

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION at LEXINGTON
CIVIL ACTION NO. 5:09-CV-___

REBECCA LEACH,)	
)	Complaint
Plaintiff)	
)	
vs.)	
)	
ERIC H. HOLDER, JR., ATTORNEY)	
GENERAL OF THE UNITED)	
STATES OF AMERICA,)	
)	Electronically Filed
Defendant)	

** ** * * * * *

Plaintiff Rebecca Leach for her Complaint herein against defendant Eric H. Holder, Jr., Attorney General of the United States of America, states as follows:

I

Nature of the Action

1. This is an action pursuant to 42 U.S.C. § 2000e, et seq., seeking recovery of damages for lost pay and benefits, compensatory damages for emotional distress and mental anguish, punitive damages, attorney’s fees, costs and litigation expenses arising from discriminatory employment practices maintained at plaintiff’s place of employment with the Bureau of Prisons, Federal Medical Center in Lexington, Kentucky.

II

Jurisdiction and Venue

2. The United States District Court for the Eastern District of Kentucky has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 as it raises a question of federal law.

3. Venue is proper in this district and division, because the claims asserted herein arose in Fayette County, Kentucky.

III

Parties

4. Plaintiff Rebecca Leach is a citizen of the United States and a resident of Woodford County, Kentucky.

5. Defendant Eric H. Holder, Jr. is the Attorney General of the United States of America. He is named as the defendant party pursuant to statute.

IV

Facts Giving Rise to the Lawsuit

6. Rebecca Leach is a woman who, at all times pertinent hereto, was an employee with the United States Department of Justice, Bureau of Prisons at the Federal Medical Center located in Lexington, Fayette County, Kentucky.

7. Defendant is the body corporate representative of the United States Department of Justice, Bureau of Prisons who was, at all times pertinent hereto, the employer of Leach within the meaning of the applicable sections of Title 42 United States Code.

8. In and about December 2005, Leach terminated a consensual adult sexual relationship with a co-worker, a male named Robert Cory, and moved from the residence they had been sharing.

9. In January 2006, Leach observed that Cory intended to use their joint employment as a means and forum to punish her for terminating their consensual, sexual relationship and advised her supervisor, Capt. Norris Hogans, that she anticipated and feared that Cory had been and would continue to do this.

10. From January 2006, through the remainder of 2006 and into 2007, Cory used filed a number of false complaints and reports against Leach using the employment procedures at the Federal Medical Center.

11. Cory filed the aforementioned complaints and reports against Leach to harass her based on her female gender.

12. In July 2007, in the face of Cory's continuing harassment and escalating threats to her occupational and physical safety and well-being contacted Stephen DeWalt, the Warden at the Federal Medical Center in Lexington, Kentucky, advising him of, among other things the following:

13. DeWalt rejected Leach's request that a threat assessment be done regarding the threat to her physical well-being that Cory posed to her.

14. DeWalt, in addition to rejecting Leach's request that a threat assessment be done regarding the threat to her physical well-being that Cory posed to her, neither took nor caused to be taken any action whatsoever to

investigate Leach's report or address or ameliorate any of her expressed concerns.

15. Following DeWalt's refusal to take any action and his blanket rejection of her request for help, Cory continued his harassment of Leach.

16. In September 2007, in response to a false charge that Cory filed with their workplace, Leach advised of her prior communications to her supervisors and requests for help including their advice to avoid Cory at work as much as possible.

17. Despite Leach's repeated pleas for help and assistance regarding Cory's gender-motivated harassment of her, no action to investigate her reports or to address or ameliorate her concerns was taken of any kind.

18. In December 2007, a threat assessment proceeding was initiated by Cory against Leach.

19. DeWalt, who had rejected Leach's request for a threat assessment be done regarding the threat Cory posed to her physical well-being and had ignored her requests for his help, approved, upon information and belief, that the threat assessment be conducted against Leach as requested by Cory.

20. The threat assessment team observed in its report as follows:

- Leach "reported about three years ago, she and Mr. Cory lived together for a 3 month time period, and during this time he was very abusive verbally, and at times, physically."
- Leach "described [an] incident during an argument while in their vehicle whereupon he pointed a loaded hand gun at her head and

stated, 'we can end this right now.'”

- Leach “reported that she broke off their relationship by secretly moving out of their residence one day while he was at work, and did so because she was afraid of what he would do if he were there.”
- “She reported that he has stalked her ever since, driving around the cul-de-sac where she lived, focusing visiting room cameras on the parking lot to monitor when she arrives, and hanging out in the lobby long after his work shift is over. She does not trust him, and believes he might do anything to make her look bad, and/or physically harm her. She stated, ‘He is going to come after me at some point, I know he is.’”
- “Ms. [Leach] appears genuinely afraid of Mr. Cory.”
- “Mr. Cory appears angry and obsessed with Ms. [Leach’s] behavior, even to the point where he stated he would file in civil court if his BOP complaint was dismissed.”
- “Mr. Cory has a handgun and admitted to carrying it on his person and in his vehicle when not at work.”

21. The threat assessment team concluded that Cory appeared to pose a threat to Leach as follows:

... the Threat Assessment Team believes there is a potential risk of physical harm by Mr. Cory towards Ms. [Leach].

22. In response to the conclusions of the threat assessment team, DeWalt ordered, among other things, that Leach and Cory were not to work on any shift where the other would also be working.

23. As a result of DeWalt’s order, Leach was confined to working only on the third shift as Cory was assigned to a job whose shift split the first and second shifts.

24. As a result of DeWalt's order, Leach was effectively prohibited from working any overtime shifts on the first or second shifts.

25. As a result of DeWalt's order and its effective bar to Leach working any overtime shifts on the first or second shifts, Leach has suffered substantial losses in earnings and income.

26. Because of her female sex, Leach has been compelled and is being compelled to endure unreasonable threats in her workplace to her physical well-being.

27. Leach has been subjected to discrimination in the terms and conditions of her employment because of her female sex.

28. Leach has opposed, protested and reported to defendant's responsible agents that she has been and is being subjected to sexual harassment and discrimination in the terms and conditions of her employment based on her female sex.

29. Leach has participated in proceedings ostensibly intended to address discriminatory employment practices to which she has been and is being subjected to in the course of her employment.

30. Leach has been and is being subjected to retaliation on account of her opposition to, protests and reports regarding and participation in proceedings ostensibly aimed at addressing discriminatory employment practices to which she has been and is being subjected in the course of her employment.

31. As a direct and proximate result of the discrimination in the terms and conditions of her employment to which she has been subjected because of her female sex, Leach has suffered, is suffering and is reasonably certain to suffer in the future emotional distress and mental anguish.

32. As a direct and proximate result of the unlawful retaliation to which she has been and is being subjected to, Leach has suffered, is suffering and is reasonably certain to suffer in the future emotional distress and mental anguish.

33. Defendant has displayed gross and reckless disregard for Leach's federally protected rights.

34. Leach has complied with all conditions precedent to filing this lawsuit.

V

Causes of Action

Count 1 – Sex Discrimination; Hostile Work Environment; Sexual Harassment

35. Leach incorporates herein paragraphs 1-34 hereof.

36. Leach has been subjected to unlawful discrimination based on her female sex in the terms and conditions of his employment in violation of 42 U.S.C. 2000e *et seq.* *Forrest v. Brinker International Payroll Co., LP*, 511 F.3d 225, 229 (1st Cir. 2007); *Green v. Administrators of Tulane Educational Fund*, 284 F.3d 642, 657 (5th Cir. 2002); *Babcock v. Frank*, 729 F.Supp. 279,

287-288 (S.D.N.Y. 1990); *see also Schrader v. E.G. & G., Inc.*, 953 F. Supp. 1160, 1168 (D. Colo. 1997).

37. As a direct and proximate result of the discrimination in the terms and conditions of her employment based on her female sex, Leach has suffered, is suffering, and is reasonably likely to continue to suffer injuries including emotional distress and mental anguish along with lost income and benefits.

Count 2 – Retaliation

38. Leach incorporates herein paragraphs 1 – 37 hereof.

39. Leach reported to her supervisor and to DeWalt circumstances, events and facts indicating that she was being or appeared to be subjected to a hostile work environment based on her female sex. DeWalt took no action on her reports and complaints including her request for a threat assessment done with respect to Cory.

40. Subsequently, in December 2007, a threat assessment substantiated Ms. Leach's fears and concerns. However, instead of taking ameliorative action, DeWalt imposed a punitive measure on Leach, effectively restricting her from working and overtime and diminishing her earnings. Accordingly, Leach has been subjected to unlawful retaliation in violation of 42 U.S.C. 2000e *et seq.*

41. As a direct and proximate result of the unlawful retaliation to which she has been subjected, Leach has suffered, is suffering, and is reasonably

likely to continue to suffer injuries including emotional distress and mental anguish along with lost income and benefits.

VI

Demand For Relief

WHEREFORE, plaintiff Rebecca Leach demands judgment as follows:

- (1) Entry of a judgment awarding her compensatory damages in such amount as supported by the evidence and found by a jury at trial;
- (2) Entry of a judgment awarding her the pay and benefits lost as a direct and proximate result of the discrimination and terms and conditions of her employment to which he has been subjected based on her female sex;
- (3) Entry of a judgment awarding her the pay and benefits lost as a direct and proximate result of the unlawful retaliation to which she has been subjected;
- (4) Entry of a judgment awarding her punitive damages to punish defendant for its gross and reckless disregard for Leach's federally protected rights and to deter repetition of same;
- (5) Entry of a judgment awarding him her attorney's fees, litigation expenses and costs pursuant to 42 U.S.C. 2000e et seq. and Federal Rule Civil Procedure 54; and
- (6) All other relief to which he shall be entitled.

Demand For Trial By Jury

Plaintiff demands pursuant to the Federal Rule of Civil Procedure 38 trial by jury on all issues herein so triable.

Respectfully submitted,

BY: /s/ Robert L. Abell

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