendant of her disability by writing that she was currently taking insulin. Plaintiff also spoke with one of Defendant’s office employees that day and informed them that she had a doctors appointment on Friday, November 9, 2018.

8. At Plaintiff’s November 9th doctors appointment, she was sent to the hospital in Grove Hill for tests. She sent an email to Defendant’s employee, Tyler Pinegar at 1:42 p.m., informing him that she had previously told someone at Foster Farms about the doctors appointment and that she had been sent to the hospital. Plaintiff also provided a copy of a doctor’s excuse attached to her email to Pinegar.

9. At 1:46 p.m. on November 9th, Pinegar replied to Plaintiff’s email, telling her that she had spoken with the HR Manager, Amy, and that he had also heard from the guard, who Plaintiff had

called to inform about her absence. Pinegar stated that he was informing her supervisor and scanning the excuse into the personnel file.

10. On November 15, 2018, Plaintiff was again ill because of her diabetes. She sent Pinegar an email at 11:34 p.m., informing him that she had called in to work earlier that day, but no one answered. She told him that her blood sugar levels were high which caused her to be sick. She told him that she had a doctors note and that the doctor had also provided an accommodation request for her to provide her employer. Plaintiff attached both of those documents to her email.

11. On Friday, November 16, 2019, at 8:58 a.m., Pinegar responded with an email stating that Foster Farms did not “do accommodations,” and that Plaintiff had been told she could not miss any more time. Pinegar then told Plaintiff that “we’re going to have to end your employment with us.”

IV. CAUSES OF ACTION

A. TERMINATION - AMERICANS WITH DISABILITIES ACT - (FAILURE TO ACCOMMODATE)

12. The plaintiff adopts and incorporates by reference the allegations contained in paragraphs 1-11 above.

13. Plaintiff is a person with a disability in that she has a physical impairment which substantially limits one or more of her major life activities. 42 U.S.C. §12102. Furthermore, she is a qualified individual with a disability in that she has a record of impairment and is perceived as having an impairment which substantially limits one or more major life activities in accordance with 42 U.S.C. §12102. As stated, the Defendant is an employer in accordance with 42 U.S.C. §12111(5).

14. Despite the plaintiff’s disability, she is and was able to perform the essential functions

of the her position with Defendant with or without accommodations.

15. The defendant failed to accommodate Plaintiff's disability and failed to engage in the interactive process with Plaintiff, telling her that the company did not "do accommodations" and thereafter terminating Plaintiff's employment. Defendant's actions were intentional, malicious, and with recklessly indifferent to Plaintiff's federally protected rights.

16. The plaintiff seeks to redress the wrongs alleged herein in this suit for lost wages, an injunctive and a declaratory judgment. The plaintiff is now suffering and will continue to suffer irreparable injury from the defendant's unlawful policies and practices as set forth herein unless enjoined by this Court.

17. As a result of the defendant's actions, the plaintiff has suffered extreme harm, including, but not limited to, loss of employment opportunities, denial of wages, compensation and other benefits and conditions of employment. Additionally, the plaintiff has suffered injury, including pain, humiliation, mental anguish and suffering and loss of enjoyment of life.

B. TERMINATION - AMERICANS WITH DISABILITIES ACT (DISCRIMINATION BECAUSE OF DISABILITY)

18. The plaintiff adopts and incorporates by reference the allegations contained in paragraphs 1-17 above.

19. Plaintiff is a person with a disability in that she has a physical impairment which substantially limits one or more of her major life activities. 42 U.S.C. §12102. Furthermore, she is a qualified individual with a disability in that he has a record of impairment and is perceived as having an impairment which substantially limits one or more major life activities in accordance with 42 U.S.C. §12102. As stated, the Defendant is an employer in accordance with 42 U.S.C. §12111(5).

20. Despite the plaintiff's disability, she is and was able to perform the essential functions of the position of her position with or without an accommodation.

21. The defendant intentionally, maliciously, and with reckless indifference to Plaintiff's federally protected rights terminated the plaintiff because of her actual or perceived disability and/or her record of a disability.

22. The plaintiff seeks to redress the wrongs alleged herein in this suit for lost wages, and injunctive and a declaratory relief. The plaintiff is now suffering and will continue to suffer irreparable injury from the defendant's unlawful policies and practices as set forth herein unless enjoined by this Court.

23. As a result of the defendant's actions, the plaintiff has suffered extreme harm, including, but not limited to, loss of employment opportunities, denial of wages, compensation and other benefits and conditions of employment. Additionally, the plaintiff has suffered injury, including pain, humiliation, mental anguish and suffering and loss of enjoyment of life.

C. RETALIATORY TERMINATION

24. The plaintiff adopts and incorporate by reference the allegations contained in paragraphs 1-23 above.

25. Although Plaintiff informed Defendant of her disability and requested an accommodation, the Defendant failed to accommodate the plaintiff and failed to engage in the interactive process.

26. The defendant intentionally, maliciously, and with reckless indifference and terminated the plaintiff in retaliation for her seeking an accommodation for her disability.

27. The plaintiff seeks to redress the wrongs alleged herein in this suit for lost wages, an

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