

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

JESSICA WALKER,	:	CASE NO. _____
		JUDGE _____
PLAINTIFF,	:	
V.	:	COMPLAINT WITH
		JURY DEMAND
OHIO NATIONAL FINANCIAL	:	
SERVICES, INC.	:	
DEFENDANT.	:	

INTRODUCTION

This is an action for damages and injunctive relief based upon Plaintiff's claim that Defendant unlawfully retaliated against her in violation of Title VII of the Civil Rights Act of 1964 (hereinafter referred to as Title VII), 42 U.S.C. § 2000(e) et seq., when it terminated her employment because she indicated that she intended to contact the Equal Employment Opportunity Commission.

JURISDICTION AND VENUE

1. This Court has original jurisdiction in this case under Title VII, as this matter involves a question of federal law.
2. Venue is proper in the Southern District of Ohio, Western Division at Cincinnati because it is the location where the claims as set forth herein arose.

PARTIES

3. Plaintiff is a resident of New Madison, Ohio and Darke County, Ohio.

4. Plaintiff exhausted her administrative remedies by timely filing a charge of retaliation with the Equal Employment Opportunity Commission (hereinafter referred to as “EEOC”), through the Ohio Civil Rights Commission, alleging that Defendant terminated her employment because she indicated that she intended to contact the Equal Employment Opportunity Commission. A copy of Plaintiff’s Charge of Discrimination is attached hereto as Exhibit A. Plaintiff received a Right to Sue letter on April 13, 2021, which is attached hereto as Exhibit B.

5. Plaintiff is an attorney, with an LL.M. in Business and Taxation, who is licensed to practice law in the State of Ohio.

6. Plaintiff was employed by Defendant from July 7, 2012 through July 31, 2017, as a Senior Advanced Planning Consultant.

7. Defendant is an insurance company with its principal place of business in Hamilton County, Ohio.

8. Defendant is an employer within the meaning of Title VII.

9. Defendant was Plaintiff’s employer at the time that her claims arose.

FACTUAL BACKGROUND

10. In 2017, Defendant announced that it would implement a modified full-time work schedule which would be available to some employees. It was Plaintiff’s understanding that the modified schedule was to benefit females with young children.

11. In July 2017, Plaintiff expressed concerns about the modified work schedule not being offered to all similarly-situated employees.

12. On Friday, July 28, 2017, Plaintiff met with her immediate supervisor, David Szeremet, Vice President of Human Resources, Pam Webb, Vice President of Life

Product Marketing, Karl Kreunen, and Vice President of Legal and Corporate Secretary, Therese McDonough to discuss her concerns about the modified work schedule.

13. During the meeting on July 28, 2017, Plaintiff indicated that if Defendant implemented the modified work schedule and did not offer the same work schedule options to all similarly-situated employees, she would likely contact the EEOC to determine if Defendant's disparate treatment in offering the modified work schedule to only select employees was unlawful.

14. During the meeting on July 28, 2012, Plaintiff repeatedly referenced EEOC guidelines in support of her position that not offering the modified work schedule to all similarly-situated employees could be discriminatory on the basis of sex under federal anti-discrimination laws.

15. Defendant terminated Plaintiff's employment on Monday, July 31, 2017, the next business day following the meeting.

16. Defendant implemented its modified work schedule program after terminating Plaintiff's employment.

17. Defendant terminated Plaintiff's employment in retaliation for Plaintiff opposing the modified work schedule program because it was potentially discriminatory on the basis of sex and threatening to contract the EEOC if Defendant implemented its modified work schedule program and did not offer the program to all similarly-situated employees.

18. The actions of Defendant were wanton and malicious and/or in reckless disregard for Plaintiff's statutory rights under Title VII.

FIRST CLAIM FOR RELIEF

19. Plaintiff reasserts and realleges all the claims set forth in paragraphs one through 16, as if fully rewritten herein.

20. The actions of Defendant constitute retaliation in violation of Title VII of the Civil Rights Act of 1964 42 U.S.C. § 2000(e), et seq.

WHEREFORE, Plaintiff demands the following:

- A. Lost wages, fringe benefits, and compensatory damages in an amount exceeding \$75,000.00;
- B. Punitive damages in an amount exceeding \$75,000.00;
- C. Attorney fees and costs of this suit;
- D. Other relief that this Court may determine to be appropriate.

Respectfully submitted,

/s/ Jason P. Matthews
Jason P. Matthews-0073144
Jason P. Matthews, LLC
130 West Second Street
Suite 924
Dayton, OH 45402
P. (937) 608-4368 F. 1-888-577-3589
Jason@daytonemploymentlawyers.com
Attorney for Plaintiff

JURY DEMAND

Plaintiff hereby demands a trial by jury on her legal claims.

/s/ Jason P. Matthews
Jason P. Matthews

OHIO CIVIL RIGHTS COMMISSION CHARGE OF DISCRIMINATION EMPLOYMENT	Agency Use Only <input type="checkbox"/> FEPA <input type="checkbox"/> EEOC	CHARGE NUMBER: (Agency Use Only) DAY B6 (26923) 12212017
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Completely Fill in the Following

Name of Charging Party (First Middle Last)
Jessica Walker

Name of Company
Ohio National Financial Services, Inc. and David Szeremet, Karl Kreunen, Pam Webb and Therese McDonough (Individually)

Address
3900 Otterbein-Ithaca Road

City State Zip Code County
New Madison, OH 45346 Darke

Telephone Number
(937) 241-7148

Address
1 Financial Way

City State Zip Code County
Cincinnati, OH 45242 Hamilton

Telephone Number
(513) 794-6100

Date(s) of Discrimination **July 31, 2017** Total Number of Employees **+15** Date of Hire: **July 16, 2012**

I believe I was discriminated against because of my: (Please identify)

Race/Color Religion
Sex National Origin/Ancestry
☒ Disability ☒ Retaliation
Military Status

Age (Over 40 years only – List Date of Birth-

FOR AGE CASES ONLY: I have not commenced any action under section 4112.14 or 4112.02(N), Revised Code with respect to the subject matter of the monetary award or financial benefit I may receive may be limited to back pay and/or restoration of employment fringe benefits and may not include other damages to which I may be entitled as a result of such civil action.

Type of Discrimination:

Demotion ☒ Discharge/Termination Discipline
Failure to Hire Forced to Resign Harassment/Sexual Harassment
Layoff Promotion ☒ Reasonable Accommodation
Other (Specify)

Please write a brief but detailed statement of the facts that you believe indicate an unlawful discriminatory practice. Please write legibly.

- I. I have a disability and record of a physical impairment. I engaged in a legally protected activity under Ohio Revised Code Section 4112 and Title VII of the Civil Rights Act of 1964. I have been employed by the above-named Employer since July 16, 2012, most recently as a Senior Advanced Planning Consultant. On July 31, 2017, my employment was terminated.
- II. I believe that I have been unlawfully discriminated against due to my disability and unlawfully retaliated against in that:

I have a disabling medical condition which substantially impairs my reproductive system and has precluded me from conceiving children. I used FMLA leave intermittently from 2013 through 2015, as a reasonable accommodation for my disability, but experienced discrimination on the basis of my disability and retaliation for requesting a reasonable accommodation.

On July 28, 2017, I met with David Szeremet, Karl Kreunen, Pam Webb and Therese McDonough and indicated to them that I intended to ask the Equal Employment Opportunity Commission about my claims of discrimination. David Szeremet, Karl Kreunen, Pam Webb and Therese McDonough retaliated against me for stating that I intended to ask the Equal Employment Opportunity Commission to investigate my claims of discrimination by terminating my employment on July 31, 2017.

I declare under penalty of perjury that I have read the above charge and that it is true to the best of my knowledge, information and belief. I will advise the agency(ies) if I change my address or telephone number and that I will cooperate fully with them in the processing of my charge in accordance to their procedures.

Charging Party Signature

Date

Notary or Ohio Civil Rights Commission Representative

Subscribed and sworn to before me on this 20th day of December 2017

LEISYL A JACKSON, Notary Public
In and for the State of Ohio
My Commission Expires May 6, 2020



EEOC Form 161 (11/2020)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Jessica Walker**
3900 Otterbein-Ithaca Road
New Madison, OH 45346

From: **Indianapolis District Office**
101 West Ohio Street
Suite 1900
Indianapolis, IN 46204



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

22A-2018-00899

Jeremy A. Sells,
State & Local Coordinator

(463) 999-1161**THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: The EEOC will not proceed further with its investigation, and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Michelle Eisele

Enclosures(s)

Michelle Eisele,
District Director

April 13, 2021

(Date Issued)

cc: **OHIO NATIONAL FINANCIAL SERVICES, INC.**
c/o Emily J. Gelhaus, Attorney at Law
via email: emily.gelhaus@jacksonlewis.com

**PLAINTIFF'S
EXHIBIT**

B

Enclosure with EEOC
Form 161 (11/2020)

**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),
the Genetic Information Nondiscrimination Act (GINA), or the Age
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge within 90 days of the date you receive this Notice. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope or record of receipt, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was issued to you** (as indicated where the Notice is signed) or the date of the postmark or record of receipt, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred more than 2 years (3 years) before you file suit may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit before 7/1/10 -- not 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.

NOTICE OF RIGHTS UNDER THE ADA AMENDMENTS ACT OF 2008 (ADAAA): The ADA was amended, effective January 1, 2009, to broaden the definitions of disability to make it easier for individuals to be covered under the ADA/ADAAA. A disability is still defined as (1) a physical or mental impairment that substantially limits one or more major life activities (actual disability); (2) a record of a substantially limiting impairment; or (3) being regarded as having a disability. *However, these terms are redefined, and it is easier to be covered under the new law.*

If you plan to retain an attorney to assist you with your ADA claim, we recommend that you share this information with your attorney and suggest that he or she consult the amended regulations and appendix, and other ADA related publications, available at http://www.eeoc.gov/laws/types/disability_regulations.cfm.

“Actual” disability or a “record of” a disability (note: if you are pursuing a failure to accommodate claim you must meet the standards for either “actual” or “record of” a disability):

- **The limitations from the impairment no longer have to be severe or significant** for the impairment to be considered substantially limiting.
- In addition to activities such as performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, thinking, concentrating, reading, bending, and communicating (more examples at 29 C.F.R. § 1630.2(i)), **“major life activities” now include the operation of major bodily functions**, such as: functions of the immune system, special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions; or the operation of an individual organ within a body system.
- **Only one** major life activity need be substantially limited.
- With the exception of ordinary eyeglasses or contact lenses, **the beneficial effects of “mitigating measures”** (e.g., hearing aid, prosthesis, medication, therapy, behavioral modifications) **are not considered** in determining if the impairment substantially limits a major life activity.
- An impairment that is **“episodic”** (e.g., epilepsy, depression, multiple sclerosis) or **“in remission”** (e.g., cancer) is a disability if it **would be substantially limiting when active**.
- An impairment **may be substantially limiting even though** it lasts or is expected to last **fewer than six months**.

“Regarded as” coverage:

- An individual can meet the definition of disability if an **employment action was taken because of an actual or perceived impairment** (e.g., refusal to hire, demotion, placement on involuntary leave, termination, exclusion for failure to meet a qualification standard, harassment, or denial of any other term, condition, or privilege of employment).
- “Regarded as” coverage under the ADAAA no longer requires that an impairment be substantially limiting, or that the employer perceives the impairment to be substantially limiting.
- The employer has a defense against a “regarded as” claim only when the impairment at issue is objectively **BOTH** transitory (lasting or expected to last six months or less) **AND** minor.
- A person is not able to bring a failure to accommodate claim *if* the individual is covered only under the “regarded as” definition of “disability.”

Note: Although the amended ADA states that the definition of disability “shall be construed broadly” and “should not demand extensive analysis,” some courts require specificity in the complaint explaining how an impairment substantially limits a major life activity or what facts indicate the challenged employment action was because of the impairment. Beyond the initial pleading stage, some courts will require specific evidence to establish disability. For more information, consult the amended regulations and appendix, as well as explanatory publications, available at http://www.eeoc.gov/laws/types/disability_regulations.cfm.