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Attorney for Plaintiff

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

JESSICA ETZLE,	:	
1866 Rosedale Avenue	:	Civil Action No.
Middletown, PA 17057	:	
Plaintiff,	:	
v.	:	
	:	COMPLAINT AND JURY
LOWER SWATARA TOWNSHIP	:	DEMAND
FIRE DEPARTMENT,	:	
1350 Fulling Mill Road	:	
Middletown, PA 17057	:	
Defendant.	:	

AMENDED COMPLAINT

Plaintiff Jessica Etzle, by and through her attorney, bring this civil matter against Defendant Lower Swatara Volunteer Fire Department alleging she was subject to unlawful violation of Title VII of the Civil Rights Act of 1964 (“Title VII”) and the Pennsylvania Human Relations Act (“PHRA”), and avers and alleges as follows:

THE PARTIES

1. The allegations contained in the foregoing paragraphs of this Amended Complaint are incorporated by reference herein as if the same were set forth at length.
2. Plaintiff is female.

3. Plaintiff resides at the above captioned address.
4. Defendant Lower Swatara Township Fire Department (hereinafter “Defendant”) is a fire department that is located at 1350 Fulling Mill Road, Middletown, PA 17057.
5. Plaintiff was employed by Defendant at the above captioned address, from her hire in September 2003 until she stopped reporting to the location in or around July 2016.
6. At all times relevant hereto, Defendant acted by and through its agents, servants, and employees, each of whom acted within the scope of his or her job responsibilities.

JURISDICTION AND VENUE

7. The foregoing paragraphs are incorporated by reference herein as if the same were set forth at length.
8. The Court may properly maintain personal jurisdiction over Defendant because the Defendant’s contacts with this state and this judicial district are sufficient for the exercise of jurisdiction and comply with traditional notions of fair play and substantial justice, thus satisfying the standard set forth by the United States Supreme Court in International Shoe Co. v. Washington, 326 U.S. 310 (1945) and its progeny.
9. The Court may exercise original subject-matter jurisdiction over the instant action pursuant to 28 U.S.C. §§ 1331 and 1343(a)(4) because it arises under the laws of the United States and seeks redress for violations of federal law.
10. The Court may also maintain supplemental jurisdiction over state law claims set forth herein pursuant to 28 U.S.C. § 1367(a) and Rule 18(a) of the Federal Rules of Civil Procedure because they are sufficiently related to one or more claims within the Court’s original jurisdiction that they form part of the same case or controversy.
11. Venue is properly laid in the Middle District of Pennsylvania pursuant to 28 U.S.C. §§

1391(b)(1) and 1391(b)(2) because the Defendant is located in this judicial district and because all of the acts and/or omissions giving rise to the claims set forth herein occurred in this judicial district.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

12. The foregoing paragraphs are incorporated by reference herein as if the same were set forth at length.
13. Plaintiff exhausted her administrative remedies under Title VII. Butterbaugh v. Chertoff, 479 F. Supp. 2d 485 (W.D. Pa. 2007).
14. On April 1, 2016, Plaintiff filed a timely written Charge of Discrimination (the “Charge”) with the Equal Employment Opportunity Commission (“EEOC”) alleging gender discrimination against Defendant.
15. The Charge was assigned a Charge Number of 530-2016-03472 and was duly filed with the Pennsylvania Human Relations Commission (“PHRC”).
16. Plaintiff received a Notice of Right to Sue relative to the Charge, by mail, dated June 6, 2017. A true and correct copy of this Charge is attached and incorporated herein as Exhibit “A”.
17. Plaintiff files the instant Complaint within ninety (90) days of her receipt of the Notice of Right to Sue letter relative the Charge.
18. Prior to the filing of this action, Plaintiff notified the EEOC of her intent to proceed with a lawsuit in federal court.

FACTUAL SUMMARY

19. The allegations contained in the foregoing paragraphs of this Complaint are incorporated by reference herein as if the same were set forth at length.

20. In September 2003, Plaintiff was hired as a Firefighter.
21. Plaintiff was well qualified for the position and performed well.
22. In January 2014, Defendant promoted Plaintiff to Lieutenant.
23. Plaintiff was well qualified for the position and performed well.
24. In May 2014, Defendant assigned Plaintiff fire prevention duties.
25. These duties included, but were not limited to, conducting fire prevention work at schools and daycares, working in the “smoke house trailer” to teach children about fire prevention and administrative work.
26. In early 2015, Justin Sheneult, Lieutenant resigned from his position.
27. Mr. Sheneult’s resignation made Plaintiff the only Lieutenant at Defendant.
28. This however this did not affect Plaintiff performing her job duties.
29. On January 4, 2016, Plaintiff met with Jason Brown, Fire Chief, John Weikle, Assistant Fire Chief, and Ken Phillips, Deputy Fire Chief.
30. Mr. Brown informed Plaintiff that she could not be a Lieutenant anymore because “you have a six (6) year old son” and she needed to be home and be a mother to her son.
31. Mr. Weikle stated further that Plaintiff needed to be a mom instead of being in the fire station.
32. Defendant demoted Plaintiff to the position of Firefighter.
33. In addition, Defendant also took the fire prevention duties away from Plaintiff.
34. Later that night on January 4, 2016, Defendant filled the two (2) open Lieutenant positions with Kevin and Chad Zimmerman.
35. Upon information and belief, both Kevin and Chad Zimmerman have children.
36. In February 2016, Plaintiff complained to Mr. Weikle about her demotion.

37. Mr. Weikle could not provide Plaintiff with a valid reason for her demotion and took no action to address Plaintiff's complaint.
38. On April 1, 2016, Plaintiff filed a Charge of Discrimination with the EEOC alleging gender discrimination.
39. Later in April 2016, Plaintiff met with Michael McKillip, President, and complained about being demoted from Lieutenant because she was a mother and notified Mr. McKillip of Mr. Brown's and Mr. Weikle's comments during her demotion.
40. Mr. McKillip informed Plaintiff that he would look into the matter and get back to her.
41. However, Mr. McKillip did not contact Plaintiff following her complaint.
42. In or around June 2016, Defendant became aware of Plaintiff's filing with the EEOC.
43. Defendant's employees ignored Plaintiff and created an uncomfortable working environment for her.
44. In or around July 2016, Plaintiff ceased reporting to Defendant due to the working environment.
45. Based upon the foregoing, Plaintiff believes that Defendant discriminated against her because of her gender in violation of Title VII and the PHRA.

COUNT I - GENDER DISCRIMINATION
TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED

46. Plaintiff incorporates by reference each allegation contained in the preceding paragraphs as if the same were set forth more fully at length herein.
47. The foregoing conduct by Defendant constitutes unlawful discrimination against Plaintiff on the basis of her gender (female).
48. As a result of Defendant's unlawful gender discrimination, Plaintiff has suffered damages as

set forth herein.

WHEREFORE, Plaintiff seeks the damages set forth in the Prayer for Relief clause of this Complaint, *infra*.

**COUNT II – GENDER DISCRIMINATION
PENNSYLVANIA HUMAN RELATIONS ACT (“PHRA”)**

49. Plaintiff incorporates by reference each allegation contained in the preceding paragraphs as if the same were set forth more fully at length herein.

50. The foregoing conduct by Defendant constitutes unlawful discrimination against Plaintiff on the basis of her gender (female).

51. As a result of Defendants’ unlawful race discrimination, Plaintiff has suffered damages as set forth herein.

WHEREFORE, Plaintiff seeks the damages set forth in the Prayer for Relief clause of this Complaint, *infra*.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Jessica Etzle, requests that the Court grant him the following relief against Defendant:

- (a) Damages for past and future monetary losses as a result of Defendant unlawful discrimination;
- (b) Compensatory damages;
- (c) Punitive damages;
- (d) Liquidated damages;
- (e) Emotional pain and suffering;
- (f) Reasonable attorneys’ fees;
- (g) Recoverable costs;

- (h) Pre and post judgment interest;
- (i) An allowance to compensate for negative tax consequences;
- (j) A permanent injunction enjoining Defendant, its directors, officers, employees, agents, successors, heirs and assigns, and all persons in active concert or participation with them, from engaging in, ratifying, or refusing to correct, employment practices which discriminate in violation of TITLE VII and the PHRA.
- (k) Order Defendant to remove and expunge, or to cause to be removed and expunged, all negative, discriminatory, and/or defamatory memoranda and documentation from Plaintiff's record of employment, including, but not limited, the pre-textual reasons cited for her adverse actions, disciplines, and termination; and
- (l) Awarding extraordinary, equitable and/or injunctive relief as permitted by law, equity and the federal statutory provisions sued hereunder, pursuant to Rules 64 and 65 of the Federal Rules of Civil Procedure.

JURY TRIAL DEMAND

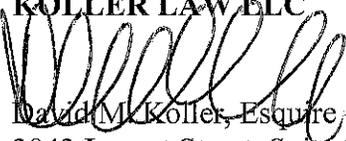
Demand is hereby made for a trial by jury as to all issues.

CERTIFICATION

I hereby certify that to the best of my knowledge and belief the above matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding, nor at the present time any other action or arbitration proceeding contemplated.

RESPECTFULLY SUBMITTED,

KOLLER LAW LLC



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Date: September 7, 2017

By: