



***HORSLEY V ALLSTATE
(ALL-IN-ONE)***

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DISCRIMINATION LAWSUITS FILED AGAINST
ALLSTATE INSURANCE COMPANY

SOVEREIGN: US | Federal

CIRCUIT: 11th Circuit

DISTRICT: USALND



0060-01

HORSLEY v ALLSTATE

2:04-CV-00029

CAPTION: *Horsley v Allstate*, 2:04-cv-00029 (USALND 2004)

DISTRICT: USALND

CASE NO: 2:04-cv-00029

CASE TYPE: Employment Discrimination

CHARGES: retal, sex

WEBPAGE: 0060_01.html

DOCKET: <https://ecf.alnd.uscourts.gov>

DOCKET ENTRY: {#1}

DOCUMENT: Complaint

DATE: 1/7/2004

PAGES: 12



IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

FILED
asl
04 JAN -7 PM 2:31
U.S. DISTRICT COURT
N.D. OF ALABAMA

Kristy Horsley

Plaintiff,

v.

CIVIL ACTION NO. _____

Allstate Insurance Company, Inc.,

CV--04--J--0029--S

Defendant.

VERIFIED COMPLAINT

JURISDICTION AND VENUE

1. This is an action authorized and instituted pursuant to Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991, 42 U.S.C. §2000e et seq. The jurisdiction of this Court is invoked to secure protection for and to redress the deprivation of rights secured by the above statutes providing injunctive and other relief for discrimination in employment due to sex and for relief from retaliation for having made a complaint of sexual discrimination in employment. Venue is proper under 28 U.S.C. § 1391, as the events in question occurred in Jefferson County, Alabama.

PARTIES

2. The plaintiff, Kristy Horsley, a female, is a resident of Jefferson County, Alabama.
3. Defendant, Allstate Insurance Company, Inc., (hereinafter "Allstate") is a Delaware corporation organized and authorized to do business in Alabama.
4. At all times relevant to this action, Allstate acted as Ms. Horsley's employer.
5. At all times relevant to this action, Allstate was an employer for purposes of Title VII.

|

ADMINISTRATIVE REMEDIES

6. Ms. Horsley filed a Charge of discrimination with the Equal Employment Opportunity Commission (“EEOC”) within 180 days of the acts of discrimination of which she complains. A copy is attached hereto as Exhibit 1. On or about July, 2003, she amended said charge of discrimination, a copy of which is attached hereto as Exhibit 2.
7. The EEOC issued a Dismissal and Notice of Rights with respect to Ms. Horsley's Charge of Discrimination on October 10, 2003. A copy is attached hereto as Exhibit 3.
8. Ms. Horsley initiated this action within 90 days of receiving her Dismissal and Notice of Rights from the EEOC.
9. All conditions precedent to the institution of this lawsuit have been fulfilled.

FACTUAL ALLEGATIONS

10. The defendant hired Ms. Horsley in 1996 as a senior legal secretary, and she continued her employment with the defendant until September, 2003.
11. On or about November, 2002, Ms. Horsley took Family Medical Leave to attend to the birth of her child, returning to work approximately 12 weeks thereafter.
12. On returning to work, in February, 2003 Ms. Horsley was not restored to her full medical benefits which she had prior to taking Family Medical Leave.
13. On or about June 16, 2003, Ms. Horsley filed a charge of discrimination with EEOC claiming discrimination based on sex and due to her pregnancy in violation of 42 U.S.C. §2000e, et seq., because of the failure to restore her medical benefits.
14. On or about May, 2003, Ms. Horsley participated in a management survey of her supervisors.

15. On that survey Ms. Horsley indicated that she felt she was being discriminated against on the basis of her sex.
16. Despite, excellent reviews prior to participating in this survey and filing the charge with EEOC, Ms. Horsley was retaliated against for filing such complaints of sex discrimination by sudden unwarranted criticism of every aspect of her job performance.
17. Additionally, Ms. Horsley's supervisor made numerous comments concerning her complaints of sex discrimination and his vehement disagreement and desire to get rid of "the problem."
18. Ms. Horsley's supervisors also threatened to take away all of her job duties, falsely accused her of dishonesty, and gave her poor reviews of her performance.
19. By September, 2003, due to the actions of the defendant, Ms. Horsley was compelled to resign in order to avoid being terminated.
20. On or about September, 2003, Plaintiff was constructively terminated in violation of her rights under 42 U.S.C. §2000e, et seq., for having made an internal complaint of sex and pregnancy discrimination and filed a complaint of sex and pregnancy discrimination with the EEOC.

COUNT I - TITLE VII – SEX/PREGNANCY DISCRIMINATION

21. The plaintiff adopts and incorporates each allegation set forth above in support of this Count.
22. During Ms. Horsley's employment with the defendant, she experienced discrimination based on sex in violation of 42 U.S.C. 2000e, et seq, and particularly, because of her pregnancy.

23. Ms. Horsley suffered a tangible job action in that she was denied the same health benefits after returning from her pregnancy leave.
24. Ms. Horsley complained to the defendant about the discrimination she experienced but the defendant failed to correct the discrimination.
25. The defendant is liable to the plaintiff for sex and pregnancy discrimination.

WHEREFORE, PREMISES CONSIDERED, the plaintiff respectfully requests the entry of a judgment against the defendant for violations of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., pursuant to an order awarding:

- a. Compensatory damages;
- b. Punitive damages;
- c. Injunctive relief, including backpay, reinstatement and/or front pay;
- d. That relief which is fair, just and equitable under the circumstances of the case;
- e. Reasonable attorney fees; and
- f. The costs of this suit.

COUNT II - TITLE VII - RETALIATION

26. The plaintiff adopts and incorporates each allegation set forth above in support of this Count.
27. Ms. Horsley engaged in activity protected by Title VII of the Civil Rights Act of 1964.
28. After engaging in activity protected by Title VII, Ms. Horsley experienced an adverse job actions, in that she was constructively terminated after the filing of her formal complaint for sex and pregnancy discrimination.
29. The adverse job actions Ms. Horsley experienced were not wholly unrelated to her

protected activity.

30. The defendant retaliated against Ms. Horsley for engaging in activity protected by Title VII.

WHEREFORE, PREMISES CONSIDERED, the plaintiff respectfully requests the entry of a judgment against the defendant for violations of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., pursuant to an order awarding:

- a. Compensatory damages;
- b. Punitive damages;
- c. Injunctive relief, including backpay, reinstatement and/or front pay;
- d. That relief which is fair, just and equitable under the circumstances of the case;
- e. Reasonable attorney fees; and
- f. The costs of this suit.




Kristy Horsley

STATE OF ALABAMA)
JEFFERSON COUNTY)

Before me, the undersigned, a Notary Public, in and for said County, and in said State, personally appeared plaintiff Kristy Horsley whose name is signed to the forgoing Verified Complaint, who is known to me, and who, after being duly sworn by me, deposes and states that the facts set out in the Verified Complaint, are true and correct to the best of her knowledge, and that she executed this Verified Complaint voluntarily on the day the same bears date.

Sworn to and subscribed before me on this the 7th day of JAN, 2004.

Notary Public: 
My Commission Expires: 1-1-08

Respectfully submitted,


STERLING L. DERAMUS
Attorney for Plaintiff

2015 First Avenue North
Birmingham, AL 35203
(205) 458-1100

PLAINTIFF DEMANDS TRIAL BY STRUCK JURY


Sterling L. DeRamus
Attorney for Plaintiff

PLEASE HOLD SERVICE – PLAINTIFF WILL REQUEST DEFENDANT WAIVE SERVICE OF
PROCESS PURSUANT TO F.R.C.P. 4(d)

Defendant's Address:

Allstate Corporation
2600 Corporate Drive Suite 200
Birmingham, AL 35242

EXHIBIT 1

EEOC Form 5 (5/01)

CHARGE OF DISCRIMINATION

Charge Presented To:

Agency(ies) Charge No(s):

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

FEPA
EEOC

130-2003-02732

and EEOC

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

Home Phone No. (Incl Area Code)

Date of Birth

Kristy H. Horsley

(205) 520-0736

07-26-1969

Street Address

City, State and ZIP Code

1016 25th Avenue NE Birmingham, AL 35215

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

No. Employees, Members

Phone No. (Include Area Code)

ALLSTATE INSURANCE COMPANY

500 or More

Street Address

City, State and ZIP Code

2600 Corporate Drive Suite 200 2600 Meadow Brook South Birmingham, AL 35242

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

RACE, COLOR, SEX, RELIGION, NATIONAL ORIGIN, RETALIATION, AGE, DISABILITY, OTHER (Specify below.)

01-19-2003

01-19-2003

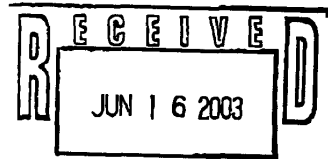
CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

On April 19, 2003, I received a letter of cancellation for benefits that I believe I am entitled too as an employee of the above named employer. I took maternity leave on November 18, 2002, and my child was born on November 25, 2002. I was scheduled to return to work on February 24, 2003, which I did without incident. On April 18, 2003, I received a paycheck which had no benefit deductions. I followed proper procedure by confirming my continuation of benefits but to no avail. I am presently employed by the employer, but without benefits which are extended to other employees.

I went through an internal process which is reviewed by the Benefits Plan Administrator, and was denied benefits. I was told that it was because of non-payment.

I believe I am being discriminated against because of my Sex, Female, in violation of Title VII of the 1964, Civil rights act, as amended. If I had not ever gone on Maternity Leave, I would still have benefits.



I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - When necessary for State and Local Agency Requirements BIRMINGHAM DISTRICT

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

Jun 16, 2003

Date

Kristy H. Horsley
Charging Party Signature

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)

EXHIBIT 2

OC Form 5 (5/01)

CHARGE OF DISCRIMINATION

Charge Presented To: Agency(ies) Charge No(s):

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

FEPA
 EEOC

130-2003-02732

and EEOC

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

Kristy H. Horsley

Home Phone No. (Incl Area Code)

(205) 520-0736

Date of Birth

07-26-1969

Street Address

016 25th Avenue NE

City, State and ZIP Code

Birmingham, AL 35215

Name of Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

ALLSTATE INSURANCE COMPANY

No. Employees, Members

500 or More

Phone No. (Include Area Code)

Street Address

600 Corporate Drive Suite 200 2600 Meadow Brook South

City, State and ZIP Code

Birmingham, AL 35242

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

RACE COLOR SEX RELIGION NATIONAL ORIGIN
 RETALIATION AGE DISABILITY

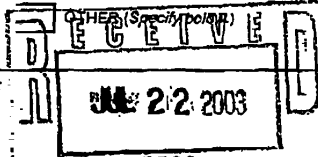
DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

01-19-2003

04-19-2003



CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

On April 19, 2003, I received a letter of cancellation for benefits that I believe I am entitled too as an employee of the above named employer. I took maternity leave on November 18, 2002, and my child was born on November 25, 2002. I was scheduled to return to work on February 24, 2003, which I did without incident. On April 18, 2003, I received a paycheck which has no benefit deductions. I followed proper procedure by confirming my continuation of benefits but to no avail. I am presently employed by the employer, but without benefits which are extended to other employees.

I went through an internal process which is reviewed by the Benefits Plan Administrator and was denied benefits. I was told that it was because of non-payment.

I believe I am being discriminated against because of my Sex, Female, and being Retaliated against by having my benefits cancelled after returning from maternity leave. I believe this to be in violation of Title VII of the 1964, Civil Rights Act as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

5/21/03 Date Kristy A. Horsley Charging Party Signature

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)

EXHIBIT 3

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Ms. Kristy H. Horsley
1016 25th Avenue NE
Birmingham, Alabama 35215

From: Birmingham District Office
1130 22ND Street, South, Suite 2000
Birmingham, AL 35205

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))

| Charge No. | EEOC Representative | Telephone No. |
|----------------|-----------------------------|----------------|
| 130-2003-02732 | Booker T. Lewis, Supervisor | (205) 731-1126 |

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- Your allegations did not involve a disability that is covered by the Americans with Disabilities Act.
- The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- We cannot investigate your charge because it was not filed within the time limit required by law.
- Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.
- While reasonable efforts were made to locate you, we were not able to do so.
- You had 30 days to accept a reasonable settlement offer that afford full relief for the harm you alleged.
- The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- Other (briefly state) _____

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** from your receipt of this Notice; otherwise, your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that back pay due for any violations that occurred **more than 2 years (3 years)** before you file suit may not be collectible.

On behalf of the Commission



Donald Burris, Acting District Director

10 OCT 2003

(Date Mailed)

Enclosure(s)

cc: Allstate Insurance Company

APPENDIX



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Congratulations! You're now **booked up** on this discrimination lawsuit that was filed against Allstate Insurance Company!

