

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF THE TRIAL COURT

HAMPDEN, ss.

HAMPDEN SUPERIOR COURT  
CIVIL ACTION NO.  
**24Cv463**

MOIRA MCDONALD,  
Plaintiff

v.

MDSINE, LLC d/b/a SURGERY CENTER  
OF NEW ENGLAND,  
Defendant(s)

**COMPLAINT WITH DEMAND FOR  
JURY TRIAL**

**JURISDICTION**

1. This action is authorized and instituted under 804 CMR 1.04(12) (2020) and Mass. Gen. Laws ch. 151B. Jurisdiction is founded on Mass. Gen. Laws ch. 151B, § 9.
2. Jurisdiction is also founded on that Plaintiff, Moira McDonald (“McDonald”), filed a charge with Massachusetts Commission Against Discrimination more than ninety (90) days ago and the statute of limitations has not exceeded three years since the initial incident.

**VENUE**

3. The claims asserted in this action arose within this county and the alleged unlawful conduct and damage occurred within this county. This venue is proper pursuant to Mass. Gen. Laws ch. 151B, § 9.

**THE PARTIES**

4. The Plaintiff, Moira McDonald, is a natural person with a residence in Thorndike, Massachusetts.

BACON WILSON, P.C.  
ATTORNEYS AT LAW  
6 SOUTH EAST STREET  
AMHERST, MA 01002  
TELEPHONE (413) 256-6701  
FAX (413) 256-6469

100 RUSSELL STREET  
P.O. BOX 377  
HADLEY, MA 01035  
TELEPHONE (413) 586-5055  
FAX (413) 586-0005

57 CENTER STREET  
NORTHAMPTON, MA 01060  
TELEPHONE (413) 584-1287  
FAX (413) 584-0453

33 STATE STREET  
SPRINGFIELD, MA 01103  
TELEPHONE (413) 781-0560  
FAX (413) 739-7740

99 SPRINGFIELD ROAD  
WESTFIELD, MA 01085  
TELEPHONE (413) 562-6611  
FAX (413) 739-7740

5. The Defendant, MDSINE, LLC d/b/a Surgery Center of New England (“SCEN”), is a corporation organized under the laws of the Commonwealth of Massachusetts with a usual place of business at 55 St George Rd, Springfield, Massachusetts.

### FACTS

6. The Plaintiff was hired as an X-Ray Technician by the Defendant SCEN on or about November 2016.
7. Plaintiff had a good work record and received positive performance evaluations.
8. On or around January 26, 2023, the Plaintiff was photographed inappropriately by two male employees of Defendant, one of whom is a supervisor.
9. Sometime shortly after taking the photographs, the two male employees showed said photographs to all or substantially all of the Defendant’s staff.
10. On or around February 8, 2023, Plaintiff become aware that fellow employees who were shown the subject pictures reported this incident to Human Resources, and Human Resources stated to said fellow employees that it would investigate, but no investigation was initiated.
11. On or around February 13, 2023, a further report was made to Defendant’s Human Resources department. However, Human Resources still did not initiate an investigation.
12. There was absolutely no response to either report by either Human Resources or management on site.
13. On or around March of 2023, Plaintiff learned that the Defendant had received an anonymous letter complaining about the pictures and dissemination of same.
14. Thereafter, on or around March 14, 2023, Plaintiff was called into the administrator’s office and asked if she knew about “photos”, to which she responded in the negative

BACON WILSON, P.C.  
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AMHERST, MA 01002  
TELEPHONE (413) 256-6701  
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100 RUSSELL STREET  
P.O. BOX 377  
HADLEY, MA 01035  
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because, at that time, she was unaware that inappropriate pictures had been taken of her and disseminated in the workplace.

15. On or around March 24, 2023, almost two months later, Plaintiff finally learned of the photos, and that the photos had been shown to substantially all of the Defendant's staff.
16. After learning of what had occurred, Plaintiff has suffered severe emotional distress, lack of sleep, depression, anxiety, and humiliation. Plaintiff has been forced to seek treatment for the same and has been out of work due to stress.
17. Meanwhile, both of the male employees who took the unauthorized photos of Plaintiff are still working for the Defendant with no apparent discipline and the management team that allowed this environment to exist also continue to report to work each day. Meanwhile, Plaintiff is traumatized and forced to seek medical treatment.
18. On or around May 1, 2023, Plaintiff was constructively discharged from her position as an X-Ray Technician due to the Defendant's failure to take action.

**COUNT I**  
**M.G.L. C. 151B SEXUAL HARASSMENT**

19. The Plaintiff realleges her allegations set forth in paragraphs 1 through 18 and further alleges the following:
20. The Plaintiff was treated differently as to the terms and conditions of her employment based upon the sexual harassment of the Plaintiff by employees of the Defendant.
21. This sexually hostile environment and the conditions imposed upon the Plaintiff related to and adversely affected the terms and conditions of her employment.
22. The Plaintiff was severely and adversely affected by Defendant's conduct and the failure of Defendant to take reasonable steps to ensure that this discriminatory conduct and sexual harassment would not continue.

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AMHERST, MA 01002  
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100 RUSSELL STREET  
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WHEREFORE, the Plaintiff, Moira McDonald, respectfully prays for judgment against the Defendant, MDSINE, LLC d/b/a Surgery Center of New England, and for all damages available pursuant to M.G.L. ch. 151B.

**COUNT II**  
**M.G.L. C. 151B SEX/GENDER HARASSMENT**

23. Plaintiff repeats and realleges her allegations set forth in paragraphs 1 through 22 and further alleges the following:

24. The harassment of the Plaintiff, as described herein, violates the express provisions of M.G.L. c. 151B with regard to sex/gender.

25. There is direct and circumstantial evidence of gender bias on the part of Defendant including, but not limited to, the incidents of harassment set forth above.

26. This environment and the conditions imposed upon the Plaintiff and the adverse action taken against the Plaintiff related to sex/gender adversely affected the terms and conditions of her employment with Defendant.

27. The Plaintiff was severely and adversely affected by the Defendant's conduct and the failure of Defendant to take reasonable steps to stop this conduct.

WHEREFORE, the Plaintiff, Moira McDonald, respectfully prays for judgment against the Defendant, MDSINE, LLC d/b/a Surgery Center of New England, and for all damages available pursuant to M.G.L. ch. 151B.

**COUNT III**  
**M.G.L. C. 151B SEX/GENDER DISCRIMINATION**

28. Plaintiff repeats and realleges her allegations set forth in paragraphs 1 through 27 and further alleges the following:

BACON WILSON, P.C.  
ATTORNEYS AT LAW  
6 SOUTH EAST STREET  
AMHERST, MA 01002  
TELEPHONE (413) 256-6701  
FAX (413) 256-6469

100 RUSSELL STREET  
P.O. BOX 377  
HADLEY, MA 01035  
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29. The discriminatory treatment of the Plaintiff, as described herein, violates the express provisions of M.G.L. ch. 151B with regard to sex/gender.
30. There is direct and circumstantial evidence of gender bias on the part of the Defendant including, but not limited to, the incidents of discrimination set forth herein.
31. The environment and the conditions imposed upon the Plaintiff and the adverse action taken against the Plaintiff related to sex/gender and adversely affected the terms and conditions of her employment with Defendant.
32. The Plaintiff was severely and adversely affected by the Defendant's conduct and the failure of Defendant to take reasonable steps to stop this conduct.
33. The conduct of the Defendant, individually and through their agents, supervisors and employees, as described above, constitutes unlawful discrimination prohibited by M.G.L. ch. 151D such that the Defendant is liable to Plaintiff for damages and other relief as set forth below.

WHEREFORE, the Plaintiff, Moira McDonald, respectfully prays for judgment against the Defendant, MDSINE, LLC d/b/a Surgery Center of New England, and for all damages available pursuant to M.G.L. ch. 151B.

**COUNT IV**  
**M.G.L. C. 151B RETALIATION**

34. Plaintiff repeats and realleges her allegations set forth in paragraphs 1 through 33 and further alleges the following:
35. The Plaintiff was treated differently as to the terms and conditions of her employment based upon her reporting of sexual harassment and discrimination.

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6 SOUTH EAST STREET  
AMHERST, MA 01002  
TELEPHONE (413) 256-6701  
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100 RUSSELL STREET  
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36. This environment and the conditions imposed upon the Plaintiff related to and adversely affected the terms and conditions of her employment. The Plaintiff was constructively discharged from her employment with Defendant.

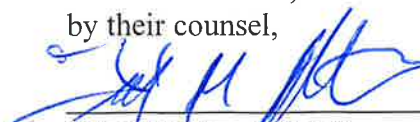
37. The Plaintiff was severely and adversely affected by Defendant's conduct and the failure of Defendant to take reasonable steps to ensure that this discriminatory conduct and sexual harassment would not continue.

WHEREFORE, the Plaintiff, Moira McDonald, respectfully prays for judgment against the Defendant, MDSINE, LLC d/b/a Surgery Center of New England, and for all damages available pursuant to M.G.L. ch. 151B.

**THE PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL COUNTS SO TRIABLE**

Respectfully submitted,

The Plaintiff,  
Moira McDonald,  
by their counsel,



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TIMOTHY M. NETKOVICK, ESQUIRE  
BACON WILSON, P.C.

33 State Street  
Springfield, MA 01103  
Ph: (413) 781-0560  
Fax: (413) 739-7740  
tnetkovick@baconwilson.com  
BBO# 654353  
Dated: August 16, 2024

BACON WILSON, P.C.  
ATTORNEYS AT LAW  
6 SOUTH EAST STREET  
AMHERST, MA 01002  
TELEPHONE (413) 256-6701  
FAX (413) 256-6469

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