

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

STEPHANIE DICKENS,

Plaintiff,

v.

CASE NO.: 8:19-cv-02529-TPB-AEP

PEPPERIDGE FARM INCORPORATED,

Defendant.

SECOND AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, STEPHANIE DICKENS (“Plaintiff”), by and through undersigned counsel, and pursuant to this Court’s July 23, 2020 Order granting Plaintiff leave to file an Amended Complaint (Doc. 40), hereby brings this action against Defendant, PEPPERIDGE FARM INCORPORATED (“Defendant”). In support of her claims, Plaintiff states as follows:

JURISDICTION AND VENUE

1. This is an action for damages, exclusive of interest, fees, and costs, and for declaratory relief, for violations of the Florida Private Whistleblower’s Act (“FPWA”), Fla. Stat. § 448.102 and the Florida Civil Rights Act of 1992, as amended (“FCRA”), Fla. Stat. § 760.01 due to Defendant’s unlawful employment practices.

2. Venue is proper in this Court because all the events giving rise to these claims occurred in Polk County, Florida.

PARTIES

3. Plaintiff is a female resident of Lakeland, Polk County, Florida.

4. Defendant is a national food processor that is organized under the laws of Connecticut and operates food processing plants throughout the United States, including in Lakeland, Polk County, Florida.

ADMINISTRATIVE PREREQUISITES

5. On August 29, 2018, DICKENS sent a letter to the U.S. Equal Employment Opportunity Commission (EEOC) providing detailed allegations of discrimination against PEPPERIDGE FARM INCORPORATED and asking that the EEOC investigate her claims. In the letter, DICKENS alleged she was the subject of unlawful discrimination, based upon her gender. At that time, DICKENS became an “aggrieved person” as defined in § 760.02(10), Florida Statutes (2016). A copy of DICKENS’ letter is attached as **Exhibit A**.

6. On October 9, 2018, DICKENS sent a fax to the EEOC including her charge number (511-2018-03478) stating that she would like to confirm her appointment with the EEOC. A copy of DICKENS’ fax is attached as **Exhibit B**.

7. On October 10, 2018, DICKENS sent a second fax to the EEOC including her charge number (511-2018-03478) attempting to confirm her appointment with the EEOC scheduled for October 11, 2018 at 1:30 p.m. A copy of DICKENS’ fax is attached as **Exhibit C**.

8. On March 25, 2019, DICKENS filed a Charge of Discrimination formally recognizing her prior complaints of discrimination to allow the EEOC to open a formal investigation against PEPPERIDGE FARM INCORPORATED. A copy of DICKENS’ Charge of Discrimination, EEOC Charge No. 511-2018-03478 is attached as **Exhibit D**. This Charge was dual filed with the FCHR under the workshare agreement between the EEOC and the FCHR.

9. On March 26, 2019, the EEOC sent a letter to DICKENS referencing her written correspondence in which she alleges employment discrimination. A copy of the EEOC letter is attached as **Exhibit E**.

10. On April 29, 2019, the EEOC stamped DICKENS official Charge of Discrimination numbered 511-2018-03478 as received. *See* Exhibit D.

11. More than 180 days have passed since DICKENS filed her Charge of Discrimination. Neither DICKENS nor the undersigned counsel has received notice of the FCHR's disposition. The FCHR's non-response is to be treated as a finding of "reasonable cause" pursuant to § 760.11(8), Florida Statutes (2016).

GENERAL ALLEGATIONS

12. At all times material hereto, Plaintiff was an employee of Defendant within the meaning of the FCRA and FPWA.

13. At all times material hereto, Defendant employed fifteen (15) or more employees. Thus, Defendant is an "employer" within the meaning of the FCRA, Fla. Stat. Section 760.02(7).

14. At all times material hereto, Plaintiff was an "employee" of Defendant within the meaning of the FPWA, Fla. Stat. § 448.101(2).

15. At all times material hereto, Defendant was an "employer" within the meaning of the FPWA, Fla. Stat. § 448.101(3).

16. As a direct and proximate result of repeated discrimination, retaliation and her resulting demotion, Plaintiff has suffered actual damages: loss of income, loss of opportunity for future income, loss of benefits, and loss of future pay increases. In addition, she has suffered and continues to suffer loss of her professional and personal reputation, emotional distress, mental anguish, embarrassment, and humiliation.

17. Plaintiff has incurred costs and attorney's fees in bringing this matter.

**FACTUAL ALLEGATIONS REGARDING THE
TIMELINESS OF PLAINTIFF'S CHARGE OF DISCRIMINATION**

18. Plaintiff, without the assistance of counsel, originally contacted the Equal Employment Opportunity Commission ("EEOC") on or about July 2018 and an appointment was made for August 2018.

19. The EEOC cancelled Plaintiff's appointment and rescheduled her for October 2018.

20. In October 2018, the EEOC conducted an interview with Plaintiff and completed the EEOC intake questionnaire.

21. Plaintiff provided the relevant information to support her claims.

22. Nevertheless, Plaintiff's Charge of Discrimination was not "received" by the EEOC until purportedly April 29, 2019, even though Plaintiff's signature is dated March 25, 2019.

23. Two (2) days later, on May 1, 2019, the EEOC issued Plaintiff a Right to Sue letter.

24. Plaintiff was in constant contact with the EEOC throughout the approximate eight (8) months between her letter dated August 29, 2018 and her Charge of Discrimination getting filed by the EEOC.

25. In fact, Plaintiff emailed the EEOC Investigator on several occasions after she signed the charge to include additional information about additional incidents as Plaintiff checked the box indicating that the discrimination Defendant subjected her to was a "Continuing Action."

26. However, the EEOC did not include this information in the charge of discrimination that it helped Plaintiff prepare and file.

27. Plaintiff's completed questionnaire constitutes the initial filing of Plaintiff's Complaint. 29 C.F.R. § 1601.12 states the following:

§ 1601.12 Contents of charge; amendment of charge

(a) Each charge should contain the following:

- (1) The full name, address and telephone number of the person making the charge except as provided in Fla. Stat. § 1601.7;
- (2) The full name and address of the person against whom the charge is made, if known (hereinafter referred to as the respondent);
- (3) A clear and concise statement of the facts, including pertinent dates, constituting the alleged unlawful employment practices: *see Id.* § 1601.15(b);
- (4) If known, the approximate number of employees of the respondent employer or the approximate number of members of the respondent labor organization, as the case may be; and
- (5) A statement disclosing whether proceedings involving the alleged unlawful employment practice have been commenced before a State or local agency charged with the enforcement of fair employment practice laws and, if so, the date of such commencement and the name of the agency.

(b) Notwithstanding the provisions of paragraph (a) of this section, **a charge is sufficient when the Commission receives from the person making the charge a written statement sufficiently precise to identify the parties, and to describe generally the action or practices complained of.** A charge may be amended to cure technical defects or omissions, including failure to verify the charge, or to clarify and amplify allegations made therein. Such amendments and amendments alleging additional acts which constitute unlawful employment practices related to or growing out of the subject matter of the original charge will relate back to the date the charge was first received. A charge that has been so amended shall not be required to be redeferred. (emphasis added).

28. Plaintiff's completed Questionnaire contained the full name and address of the company against whom the charge was made. A clear and concise statement of facts, as set out within Plaintiff's complaint, included pertinent dates that constituted the alleged unlawful

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