

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

BRENDA LOPEZ DE LEON,
Plaintiff,

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CIVIL ACTION NO.

v.

SANDERSON FARMS, INC.,
Defendant.

JURY REQUESTED

PLAINTIFF’S ORIGINAL COMPLAINT

Plaintiff Brenda Lopez De Leon now files this Original Complaint against Defendant Sanderson Farms, Inc. Ms. Lopez De Leon would respectfully show the Court the following:

PARTIES

1. Plaintiff, Ms. Brenda Lopez De Leon, is an individual who resides in Brazos County, Texas. She may be served through her attorneys of record, Brent S. Phelps and Tej R. Paranjpe, of Paranjpe Mahadass Ruemke LLP, 3701 Kirby Dr., Suite 530, Houston, Texas 77098.

2. Defendant Sanderson Farms, Inc. is a Mississippi corporation transacting business in Texas, with its headquarters and principal place of business in Laurel, Mississippi, and may be served with process through its registered agent, CT Corporation System, located at 1999 Bryan St, Ste. 900, Dallas, Texas, 75201 or wherever it may be found.

JURISDICTION AND VENUE

3. The Court has jurisdiction over this lawsuit under 28 U.S.C. §1332(a)(1) and (a)(3) because the Plaintiffs and Defendants are citizens of different U.S. states, a citizen of a foreign state, and the amount in controversy exceeds \$75,000.00, excluding interest and costs.

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4. Venue is proper in this Court under 28 U.S.C. §1391(b)(2) because a substantial part of the events or omissions giving rise to this claim occurred in this district.

CONDITIONS PRECEDENT

5. All conditions precedent have been performed or occurred.

RESPONDEAT SUPERIOR

6. Defendant is legally responsible to the Plaintiff for the acts and omissions of their employees, agents, servants, and representatives under the legal doctrines of respondeat superior, agency, and/or ostensible agency. As a result thereof, the Defendant is vicariously liable for all wrongful and illegal acts, omissions, and conduct of their employees, agents, servants and representatives.

MISNOMER AND ALTER EGO

7. In the event any parties are misnamed or are not included herein, it is Plaintiff's contention that such was a "misidentification," "misnomer," and/or such parties were or are "alter egos" of parties named in this complaint. Alternatively, Plaintiff contends that such "corporate veils" should be pierced to hold such parties properly included in the interest of justice.

8. The "alter ego doctrine permits the imposition of liability upon the parent company for torts and contractual obligations of its subsidiary..." *Miles v. Am. Telephone & Telegraph Co.*, 703 F.2d 193, 195 (5th Cir. 1983). The theory "provides a vehicle for bringing a subsidiary within the reach of the Texas long-arm statute because a close relationship between a parent and its subsidiary may justify a finding that the parent does business in a jurisdiction through the local activities of its subsidiaries, or vice versa." *Hargrave v. Fibreboard Corp.*, 710 F.2d 1154, 1159 (5th Cir. 1983); *Walker v. Newgent* 583 F.2d 163, 167 (5th Cir. 1978).

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9. “Where a parent establishes a subsidiary... and dominates it...that the subsidiary is a mere conduit for the parent’s business, the parent should not be able to shift the risk of loss.” *United States v. Jon-T Chemicals, Inc.* 768 F.2d 686, 693 (5th Cir. 1985); *Nelson v. Int’l. Paint Co.* 734 F.2d 1084, 1093 (5th Cir. 1984); *Edwards Co. v. Monogram Indus.* 730 F.2d 977, 982 (5th Cir. 1984); *Miles v. Am. Tel. & Tel. Co.* 703 F.2d 193, 195 (5th Cir. 1983).

10. Sanderson Farms, Inc. has several branches and subsidiaries that operate as Sanderson Farms, Inc., Sanderson Farms, Inc. (Processing Division), and Sanderson Farms, Inc. (Production Division). As such, for the purposes of this litigation, Sanderson Farms, Inc. and the various divisions are alter-egos of each other and are referred herein and throughout this Complaint as “Sanderson Farms, Inc.” or “Sanderson Farms”.

FACTS

11. At all relevant times, Plaintiff was an employee of Defendant. At all times during her employment with Defendant, Defendant had and consistently exercised a right to control over the work performed by Plaintiff.

12. In the course and scope of her employment on or about September 30, 2020, Plaintiff was working at Defendant Sanderson Farms’ premises located at 2000 Shiloh Ave., Bryan, TX 77803.

13. Sanderson Farms is a poultry processing company. The Sanderson Farms facility in Bryan, Texas is responsible for processing and packaging chicken to sell. Plaintiff worked the night shift to clean the pots, hooks, and some machines once production came to a stop.

14. A Sanderson Farms supervisor, Adelita Rios, instructed Plaintiff to work in a different area of the facility. Even after Plaintiff conveyed her discomfort and uneasiness of the new facility area, lack of any knowledge of the specific machines she was being ordered to work, Sanderson Farms refused to permit Plaintiff to work in the area she was accustomed to. Brenda attempted to escalate

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the issue to Sanderson Farms manager, Adelfino Maldonado, describing she was unfamiliar with the different machines and new area of the facility she was now being assigned to. Once again, Sanderson Farms disregarded Plaintiff's concerns and instructed her to work where she had been newly assigned.

15. During her scheduled shift, Plaintiff entered the poorly lit, strange area of the facility and began cleaning the chicken processing machines when she came to a peculiar machine with a conveyor belt and electronic code lock. These processing machines remove the skin from the chickens. Plaintiff looked for Mr. Maldonado to ask him about the machine, but he was not around in the area. Plaintiff then began cleaning the machine when suddenly the conveyor belt started up which shoved her left hand into the chicken processor machine. The abrupt incident also shifted Plaintiff's body in a swift, jerking motion. Plaintiff screamed for help, but the area was so loud that no one heard her crying out. Plaintiff's left hand was lodged in the machine and the machine came to a stop.

16. Manager Adelfino Maldonado and another supervisor, Santiago Zamora were eventually called to see if there was a way to pull Plaintiff's hand from the machine. Then, Timothy Tatum the mechanics supervisor, arrived in the area and tried to cut Plaintiff's hand out of her gloves. When her hand was finally released, Plaintiff took off the gloves and realized that her left hand and arm were swollen and in terrible pain, weirdly numb, and she was unable to close her hand into a fist.

17. After the incident, Defendant failed to take any responsibility for their negligence and fired Plaintiff. Since then, Plaintiff has not been able to work because of her severe injuries.

18. Defendant failed to provide Plaintiff with any training on common safety guidelines and failed to provide a safe work environment to accomplish the hazardous task. Due to the negligence

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of the Defendant, Plaintiff suffered serious, life-changing bodily injuries, including, but not limited to, low back pain, finger lacerations, and permanent nerve damage to her left hand. These injuries caused Plaintiff to sustain damages as pled herein.

CAUSES OF ACTIONS

COUNT I: NEGLIGENCE

19. Paragraphs 1 through 18 are incorporated by reference. On the occasions in question, the Defendant committed acts of omission and commission, which collectively and separately constituted negligence. The Defendant had a duty to exercise ordinary care, meaning that degree of care that would be used by any employer of ordinary prudence under the same of similar circumstances. The Defendant breached that duty and are negligent, negligent *per se*, and grossly negligent for the following reasons:

- a. Failing to properly supervise Plaintiff at the work site;
- b. Failing to provide and require the use of proper safety equipment;
- c. Failing to adequately instruct Plaintiff;
- d. failing to adequately train Plaintiff/and or its employees;
- e. Failing to ensure a safe system of work is implemented, all foreseeable risks are identified, and control measures are implemented to eliminate or mitigate the risks;
- f. Failing to ensure that the work operation had the necessary resources to carry out work tasks safely;
- g. Failing to properly train Plaintiff on how to work safely;
- h. Failing to follow OSHA regulations including, but not limited to: 29 C.F.R. §§ 1910.132, 1910.138, and 1910.212;
- i. Failing to have an accident prevention policy;
- j. Failing to properly train, supervise, and educate its employees, temporary help, contractors, subcontractors, and third parties retained for performance of work;

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