

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
NEWNAN DIVISION**

TIFFANY HUTCHINSON,)	
)	
Plaintiff,)	
)	Civil Action
v.)	File No.:
)	
TROUP COUNTY, GEORGIA,)	JURY TRIAL DEMANDED
ERIC MOSLEY, individually, and)	
LINDSAY FENN, individually,)	
)	
Defendants.)	
_____)	

COMPLAINT FOR DAMAGES AND EQUITABLE RELIEF

Plaintiff Tiffany Hutchinson (hereinafter “Plaintiff” or “Ms. Hutchinson”) submits the following Complaint for Damages and Equitable Relief against Defendants Troup County, Georgia, Eric Mosley, individually, and Lindsay Fenn, individually, (hereinafter collectively referred to as “Defendants”), showing the Court as follows:

INTRODUCTION

1.

Ms. Hutchinson was a dedicated and exemplary employee of Troup County, Georgia for more than six years. However, after she took approved leave under the Family and Medical Leave Act (“FMLA”), as a result of giving birth to a micro-

premature baby at 24 weeks gestation, she was unlawfully fired on the day she returned back to work. In addition to pregnancy discrimination and FMLA claims, Ms. Hutchinson was also discriminated against based on her race (Black). Defendant Lindsay Fenn, Ms. Hutchinson's white supervisor, baselessly "investigated" Ms. Hutchinson and terminated her for behavior that her white colleagues were not disciplined for, thereafter replacing her with a less-qualified white employee.

2.

Ms. Hutchinson asserts claims for unlawful interference and retaliation under the FMLA, 29 U.S.C. § 2601 *et seq.*, and for race discrimination in violation of the Equal Protection Clause of the Constitution of the United States and in violation of 42 U.S.C. § 1981, both asserted via 42 U.S.C. § 1983. In addition, Plaintiff intends to assert claims for pregnancy discrimination and retaliation, as well as race discrimination under Title VII of the Civil Rights Act of 1964, *as amended*, 42 U.S.C. § 2000e *et seq.*, upon receiving a Notice of a Right to Sue from the Equal Employment Opportunity Commission ("EEOC"). Plaintiff seeks back pay and the lost economic benefits of her employment, liquidated damages under the FMLA, reinstatement or front pay in lieu thereof, compensatory

damages, punitive damages against Defendants Mosley and Fenn, reasonable attorneys' fees and costs of litigation, and all other relief this Court may deem just.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

3.

Ms. Hutchinson timely filed a Charge of Discrimination with the EEOC on July 2, 2020, and plans to amend her Complaint to add Title VII claims for pregnancy discrimination and retaliation, as well as race discrimination, upon receipt of a Notice of a Right to Sue.

JURISDICTION AND VENUE

4.

Ms. Hutchinson's claims present federal questions over which this Court has jurisdiction pursuant to 28 U.S.C. § 1331 and § 1343(a).

5.

The violations of Ms. Hutchinson's rights occurred in the Northern District of Georgia. Venue is proper under 28 U.S.C. § 1391(b) and (c), as a substantial part of the events and omissions giving rise to Plaintiff's claims occurred in the Newnan Division of the United States District Court for the Northern District of Georgia.

PARTIES

6.

Ms. Hutchinson is a Black female who currently resides in Troup County, Georgia, which is in the Newnan Division of the Northern District of Georgia.

7.

Ms. Hutchinson is an eligible employee” within the meaning of the FMLA in that she had been employed with Defendant Troup County, Georgia (“Troup County”) for more than twelve months and worked more than 1,250 hours per year.

8.

At all relevant times, Ms. Hutchinson was an “employee” of Troup County within the meaning of Title VII, 42 U.S.C. §2000e(f).

9.

Defendant Troup County is a local political division of the state of Georgia and is subject to the jurisdiction and venue of this Court. Troup County may be served with a copy of this Complaint and process by serving the Chairman of the Troup County Board of Commissioners, Patrick Crews, at his business address of 100 Ridley Avenue, LaGrange, GA 30240.

10.

At all times relevant to this action, Defendant Troup County was Ms. Hutchinson's "employer" as defined by Title VII, 42 U.S.C. § 2000e(b) and the FMLA, 29 U.S.C. § 2601 *et seq.*

11.

Troup County had more than fifty (50) employees within a seventy-five (75) mile radius in each of twenty (20) or more consecutive calendar weeks in the current or preceding year within the meaning of FMLA, 29 U.S.C. § 2601 *et seq.*

12.

Defendant Eric Mosley was, at all relevant times, the County Manager of Troup County. He is sued in his individual capacity. Defendant Mosley is subject to the jurisdiction of this Court and may be served with process by personal service or leaving copies of the summons and complaint at his dwelling house or usual place of abode with some person of suitable age and discretion residing there, or by delivering a copy of the summons and complaint to an agent authorized to receive service of process.

13.

Defendant Lindsay Fenn is and was at relevant times the Court Services Director for Troup County. She is sued in her individual capacity. Defendant Fenn

is subject to the jurisdiction of this Court and may be served with process by personal service or leaving copies of the summons and complaint at her dwelling house or usual place of abode with some person of suitable age and discretion residing there, or by delivering a copy of the summons and complaint to an agent authorized to receive service of process.

14.

At all times relevant to this action, Defendant Troup County was a state actor within the meaning of the Constitution.

15.

At all times relevant to this action, Defendants Mosley and Fenn were acting under color of state law.

Factual Background

16.

Ms. Hutchinson began working for Troup County as the Troup County Mental Health Coordinator in 2012; however, she was initially employed by Pathways Center for Development and Behavioral Growth (“Pathways”), an outside treatment provider.

17.

In 2014, Ms. Hutchinson became officially employed by Troup County.

18.

When Ms. Hutchinson started as the Mental Health Court Coordinator in 2012, she was tasked with creating and building Troup County's Mental Health Court from scratch.

19.

In her capacity as Mental Health Court Coordinator, Ms. Hutchinson was responsible for programmatic functions of the county's Mental Health Court, including writing grants, monitoring the budget, preparing for court, training staff, and assessing participants, among other tasks.

20.

In over seven years as Mental Health Court Coordinator, Ms. Hutchinson was never disciplined in any way and never received a negative performance evaluation.

21.

Indeed, for her first seven years as Mental Health Court Coordinator, Ms. Hutchinson received consistently strong performance reviews and, as a result, received pay raises every year.

22.

Ms. Hutchinson also received local and statewide recognition for her work

with the Mental Health Court.

23.

For example, in March 2020, a Certification Officer for Georgia's Council for Accountability Court Judges requested that Troup County consider making the court Ms. Hutchinson administered a "mentor court" that would help establish and operate similar courts across the country.

24.

From 2015 until August 2019, Ms. Hutchinson was supervised by Court Services Director Wanda Cotton, who is Black.

25.

In August 2019, Ms. Cotton retired and was replaced by Ms. Lindsay Fenn, who is white. At this time, Ms. Fenn became Plaintiff's supervisor.

Ms. Hutchinson's Pregnancy and Medical Leave

26.

In October 2019, Ms. Hutchinson informed Ms. Fenn and members of Troup County's Human Resources Department of her pregnancy and requested information about Troup County's maternity leave policy.

27.

Ms. Hutchinson discussed her plan to take FMLA leave with Ms. Fenn and

Ms. Imogene Pannell, the Benefits Specialist in Troup County's Human Resources Department.

28.

Although Ms. Hutchinson was not due to give birth until June 12, 2020, she experienced pregnancy complications while at work on February 20, 2020, and was rushed to the hospital's Labor and Delivery Department.

29.

Ms. Hutchinson had an emergency C-section on February 27, 2020, and delivered a micro-preemie baby at only 24 weeks of gestation. While Ms. Hutchinson recovered in the hospital, her newborn daughter was taken to the Neonatal Intensive Care Unit ("NICU") and was placed on a ventilator.

30.

Ms. Hutchinson was subsequently approved for FMLA leave related to the birth of her child, as of February 25, 2020.

31.

On March 4, 2020, the day after Ms. Hutchinson was released from the hospital and while her baby was still in the NICU, Defendant Fenn repeatedly asked Ms. Hutchinson to attend a work meeting regarding the Mental Health Court's certification and grant funding, despite knowing that Ms. Hutchinson was

on FMLA leave.

32.

Even though Ms. Hutchinson was on FMLA leave, had undergone a C-section, and gave birth to her daughter at 24 weeks only the previous week, she agreed to assist Defendant Fenn with the meeting.

33.

After the meeting, Ms. Hutchinson explained to Defendant Fenn that she was under a tremendous amount of stress following her childbirth, especially since her daughter was still in the NICU.

34.

Nonetheless, Defendant Fenn continued to regularly contact Ms. Hutchinson with work-related questions throughout her approved FMLA leave.

35.

While Ms. Hutchinson was approved to take twelve weeks of FMLA leave, with the encouragement of her doctor, she decided to use only eight weeks to recover from giving birth and use the remaining four weeks of FMLA leave to care for her daughter when she was released from the NICU in May 2020.

36.

On April 14, 2020, Ms. Hutchinson informed Defendant Fenn of her intent

to follow this plan of returning to work after eight weeks of recovery, and using her remaining four weeks of FMLA to care for her daughter when she was discharged from the hospital.

37.

In accordance with this plan, Ms. Hutchinson's doctor cleared her to return to work on April 27, 2020.

Race Discrimination Against Ms. Hutchinson and Other Black Employees

38.

When Defendant Fenn became Court Services Director in August 2019, she immediately began "investigating" the only two Black employees in the Mental Health Court: Ms. Hutchinson and Ms. LaNisha Rivers, a former case manager.

39.

This "investigation" was secret and Ms. Hutchinson only learned of it because several colleagues told her in confidence that Ms. Fenn had called them asking about Ms. Hutchinson's whereabouts.

40.

After learning of this alleged "investigation," Ms. Hutchinson asked Defendant Fenn why only she and Ms. Rivers were subject to "investigation" and not any of several white employees who were also required to work in the field, for

example, Debi Trapp, Denise Smith, and Jordan Andrews (all of whom are white employees).

41.

Defendant Fenn responded that “second-floor staff members” were “pressuring her” to investigate Ms. Hutchinson and Ms. Rivers.

42.

This “investigation” found no wrongdoing by Ms. Hutchinson, but it found that Ms. Rivers had falsified around 70 hours of work time.

43.

Defendant Fenn initially attempted to place blame for Ms. Rivers’ apparent falsifications on Ms. Hutchinson in her supervisory capacity, but a review of Ms. Rivers’ timesheets showed that it was Defendant Fenn who had signed off on Ms. Rivers’ timesheets.

44.

As a result of this investigation, Ms. Rivers was suspended for three days; however, she subsequently resigned because of continued unfair and racially discriminatory treatment by Ms. Fenn.

45.

Ms. Fenn did not receive any discipline for signing off on these false

timesheets.

46.

At one point after this “investigation” began, Ms. Hutchinson complained to Troup County’s Human Resources Director, Valerie Heard, that she felt that she was being targeted by Defendant Fenn for an unwarranted adverse employment action.

47.

After Ms. Rivers left employment with Troup County, she was replaced by a white employee, Courtney Powell. While Ms. Rivers has a master’s degree in Clinical Mental Health Counseling and is a Licensed Clinical Mental Health Counselor, Ms. Powell had no relevant degree or prior mental health experience.

48.

After Ms. Hutchinson was fired in April 2020, she was replaced by Ms. Denise Smith, who is white.

49.

Since Ms. Hutchinson was fired, Defendant Fenn has also promoted to the position of Coordinator of the Family Treatment Court and Felony Drug Court a white male case manager over a Black female case manager, even though the Black female case manager has worked for Troup County for 18 years, currently

works as a case manager in the Family Treatment Court, helped to implement the Family Treatment program from its inception, and holds a Master's Degree in counseling.

50.

While Ms. Hutchinson had never received written warning or negative performance review prior to her sudden termination, similarly-situated white colleagues, such as Jennifer Smith, were progressively disciplined for alleged rule violations or performance concerns rather than terminated.

Ms. Hutchinson's Termination

51.

On April 27, 2020, the day Ms. Hutchinson returned to work from the first block of her FMLA-protected leave, within half an hour of her arrival, Ms. Fenn and County Manager Eric Mosley, who is white, called her into Ms. Fenn's office.

52.

Defendants Fenn and Mosley then pressured Ms. Hutchinson to resign due to "work quality issues," even though Ms. Hutchinson had never been written up, had never received any verbal reprimands or any other form of discipline, and had never committed an infraction, in over seven years of coordinating the Mental Health Court program in Troup County.

53.

Ms. Hutchinson refused to resign and asserted that she had done nothing to warrant termination.

54.

After Defendant Fenn indicated that she planned to fire Ms. Hutchinson if she did not resign, Ms. Hutchinson turned to Defendant Mosley and stated, “Don’t you find it odd that she [Defendant Fenn] is only targeting me and LaNisha Rivers?”

55.

Ms. Hutchinson made this statement to indicate that she and Ms. Rivers had been subjected to disparate treatment on the basis of their race (Black).

56.

LaNisha Rivers was a former employee of the Mental Health Court, and the only other Black employee in the Mental Health Court. Ms. Rivers had resigned previously because of treatment by Defendant Fenn.

57.

In response to Plaintiff’s question, Defendant Mosley, stated that he hired Defendant Fenn “for a reason.”

58.

At this time, Plaintiff also told Defendants Fenn and Mosley that certain white employees were treated differently than herself and Ms. Rivers. Specifically, Plaintiff noted Defendant Fenn treated Courtney Powell, a case manager in the Mental Health Court, better than Fenn treated Ms. Rivers or herself. Courtney Powell is white.

59.

Ms. Hutchinson raised the issue of Defendant Fenn's disparate treatment of herself and Ms. Rivers in comparison to Ms. Powell to complain about race-based discrimination in the workplace.

60.

In response to Ms. Hutchinson's example of the disparate treatment of herself and Ms. Rivers compared to a white employee, Defendant Mosley stated, "I allow my managers to run their departments as they see fit."

61.

In making these comments, Defendant Mosley endorsed, adopted, and ratified Defendant Fenn's decision to terminate Plaintiff, knowing that it was motivated by racial animus.

COUNT I
RETALIATION FOR EXERCISE OF FMLA RIGHTS
Against Defendant Troup County

62.

Paragraph numbers 16 through 61 are incorporated herein by reference.

63.

Ms. Hutchinson was an eligible employee within the meaning of the FMLA, and took approved FMLA leave related to the premature birth of her child from February 25, 2020 through April 24, 2020, before returning to work on April 27, 2020.

64.

Troup County terminated Ms. Hutchinson the day she returned from approved FMLA leave, on April 27, 2020.

65.

By terminating Ms. Hutchinson's employment because she exercised rights under the FMLA, Troup County retaliated against Ms. Hutchinson for her use of protected FMLA leave and for exercising her rights under the FMLA, in violation of 29 U.S.C. § 2615(a)(2).

66.

Troup County intentionally discriminated against Ms. Hutchinson by

terminating her in retaliation for her use of protected FMLA leave.

67.

Troup County's termination of Ms. Hutchinson was retaliatory and was the result of Ms. Hutchinson's exercise of her rights under the FMLA. Troup County's actions were committed with reckless disregard for Ms. Hutchinson's right to be free from discriminatory treatment for exercising her rights under the FMLA, specifically 29 U.S.C. § 2615(a)(1)(2).

68.

The effect of Troup County's actions deprived Ms. Hutchinson of a job, as well as income in the form of wages, health benefits, prospective retirement benefits, social security, and future FMLA leave. As a result, Ms. Hutchinson is entitled to both equitable and monetary relief for Troup County's violation of the FMLA, including, but not limited to, back pay, lost benefits, front pay or reinstatement, liquidated damages, attorneys' fees and costs of litigation.

69.

Ms. Hutchinson is also entitled to liquidated damages for Troup County's willful violation of her rights under the FMLA, 29 U.S.C. § 2617(a)(1)(A)(iii).

COUNT II
INTERFERENCE WITH EXERCISE OF FMLA RIGHTS
Against Defendant Troup County

70.

Paragraphs 16 through 61 incorporated herein by reference.

71.

Ms. Hutchinson was an eligible employee entitled to a total of 12 workweeks of leave because of the birth of a child and in order to care for such child under the FMLA, 29 U.S.C. § 2612(a)(1)(A).

72.

Troup County was aware that Ms. Hutchinson planned to take the remaining four weeks of her FMLA leave when her daughter was released from the hospital in May 2020.

73.

Troup County terminated Ms. Hutchinson on April 27, 2020 before she could utilize the remainder of her FMLA leave.

74.

Troup County's actions in interfering with Ms. Hutchinson's FMLA leave were committed with reckless disregard for her right to take up to twelve work

weeks of leave time to care for her baby and in violation of the FMLA, 29 U.S.C. § 2615(a)(1).

75.

The effect of Troup County's FMLA interference has been to deprive Ms. Hutchinson of a job, as well as income in the form of wages, health insurance, prospective retirement benefits, social security, and other benefits due to her solely because of her right to leave under the FMLA.

76.

Ms. Hutchinson is entitled to both equitable and monetary relief for the Troup County's violation of the FMLA, specifically 29 U.S.C. § 2617(a)(1)(A) and (B), including back pay, front pay or reinstatement, attorney's fees and costs of litigation, and liquidated damages.

COUNT III
RACE DISCRIMINATION IN VIOLATION OF THE EQUAL
PROTECTION CLAUSE OF THE CONSTITUTION
(Asserted via 42 U.S.C. § 1983)
Against All Defendants

77.

Paragraphs 16 through 61 are incorporated herein by reference.

78.

The Equal Protection Clause of the Fourteenth Amendment to the United

States Constitution entitles Ms. Hutchinson to equal protection under the laws, including equal protection with respect to race.

79.

Defendants terminated Ms. Hutchinson's employment based upon her race rather than because of a legitimate justification.

80.

No compelling or other governmental interest supports the Defendants' use of race as a basis for the employment decision giving rise to this Complaint.

81.

Defendants undertook all of the unlawful conduct giving rise to Ms. Hutchinson's claims while acting under color of State, local law, regulations, customs or usages.

82.

Defendant Mosley, individually, violated clearly established law prohibiting the termination of employees based on race.

83.

Defendant Fenn, individually, violated clearly established law prohibiting terminating employees based on race.

84.

Defendant Mosley undertook his unlawful conduct intentionally, recklessly and maliciously with respect to Ms. Hutchinson and her federally protected rights, entitling her to recover compensatory and punitive damages against him, individually.

85.

Additionally, Defendant Fenn undertook her unlawful conduct intentionally, maliciously and recklessly with respect to Ms. Hutchinson and her federally protected rights, entitling her to recover compensatory and punitive damages against her, individually.

86.

Defendant Mosley possessed final policymaking authority with respect to the wrongful actions he undertook against Ms. Hutchinson which are complained of herein.

87.

Defendant Fenn possessed final policymaking authority with respect to the wrongful actions she undertook against Ms. Hutchinson which are complained of herein.

88.

Defendants' actions were willful, wanton, and intentionally directed to harm Ms. Hutchinson.

89.

Defendants' actions were reckless and were taken in willful disregard of the probable consequences of their actions.

90.

As a direct and proximate result of the Defendants' violations of the Equal Protection Clause, Ms. Hutchinson has suffered damages including lost wages, lost benefits, emotional distress, inconvenience, loss of benefits, humiliation, and other indignities.

COUNT IV
RACE DISCRIMINATION IN VIOLATION OF 42 U.S.C. § 1981
(Asserted via 42 U.S.C. § 1983)
Against all Defendants

91.

Paragraphs 16 through 61 are incorporated herein by reference.

92.

Ms. Hutchinson and Defendants were parties to an employment agreement under which, *inter alia*, Ms. Hutchinson worked for Defendants and Ms. Hutchinson was compensated for her work.

93.

Ms. Hutchinson performed her contractual obligations.

94.

42 U.S.C. § 1981 prohibits Defendants from discriminating against Ms. Hutchinson on the basis of race with regard to the making and enforcing of her employment contract with Troup County.

95.

Defendants violated Ms. Hutchinson's rights under 42 U.S.C. § 1981 by disciplining and terminating her employment because of her race rather than for legitimate and non-discriminatory reason.

96.

As a direct and proximate result of Defendants' violations of 42 U.S.C. § 1981, Ms. Hutchinson has suffered damages including emotional distress, inconvenience, loss of income and benefits, humiliation, and other indignities.

97.

Defendants undertook all of the unlawful conduct giving rise to Ms.

Hutchinson's claims while acting under color of State, local law, regulations, customs or usages.

98.

Defendant Mosley possessed final policymaking authority with respect to the wrongful actions he undertook against Ms. Hutchinson which are complained of herein.

99.

Defendant Mosley, in his individual capacity, violated clearly established law.

100.

Defendant Mosley, in his individual capacity, undertook his unlawful conduct intentionally and maliciously and/or recklessly with respect to Ms. Hutchinson and her federally protected rights, entitling her to recover compensatory and punitive damages against him.

101.

Defendant Fenn possessed final policymaking authority with respect to the wrongful actions she undertook against Plaintiff which are complained of herein.

102.

Defendant Fenn, in her individual capacity, violated clearly established law.

103.

Defendant Fenn undertook her unlawful conduct intentionally and maliciously and/or recklessly with respect to Plaintiff and his federally protected rights, entitling Plaintiff to recover compensatory and punitive damages against her.

104.

Defendants' actions were willful, wanton, and intentionally directed to harm Ms. Hutchinson.

105.

Defendants' actions were reckless and were taken in willful disregard of the probable consequences of their actions.

106.

As a direct and proximate result of the Defendants' violations of 42 U.S.C. § 1981 and § 1983, Ms. Hutchinson has suffered damages including lost wages, emotional distress, inconvenience, loss of benefits, humiliation, and other indignities.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands a **TRIAL BY JURY** and that the following relief be granted:

- A. That this Court take jurisdiction of this matter;
- B. That process be served;
- C. That Ms. Hutchinson be awarded a declaratory judgment that Defendants violated the Constitution of the United States and the federal statutes listed above.
- D. That this Court enter a permanent injunction, prohibiting Defendants from engaging in unlawful employment practices, including race discrimination and violations of the FMLA.
- E. That the Court award Ms. Hutchinson her full back pay and reinstatement or front pay in lieu thereof, in an amount to be determined at the trial of this case;
- F. Prejudgment interest and post-judgment interest;
- G. That the Court award Plaintiff liquidated damages under the FMLA;
- H. That the Court award compensatory damages in an amount to be determined by the trier of fact;

I. That the Court award Ms. Hutchinson punitive damages against Defendants Mosley and Fenn, individually, in amounts to be determined by the trier of fact;

J. That the Court award Plaintiff her costs in this action and reasonable attorneys' fees pursuant to 42 U.S.C. § 1988, and other applicable laws;

K. That the Court grant Plaintiff the right to have a trial by jury on all issues triable to a jury; and

L. That the Court grant such additional relief as the Court deems proper and just.

Respectfully submitted this 24th day of August, 2020.

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