

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

MELISA ESQUIVEL,

Plaintiff,

Case No.:

v.

SARASOTA COUNTY PUBLIC
HOSPITAL DISTRICT d/b/a
SARASOTA MEMORIAL HOSPITAL,
and RAE DaPRATO, individually,

Defendants.

_____ /

COMPLAINT AND DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff, MELISA ESQUIVEL, by and through his undersigned counsel and sues the Defendant, SARASOTA COUNTY PUBLIC HOSPITAL DISTRICT d/b/a SARASOTA MEMORIAL HOSPITAL (hereinafter referred to as "SARASOTA MEMORIAL HOSPITAL") and RAE DaPRATO, individually and states as follows:

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331, 1367 and 1441(b).

2. Venue lies within the United States District Court for the Middle District of Florida, Tampa Division because a substantial part of the events giving rise to this claim occurred in this Judicial District and is therefore proper pursuant to 28 U.S.C. 1391(b).

PARTIES

3. Plaintiff, MELISA ESQUIVEL, is a resident of Sarasota County, Florida. At all times material, Plaintiff was an employee of Defendant within the meaning of the Family and Medical Leave Act (FMLA), the Americans with Disabilities Act (ADA), and the Florida Civil Rights Act (FCRA).

4. Defendant, SARASOTA COUNTY PUBLIC HOSPITAL DISTRICT d/b/a SARASOTA MEMORIAL HOSPITAL, is an independent special district created and chartered by the laws of the State of Florida, authorized and doing business in this Judicial District. At all times material, SARASOTA MEMORIAL HOSPITAL employed Plaintiff, MELISA ESQUIVEL. At all times material, SARASOTA MEMORAL HOSPITAL employed the requisite number of employees and, therefore, is an employer as defined by the FMLA, ADA, and FCRA.

5. Defendant, RAE DaPRATO, is a resident of Manatee County, Florida.

GENERAL ALLEGATIONS

6. At all times material, Defendants acted with malice and reckless disregard for Plaintiff's federal and state protected rights.

7. At all times material, Plaintiff was qualified to perform her job duties within the legitimate expectations of her employer.

8. Plaintiff has retained the undersigned counsel to represent her in this action and is obligated to pay them a reasonable fee for their services.

9. Plaintiff requests a jury trial for all issues so triable.

ADMINISTRATIVE PREREQUISITES

10. On October 6, 2020, Plaintiff timely filed a Charge of Discrimination with the Equal Employment Opportunity Commission ("EEOC") and the Florida Commission on Human Relations ("FCHR").

11. On August 18, 2021, the EEOC issued a Notice of Right to Sue related to Plaintiff's Charge of Discrimination. This Complaint has been filed within ninety (90) days of the issuance of the Dismissal and Notice of Rights; therefore, Plaintiff has met all conditions precedent to filing this Complaint.

12. Plaintiff has satisfied all conditions precedent, therefore jurisdiction over this claim is appropriate pursuant to Chapter 760, *Florida*

Statutes, because more than one-hundred and eighty (180) days have passed since the filing of the Charge.

13. On February 8, 2021, pursuant to §768.28, *Florida Statutes*, Plaintiff served her Notice of Claim on the Florida Department of Financial Services, as well as Defendant Sarasota Memorial Hospital related to her negligence claims against Defendant Sarasota Memorial Hospital.

14. More than six (6) months have passed since Plaintiff served her Notice on Defendant Sarasota Memorial Hospital; therefore, Plaintiff has satisfied all conditions precedent pursuant to §768.28(6)(d), *Florida Statutes*.

FACTUAL ALLEGATIONS

15. On or about August 13, 2018, Plaintiff began her employment with Defendant Sarasota Memorial Hospital as a full-time Administrative Assistant in Defendant's Risk Management Department. Plaintiff was told that the plan in the department was for Plaintiff to replace the full-time Risk Management Legal Data Specialist, Betsy Niemczak, when Niemczak retired.

16. Plaintiff worked in Defendant's (Sarasota Memorial Hospital) Risk Management department along with seven (7) other employees.

17. On or about March 31, 2019, Niemczak retired after approximately 26 years of service with Defendant Sarasota Memorial Hospital. For the

majority of that time, Niemczak was the only Legal Data Specialist in Defendant's Risk Management Department.

18. Upon Niemczak's retirement, Plaintiff became the new full-time Legal Data Specialist.

19. In or around July 2019, Niemczak came out of retirement and returned to Defendant's (Sarasota Memorial Hospital) Risk Management department as a part-time Legal Data Specialist.

20. On October 15, 2019, Plaintiff was assaulted and battered by her supervisor, Defendant Rae DaPrato (Director, Risk Management). In particular, DaPrato, while attempting to discipline Plaintiff, forcibly grabbed Plaintiff's left hand and wrist, pointed at Plaintiff and yelled: "you listen to me, I am your boss, and you will do what I tell you to do and change it." Plaintiff's wrist was left discolored and in pain.

21. This was not Defendant DaPrato's first assault and battery of an employee during her employment with Defendant Sarasota Memorial Hospital. For example, on one occasion, Defendant DaPrato grabbed an employee by the arm and left bruises.

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