

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

SHANNON N. BUTRICK,

Plaintiff,

v.

Civil Action No.: 3:23-cv-884

DINÉ DEVELOPMENT CORPORATION,

and

SARAH YOUNG, in her official capacity,

Defendants.

**JURY TRIAL
DEMANDED**

COMPLAINT

Plaintiff Shannon N. Butrick (“Butrick”), by counsel, submits this Complaint against the defendant Diné Development Corporation (“DDC”) and Sarah Young, stating as follows:

INTRODUCTION

This is a civil action seeking reinstatement, lost salary, benefits and other compensation, as well as liquidated damages and attorney’s fees, as DDC and Young terminated Butrick’s employment because she had taken a medical leave of absence, and thus interfered with the exercise of her rights under the Family and Medical Leave Act of 1993 (“FMLA”), 29 U.S.C. § 2615(a)(1). DDC and Young also terminated Butrick in retaliation for complaining that she was being subjected to discrimination due to her medical leave, in violation of the FMLA, 29 U.S.C. § 2615(a)(2).

PARTIES

1. Burick resides in King George County, Virginia. She is eligible for FMLA protection by having worked for DDC for over 12 months prior to taking medical leave, and in excess of 1250 hours during those 12 months, pursuant to 29 U.S.C. § 2611(2)(A).

2. DDC is a wholly owned corporation of the Navajo Nation that provides information technology, professional, environmental and research and development services to governmental and commercial organizations. Its principal place of business is located at 8840 E. Chapparal Road, Suite 145, 85250.

3. Young is sued in her official capacity as Director of Contracts for DDC. As Young was the deciding authority who retaliated against Butrick by demoting her during her leave and terminated her employment with DDC, she is the proper state official through whom Butrick may overcome any immunity that DDC may enjoy against suit under the FMLA, and through whom Butrick may obtain prospective injunctive relief, pursuant to Ex Parte Young, 209 U.S. 123 (1908).

4. At all times during the events complained of herein, DDC is an “employer” as defined in Section 101(4) of the FMLA, 29 U.S.C. § 2611(4).

JURISDICTION AND VENUE

5. Jurisdiction over plaintiff’s claims is based on 28 U.S.C. § 1331 (federal question jurisdiction), 29 U.S.C. 2617(a)(2)(private right of action for interference with FMLA rights). Venue is proper in this District and Division as it is the location where Butrick worked for DDC, and the situs of the events described herein.

ALLEGATIONS

6. Butrick was hired by DDC on August 3, 2020, as a Contracts and Subcontracts Administrator and was later promoted to Contracts Manager. She earned approximately \$120,000 in annual salary, plus employment benefits estimated at \$40,000. For most of her time with DDC Butrick reported to Young. While she was on maternity leave, Alexandria Schlorman became her new supervisor and Manager for Contracts.

7. During her employment, Butrick worked remotely from her home in King George County, Virginia. She reported primarily to managers in DDC's Beavercreek, Ohio office.

8. Between March 7 and May 30, 2023, Butrick took a maternity leave of absence. Since childbirth customarily involves "inpatient care in a hospital" and "continuing treatment by a health care provider," it therefore constitutes a "serious health condition" under the FMLA, 29 U.S.C. § 2611(11).

9. While on leave, DDC and Young significantly reduced Butrick's work responsibilities, essentially demoting her. One of the two employees whom Butrick had supervised was transferred to another supervisor, who was hired during Butrick's absence.

10. Following delivery of her child, Butrick's physician diagnosed her with severe post-partum depression. She shared this information with Young and Schlorman and with HR staff.

11. Upon returning from maternity leave, Butrick requested an accommodation of scheduling remote meetings and phone calls around my breast milk-pumping schedule. This request was denied, presumably as overburdensome to DDC. DDC required Butrick to attend meetings in person over 100 miles away. She had been hired as a remote employee with minimal travel required.

12. On July 21, 2023, Schlorman placed Butrick on a Performance Improvement Plan (“PIP”). As Schlorman was new to DDC and had little interaction with Butrick, it is believed that Young made the decision to impose the PIP. Among the performance deficiencies noted were Butrick’s supposed failure to twice give a “timely response” to emails within 10 and 30 minutes, respectively. Butrick was told that these supposedly significant failures resulted in the loss of “trust and confidence” of DDC officer, Donald McDonald, President of NOVA and 7th Emergence subsidiaries of DDC.

13. By letter to Schlorman dated July 27, 2023, Butrick rebutted the assertions in the PIP. She also complained that the PIP was issued in retaliation for taking maternity leave:

Lastly, I do understand that I have made mistakes during this evaluation timeframe; however, I do not believe that those mistakes warranted the ratings received. I take and will continue to take accountability for my work performance but will also document when I feel there is retaliation which in this case, it feels as such. Especially given that the examples in Part 2 of my PIP took place not only the week and month I returned from maternity leave but at the end of this performance evaluation. Don MacDonald agreed that the first item on that list was unreasonable and disagreed with some expectations in Part 3 of the PIP.

14. Prior to the PIP, Butrick had performed her job in exemplary fashion for three years, and had received positive performance evaluations, and promoted and given increased job responsibilities. Further, DDC had frequently honored her with its “LOVE” award (“Living Our Values Everyday”), along with monetary compensation. Finally, DDC gave Butrick regular merit increases to her salary.

15. On August 17, 2023, Butrick requested to take off between August 22-25, 2023 at the direction of her physician. She had no additional medical leave available but told Schlorman that she would work additional hours to make up for the lost time. This request was approved.

16. Nonetheless, on August 19, 2023, DDC and Young terminated Butrick's employment, purportedly "due to inefficiencies with your performance and impacts on the business operations."

17. Upon information and belief, DDC and Young reduced Butrick's employment responsibilities, hired her replacement, and ultimately terminated her employment because Butrick took a medical leave of absence. In so doing, DDC and Young violated its legal obligation to not "interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this subchapter." 29 U.S.C. § 2615(a)(1).

18. Upon further information and belief, DDC and Young terminated Butrick's employment in retaliation for complaining that DDC and Young were interfering with her right to medical leave and discriminating against her for taking such medical leave. In so doing, DDC and Young violated their legal obligation to not "discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this subchapter." 29 U.S.C. § 2615(a)(2).

19. Upon further information and belief, the reasons DDC and Young gave for the PIP and subsequent termination were false and/or exaggerated, and thus pretextual.

20. The FMLA provides employees a private right of action against a liable employer for damages, including liquidated damages for willful violations in an amount equal to the damages, plus interest, attorney's fees, and other equitable relief, including reinstatement to the employee's former position. 29 U.S.C. § 2617(a).

21. As a result of her dismissal from employment, Butrick incurred and is still incurring lost salary and employee-related fringe benefits.

COUNT I
INTERFERENCE WITH EXERCISE OF LEAVE RIGHTS UNDER FMLA

22. By terminating her employment, DDC and Young interfered with Butrick's right to take medical leave, in violation of 29 U.S.C. § 2615(a)(1).

23. Butrick's injuries entitle her under the FMLA, 29 U.S.C. § 2617(a), to reinstatement and an award of damages for (a) lost salary, benefits and other compensation; (b) liquidated damages in an amount equal to her lost salary, benefits and other compensation; (c) attorney's fees; (d) costs of suit; and (e) pre-and post-judgment interest.

COUNT II
RETALIATION FOR COMPLAINING OF DISCRIMINATION UNDER FMLA

24. By terminating her employment in retaliation for complaining that she was being subjected to discrimination for taking a medical leave of absence, DDC and Young discriminated and retaliated against Butrick, in violation of 29 U.S.C. § 2615(a)(2).

25. Butrick's injuries entitle her under the FMLA, 29 U.S.C. § 2617(a), to reinstatement and an award of damages for (a) lost salary, benefits and other compensation; (b) liquidated damages in an amount equal to her lost salary, benefits and other compensation; (c) attorney's fees; (d) costs of suit; and (e) pre-and post-judgment interest.

WHEREFORE, the plaintiff Shannon N. Butrick demands judgment against the defendant Diné Development Corporation and Sarah Young, awarding her reinstatement and compensatory and liquidated damages of FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00), plus attorney's fees and costs of suit, and such other and further relief as this Court may deem just and proper.

Respectfully submitted,

SHANNON N. BUTRICK

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