

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

██████████ and ██████████	:	3:14-cv-2184
Plaintiffs	:	
v.	:	
SAPA Extrusions, Inc.,	:	Jury Trial Demanded
Defendant	:	

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after the Amended Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Amended Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Pennsylvania Bar Association
P.O. Box 186
Harrisburg, PA 17108
800-692-7375

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AMENDED COMPLAINT

AND NOW, the Plaintiffs by and through their attorney, Michael J. Fiorillo, Esquire, hereby file this Amended Complaint and in support thereof aver as follows:

I PARTIES

The Plaintiffs are ██████████ and ██████████, adult individuals residing at 617 Pierce Street, Pottsville, Schuylkill County, PA. The Defendant is SAPA Extrusions Inc., a corporation organized and existing under the laws of the Commonwealth of Pennsylvania with a mailing address of 53 Pottsville Street, Cressona, Schuylkill County, PA.

II JURISDICTION

Jurisdiction of this Court is invoked under to hear claims pursuant to Federal Statutes and, in this case, pursuant to Title VII of the Civil Rights Act of 1964, as amended (referred to as “Title VII”). Plaintiffs invoke this Court’s jurisdiction as to the common laws of the Commonwealth of Pennsylvania.

III VENUE

Venue is appropriate and proper in the Middle District of Pennsylvania because the events that formed the basis of this suit occurred in Schuylkill County, PA which is incorporated in the Middle District of Pennsylvania.

IV FACTUAL BACKGROUND

1. At all relevant times hereto, the Plaintiffs were employed by the Defendant.
2. The Plaintiff, [REDACTED] was employed by Defendant commencing on approximately October 2007. He was employed in the Packing/Shipping Department.
3. The Plaintiff, [REDACTED] was employed by the Defendant, also in the Packing/Shipping Department. She began employment in approximately April 2012.
4. The Plaintiff, [REDACTED] was earning approximately \$18.75 per hour and the Plaintiff [REDACTED] was earning approximately \$16.90 per hour.
5. The Plaintiffs, [REDACTED] and [REDACTED] were involved in a romantic relationship during the course of their employment with Defendant.
9. The Plaintiff [REDACTED] immediate supervisor was an individual named Scott Price. Mr. Price began to express a romantic interest in [REDACTED]
10. [REDACTED] rejected the advances being made by Mr. Price stating that she did not want to date one of her supervisors.
11. Mr. Price asked [REDACTED] to go out with him. After she rejected his advance, her work situation began to deteriorate.
12. Thereafter, Mr. Price began making crude and harassing comments about [REDACTED] not only to her, but also to other male co-workers.
13. Mr. Price's comments included such things as "Don't look at [REDACTED] because you won't get any work done" and "She'll flirt with you". He also made comments that her clothing was too tight or "too low cut". He made comments to male co-workers such as "Check out her ass" and "Look how good her butt looks".
14. After [REDACTED] rejected these advances, Mr. Price put her in a different area of work which involved heavier scales so as to make it appear that she was not able to do her job.

██████████ is 5'2 and weighs 100 pounds. This “new” job required her to move heavy objects called T-Sections.

15. Other female employees at Defendant were not placed in the this section that required heavy lifting.
16. Approximately two days before she was terminated, Mr. Price made comments at work that he had heard that she was dating ██████████ and this upset him.
17. On or about October 6, 2012, ██████████ was terminated. She was told simply that her services were no longer needed.
18. Prior to her termination, she had complained to the Human Resources Department and specifically, Mr. Keith Fessler. She complained that she believed she was being sexually harassed and also subject to sexual discrimination.
19. Rather than thoroughly investigate the complaints, ██████████ was instead terminated.
20. The Plaintiffs were aware that Mr. Price and Mr. Fessler were close friends and it is believed that Mr. Fessler made claim that there was no documentation regarding ██████████ ██████████ complaint.
21. Shortly after ██████████ was terminated, ██████████ was then terminated on or about October 10, 2012.
22. The Defendant stated that he allegedly violated the company’s cell phone policy, when in fact, he had not violated the policy.
23. The Defendant presented a false and trumped up charge , specifically because he was dating ██████████ As such, he was subject to retaliation because of his relationship with ██████████

24. [REDACTED] filed an Unemployment Compensation claim and represented himself at the hearing. [REDACTED] was successful and the Referee concluded that the company had not provided any appropriate warnings about the cell phone rule allegedly violated by [REDACTED] before he was terminated.
25. The Referee's decision is further indication that [REDACTED] was terminated strictly because of his relationship with [REDACTED] (A true and correct copy of the Unemployment Compensation Notice of Determination is attached hereto as Exhibit "A").
26. The Plaintiffs were earning approximately \$100,000.00 per year total
27. As a result, both Plaintiffs have lost significant benefits and income from their termination.

COUNT I
[REDACTED] V. SAPA
Violation of Title VII of the Civil Rights Act as Amended
by the Civil Rights Act of 1991, 42 U.S.C. §2008

28. The Defendant engaged in the intentional discrimination of Plaintiff [REDACTED] on the basis of Plaintiff [REDACTED] sex.
29. The Defendant's unfair and improper discipline and subsequent termination of both Plaintiffs was done so on the basis of Plaintiff [REDACTED] sex.
30. The Defendant treated the other employees differently and they were subject to less strenuous discipline procedures.
31. Despite the clear evidence that [REDACTED] did not engage in any willful violation of any of Defendant's policies, practices or procedures, nevertheless, he was terminated by Defendant solely because he was in a relationship with a female employee, namely

Plaintiff [REDACTED]

32. The acts, failure to act, practices and policies of Defendant as set forth above constitute intentional discrimination on the basis of Plaintiff [REDACTED] sex and violation of Section 703 of Title VII, 42 U.S.C. §200(e)-2.
33. The actions of Defendant, by and through its agents, constitute intentional violations of Title VII.
34. Defendant's actions were taken with reckless indifference to Plaintiff [REDACTED] federally protected rights.
35. The Plaintiff [REDACTED] has exhausted all applicable administrative remedies in that they did file a Complaint both with PA Human Relations Commission and the Equal Employment Opportunity Commission.
36. The Plaintiff [REDACTED] did receive notice of her right to sue and has now instituted this suit.

WHEREFORE for the foregoing reasons, Plaintiff [REDACTED] pray this Honorable Court AWARD them:

- (A) All back pay, future pay, benefits consistent therewith;
- (B) Compensatory damages for Plaintiff's pain and suffering, inconvenience and loss;
- (C) Interest;
- (D) Punitive damages;
- (E) Attorney's fees and costs;
- (F) Such other relief as the Court deems just and appropriate.

COUNT II
[REDACTED] V. SAPA
Violation of the Pennsylvania Human Relations Act

43 P.S. §951, et seq.

37. The allegations contained in Paragraphs 1 through 36 are incorporated herein as though set forth in full.
38. Section 955 of the PA Human Relations Act makes it unlawful to discriminate against any employee because of, *inter alia*, that employee's sex.
39. The Defendant has discriminated against Plaintiff [REDACTED] as aforesaid in the previous paragraphs of this Complaint.
40. The discharge of both Plaintiffs constitute an unlawful employment practice in violation of Section 955 of the Pennsylvania Human Relations Act.
41. The Plaintiff [REDACTED] has exhausted her administrative remedies and they have filed a Complaint with both the Pennsylvania Human Relations Commission and the Equal Employment Opportunity Commission and have received the notice of their right to sue.
42. As a direct, foreseeable and proximate result of Defendant's discriminatory acts, Plaintiff [REDACTED] has suffered and continue to suffer substantial loss in earnings and job benefits and have suffered and continue to suffer humiliation, embarrassment, mental and emotional distress and discomfort all to Plaintiff's damages, the precise amount which will be proven at trial.
43. The Defendant's actions were done in wanton and willful disregard for Plaintiff [REDACTED] rights under the PA Human Relations Act.

WHEREFORE, for the foregoing reasons, the Plaintiff [REDACTED] respectfully request this Court enter JUDGMENT in their FAVOR for damages including:

- (A) All back pay, future pay, benefits consistent therewith;
- (B) Compensatory damages for Plaintiffs' pain and suffering, inconvenience and loss;
- (C) Interest;
- (D) Punitive damages;
- (E) Attorney's fees and costs;
- (F) Such other relief as the Court deems just and appropriate.

COUNT III
██████████ V. SAPA
SEXUAL HARASSMENT

- 44. The allegations contained in Paragraphs 1 through 43 are incorporated herein as though set forth in full.
- 45. Plaintiff ██████████ is a female who suffered intentional discrimination while working for Defendant because of her sex.
- 46. Plaintiff suffered sexual harassment, as detailed throughout this Complaint, and such harassment was pervasive and severe and adversely effected Plaintiff ██████████ and would have adversely effected any reasonable person under the same circumstances.
- 47. Plaintiff's supervisor made crude comments and made romantic advances on her. After she rejected his advances, she was subject to a more strenuous work position requiring her to move heavier loads, which were not required by other female employees.
- 48. The actions of the Defendant, by and through its supervisors, agents and employees as stated above, created a hostile work environment.
- 49. The Defendant, by and through its agents, ultimately terminated Plaintiff ██████████ simply stating that her services were no longer needed. She was terminated after she

rejected the advances of her supervisor.

50. The Plaintiff [REDACTED] made complaints to the Human Resources Department and it is believed and therefore averred that the Human Resources Department will claim that no complaint was made, all in an attempt to cover up its illegal and improper conduct.
51. The sexual harassment and hostile work environment to which Plaintiff [REDACTED] was subjected to, caused her to be humiliated, belittled and embarrassed.
52. The Defendant created, permitted, tolerated, excused and fostered a sexually hostile, intimidating, demeaning and degrading environment at its place of business in Schuylkill County where Plaintiff worked, which hostile environment was ongoing and pervasive.
53. The actions of Defendant constituted a violation of Title VII of the Civil Rights Act (42 U.S.C. Section 2000, et seq) (as amended) and the Civil Rights Act of 1991 and the Pennsylvania Human Relations Action (43 P.S. Section 955) which prohibits harassment based upon sex.
54. The actions of Defendant, by and through its management personnel, were intentional and done with reckless disregard for Plaintiff's federally and state-protected rights.
55. As a result of the actions of Defendant, Plaintiff [REDACTED] suffered extreme emotional distress.

WHEREFORE, for the foregoing reasons, the Plaintiff respectfully requests this Court enter JUDGMENT in her FAVOR for damages including:

- (A) All back pay, future pay, benefits consistent therewith;
- (B) Compensatory damages for Plaintiff's pain and suffering, inconvenience and loss;
- (C) Interest;
- (D) Punitive damages;

- (E) Attorney's fees and costs;
- (F) Such other relief as the Court deems just and appropriate.

COUNT IV
██████████ AND DANIELS V. SAPA
RETALIATION IN VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT
OF 1964 (42 U.S.C. SECTION 2000E-3(A), et seq

- 56. The allegations contained in Paragraphs 1 through 55 are incorporated herein as though set forth in full.
- 57. The Defendant, in violation of Title VII of the Civil Rights Act of 1964 retaliated against Plaintiff ██████████ because she filed a complaint with the Human Resources Department of Defendant alleging discrimination and harassment.
- 58. The Defendant retaliated against Plaintiff Daniels and terminated his employment in direct retaliation for Plaintiff ██████████ complaining of sexual harassment and gender discrimination to the Human Resources Department of Defendant.
- 59. The termination of Plaintiff ██████████ was in retaliation for ██████████ complaints and because he was involved in a romantic relationship with ██████████

WHEREFORE, for the foregoing reasons, the Plaintiffs respectfully requests this Court enter JUDGMENT in their FAVOR for damages including:

- (A) All back pay, future pay, benefits consistent therewith;
- (B) Compensatory damages for Plaintiffs' pain and suffering, inconvenience and loss;
- (C) Interest;
- (D) Punitive damages;
- (E) Attorney's fees and costs;
- (F) Such other relief as the Court deems just and appropriate.

Respectfully submitted,

FIORILLO LAW OFFICE

BY: /s/ Michael J. Fiorillo, Esquire

217 Mahantongo Street

Pottsville, PA 17901

570-622-7725

Atty. I.D. No. 52825

fiorillolaw@verizon.net

VERIFICATION

COMMONWEALTH OF PENNSYLVANIA

ss:

COUNTY OF SCHUYLKILL

Pursuant to Pennsylvania Rules of Civil Procedure Nos. 76 and 1024, I, [REDACTED]
Plaintiff, state and affirm that the facts contained in the preceding document are true upon my
information and belief and I make this statement subject to the penalties of 18 PA C.S.A. Section
4904, relating to unsworn falsifications to authorities.

[REDACTED] _____

VERIFICATION

COMMONWEALTH OF PENNSYLVANIA

ss:

COUNTY OF SCHUYLKILL

Pursuant to Pennsylvania Rules of Civil Procedure Nos. 76 and 1024, [REDACTED]
Plaintiff, state and affirm that the facts contained in the preceding document are true upon my
information and belief and I make this statement subject to the penalties of 18 PA C.S.A. Section
4904, relating to unsworn falsifications to authorities.

/s/ [REDACTED] _____

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CERTIFICATE OF SERVICE

I, Michael J. Fiorillo, Esquire, Counsel for Plaintiffs, hereby certify that on February ____, 2015, a true and correct copy of the foregoing Amended Complaint was served via Electronic Filing to the following:

Mark Fontana, Esquire
Renee C. Mattei Myers, Esquire
213 Market Street, 8th Floor
Harrisburg, PA 17101

/s/ Michael J. Fiorillo, Esquire