

**IN THE UNITED STATES DISTRICT
COURT FOR THE EASTERN DISTRICT OF
PENNSYLVANIA**

Sharon Jones

Plaintiff,

v.

National Bupkis Corporation

Defendant.

CIVIL ACTION NO.

Complaint

Jury Trial Demanded

INTRODUCTION

1. Plaintiff, Sharon Jones, brings this action pursuant to the Family and Medical Leave Act, 29 USC § 2601 et seq. (FMLA") seeking redress for Defendant's unlawful retaliation and interference and wrongful discharge of her employment in violation of the terms of the Act.

PARTIES

2. Plaintiff is an adult individual residing at Easton, PA 18045.

3. Defendant, National Bupkis Corporation, is a company that contracts with hospitals to provide them wound management solutions through the management of hospital wound centers. Its main offices are located at , Boca Raton FL 33431.

JURISDICTION

4. This court has jurisdiction pursuant to 28 USC §§ 1331 and 1367.

VENUE

5. Venue in this action properly lies in the Eastern District of Pennsylvania pursuant to 28 USC § 1391(b), as the actions and omissions of Defendant giving rise to the claims occurred in this District and the Defendant manages a wound care facility in this District.

FACTS

6. Since 2007 and earlier, National Bupkis Corporation has performed services for Easton Hospital, a teaching hospital in Easton, Pennsylvania

pursuant to the terms of a contract between National Bupkis Corporation and Easton Hospital. Under this contract, National Bupkis Corporation and Easton Hospital provide inpatient and outpatient healthcare services at the Wound Center of Easton Hospital.

7. Plaintiff, Sharon Jones, began employment with National Bupkis Corporation on May 1, 2007 as the Program Director for the Easton Hospital Wound Center. As Program Director, she was responsible for the management of the Wound Center at Easton Hospital, including the responsibility for operations, personnel, budget, reimbursement, quality management, marketing and sales.

8. During her employment with National Bupkis Corporation, Plaintiff received satisfactory or above satisfactory performance reviews. She was frequently complimented by her superiors on her work performance.

9. On September 17, 20 Plaintiff advised National Bupkis Corporation that she intended to take Family Medical Leave effective September 27, 20 with an anticipated return to work date of November 3, 20.

10. Plaintiff requested her employer, Defendant, National Bupkis Corporation, to grant her FMLA leave and on September 20, 20, Defendant granted her request by advising her that she was eligible for FMLA leave.

11. Plaintiff requested and took Family Medical Leave as a result of serious health conditions as that term is defined by the Family and Medical Leave Act. See 29 USC§ 2611(11)

12. As an accommodation to Defendant and Easton Hospital, Plaintiff began her FMLA leave on October 6, 20. Thereafter, Plaintiff remained on FMLA leave due to her serious health

condition under the care of a physician, who did not permit her to return to work until November 8, 20.

13. On or about October 29, 20, Plaintiff advised Defendant that she was able to return to work on November 8, 20. On November 2, 20 Deborah McNutt Vice President, Northeast Region, terminated Plaintiff's employment with Defendant.

COUNT 1

RETALIATION-FAMILY AND MEDICAL LEAVE ACT.

14. Plaintiff repeats the allegations of paragraphs 1 through 13.

15. Under the FMLA, it is "unlawful for any employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful" by the FMLA. See 29 USC § 2615 (a) (2).

16. National Bupkis Corporation is an "employer" as that term is defined by the FMLA as it has been engaged in commerce or in an industry affecting commerce and employed 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year. See 29 USC § 2611(4) (A).

17. Sharon Jones is an "eligible employee" as that term is defined by the FMLA. She was employed for at least 1,250 hours of service during the previous 12. month period and employed at a worksite where 50 or more employees are employed within 75 miles of the worksite. See 29 USC § 2611(2)(A). Her eligibility is based in part on 29 CFR § 825.106 which provides that, for purposes of calculating the number of employees of her employer under the FMLA, Easton Hospital shall be considered her joint employer as Defendant acts directly in the interest of Easton Hospital in the management of the Wound Center and its employees.

18. Plaintiff engaged in protected activity by requesting a FMLA leave in September, 2010 and taking such leave during October and November, 20.

19. Defendant's termination of her employment was motivated by and causally connected to her protected activities under the FMLA.

20. Defendant's retaliation was willful, intentional, and malicious and was taken in bad faith.

21. As a direct and proximate result of Defendant's violation of the FMLA, Plaintiff has suffered and will continue to suffer loss of income, fringe benefits, bonuses, retirement and welfare benefits provided by Defendant to its employees, as well as emotional distress, humiliation, embarrassment, disruption to her personal and professional life and other damages.

WHEREFORE, plaintiff requests that this Court entered judgment in favor of plaintiff and against defendant to the following relief:

Award Plaintiff her lost wages salary employment benefits and other economic compensation denied or lost, past and future;

Award Plaintiff reinstatement and salary increase or, in lieu of thereof, front pay and benefits

Award plaintiff liquidated damages

Award Plaintiff her reasonable attorney's fees expert fees cost and pre- and post judgment interest

Award declaratory and injunctive and equitable relief against defendants; and grant such other and further relief as the Court deems just and proper under the circumstances.

COUNT II

WRONGFUL INTERFERENCE WITH PLAINTIFF'S RIGHTS UNDER THE EMLA

22. Plaintiff repeats the allegations of paragraphs 1 through 21.

23. Under the FMLA, it is "unlawful for any employer to interfere with, restrain or deny the exercise of or the attempt to exercise, and rights provided" in the FMLA. See 29 U.S. C. § 2615(a) (1).

24. Plaintiff was able to return to her position as Program Director on November 8, 2010. Defendant denied Plaintiff her right to return to her position when her leave expired as mandated by the FMLA. Instead, Defendant terminated her employment while she was on leave in violation of the terms of the FMLA.

25. Defendant's refusal to allow Plaintiff to return from FMLA leave to her position in November, 2010 constituted an interference with her exercise of and denial of her rights under the FMLA.

26. Defendant's interference was intentional, willful and malicious was taken in bad faith.

27. As a direct and proximate result of Defendant's violation of the FMLA, Plaintiff has suffered and will continue to suffer loss of income, fringe

benefits, bonuses, retirement and welfare benefits provided by Defendant to its employees, as well as emotional distress, humiliation, embarrassment, disruption to her personal and professional life and other damages.

WHEREFORE, plaintiff requests that this Court entered judgment in favor of plaintiff and against defendant to the following relief:

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Award Plaintiff her reasonable attorney's fees expert fees cost and pre- and post judgment interest

Award declaratory and injunctive and equitable relief against defendants; and grant such other and further relief as the Court deems just and proper under the circumstances.

JURY DEMAND

Plaintiff demands a trial by jury.

Dated:

Thaddeus P. Mikulski, Jr.