

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED

SEP 28 2005

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KATHARINE J. WEBER,
Plaintiff,

JUDGE ANDERSEN

**MICHAEL W. BOBBINS
CLERK, U.S. DISTRICT COURT**

v.

FERMI NATIONAL ACCELERATOR
LABORATORY,
Defendant.

MAGISTRATE JUDGE NOLAN

05C 5607

**COMPLAINT FOR SEX DISCRIMINATION AND RETALIATION
IN VIOLATION OF 42 U.S.C. § 2000e, et seq.,
(TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED)**

Plaintiff KATHARINE J. WEBER, by her attorney, Aaron B. Maduff of Maduff, Medina & Maduff, LLC for her complaint against Defendant FERMI NATIONAL ACCELERATOR LABORATORY, alleges and states as follows:

Introduction

1. Katharine "Kay" Weber worked for Fermi National Accelerator Laboratory for nearly 20 years. She was a Mechanical Engineer, a predominantly male field. During this time, she was subject to sexual harassment, discrimination, and retaliation. Kay had jock straps and condoms placed in her mail box, she was made to report to lower grade engineers or technicians, she was not allowed to take sick leave without jumping through hoops above and beyond that called for in the handbook, and she was subject to trumped up reprimands and discriminatory performance reviews. Kay repeatedly complained of these actions over the years, but did not take legal action until June 14, 2004. When Kay complained about the sex discrimination, she was harassed, retaliated against, suspended and ultimately fired.

The Parties

2. Plaintiff, KATHARINE J. WEBER (hereinafter, "Kay", "Ms. Weber" or "Plaintiff"), is a citizen of the state of Illinois, residing within the territorial limits of the United States District Court for the Northern District of Illinois, Eastern Division. At all times relevant to this Complaint, Kay was an "employee" as defined by Title VII, 42 U.S.C. § 2000e(f).

3. Defendant, FERMI NATIONAL ACCELERATOR LABORATORY (hereinafter "Fermilab" or "Defendant"), is on information and belief, is a federal government sub-contractor doing business within the territorial limits of the United States District Court for the Northern District of Illinois, Eastern Division. Defendant is and was at all times relevant to this Complaint, an "employer" within the definition of Title VII, 42 U.S.C. § 2000e(b).

Jurisdiction

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 as this matter involves a federal question based upon Title VII of the Civil Rights Act of 1964, as amended.

5. On June 14, 2004, Kay filed a Charge of Discrimination with the Illinois Division of Human Rights and United States Equal Employment Opportunity Commission (EEOC), Charge No. 21B-2004-02357, alleging that she was subject to sex discrimination as well as being suspended in retaliation for her complaints of discrimination. On February 3, 2005, Kay filed a Charge of Discrimination with the EEOC, Charge No. 210-2005-02485, alleging that she was terminated from her position with Fermilab as retaliation for her complaints of sex discrimination.

6. On or about July 6, 2005 and July 11, 2005, Kay was issued Notices of Right to Sue from the EEOC. This case is filed within 90 days of receipt of the Notices of the Right to Sue and is therefore timely filed.

7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) as, on information and belief, all Defendants reside in this District and the facts giving rise to this cause of action occurred in this District.

Events

8. Kay began working for Defendant Fermi National Accelerator Laboratory in 1986 as a mechanical engineer.

9. In approximately 1990, Kay was the Tevatron Group Leader. She was the only female group leader in all of Fermilab.

10. One of the other group leaders was Fritz Lange, a white male.

11. Between 1991 and 1993, Kay was subjected to sexual harassment from males in her department. This harassment included derogatory sexual comments using her name, written on the department blackboard, as well as condoms and jock straps being placed in her mailbox.

12. Kay discussed the harassment with Lange who responded that she should "be good", "ignore it", or "make a joke out of it".

13. Kay's supervisor, Richard Andrews, eventually reported the conduct to the EEO.

14. The company responded by moving Andrews out of the department and also moved Kay to division headquarters.

15. While at division headquarters, Kay had less responsibilities and no longer did engineering work.

16. In 1996 Kay was transferred back to the mechanical support department and put under the command of Lange. Kay objected to the transfer in writing to her EEO officer because she feared more harassment.

17. Lange told Kay that she had “better be good” and he did not want any “trouble” from her.

18. In 1998, Lange told Kay that even though she was an engineer, she would be reporting directly to a technician, Dave Augustine, a white male. A technician is lower in the company hierarchy than an engineer and typically only has a two-year associates degree whereas Kay has a bachelor's degree and two masters degrees.

19. Kay was the only engineer at Fermilab to ever report directly to a technician.

20. Even worse, Augustine had previously been Kay's subordinate in 1990.

21. Even though performance reviews were standard practice, Kay did not receive a review in 1999 and in 2001.

22. In 2000, Kay prepared a fair and appropriate “poor” performance review for an employee of hers.

23. Lange demanded to approve the review prior to Kay filing it. This scrutiny was not required of other male employees.

24. Fermilab promoted that employee while Kay was out of the office for one day.

25. In 2001, Fermilab moved Kay's office without her knowledge or consent, while she was out of the office for one day.

26. During the entire time that Kay was under Lange's chain of command, she never received a merit increase, despite the fact that she satisfactorily completed her duties.

27. In November 2003, Kay received a poor performance review from Augustine.

28. In December 2003, on the advice of the EEO officer, Kay filed a grievance for discrimination by Augustine for the review.

29. In February 2004, the grievance was resolved in Kay's favor. The discriminatory review was removed from her personnel file and her performance was rated satisfactory.

30. On information and belief, in retaliation for filing the complaint of discrimination, Fermilab eliminated Kay's position on or about February 26, 2004. Her job functions were given to a male employee. Her only choices were to accept a demotion to technician or report to a lower grade engineer. Kay chose to report to the Engineer I, in order to keep her job.

31. Kay began suffering physical manifestations of stress from the discriminatory treatment at work. She had stress related headaches, back pain, muscle tension, and work-stress related depression. She was placed on medication for the depression and headaches.

32. On March 8, 2004, Kay was assigned to Christine Ader, an Engineer I. Prior to March 8, 2004, Kay did not have a working relationship with Ader. Ader worked closely with Lange.

33. During March, Kay really only worked for Ader for a couple of days. Kay had a project that she had to finish for her previous position by March 12, 2004. Kay was on approved medical leave March 17-19, 2004. Then Kay was on vacation from March 22 to March 26, 2004.

34. For Kay's medical leave on March 17-19, 2004, Ader implemented new procedures for Kay to follow that were above and beyond those required by the employee handbook or required of anyone else.

35. Despite the fact that Kay had just started in her new position and realistically had only worked for Ader for a couple of hours, Ader reprimanded Kay on March 29, 2004, for insubordination, for allegedly failing to complete a project assigned to her on March 15, 2004.

36. But Ader never specifically requested that Kay complete the project and, in fact, on March 10, 2004, Ader submitted a written request to have someone else complete the project.

37. On March 30, 2004, Kay's office was moved from its current location to a converted garage. A male engineer had previously been told to move into the garage, but refused and was not forced to move. However, Kay was forced to move.

38. In April 2004, Kay again complained to her EEO officer. This time regarding the discriminatory motive behind the trumped up reprimand for insubordination.

39. On May 3, 2004, Ader denied Kay's request for one half day of sick leave, implementing new rules regarding sick leave specifically for Kay that did not comport with company policy and which were not applied to anyone else.

40. Kay reported Ader's improper denial of her sick leave to the EEO officer. The sick leave was approved for May 7, 2004, after discussions with the medical office and the EEO office.

41. On May 11, 2004, Fermilab placed a trace on Kay's computer in order to monitor her computer usage. The purported reason was "productivity" questions stemming from the March 29, 2004, reprimand. Of course, the reprimand had nothing to do with productivity and Kay provided Ader with weekly progress reports showing her productivity.

42. On May 25, 2004, Lange recommended Kay's termination for "unacceptable conduct" related to her participation in outside employment and misuse of laboratory computer equipment in furtherance of that employment.

43. Kay's hobbies include breeding and training Labrador Retrievers. But Kay did not have outside employment and never used her Fermilab telephone number or email address to conduct business.

44. Kay's only use of Fermilab equipment was the occasional incidental use for private purposes as is expressly encouraged by Fermilab policy, which states in part, "We permit a wide

range of computer activities including incidental use for private purposes. We encourage use of the Web and other Internet communication channels.”

45. Many male employees maintain outside interests and actual outside employment and businesses. These male employees use Fermilab facilities and computer equipment to promote these businesses. Yet, on information and belief, none of these men were terminated for doing so.

46. On June 1, 2004, Kay complained to Roger Dixon, Accelerator Division head, about the sex discrimination and retaliation that she had been suffering. Dixon stated that he would forward her complaint to the EEO officer for investigation.

47. On June 10, 2004, Dixon suspended Kay indefinitely, pending discharge. The reason he gave for the indefinite suspension was Kay’s complaint about discrimination.

48. On June 14, 2004, Kay filed a charge of sex discrimination and retaliation with the Illinois Department of Human Rights (IDHR) and the Equal Employment Opportunity Commission (EEOC).

49. On information and belief, the charge was served on Fermilab within 10 days (or by approximately June 24, 2004) as is the standard policy.

50. On July 2, 2004, Kay was terminated.

Count I
Demand for Relief for Sex Discrimination
In Violation of 42 U.S.C. § 2000e et seq.,
(Title VII of the Civil Rights Act of 1964, as Amended)

51. Plaintiff restates and realleges paragraphs 1 through 50 as paragraph 51 of this Count I.

52. By virtue of the foregoing, Defendant Fermilab has subjected Plaintiff to Discrimination through different terms and conditions of employment and in her termination based on her sex in violation of Title VII of the Civil Rights Act of 1964, as amended.

53. As a result of Defendant's violation, Plaintiff has suffered emotional distress, humiliation, degradation, and other damages of both a pecuniary and non-pecuniary nature.

54. In light of Defendant Fermilab's failure to take any remedial action at all, its conduct is wilful and malicious warranting the imposition of punitive damages.

WHEREFORE, Plaintiff, Katharine Weber, respectfully requests that this Honorable Court enter judgment in her favor and against Defendant for lost wages, compensatory and punitive damages in amounts to be determined at trial, her attorneys' fees and costs, and for such other and further relief this Court deems just and equitable.

Count II
Demand for Relief for Retaliation
In Violation of 42 U.S.C. § 2000e-3, § 704(a)
(Title VII of the Civil Rights Act of 1964, as Amended)

55. Plaintiff restates and realleges paragraphs 1 through 50 as paragraph 55 of this Count II.

56. By virtue of the foregoing, Defendant has retaliated against Plaintiff for engaging in a statutorily protected activity when she complained to her supervisors and EEO officer about the sex discrimination and filed a charge of discrimination with the IDHR and EEOC.

57. By virtue of the foregoing, Fermilab subjected Plaintiff to different terms and conditions of employment, suspended her, and terminated her in retaliation for complaining of sex discrimination in violation of 42 U.S.C. § 2000e-3 (§704(a)) of the Civil Rights Act of 1964, as amended.

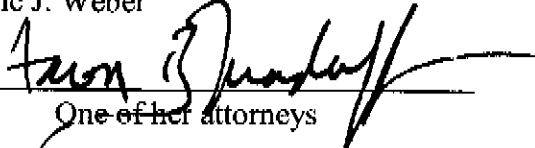
58. The retaliatory action taken by Defendant was perpetrated by the highest level agents of Fermilab, acting within the scope of their employment and with knowledge that their actions violated federal law, when Plaintiff was subjected to different terms and conditions of employment, suspended, and terminated by her supervisors and a division head for her complaints of discrimination. Defendant engaged in a discriminatory practice with malice or with reckless indifference to Plaintiff's federally protected rights.

59. As a result of this violation, Plaintiff has suffered stress, humiliation, loss of income, loss of benefits of employment, and other damages of both a pecuniary and non-pecuniary nature.

WHEREFORE, Plaintiff, Katharine Weber, respectfully requests that this Honorable Court enter judgment in her favor and against Defendant for lost wages, compensatory and punitive damages in amounts to be determined at trial, her attorneys' fees and costs, and for such other and further relief this Court deems just and equitable.

PLAINTIFF DEMANDS A TRIAL BY JURY

Respectfully submitted,
Katharine J. Weber

By: 
One of her attorneys

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