

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CIVIL ACTION NO. _____

ANTHONY VINES,)
)
 Plaintiff,)
)
 v.)
)
 MOUNTAIRE FARMS, INC.,)
)
 Defendant.)

ANSWER AND DEFENSES

COMES NOW Mountaire Farms, Inc. (“Mountaire”), Defendant in the above-styled action, by and through counsel, and responds to the Complaint filed by Anthony Vines, as follows:

FIRST DEFENSE

Defendant answers the allegations in Plaintiff’s Complaint, as follows:

INTRODUCTION

1.

Paragraph 1 is admitted in part and denied in part. Defendant admits that this is a civil action seeking damages and equitable relief from Defendant Mountaire Farms, Inc. on behalf of Plaintiff Anthony Vines. Defendant denies that Plaintiff’s claims have any merit whatsoever, and specifically denies any violation of the Retaliatory Employment Discrimination Act (“REDA”), N.C. Gen. Stat. § 95-240, et seq. Defendant denies that it wrongfully discharged Plaintiff in

violation of North Carolina public policy. All other allegations contained in Paragraph 1 are denied.

PARTIES

2.

Paragraph 2 is admitted.

3.

Paragraph 3 is admitted in part and denied in part. It is denied that Mountaire is a company organized under North Carolina law. Mountaire is a Delaware corporation. It is admitted that Mountaire owns and operates a business in North Carolina and that it is a “person” and “employer.” All other allegations contained in Paragraph 3 are denied.

JURISDICTION AND VENUE

4.

Paragraph 4 is admitted in part and denied in part. It is admitted that this Court has jurisdiction over the subject matter and the parties to this action pursuant to N.C. Gen. Stat § 95-243. It is admitted that venue for this type of case is proper in Wake County under N.C. Gen. Stat. §§1-79(a)(1) and 95-243(a). It is denied that Plaintiff asserts claims with any merit whatsoever, and therefore that this matter is properly before this Court.

FACTS

5.

To the extent that a response to Paragraph 5 is required, it is admitted that the Complaint’s allegations may be incorporated by reference.

6.

Paragraph 6 is admitted.

7.

Paragraph 7 is admitted.

8.

Paragraph 8 is denied.

9.

Paragraph 9 is admitted.

10.

Paragraph 10 is denied.

11.

Paragraph 11 is admitted in part and denied in part. It is admitted that one of the jobs to which Plaintiff was assigned involved packing chicken in dry ice. All other allegations contained in Paragraph 11 are denied.

12.

Defendant is without knowledge sufficient to admit or deny the allegations contained in Paragraph 12 and therefore denies same and demands strict proof thereof.

13.

Paragraph 13 is admitted in part and denied in part. It is admitted that on March 7, 2019 Plaintiff expressed concerns about CO2 exposure to Ms. Campbell. It is further admitted that he expressed no such concerns prior to that date. All other allegations contained in Paragraph 13 are denied.

14.

Paragraph 14 is admitted in part and denied in part. It is admitted that two employees on each production shift were assigned to packing chicken in dry ice during each shift. It is further admitted that different employees were assigned to these positions from time to time. All other allegations contained in Paragraph 14 are denied.

15.

Paragraph 15 is admitted.

16.

Paragraph 16 is admitted in part and denied in part. It is admitted that when Plaintiff requested additional personal protective equipment (PPE) he was supplied with appropriate equipment. It is further admitted that Plaintiff was not allowed to supply his own PPE. All other allegations contained in paragraph 16 are denied.

17.

Defendant lacks sufficient information either to admit or deny the allegations contained in Paragraph 17 and therefore denies same and demands strict proof thereof.

18.

Paragraph 18 is admitted in part and denied in part. It is admitted that Plaintiff was absent from work on several days prior to March 7, 2019 for undisclosed reasons. All other allegations contained in paragraph 18 are denied.

19.

Paragraph 19 is denied.

20.

Paragraph 20 is admitted in part and denied in part. It is admitted that Plaintiff had 13 unexcused absences, which Defendant denominates as “occurrences,” prior to the meeting on March 7, 2019. It is admitted that normally an employee is subject to discharge after accumulating 8 unexcused absences or occurrences. It is further admitted that some of Plaintiff’s absences subsequently were changed from unexcused to excused as an accommodation to Plaintiff and that his employment was not terminated that day for excessive absenteeism. All other allegations contained in Paragraph 20 are denied.

21.

Paragraph 21 is admitted in part and denied in part. It is admitted that on March 5, 2019 NIOSH inspected a portion of Defendant’s Lumber Bridge facility. It is further admitted that the area inspected was not the area where Plaintiff worked. All other allegations contained in Paragraph 21 are denied.

22.

Paragraph 22 is admitted.

23.

Paragraph 23 is denied.

24.

Paragraph 24 is admitted in part and denied in part. It is admitted that on or about March 7, 2019 Plaintiff met with managers and members of Defendant’s HR department to address Plaintiff’s safety concerns. All other allegations contained in Paragraph 24 are denied.

25.

Paragraph 25 is denied.

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