

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

OLIVIA MILLER,

Plaintiff,

Case No.

v.

Judge
Magistrate Judge

TRISTAR HEALTH SYSTEM, INC. d/b/a/
SARAH CANNON CANCER CENTER and
HEALTHCARE CORPORATION
OF AMERICA,

JURY DEMAND

Defendant.

_____ /

COMPLAINT

Defendants TriStar Health System, Inc., d/b/a Sarah Cannon Cancer Center, (“Sarah Cannon,”) and Healthcare Corporation of America, (“HCA”) ignored the plain language of the ADAAA when it refused to accommodate, created a hostile work environment and then terminated Plaintiff, Olivia Miller (“Ms. Miller”), due to her disability and complaints of discrimination and failure to accommodate. For almost ten years, Ms. Miller worked without incident at HCA, most recently as a Cancer Conference Coordinator at Sarah Cannon. After she requested a reasonable accommodation and leave pursuant to the FMLA, she was retaliated against, suffered a hostile work environment, and was terminated after she complained about her treatment and the failure to accommodate her. Sarah Cannon and HCA violated the Americans with Disabilities Act, the Tennessee Disability Act and the Family and Medical Leave Act.

PARTIES

1. Plaintiff, Olivia Miller, (“Plaintiff” or “Ms. Miller”) is a citizen and resident of Nolensville, Davidson County, Tennessee, and a former employee of Defendant. Plaintiff worked at Defendant’s Nashville, Tennessee location.

2. Defendant TriStar Health System, Inc., d/b/a Sarah Cannon Cancer Center, (“Sarah Cannon,”) is a Tennessee for-profit corporation. Its registered agent for service of process is CT Corporation System, 300 Montvue Road, Knoxville, TN 37919-5546.

3. Defendant Healthcare Corporation of America, Inc. (“HCA”) is a Tennessee for-profit corporation. Its registered agent for service of process is Ronald C. Marston, 2020 Fieldstone Pkwy, Suite 900-162, Franklin, TN 37069-4337.

4. At all material times, Defendants have been an employer as defined by the ADA, 42 U.S.C. § 12111.

5. Plaintiff is a qualified individual with a disability under 29 C.F.R. §1630.2(g) and (h)(1).

6. At all material times, Defendant has been an employer as defined by the Tennessee Disabilities Act, T.C.A. § 8-50-103 (“TDA”).

7. At all times material to this action, based on information and belief, Defendant has employed 50 or more employees for each working day during each of 20 or more calendar workweeks in 2019 and/or 2020 and is an "employer" as defined by the FMLA, 29 U.S.C. § 2601.

JURISDICTION AND VENUE

8. This is an action for unlawful employment practices brought under the Americans with Disabilities Act 42 U.S.C. §§ 12101 *et. seq.* (“ADA”), as amended by the ADA Amendments Act of 2008 (“ADAAA”) (Counts I - II) the Tennessee Disability Act, T.C.A. § 8-50-103 (“TDA”) (Counts III and IV), and the Family and Medical Leave Act, 29 U.S.C. § 2601 (Count V).

9. The Court has jurisdiction under 28 U.S.C. §§ 1331, 1343(a)(4), and 1367(a). Venue is proper under 28 U.S.C. § 1391.

10. Plaintiff complied with all conditions precedent to the filing of her claims pursuant

to 42 U.S.C. § 12101 *et. seq*, to wit: a charge of discrimination was filed with the Equal Employment Opportunity Commission (“EEOC”) within 300 days of the unlawful employment practice; the EEOC issued Plaintiff a Notice of Right to Sue for the charge and this action was commenced within 90 days of receipt of Notice of Right to Sue.

FACTS

11. Plaintiff, Olivia Miller, was employed by Defendant from 2011 until her termination on August 28, 2020.

12. Ms. Miller is a qualified individual with a disability under 29 C.F.R. §1630.2(h)(2). In particular, she has a mental or psychological disorder which affects major life activities of caring for oneself, learning, reading, concentrating, thinking, communicating, interacting with others, and working. Moreover, her disability affects the major bodily systems of the psychological and neurological systems.

13. Defendant Sarah Cannon is the cancer center of HCA which provides integrated cancer treatments to those facing cancer in communities in the United States and United Kingdom.

14. Defendant HCA is the parent company to Defendant Sarah Cannon.

15. Defendants employ more than 75 employees at its Nashville, Tennessee location.

16. Ms. Miller was employed as a Cancer Conference Coordinator and in that role, she was responsible for coordinating and documenting cancer conferences and tumor board meetings at assigned facilities.

17. From January 21, 2020, until July 2020, Ms. Miller was on FMLA leave for her disability. When she returned to work, her company-issued laptop had significant issues as a result of being off network during her FMLA leave. Ms. Miller reported the laptop issues to her supervisor, Melissa Rinker and also reported the issues to her company’s IT Department.

18. Despite reporting these issues, she was given a verbal warning for not completing an assignment by a deadline, however completion was impossible without the use of a laptop computer.

19. She explained to her supervisor that she had been directed by IT to send in the computer and was waiting for a replacement. She gave her supervisor proof of the technical issues she was experiencing.

20. On a conference call, her supervisor was antagonistic and unhelpful, and placed the blame on Ms. Miller stating, "well then I guess you just can't work," and "if you don't have a computer you can't work, and we are not just handing out laptops." Ms. Miller escalated the issue to her Director, who stated that she could not work nor be paid for an indefinite amount of time until the laptop was fixed.

21. On information and belief, no other employees who experienced technical issues or inoperable equipment were forced on unpaid leave nor told that they could not work. Rather, other employees were given operable equipment to use and/or any technical issues were addressed swiftly to minimize downtime.

22. Ms. Miller went to Human Resources to complain that her supervisor and Director were telling her that she would be unpaid. She also reported that the supervisor and Director laughed at her when she asked if she would be paid.

23. After she returned from leave, Ms. Miller was subjected to strict scrutiny of her work output, including scrutinizing and criticizing time she was off-line, including small breaks she took to use the restroom.

24. Ms. Miller's doctor, concerned she would have a major setback, sent a letter to HR explaining her disabilities and requested two accommodations: 1) extra time to complete

assignments when possible/appropriate, and 2) a flexible start time between 6am and 8am due to her medication schedule.

25. Ms. Miller, according to Defendants' policies, submitted the letter from her doctor and a written request for accommodations on July 16, 2020.

26. On July 23, 2020, Ms. Miller had a call with HR to discuss her accommodations, which constitutes protected activity under the ADA. During this meeting, Ms. Miller engaged in further protected activity by complaining about a retaliatory work environment ever since her FMLA leave and her request for accommodations. Specifically, she related incidents where her Director laughed at her and mocked her disability and when her manager screamed at her. HR never investigated her complaints.

27. Defendants refused to accommodate Ms. Miller and such refusal exacerbated her disability to such a point that she needed to seek additional time off work.

28. On July 30, 2020, Ms. Miller's doctor placed her back on full-time leave to titrate onto new medications.

29. Following company policy, Ms. Miller contacted the third party administrator ("TPA") for HCA's leave of absence policy and was told to "Go on and go out today and we'll get the paperwork to your doctor." Following this instruction, Ms. Miller remained on leave.

30. Sometime in August, Ms. Miller received a letter stating she was fired for abandoning her position. Upon inquiry, Ms. Miller learned that the TPA alleged it never received the paperwork from her doctor, however, after it was re-submitted, the TPA approved the leave.

31. Ms. Miller notified HCA that her leave had been retroactively approved, however she was told, they were unable to ascertain an effective accommodation that would allow her to perform the essential duties related to her job, and she was terminated effective August 28, 2020.

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