

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

* * * * *

JOETTA KYNARD

3738 North Beverly Hills Drive
Toledo, Ohio 43614

Plaintiff,

vs.

**PROMEDICA HEALTH SYSTEM, INC.
aka and/or dba PROMEDICA FLOWER
HOSPITAL**

5200 Harroun Rd
Sylvania, Ohio 43560

Defendant.

Case No.:

Judge:

COMPLAINT; JURY DEMAND
ENDORSED HEREON

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JURISDICTION

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. Section 1331, 1337, 1343, 2201 and 2202. This is an action for a violation of 42 U.S.C. Sections 12101 et seq., known as the Americans with Disabilities Act. This action, in part, is one for money damages, reinstatement, and liquidated damages resulting from an alleged unlawful termination of employment in violation of the Americans with Disabilities Act. Plaintiff also brings claims pursuant to Title VII of the Civil

Rights Act of 1964 as amended and as amended by the Civil Rights Act of 1991, 42 U.S.C. Sections 2000e et seq. for racial and gender based discrimination. On July 17, 2021, Plaintiff filed a charge of discrimination with the Ohio Civil Rights Commission and Equal Employment Opportunity Commission on the basis of inter alia, disability, race and gender, charge number 22A-2021-02365c, attached hereto as Exhibit A and incorporated by reference herein. On October 27, 2021 the district director of the EEOC notified Plaintiff of her right to file suit within ninety days in an appropriate federal district court, attached hereto as Exhibit B. On October 21, 2021 the Toledo Regional Director of the OCRC notified Plaintiff of her right to file suit court, attached hereto as Exhibit C. This Court's supplemental jurisdiction is also invoked over state law claims.

PARTIES

2. Plaintiff, Joetta Kynard ("Plaintiff"), is a resident of the City of Toledo, County of Lucas, State of Ohio, who was employed by Promedica Flower Hospital., most recently as a Chaplain. At all times material hereto, Plaintiff was an employee of an employer within the meaning of the Civil Rights Act, ADAAA, and the Ohio Civil Rights Act, in that Plaintiff was employed by an employer with more than twenty-five (25) employees.

3. Defendant, Promedica Flower Hospital., ("Defendant" or "Promedica"), is an Ohio corporation with a location in Sylvania, Ohio. Defendant is an employer within the meaning of the Civil Rights Act, ADAAA, and the Ohio Civil Rights Act, in that it employs more than twenty-five (25) employees.

FACTS

4. Plaintiff was employed by Defendant from May of 2018 until her termination April 6, 2021. Plaintiff began her employment as a per diem Chaplain until she was awarded a full time Chaplain position in September of 2019.

5. Throughout her employment, Plaintiff performed her job well.
6. Due to a family tragedy Plaintiff took a personal leave of absence from September 4, 2019 until January 5, 2020.
7. When Plaintiff returned from her leave of absence she was closely monitored, scrutinized, forced to work extra hours, and issues pertaining to her leave were disclosed to staff members without Plaintiff's prior knowledge or permission.
8. Plaintiff needed a second leave of absence beginning July 6, 2020, with an initial return to work date of October 2020. However, Plaintiff was not able to return to work on her initial return to work date.
9. Plaintiff was thereafter terminated on April 6, 2021.

FIRST CLAIM FOR RELIEF
Disability Discrimination, Ohio Revised Code Section 4112.02

10. Plaintiff incorporates each and every allegation contained in paragraphs one (1) through nine (9) of this Complaint, supra, by reference in its entirety as if fully restated herein.
11. Plaintiff states that she is a disabled individual within the meaning of Ohio Revised Code Section 4112.02(a)(13). Alternatively, Plaintiff was disabled on the basis of her record of medical impairments and because she was perceived by defendant as being disabled. Although disabled, Plaintiff is able to safely and substantially perform the essential functions of her job with or without an accommodation. Plaintiff was well qualified for her position, and performed her job well.
12. Plaintiff states that she suffers from a serious health condition, including abnormal grief and post traumatic stress disorder. These disabling conditions severely impacted her daily life functions including but not limited to concentrating, interacting with others, and thinking.

13. Defendant was aware of Plaintiff's disabling conditions, as she requested a leave of absence due to her disabilities. Plaintiff requested a reasonable accommodation of half days of work, but her request was denied.

14. On April 1, 2021, Plaintiff was terminated. Plaintiff was allegedly terminated for exhausting her leave of absence time. Said reason is false and pretextual, as Plaintiff was issued a return to work date, and would have been able to return to work earlier if Defendant would have accommodated her reasonable request of working half days.

15. Employees who were not disabled retained their positions. Upon information and belief, Plaintiff's position was filled after her termination.

16. Plaintiff states Defendant's actions violated Plaintiff's rights under Section 4112.02(A) made actionable pursuant to Ohio Revised Code Section 4112.99 as amended on the basis of disability.

17. As a proximate result of the actions of Defendant complained of herein, Plaintiff has suffered personal and financial damage, harassment, and great mental and emotional stress, anxiety, humiliation and embarrassment. Plaintiff has also been forced to expend court costs and attorney's fees.

SECOND CLAIM FOR RELIEF
Disability Discrimination

18. Plaintiff incorporates each and every allegation contained in paragraphs one (1) through seventeen (17) of this Complaint, supra, by reference in its entirety as if fully restated herein.

19. Plaintiff states that she is a disabled individual within the meaning of the ADAAA. Alternatively, Plaintiff was disabled on the basis of her record of medical impairments and because she was perceived by defendant as being disabled. Although disabled, Plaintiff is able to safely

and substantially perform the essential functions of her job with or without an accommodation. Plaintiff was well qualified for her position, and performed her job well.

20. Plaintiff states that she suffers from a serious health condition, including abnormal grief and post traumatic stress disorder. These disabling conditions severely impacted her daily life functions including but not limited to concentrating, interacting with others, and thinking.

21. Defendant was aware of Plaintiff's disabling conditions, as she requested a leave of absence due to her disabilities. Plaintiff requested a reasonable accommodation of half days of work, but her request was denied.

22. On April 1, 2021, Plaintiff was terminated. Plaintiff was allegedly terminated for exhausting her leave of absence time. Said reason is false and pretextual, as Plaintiff was issued a return to work date, and would have been able to return to work earlier if Defendant would have accommodated her reasonable request of working half days.

23. Employees who were not disabled retained their positions. Upon information and belief, Plaintiff's position was filled after her termination.

24. Plaintiff states Defendant's actions violated Plaintiff's rights under the Americans with Disabilities Act as Amended.

25. As a proximate result of the actions of Defendant complained of herein, Plaintiff has suffered personal and financial damage, harassment, and great mental and emotional stress, anxiety, humiliation and embarrassment. Plaintiff has also been forced to expend court costs and attorney's fees.

THIRD CLAIM FOR RELIEF

Title VII of the Civil Rights Act of 1964, Racial Discrimination

26. Plaintiff incorporates each and every allegation contained in paragraphs one (1) through twenty-five (25) of this Complaint, supra, by reference in its entirety as if fully restated herein.

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