fee deferred

FILED
APR 28 2020
4th Judicial District

Verified Correct Copy of Original 5/7/2020.

CIRCUIT COURT OF THE STATE OF OREGON

MULTNOMAH COUNTY

20CV16822

JOSHUA McCASLIN, aka CHARLOTTE McCASLIN,

Plaintiff,

v.

RNC HOLDINGS, LLC, dba THE LIQUOR STORE; and COOPER DUBOIS, and individual.

Defendants.

Case No.

COMPLAINT (Hostile Work Environment, Sexual Harassment, and Gender Discrimination (ORS 659A.030); Constructive Termination (Common Law); Aiding and Abetting (ORS 659A.030); Battery; Intentional Infliction of Emotional Distress

Battery
Prayer: $750,000
Fee Authority: ORS 21.160(1)(c)

Not Subject to Mandatory Arbitration

JURY TRIAL DEMANDED

This is an action for declaratory, injunctive, and monetary relief, including economic and noneconomic damages, attorney fees and costs, and, following amendment, punitive damages, to redress defendants' discriminatory and retaliatory employment practices in violation of Plaintiffs' statutory rights.

For her complaint against Defendant RNC HOLDINGS, LLC, dba The Liquor Store ("RNC") and Cooper DuBois, Plaintiff Joshua McCaslin, aka Charlotte McCaslin ("Ms. McCaslin") alleges as follows:

1.

Ms. McCaslin is a resident of Multnomah County.

2.

Defendant RNC Holdings, LLC, is an Oregon limited liability company with its principal place of business, The Liquor Store, in Multnomah County, Oregon.

3.

Defendant Cooper DuBois is a resident of Clackamas County.

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4.

Venue is proper in Multnomah County, Oregon, pursuant to ORS 14.080(1) because the events took place in Multnomah County.

5.

At all material times, Defendant RNC was Ms. McCaslin's employer, Ms. McCaslin was supervised by Defendant RNC's employees or agents and Ms. McCaslin relied on the actual or apparent authority of Defendant RNC's employees, supervisors and management.

6.

At all material times Defendant Cooper DuBois was an owner of RNC.

7.

Defendant RNC is vicariously liable for Defendant Cooper DuBois's actions.

8.

Ms. McCaslin was hired by Defendant RNC on or about November 25, 2017, as a bartender and server in RNC's bar, restaurant and music venue, The Liquor Store.

9.

Ms. McCaslin was a hard-working employee and was dedicated to her job.

10.

Throughout Ms. McCaslin's employment Defendant DuBois would repeatedly hug her and kiss her. Ms. McCaslin did not welcome nor invite Defendant DuBois' physical contact.

11.

Ms. McCaslin reported Defendant DuBois' behavior to Defendant RNC's managers, none of whom took action to curb Defendant DuBois' sexually harassing conduct.

12.

On or about September 24, 201, Ms. McCaslin resigned from Defendant RNC because she could not tolerate the repeated sexual harassment from Defendant DuBois and the failure of Defendant RNC to make the harassment stop. On her last shift, Ms. McCaslin was informed that another female employee was sexually harassed by one of Defendant RNC's managers.

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CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF
Hostile Work Environment, Sexual Harassment, and Gender Discrimination
(ORS 659A.030)
(Against Defendant RNC)

13.

Ms. McCaslin realleges and incorporates paragraphs 1 through 12 as though fully set forth herein.

14.

Defendant RNC's actions, its agents and employees acting within the course and scope of their duties as set forth above and incorporated into this paragraph, committed sexual harassment and gender discrimination against Ms. McCaslin.

15.

In perpetrating the actions described in the above, Defendant RNC created a hostile work environment for Ms. McCaslin motivated by Ms. McCaslin's gender.

16.

As a direct and proximate result of Defendant RNC's unlawful conduct, Ms. McCaslin has incurred and continues to incur lost income in an amount to be proven at trial, which is alleged to be $50,000.

17.

As a direct and proximate result of Defendant RNC's conduct, Ms. McCaslin has suffered and will continue to suffer mental stress, humiliation, inconvenience and loss of enjoyment of life all due to her non-economic loss in an amount to be determined at trial, which is alleged to be $750,000.

18.

Ms. McCaslin is entitled to recover her reasonable attorney fees and costs pursuant to ORS 659A.885(a).

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SECOND CLAIM FOR RELIEF
Constructive Termination (Common Law)
(Against Defendant RNC)

19.

Ms. McCaslin realleges and incorporates paragraphs 1 through 18 as though fully set forth herein.

20.

Defendant RNC intentionally created or maintained working conditions so intolerable that a reasonable person in Ms. McCaslin's position would have left employment because of them.

21.

Defendant RNC, acting through its owners, supervisors, managers, and agents, desired that Ms. McCaslin leave employment as a result of the intolerable working conditions.

22.

In the alternative, Defendant RNC, acting through its owners, managers, and agents, knew that Ms. McCaslin was substantially certain to leave employment as a result of the intolerable working conditions and was constructively discharged.

23.

Ms. McCaslin left employment with Defendant RNC as a result of the intolerable working conditions described in this Complaint.

24.

As a direct and proximate result of Defendant RNC's unlawful conduct, Ms. McCaslin has incurred and continues to incur lost income in an amount to be proven at trial, which is alleged to be $50,000.

25.

As a direct and proximate result of Defendant RNC's conduct, Ms. McCaslin has suffered and will continue to suffer mental stress, humiliation, inconvenience and loss of

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enjoyment of life all due to her non-economic loss in an amount to be determined at trial, which is alleged to be $750,000.

THIRD CLAIM FOR RELIEF
Aiding and Abetting
(ORS 659A.030)
(Against Defendant Cooper DuBois)

26.

Ms. McCaslin realleges and incorporates paragraphs 1 through 25 as though fully set forth herein.

27.

In perpetuating the actions described in the above, Defendant Cooper DuBois aided and abetted sexual harassment and gender discrimination against Ms. McCaslin by Defendant RNC.

28.

Defendant Cooper DuBois' conduct constitutes a violation of ORS 659A.030 and Defendant Cooper DuBois is liable to Ms. McCaslin for damages.

29.

As a direct and proximate result of Defendant Cooper DuBois' unlawful conduct, Ms. McCaslin has incurred and continues to incur lost income in an amount to be proven at trial, which is alleged to be $50,000.

30.

As a direct and proximate result of Defendant Cooper DuBois' conduct, Ms. McCaslin has suffered and will continue to suffer mental stress, humiliation, inconvenience and loss of enjoyment of life all due to her non-economic loss in an amount to be determined at trial, which is alleged to be $750,000.

31.

Ms. McCaslin is entitled to an award of economic and noneconomic compensatory damages in an amount to be determined by a jury at the time of trial.

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32.

Ms. McCaslin is entitled to recover her costs and attorney fees.

FOURTH CLAIM FOR RELIEF
Battery
(Against Cooper DuBois)

33.

Ms. McCaslin realleges and incorporates 1 through 32 as though fully set forth herein.

34.

Defendant Cooper DuBois intended to cause harmful or offensive contact with Ms. McCaslin.

35.

Defendant Cooper DuBois' actions directly caused harmful and offensive contacts with Ms. McCaslin.

36.

As a direct and proximate result of Defendant Cooper DuBois conduct, Ms. McCaslin has suffered physical harm and will continue to suffer mental stress, humiliation, inconvenience and loss of enjoyment of life all due to her non-economic loss in an amount to be determined at trial, which is alleged to be $750,000.

3937

Ms. McCaslin is entitled to award of economic and non-economic damages, and equitable relief.

38.

Pursuant to ORS 82.110, Ms. McCaslin is entitled to post-judgment interest at the rate of nine percent per annum.

39.

Defendant acted with malice, and his actions were intentional and willful. Defendant

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acted with reckless and outrageous indifference to a highly unreasonable risk of harm to Ms. McCaslin and a conscious indifference to the health, safety and welfare of others. Such conduct exceeds the bounds of social tolerance and is of the type that punitive damages deter. Therefore, Ms. McCaslin anticipates amending this Complaint, and reserve the right to do so, pursuant to ORS 31.725 to assert claims for punitive damages.

FIFTH CLAIM FOR RELIEF
Intentional Infliction of Emotional Distress
(Against all Defendants)

40.

Ms. McCaslin realleges and incorporates paragraphs 1 through 39 as though fully set forth herein.

41.

In perpetrating the actions described in the above paragraphs 1 through 40, Defendants intended to cause Ms. McCaslin severe emotional distress.

42.

Defendants' conduct was an extraordinary transgression of the bounds of socially tolerable behavior.

43.

As a direct and proximate result of Defendants' conduct, Ms. McCaslin has suffered and will continue to suffer mental stress, humiliation, inconvenience and loss of enjoyment of life all due to her non-economic loss in an amount to be determined at trial, which is alleged to be $750,000.

44.

Defendants acted with malice, and their actions were intentional and willful. Defendants acted with reckless and outrageous indifference to a highly unreasonable risk of harm to Ms. McCaslin and a conscious indifference to the health, safety and welfare of others. Such conduct exceeds the bounds of social tolerance and is of the type that punitive damages deter. Therefore,

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Ms. McCaslin anticipates amending this Complaint, and reserve the right to do so, pursuant to ORS 31.725 to assert claims for punitive damages.

JURY TRIAL DEMAND

45.

Plaintiff demands a jury trial on all questions of fact or combined questions of law and fact raised by this complaint.

PRAYER FOR RELIEF

WHEREFORE, Ms. McCaslin requests the court to:

1. Assume jurisdiction over each of the causes set forth herein.

2. Issue a declaration that Defendants have violated Ms. McCaslin's legally protected rights and an order requiring Defendants to correct this deficiency.

3. Grant a permanent injunction enjoining Defendant RNC, its owners, officers, management personnel, employees, agents, successors, and assigns, and all persons in active concert or participation with Defendant RNC, from engaging in any employment practice which retaliates against employees who request were exercised or legally protected rights.

4. Order Defendant RNC to create, implement and carry out policies, practices and programs providing for equal employment opportunities which affirmatively eradicate the effects of past and present unlawful employment practices, on such terms as the court may direct.

5. Order Defendants to make Ms. McCaslin whole by compensating her for past and future pecuniary losses, including expenses, impairment of earning capacity, lost past and future earnings and benefits of employment, and such other losses as are awarded by a jury or otherwise established at trial, which is alleged to be $50,000.

6. Order Defendants to pay Ms. McCaslin an award of compensatory damages for non-economic losses, including but not limited to severe emotional distress, anguish, humiliation, anger, shame, and anxiety in an amount to be proven at trial, which is alleged to be $750,000.

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7. Award Ms. McCaslin her costs of suit and her reasonable attorney fees, costs and expert witness fees.

8. Order Defendants to pay prejudgment and post judgment interest, as appropriate, on all amounts due to plaintiff as a result of this action.

Date: April 24, 2020

LAW WORKS LLC
s/Lake Perriguey
Lake Perriguey, OSB 983213
Email: lake@law-works.com
Plaintiff's Attorney
Trial Attorney

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