

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

VIOLETA BUJAROSKA
20 E Monroe St.
Apt. 10
Passaic, NJ 07055

Plaintiff,

v.

AT&T MOBILITY SERVICES, INC.
5565 Glenridge Connector
Atlanta, GA 30342

Defendant.

CIVIL ACTION NO:

COMPLAINT WITH JURY DEMAND

CIVIL ACTION COMPLAINT

Plaintiff Violeta Bujaroska (“Plaintiff”), by and through undersigned counsel, hereby complains as follows against Defendant AT&T Mobility Services, Inc. (“Defendant”).

INTRODUCTION

1. Plaintiff has initiated this action to redress violations by Defendant of the Family and Medical Leave Act (“FMLA”) and the common-law. Plaintiff was terminated from her employment for taking medical leave for FMLA-qualifying conditions and for complying with a Court Order to attend Court to testify in a domestic violence hearing. As a result, Plaintiff suffered damages as set forth herein.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction under 28 U.S.C. § 1332 because Plaintiff has raised federal claims herein under the FMLA.

3. This Court has personal jurisdiction over Defendant because Defendant, by systematically soliciting business in New Jersey (and operating a business location therein), has

sufficient minimum contacts with this judicial district that the exercise of such jurisdiction comports with judicial notions of fair play and substantial justice.

4. Pursuant to 28 U.S.C. § 1391, venue is properly laid in this district because Defendant conducts substantial, systematic, and continuous activity in this district and is subject to personal jurisdiction in this district and because all of the acts underlying this lawsuit occurred in this district.

PARTIES

5. The foregoing paragraphs are incorporated herein as if set forth in full.

6. Plaintiff Violeta Bujaroska is an adult individual with an address as set forth above.

7. Defendant is a communications service provider which has a call center in this judicial district.

8. At all times relevant herein, Defendant acted by and through its agents, servants, and employees, each of whom acted at all times relevant herein in the course and scope of their employment with and for Defendant.

FACTUAL BACKGROUND

9. The foregoing paragraphs are incorporated herein as if set forth in full.

10. Plaintiff was hired by Defendant in or about December of 2005 to work in its Paramus, New Jersey call center.

11. Defendant terminated Plaintiff from her employment on or about July 15, 2011.

12. At all times relevant herein, Plaintiff was employed by Defendant as a full-time customer service representative.

13. On or around June 23, 2011, Plaintiff was assaulted by Corey Burden.

14. As a result of the assault, Plaintiff received medical care at St. Mary's Hospital on or about June 25, 2011.

15. As a result of her injuries, Plaintiff was absent multiple days in June and July of 2011.

16. In addition to being hospitalized, Plaintiff received prescription medication for her injuries.

17. Plaintiff properly called in and notified Defendant in each instance that she was suffering from a medical condition as a result of a domestic violence assault.

18. In July of 2011, Plaintiff was ordered to attend Court to testify against her assailant in domestic violence proceedings in the Superior Court of New Jersey, Passaic County.

19. Plaintiff complied and appeared in Court on July 14, 2011 to testify against Burden.

20. Plaintiff notified Defendant in advance that she was court ordered to testify in a domestic violence proceeding on July 14.

21. Defendant utilizes a point-system to track absenteeism.

22. Defendant assigned points to Plaintiff for each absence she incurred in June and July of 2011, including those absences incurred due to Plaintiff's injuries from the assault and absences incurred as a result of Plaintiff being court ordered to testify in the domestic violence hearing.

23. Defendant fired Plaintiff on July 15, 2011, for excessive absenteeism as a result of Plaintiff incurring too many points per its absenteeism policy.

COUNT I
Violations of the Family and Medical Leave Act
(Interference)

24. The foregoing paragraphs are incorporated herein as if set forth in full.

25. Plaintiff was an eligible employee under the definitional terms of the Family and Medical Leave Act, 29 U.S.C. § 2611(2)(a)(i)(ii).

26. At the time of her leave (as of June 2011), Plaintiff had been employed by Defendant for at least twelve (12) months.

27. Further, Plaintiff had worked at least 1,250 hours for Defendant during the twelve (12) months prior to her taking medical leaves of absence, which began in June 2011.

28. Defendant employed in excess of 50 employees within 75 miles of the location where Plaintiff worked during 2010 or 2011.

29. Plaintiff requested leave for a serious health condition in June of 2011.

30. Plaintiff's injuries incurred as a result of the domestic assault constitute serious health conditions within the meaning of the FMLA.

31. Plaintiff was entitled to receive leave pursuant to the FMLA and Defendant was not permitted to retaliate against Plaintiff for exercising her rights under the FMLA.

32. Plaintiff provided notice to Defendant that she suffered from a serious health condition and that she needed to take time off to recover from the serious health condition.

33. Defendant failed to provide notice to Plaintiff regarding her rights and obligations pursuant to the FMLA.

34. Defendant failed to designate Plaintiff's absences as FMLA-qualifying.

35. Defendant's "neutral" point system interfered with Plaintiff's FMLA rights because it interfered with Plaintiff's FMLA rights to take FMLA leave without disciplinary action.

36. Defendant assigned points and penalized Plaintiff for the absences which she incurred as a result of her FMLA-qualifying health conditions.

37. Defendant terminated Plaintiff as a result of her incurring too many points per its absenteeism policy, in violation of the FMLA.

38. Plaintiff suffered damages as set forth herein.

COUNT II
Violations of the Family and Medical Leave Act
(Retaliation)

39. The foregoing paragraphs are incorporated herein as if set forth in full.

40. On various occasions, Plaintiff provided notice to Defendant that she was suffering from a serious health condition and needed to take time off to recover.

41. Defendant retaliated against Plaintiff by disciplining and firing Plaintiff for taking FMLA-qualifying absences.

42. Defendant's retaliatory actions and separate interference violations constitute unlawful acts under the FMLA.

43. Defendant's unlawful conduct caused financial harm and other damage to Plaintiff.

COUNT III
Wrongful Termination in violation of Public Policy

44. The foregoing paragraphs are incorporated herein as if set forth in full.

45. It is against the public policy of this state to terminate an employee for complying with a Court Order to testify against an assailant in a domestic violence hearing.

46. Defendant's conduct in terminating Plaintiff for complying with a Court Order to testify in a domestic violence hearing violated the public policy of this state and caused Plaintiff damages.

WHEREFORE, Plaintiffs pray that this Court enter an Order providing that:

- A. Defendant is to be prohibited from continuing to maintain its illegal policy, practice or custom of interfering with and retaliating against employees who exercise or who attempt to exercise their rights under the FMLA and the common-law and are to be ordered to promulgate an effective policy against such discrimination and to adhere thereto;
- B. Defendant is to compensate Plaintiff, reimburse Plaintiff, and make Plaintiff whole for any and all pay and benefits Plaintiff would have received had it not been for Defendant's illegal actions, including but not limited to back pay, front pay, salary, pay increases, bonuses, insurance, benefits, training, promotions, reinstatement, and seniority.
- C. Plaintiff is to be awarded liquidated damages pursuant to the FMLA because Defendant's violations of the FMLA were willful.
- D. Plaintiff is to be awarded damages for her emotional distress caused by Defendant's unlawful conduct.
- E. Plaintiff is to be awarded punitive damages because Defendant's conduct in terminating her was outrageous.
- F. Plaintiff is to be accorded other equitable and legal relief as the Court deems just, proper, and appropriate;

- G. Plaintiff is to be awarded the costs and expenses of this action and a reasonable attorney's fees as provided by applicable federal and state law; and
- H. Plaintiff is permitted to have a trial by jury.

Respectfully Submitted,

/s/ Justin L. Swidler

Justin L. Swidler, Esq.

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January 9, 2012