



FRAZIER V ALLSTATE
(ALL-IN-ONE)

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DISCRIMINATION LAWSUITS FILED AGAINST
ALLSTATE INSURANCE COMPANY

SOVEREIGN: US | Federal

CIRCUIT: 11th Circuit

DISTRICT: USALND



0057-01

FRAZIER v ALLSTATE

4:10-CV-02166

CAPTION: *Frazier v Allstate*, 4:10-cv-02166 (USALND 2010)

DISTRICT: USALND

CASE NO: 4:10-cv-02166

CASE TYPE: Employment Discrimination

CHARGES: retal, sex

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FILED

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U.S. DISTRICT COURT
N.D. OF ALABAMA

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION

DARLA FRAZIER,)	
)	
Plaintiff,)	CV-10-BE-2166-M
)	
v.)	
)	
ALLSTATE INSURANCE CO. and)	JURY DEMAND
ENCOMPASS INSURANCE,)	
)	
Defendants.)	

COMPLAINT

I. JURISDICTION

1. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331, 1343(3), 1343(4), 2201 and 2202. This is a suit pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, as amended by the Civil Rights Act of 1991, and the Equal Pay Act of 1963, as amended, 29 U.S.C. § 206(d). The jurisdiction of this Court is invoked to secure protection for and redress deprivation of rights secured by Title VII, providing for equitable and legal relief against discrimination on the basis of sex, and the Equal Pay Act, providing for relief against pay discrimination on the basis of sex.
2. Plaintiff has fulfilled all conditions precedent to the institution of this action under Title VII. Plaintiff timely filed a charge of discrimination with the Equal

Employment Opportunity Commission (EEOC) alleging sex discrimination within 180 days of the occurrence of the last discriminatory act. Plaintiff received notice of right to sue following the investigation of this charge. This lawsuit is timely filed within 90 days of the receipt of the notice of right to sue from the EEOC.

II. PARTIES

3. Plaintiff Darla Frazier (hereinafter “Ms. Frazier” or “plaintiff”) is a female citizen of the United States and a resident of the State of Alabama. Plaintiff is currently employed by defendants AllState Insurance Co. and/or Encompass Insurance in Steele, Alabama as part of Defendants’ Duluth, Georgia Region.
4. Defendant Allstate Insurance Co. (hereinafter “Allstate” or “defendant”) is an employer as defined by Title VII at all times relevant hereto. Defendant Allstate employs at least fifteen persons and does business in this judicial district and division. Defendant is also subject to suit under the Equal Pay Act of 1963, as amended. Defendant Allstate acted as a single and/or joint employer of Plaintiff with Encompass, and/or acted as an agent of said defendant, within the meaning of Title VII and the EPA.
5. Defendant Encompass Insurance (hereinafter “Encompass” or “defendant”) is an employer as defined by Title VII at all times relevant hereto. Defendant

Encompass employs at least fifteen persons and does business in this judicial district and division. Defendant is also subject to suit under the Equal Pay Act of 1963, as amended. Defendant Encompass acted as a single and/or joint employer of Plaintiff with Allstate, and/or acted as an agent of said defendant, within the meaning of Title VII and the EPA.

III. ALLEGATIONS OF FACT

6. Plaintiff realleges and incorporates by reference paragraphs 1-5 above with the same force and effect as if fully set out in specific detail herein below.
7. Ms. Frazier is a female “outside” property insurance adjuster employed by Encompass Insurance. Encompass is a subsidiary of Allstate Insurance and is based in Northbrook, Illinois. Ms. Frazier works out of her home in Steele, Alabama.
8. Ms. Frazier has extensive experience both as an adjuster and in the insurance industry. Ms. Frazier has been employed by Encompass since November 10, 2003. Ms. Frazier always received very good performance evaluations until her February 2009 performance review, which Ms. Frazier believes was artificially low in order to prevent her from receiving a promotion and appropriate compensation based on her experience and job performance.

9. In September 2007, Ms. Frazier met with her supervisor, Daniel Gonzalez, to receive and discuss her 2007 mid-term review. Gonzalez informed her that outside adjusters were divided into three bands, "A", "B" and "C" bands. Gonzalez told her that the "A" band was for trainees; the "B" band was for moderately experienced adjusters; and the "C" band was for experienced adjusters. This was the first time Ms. Frazier had ever been told about the pay bands. Gonzalez responded "that's what they wanted you to think."
10. Gonzalez told her that based on her time with the company and her experience, Ms. Frazier should be in the "C" band. Gonzalez also told her who was in the "C" band. All of them were men and many of them had much less experience than Ms. Frazier did. There were no female outside adjusters in the "C" band in the Duluth region at the time or at the time Ms. Frazier filed her charge of discrimination with the EEOC.
11. Ms. Frazier told Gonzalez that it was not fair that men with less experience than Ms. Frazier had were paid more than Ms. Frazier was since Ms. Frazier did the same job and was held to the same standards. Gonzalez responded that he was going to work on getting her the salary increase and promotion that Ms. Frazier deserved. Gonzalez indicated he thought Ms. Frazier would be promoted by the end of 2008.

12. Ms. Frazier received a good review on her 2007 mid-term and a good review on her 2007 year-end review, but Ms. Frazier did not receive a promotion. Ms. Frazier received another good review on her 2008 mid-term review. Gonzalez indicated that he was planning to talk to the Regional Claims Manager, Scott Cushing, about a promotion and would let her know the results. Ms. Frazier did not hear back from him for about three weeks. When he called he indicated that he had spoken with Scott and that Scott had agreed to the promotion and raise.
13. In February 2009, when it came time for Gonzalez to give her December 2008 year-end review, Gonzalez did not meet with her in person to do her review, but instead sent the completed salary review form to her via email. Ms. Frazier was surprised because Gonzalez had changed some of her ratings from "achieved" to "did not achieve." Her review scores were lower despite the fact that her underlying performance and the objective basis for those performance scores were the same or better as they had always been.
14. Ms. Frazier called Gonzalez to discuss the drastic and unfair change in her ratings, but Ms. Frazier did not receive a reply, at least at first. Eventually, Gonzalez called back and informed her that her promotion was not in the budget for this year due to the economy. Ms. Frazier asked about her normal

annual raise, and Gonzalez told her that since Ms. Frazier was in the 83% percent range of her current band that Ms. Frazier was not eligible to receive an annual increase. This was the first time Ms. Frazier had heard of an outside adjuster not receiving an annual increase.

15. Upon information and belief, Defendants' pay system discriminates against women and/or is applied in a manner that discriminates against women. Ms. Frazier was wrongly classified within that pay system initially and was underpaid throughout her tenure with the company due to that fact. Upon information and belief, Defendants' decision not to promote Ms. Frazier at the end of December 2008 was discrimination on the basis of gender and retaliation against Ms. Frazier because she complained to her supervisor about pay discrimination against women. Upon information and belief, Defendants' pay grade and/or specific promotion decisions made pursuant to that system violate Title VII and the Equal Pay Act.

IV. DAMAGES

16. Plaintiff is now suffering, and will continue to suffer, irreparable injury from Defendants' unlawful conduct as set forth herein unless enjoined by this Court.
17. Plaintiff has suffered embarrassment, humiliation, shame, damage to reputation, mental distress, emotional and physical pain and anguish and lost

wages and other pecuniary losses as a consequence of Defendants' unlawful conduct.

18. Plaintiff has no plain, adequate, or complete remedy at law to redress the wrongs alleged herein and this suit for lost wages, instatement, front pay, declaratory judgment, injunctive relief, compensatory, and punitive damages is her only means of securing adequate relief.

V. CAUSES OF ACTION

Claim I – Equal Pay Act – Unequal Pay

19. Paragraphs 1-18 are hereby realleged and incorporated herein.
20. Further, Defendants willfully violated the Equal Pay Act by paying Plaintiff unequal wages to those of similarly situated males performing a job of equal skill, responsibility and effort under similar working conditions.
21. Plaintiff has no plain, adequate or complete remedy at law to redress the wrongs alleged herein, and this suit for injunctive, declaratory and other relief is her only means of securing adequate redress. Plaintiff is now suffering and will continue to suffer irreparable injury from Defendants' unlawful policies and practices as set forth herein unless enjoined by this Court.

Claim II – Title VII – Unequal Pay

22. Paragraphs 1-21 are hereby realleged and incorporated herein.

23. Further, Plaintiff was discriminated against on the basis of her sex in the terms and conditions of her employment in that her pay was substantially lower than that of the male employees who performed comparable job duties. The actions of Defendants were willful and taken with reckless disregard to Plaintiff's federally protected rights.
24. Plaintiff has no plain, adequate or complete remedy at law to redress the wrongs alleged herein, and this suit for injunctive, declaratory and other relief is her only means of securing adequate redress. Plaintiff is now suffering and will continue to suffer irreparable injury from Defendants' unlawful policies and practices as set forth herein unless enjoined by this Court.

Count III – Retaliation in violation of Title VII


25. Plaintiff re-alleges and incorporates by reference paragraphs 1-24 above with the same force and effect as if fully set out in specific detail hereinbelow.
26. Plaintiff engaged in protected conduct under Title VII by opposing conduct that Plaintiff reasonably believed was unlawful and a violation of Title VII.
27. Defendants' treatment of Plaintiff, as discussed above, was causally connected to Plaintiff's protected activity and thus violated Title VII's proscription against retaliation for opposing discriminatory employment practices.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that this Court will assume jurisdiction of this action and after trial:

1. Grant Plaintiff a declaratory judgment holding that the actions of Defendants violated the rights of Plaintiff as guaranteed by Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991 and the Equal Pay Act of 1963, as amended.
2. Grant Plaintiff a permanent injunction enjoining Defendants, their agents, successors, employees, attorneys and those acting in concert with Defendant and at Defendants' request from continuing to violate Title VII and the Equal Pay Act.
3. Enter an Order requiring Defendants to make Plaintiff whole by awarding her back-pay, instatement or front pay, compensatory damages, liquidated damages, nominal damages and punitive damages.
4. Plaintiff prays for such other relief and benefits as the cause of justice may require, including but not limited to an award of costs, attorneys' fees and expenses.

Respectfully submitted,




C. Michael Quinn
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PLAINTIFF DEMANDS TRIAL BY STRUCK JURY



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APPENDIX



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