

U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

Tiffany Wyatt,
Plaintiff

Case No: 8:24-cv-03012

v.

Publix Super Markets, Inc.,
Defendant

COMPLAINT AND JURY TRIAL DEMAND

Plaintiff, Tiffany Wyatt, sues Defendant, Publix Super Markets, Inc.,
and states as follows:

COMMON ALLEGATIONS

1. Plaintiff, Tiffany Wyatt, is an individual resident of Polk County, Florida.
2. Defendant, Publix Super Markets, Inc. is a Florida corporation with its principal place of business in Lakeland, Florida.
3. This Court has subject matter jurisdiction over the claims alleged because they raise questions of federal law (28 U.S.C. § 1331).

4. This Court is the appropriate venue for this proceeding because Plaintiff worked for Defendant in Polk County, Florida. A substantial part of the events or omissions giving rise to the claim occurred in Polk County, Florida. In addition, Defendant maintains a place of business in Polk County, Florida.

5. Plaintiff is a member of a protected class. She is a female, and she was pregnant at the time of the acts described herein.

6. Defendant is a grocery store chain.

7. Plaintiff had worked for Defendant since 2014.

8. In late 2021 or early 2022, Plaintiff's job title became Facilities Inventory Control Analyst.

9. In early 2023, Plaintiff became aware that she was pregnant.

10. At the time, Defendant permitted Plaintiff, among many other employees, to work remotely.

11. Plaintiff's pregnancy was complicated by idiopathic intracranial hypertension and other issues.

12. Plaintiff experienced severe morning sickness throughout as a result of the pregnancy. Because of her frequent vomiting, she needed to

be very close to a restroom and had difficulties maintaining a professional appearance. These symptoms were most severe early in the mornings.

13. Because Plaintiff was able to work remotely most days, she was able to manage these symptoms at first.

14. In approximately February, 2023, Defendant revoked telework privileges for Plaintiff and other employees. She was required to report to the office.

15. At that time, Plaintiff was permitted to report to work at any time before 9:00 am. This was sufficient to accommodate her.

16. Beginning in about April, 2023, Plaintiff's superiors required her to start reporting to work by 5:00am each morning. This required her to be on the road driving and at the office during the worst time of day for her morning sickness, which made it impossible for her to consistently report to work on time and maintain a professional appearance.

17. Plaintiff's immediate supervisor during this period was James Nance, who was not opposed to meeting Plaintiff's needs.

18. However, Mr. Nance's boss, Janet Meurer, frequently intervened in supervision of Plaintiff.

19. Ms. Meurer was dismissive of Plaintiff's symptoms, and would frequently make comments to Plaintiff in efforts to minimize them. Ms. Meurer would point out that during her own pregnancy, Ms. Meurer was able to manage her own morning sickness without needing special treatment.

20. Plaintiff had been previously granted intermittent FMLA leave to take time to deal with pregnancy symptoms, which she made use of as-needed. But this was not a workable solution, in part because of the negative attitude of Ms. Meurer whenever Plaintiff was late to work or spent extended time in the bathroom because of her symptoms.

21. Plaintiff made requests to her superiors for additional accommodations for her condition, which were denied.

22. In late June or early July, 2023, Plaintiff learned about the Pregnant Workers Fairness Act ("PWFA"), which had just taken effect.

23. She again approached her superiors to request a reasonable accommodation, and specifically made reference to the new law.

24. Plaintiff requested either to be permitted to work from home or to report to the office later in the morning, after the worst time of day for her symptoms.

25. This time, Defendant granted Plaintiff a reasonable accommodation under the PWFA, the Americans with Disabilities Act (“ADA”) and Florida Civil Rights Act (“FCRA”). Defendant opted to permit Plaintiff to work from home every day. Plaintiff was still required to begin work at 5:00am.

26. Plaintiff was also permitted to take breaks as-needed when her symptoms appeared (e.g., when she needed to vomit.)

27. After granting the accommodation, Ms. Meurer continued to make inappropriately dismissive comments about Plaintiff’s pregnancy and symptoms, and even repeatedly asked Plaintiff to start coming in to work in-person.

28. Plaintiff attempted to rebuff or ignore this pressure, and reminded Ms. Meurer of the accommodation granted. Ms. Meurer’s demeanor and attitude towards Plaintiff became increasingly more hostile.

29. Amidst this hostility from two levels up the chain of command, Plaintiff kept in contact with her immediate supervisor, James Nance, who assured her that she was doing well and to “keep doing what you are doing.”

30. In late August and early September, Plaintiff was getting close to her due date and anticipated taking FMLA leave for the birth of her baby. The impending arrival was well known to Defendant.

31. On September 11, 2023, during the final few weeks of her pregnancy, Defendant fired Plaintiff.

32. Defendant claims that it fired Plaintiff for being “on the clock” while not working because she was logged in to Publix’s servers from her home computer during all hours she worked.

33. This accusation was false. For example, to help the person who would perform her duties during her absence, Plaintiff began preparing detailed notes for a trainer and reviewing papers. Much of this work, as well as other duties, did not require her to be logged in.

34. Defendant now claims that Plaintiff was in violation of a policy that required her to be logged-in during all working hours.

Defendant also now claims that when it revoked work-from-home privileges for employees in February 2023, it did so because of abuses by Plaintiff, among others. This excuse is pretextual.

35. In neither case was this brought to her attention at the time. Plaintiff was not aware of any policy about being constantly logged in to Publix's servers, nor that the revocation of work-from-home privileges had anything to do with her. To the extent there was a policy, or that she was made aware of it and had forgotten, it was not enforced, as she routinely complete work without being logged in without consequence or concern. Similarly situated individuals were not investigated, disciplined, or terminated.

36. As of the date of this lawsuit, Defendant, through Counsel, has steadfastly refused to provide any evidence to Plaintiff to substantiate its allegations concerning Plaintiff.

37. Plaintiff filed a charge with the U.S. Equal Employment Opportunity Commission ("EEOC"), charge number 511-2024-03525, on July 5, 2024, which was within 300 days of her termination.

38. The charge was dual-filed with the Florida Commission on Human Relations (“FCHR”) and processed by the EEOC on behalf of the FCHR pursuant to a work-sharing agreement between the EEOC and the FCHR.

39. The EEOC issued Plaintiff a Notice of Rights attached as Exhibit A.

40. This lawsuit has been filed within 90 days of the date Plaintiff received her Notice of Rights.

41. Additionally, it is believed that the EEOC, acting on behalf of the FCHR, will fail to conciliate or determine whether there was reasonable cause for the charge within 180 days of the filing of the charge. This time period has not yet elapsed, but Plaintiff has been compelled to file this Complaint, notwithstanding, due to the 90-day limit to file her claim under the Notice of Rights. Plaintiff intends to amend this Complaint shortly after filing to add state-law claims relevant to the FCHR failure after the expiration of the 180-day period.

42. Defendant acted willfully, intentionally, and with reckless disregard for Plaintiff’s rights under the various statutes cited herein.

43. Plaintiff has retained the undersigned counsel firm and agreed to pay his firm a reasonable fee for its services.

COUNT 1 - RETALIATION (PWFA)

44. This is a cause of action for retaliation in violation of the Pregnant Workers Fairness Act, 42 U.S.C. § 2000gg-1(5).

45. Plaintiff restates the allegations of paragraphs 1 through 43, above.

46. Defendant was, at all relevant times, an employer covered by the PWFA.

47. Plaintiff was an employee covered by the PWFA.

48. Defendant terminated Plaintiff's employment because Plaintiff requested and used a reasonable accommodation to known limitations related to her pregnancy and its related medical conditions.

49. Therefore, Plaintiff's termination was in violation of Pregnant Workers Fairness Act, 42 U.S.C. § 2000gg-1(5).

50. Plaintiff has been damaged by her termination.

COUNT 2 – PREGNANCY DISCRIMINATION
(PWFA)

51. This is a cause of action for discrimination in violation of the anti-discrimination provision of the Pregnant Workers Fairness Act, “PWFA,” 42 U.S.C. § 2000gg-1(3).

52. Plaintiff restates the allegations of paragraphs 1 through 43, above.

53. Defendant was, at all relevant times, an employer covered by the PWFA.

54. Plaintiff was an employee covered by the PWFA.

55. Defendant terminated Plaintiff’s employment because of the need for Defendant to make a reasonable accommodation for Plaintiff’s upcoming childbirth and related medical conditions.

56. Therefore, Plaintiff’s termination was in violation of the anti-discrimination provision of the Pregnant Workers Fairness Act, “PWFA,” 42 U.S.C. § 2000gg-1(3).

57. Plaintiff has been damaged by her termination.

COUNT 3 - RETALIATION (ADA)

58. This is a cause of action for retaliation in violation of the anti-retaliation provision of the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12203(b).

59. Plaintiff restates the allegations of paragraphs 1 through 43, above.

60. Defendant was, at all relevant times, an employer covered by the ADA.

61. Plaintiff’s pregnancy and its associated complications rendered her “disabled” within the meaning of the ADA, as defined in 42 U.S.C. § 12102.

62. Plaintiff was an employee covered by the PWFA.

63. Defendant terminated Plaintiff’s employment because Plaintiff requested and used a reasonable accommodation for her disability.

64. Therefore, Plaintiff’s termination was in violation of the anti-retaliation provision of the ADA, 42 U.S.C. § 12203(b).

65. Plaintiff has been damaged by her termination.

COUNT 4 - PREGNANCY/DISABILITY
DISCRIMINATION (ADA)

66. This is a cause of action for discrimination in violation of the employment discrimination provision of the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12112(a).

67. Plaintiff restates the allegations of paragraphs 1 through 43, above.

68. Defendant was, at all relevant times, an employer covered by the ADA.

69. Plaintiff's pregnancy and its associated complications rendered her "disabled" within the meaning of the ADA, as defined in 42 U.S.C. § 12102.

70. Defendant terminated Plaintiff's employment because of her disability.

71. Therefore, Plaintiff's termination was in violation of the employment discrimination provision of the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12112(a).

72. Plaintiff has been damaged by her termination.

COUNT 5 - INTERFERENCE BY RETALIATORY
DISCHARGE (FMLA)

73. This is a cause of action for interference with Plaintiff's rights under the Family Medical Leave Act, in violation of 29 U.S.C. § 2615(a)(1).

74. Plaintiff restates the allegations of paragraphs 1 through 43, above.

75. Defendant was, at all relevant times, an employer covered by the FMLA.

76. Plaintiff was granted FMLA leave by the Defendant because of her pregnancy and its complications.

77. Plaintiff made use of her FMLA leave to take time off for her pregnancy on various dates in 2023 prior to her termination.

78. At the time Plaintiff made use of FMLA leave in 2023, she was covered by and entitled to the rights granted by the FMLA.

79. Defendant terminated Plaintiff's employment because Plaintiff requested and made use of the FMLA leave granted to her prior to her termination.

80. Therefore, Plaintiff's termination was in violation of the anti-interference provision of the FMLA, 29 U.S.C. § 2615(a)(1).

81. Plaintiff has been damaged by her termination.

COUNT 6 - INTERFERENCE BY PROSPECTIVE
DISCHARGE (FMLA)

82. This is a cause of action for interference with Plaintiff's rights under the Family Medical Leave Act, in violation of 29 U.S.C. § 2615(a)(1).

83. Plaintiff restates the allegations of paragraphs 1 through 43, above.

84. Defendant was, at all relevant times, an employer covered by the FMLA.

85. Plaintiff intended to take FMLA leave to give birth to and care for her newborn child in approximately late September, 2023.

86. Had she remained employed, Plaintiff would have been entitled to take at least some FMLA leave to give birth to and care for her newborn child.

87. Defendant was aware of Plaintiff's pregnancy and anticipated due date.

88. Defendant knew that Plaintiff would be qualified for and that it would be required to grant FMLA leave to Plaintiff, had she remained employed through the date her leave would begin.

89. Defendant terminated Plaintiff's employment before Plaintiff gave birth because of her anticipated use of leave to give birth to her child and care for her newborn.

90. Therefore, Plaintiff's termination was in violation of the anti-interference provision of the FMLA, 29 U.S.C. § 2615(a)(1).

91. Plaintiff has been damaged by her termination.

COUNT 6 - PREGNANCY DISCRIMINATION
(TITLE VII)

92. This is a cause of action for discrimination in violation of the anti-discrimination provision of Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), 42 U.S.C. § 2000e-2(a)(1).

93. Plaintiff restates the allegations of paragraphs 1 through 43, above.

94. Defendant was, at all relevant times, an employer covered by Title VII.

95. Plaintiff was an employee protected by Title VII by virtue of her sex (female) and the fact of her pregnancy.

96. Defendant terminated Plaintiff's employment because of her pregnancy.

97. Therefore, Plaintiff's termination was in violation of Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), 42 U.S.C. § 2000e-2(a)(1).

98. Plaintiff has been damaged by her termination.

WHEREFORE, Plaintiff demands judgment against Defendant for and an award of:

- a. Back pay;
- b. Reinstatement or front pay in lieu thereof;
- c. Compensatory damages;
- d. Liquidated damages, as applicable;
- e. Punitive damages, as applicable;
- f. Such other relief as the Court may deem appropriate.

JURY TRIAL DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: December 31, 2024

/s/ J. Kemp Brinson
J. Kemp Brinson
Fla. Bar No. 752541
REED MAWHINNEY & LINK
53 Lake Morton Drive, Suite 100
Lakeland, FL 32803
Office: 863-687-1771
Mobile: 863-288-0234
Service emails:
Kemp@PolkLawyer.com
JKBService@PolkLawyer.com
Counsel for Plaintiff