

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ROBERT SULAK,
Plaintiff,

vs.

BASF CORPORATION
Defendant.

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Civil Action No. 4:20-cv-03715

JURY TRIAL DEMANDED

PLAINTIFF'S ORIGINAL COMPLAINT

Plaintiff Robert Sulak ("Plaintiff" or "Sulak") now files this Complaint against Defendant BASF Corporation ("Defendant" or "BASF"). In support, Plaintiff states as follows.

PARTIES

1. Plaintiff Robert Sulak is a citizen of the United States and a resident of Orange, Texas.
2. Defendant BASF Corporation is a Delaware corporation authorized to transact business in the State of Texas. It may be served with process through its registered agent for service of process, CT Corporation System, 1999 Bryan St. Ste. 900, Dallas, Texas 75201 or as may otherwise be permitted under Rule 4 of the Federal Rules of Civil Procedure and/or the Texas long-arm statute.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over the claims described in this Complaint pursuant to 28 U.S.C. § 1331 because Plaintiff's claim arises under federal law.
4. The Court has subject matter jurisdiction over Plaintiff's claim under the Texas Commission on Human Rights Act pursuant to 28 U.S.C. § 1367.
5. This Court has personal jurisdiction over Defendant because it has continuously

and systematically performed a substantial amount of business within the state of Texas and, moreover, is being sued herein for illegal conduct against the Plaintiff that occurred within the State of Texas. Accordingly, this Court has both general and specific jurisdiction over the Defendant.

6. Venue is proper in this Court because all of the unlawful employment practices committed by the Defendants occurred within this state.

FACTS

7. Plaintiff was previously employed by BASF as a staff engineer in its manufacturing plant in Beaumont, Texas.

8. Plaintiff began working at the plant in or around February 1, 2014.

9. Plaintiff reported to Mark Screen, the FFP Manager.

10. In the summer of 2018, a female intern, Emily Ochoa, was assigned to Sulak's group. Sulak was assigned to be her mentor.

11. In June 2018, Ms. Ochoa approached Plaintiff expressing concern that Screen was making unwanted sexual advances towards her. Ms. Ochoa told Plaintiff about a time where Screen met with her alone outside at the back of the plant near the waste wells and made unwelcome advances towards her.

12. Plaintiff believed it was his obligation to assist Ms. Ochoa in making a report to Human Resources about Screen's misconduct.

13. BASF did not have an on-site Human Resources representative at the plant. So, Plaintiff called BASF's confidential Corporate Compliance Hotline to report Ms. Ochoa's concern about Screen's advances. Contacting the Corporate Compliance Hotline was an avenue for employees to report what they believed to be discrimination and/or retaliation.

14. After Sulak made this initial contact to Corporate Compliance, Ms. Ochoa wanted to file a more formal complaint. Plaintiff then allowed her to use his office to make a call to the Corporate Compliance Hotline, and he gave her the name and phone number of the person he had spoken to.

15. On September 6, 2018, less than three months later, Plaintiff attended a Site Wide Communication meeting led by Judy Brinkman, the plant's Site Director.

16. During this meeting, Brinkman gave a speech admonishing plant personnel that calls to BASF's Corporate Human Resources (i.e., calls to the Corporate Compliance Hotline) were causing negative attention. She urged that any complaints should be kept within the plant. Brinkman also threatened that "there would be consequences" if someone called the Corporate Compliance Hotline again.

17. Brinkman's comments greatly concerned Sulak. He was concerned that Brinkman was trying to keep employees from reporting discrimination or retaliation out of concern that such reports might reflect negatively on her.

18. A few days later, around September 11, 2018, Plaintiff approached Brinkman and expressed his concern about her comments. He told her that her comments had left a firm impression that employees were not to bring complaints to corporate HR. Brinkman became very agitated and denied that she had said any such thing. Sulak pointed out her statement about there being "consequences" if someone called corporate HR, which she then conceded she had said.

19. Two days later, on September 13, Sulak received word that Mark Screen had been terminated the prior evening for "violating company policy."

20. That afternoon, Sulak was in a colleague's office discussing a work issue. The colleague's phone rang. It was Brinkman, calling to speak to Sulak. She asked him to come by

her office when he finished his meeting.

21. Plaintiff proceeded to Brinkman's office. When he got there, Brinkman's office door was closed and the plant's head of security was waiting outside it. He asked Sulak to take a seat. But Plaintiff was too unnerved by security's presence so he went to the hall and began pacing.

22. Eventually, the security chief came to get him and escorted him to Brinkman's office. She was there with Clay Gilbert, the Operations Execution Manager. Brinkman motioned for Sulak to go into her private conference room. They went inside and Brinkman fired him.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

23. On or about February 27, 2019, Plaintiff timely filed a charge of discrimination with the EEOC and the Texas Workforce Commission Civil Rights Division.

24. The EEOC issued Plaintiff a right to sue letter on or about August 24, 2020.

25. This lawsuit has been filed within 90 days of the EEOC's issuance of that Notice. Consequently, this lawsuit has been filed within 90 days of Plaintiff's receipt of that Notice.

26. The TWC has never issued Plaintiff a right to sue letter, but his charge has been on file for more than 180 days.

27. Based on the foregoing, Plaintiff has exhausted all administrative remedies required by Title VII of the Civil Rights Act of 1964 and/or the Texas Commission on Human Rights Act.

FIRST CAUSE OF ACTION (RETALIATION)

28. Plaintiff incorporates each of the foregoing allegations as if fully set forth herein.

29. Plaintiff engaged in a protected activity in June 2018 when he contacted BASF's Corporate Compliance Hotline to report Ms. Ochoa's concern about Screen's unwelcome advances towards her.

30. Plaintiff engaged in a protected activity again when he approached Ms. Brinkman

on around September 11, 2018, to express his concern about her comments threatening employees with “serious consequences” if they made reports to Human Resources.

31. It was reasonable for Plaintiff to believe that Ms. Brinkman’s comments about “serious consequences” for calling the hotline was unlawful conduct in violation of Title VII, whether or not her comments were actually unlawful.

32. Defendant took a materially adverse employment action against Plaintiff by terminating him.

33. Defendant took this materially adverse action against Plaintiff within a fairly short time following both Plaintiff’s report to HR about the sexual harassment towards Ms. Ochoa, and just two days after expressing her concern to Brinkman that she was stifling employees’ rights to bring complaints to HR.

34. Such conduct violates Title VII and/or the Texas Commission on Human Rights Act.

35. Plaintiff has been damaged by the retaliation against him.

36. BASF retaliated against Sulak with malice and/or reckless disregard for Plaintiff’s statutory right to be free from retaliation. An award of exemplary damages is therefore warranted.

ATTORNEYS’ FEES

37. If Plaintiff prevails, he is entitled to an award of reasonable and necessary attorneys’ fees.

JURY DEMAND

38. Plaintiff hereby demands a trial by jury on all claims that may be tried to a jury.

PRAYER FOR RELIEF

Plaintiff hereby prays that Defendant be cited to appear and that, upon trial, the Court enter

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