

IN THE CIRCUIT COURT OF ST. FRANCOIS COUNTY
STATE OF MISSOURI

KIMBERLY JACKSON,)	
)	
Plaintiff,)	
)	
v.)	JURY TRIAL DEMANDED
)	
FUNCTIONAL ESTHETICS DENTAL LAB,)	
INC,)	Case. No.:
)	
Defendant.)	

PETITION FOR VIOLATIONS OF THE MISSOURI HUMAN RIGHTS ACT

Plaintiff Kimberly Jackson brings this claim under the Missouri Human Rights Act, R.S.Mo. §213.010, *et. seq.*, for discrimination based on sex by Defendant Functional Esthetics Dental Lab, Inc. In support of her Petition, Plaintiff states the following:

GENERAL ALLEGATIONS

1. Plaintiff Kimberly Jackson is a female person and citizen of the state of Missouri and currently resides in St. Francois County, Missouri.
2. Defendant Functional Esthetics Dental Lab, Inc. (“Defendant”) is a Missouri business located at 210 Hyler Dr., Farmington, MO 63640. Douglas Frye is the owner and president. His wife, Muffie, is the vice president and co-owner of Functional Esthetics Dental Lab, Inc.
3. At all times relevant to the allegations in this Petition, Defendant was Plaintiff’s employer within the meaning of R.S.Mo. §213.010 (8).
4. Venue in this Court is proper because the allegations that gave rise to this action occurred in St. Francois County, Missouri.

5. On November 13, 2019, Plaintiff cross-filed a charge against Defendant with the Missouri Commission on Human Rights (“MCHR”) and the Equal Employment Opportunity Commission (“EEOC”) alleging sex discrimination – sexual harassment. Plaintiff amended her charge on April 1, 2020. Plaintiff received a Right to Sue letter from the MCHR on March 18, 2021. This action is filed within two years of the discriminatory conduct and within 90 days of receipt of the right to sue letter. Plaintiff has complied with the administrative exhaustion requirements of the Missouri Human Rights Act as stated in R.S.Mo. §213.075.

FACTUAL ALLEGATIONS

I. Background

6. Plaintiff Kimberly Jackson (“Plaintiff”) worked for Functional Esthetics Dental Lab, Inc. (“Functional Esthetics” or “Defendant”) from 2006 to 2011 and again from 2016 through August 29th, 2019.

7. Defendant is a dental laboratory that molds and creates dental implants.

8. Plaintiff worked at Functional Esthetics as a Dental Technician. Her work primarily centered around pouring models to make crowns and implants.

9. When Plaintiff began working at Functional Esthetics, a coworker, Megan Tourville, informed her the owner, Doug Frye, made sexual jokes toward Tourville. Ms. Tourville was not specific about what Frye said to her.

10. Frye began to make uncomfortable inquiries about Plaintiff’s intimate relationships toward the end of her first period of employment with Defendant in 2011. For example, sometime in 2011, Frye asked Plaintiff what sexual positions she liked.

11. Plaintiff left her employment with Defendant to take a job elsewhere with benefits and higher pay in late 2011. Plaintiff moved out of the Farmington area in 2013.

12. Plaintiff moved back to Farmington in 2016. That year, Plaintiff saw Frye at a funeral. At that time, Frye asked Plaintiff if she wanted to return to work for him.

13. At the time, Plaintiff could not find employment for a reasonable rate of pay. Because Plaintiff was in a difficult financial situation at the time and because she was the sole support for her son, she accepted the offer despite her reservations of going back to work for him.

14. Plaintiff returned to work in her former position as a Dental Technician. Her job duties remained the same as before. Plaintiff made \$14.00 an hour initially. She received a raise to \$16.00 in 2017.

15. At all relevant times, Frye supervised Plaintiff's work. He created her work schedules and alongside his wife, Muffie, the company's vice president, determined what she would be paid each hour.

II. Sexual Harassment - 2018

16. From 2018 until August 29, 2019, Frye sexually harassed Plaintiff.

17. Frye harassed Plaintiff in person as well as via text message and Facebook message. For example, in March 2018, Frye sent Plaintiff a text message referring to her chest as "dinner bags."

18. Throughout June 2018, Frye sent Plaintiff a series of aggressive Facebook messages:

- a. "Absolutely love you, knowing a permanent relationship will never happen. Just BLESSED for what time we can have together," and, "Please let's just see WTF happens."

- b. “Just correspond, Kim, nothing you can say will ever hurt my feelings. I need to know if you want me in your life... I’m not some perv, you know I have felt like this for several years.”
- c. “Please give me some time of response. I delete every message. You literally can take me and the company down. That is the risk I’m taking just to be part of your life.”

19. The harassment continued into July 2018. In July 2018, Frye sent Plaintiff a series of messages via Facebook:

- a. “Glad your [sic] not doing Kevin.”
- b. “You have pretty teeth”
- c. “P.S. Love you asshole”
- d. “Nice boobs, oh shit I shouldn’t of [sic] said that.”
- e. “I had to use my imagination on the last comment. I call bullshit!”

20. Frye also sent a photograph of a woman in a bathing suit with extremely large breasts.

21. Frye knew his actions were wrong. He sent Plaintiff several messages asking her to “sue him.”

22. Frye did not care. Later in July 2018, Frye sent Plaintiff multiple, unreciprocated Facebook messages about how much he loved her and offered to take her back to school shopping as Plaintiff enrolled in the Radiology program in Mineral Area College in January 2018.

23. The harassment was also verbal. Throughout the spring and summer of 2018, Frye implied he would give preferential treatment to Plaintiff if she accepted his advances. For example,

he told Plaintiff, "I have a \$2 million company. I could take care of you." Frye also told Plaintiff that he was the sole reason she made \$16.00 per hour and not less.

24. During the spring and summer of 2018, Frye also subjected Plaintiff to demeaning and harassing questions while at work. For example, Frye asked Plaintiff if she "liked anal" and if she "still got wet."

25. Plaintiff rejected his advances and did her best to ignore his questions.

26. Frye refused to accept rejection. For example, when Plaintiff did not respond to a series of unwanted text messages from Frye, he texted her, "P.S. your [sic] all that in my books. Accept a compliment and love your boss."

27. Around this time, Plaintiff also told her co-workers, Melissa Weston and Liz Rahubka, about Frye's unwanted and sexually inappropriate behavior. In response, Ms. Rahubka told Plaintiff Frye also sent her sexually inappropriate messages.

III. Sexual Harassment - 2019

28. The harassment continued into 2019. Throughout the year, Frye continued to make inappropriate and unwanted comments to Plaintiff constantly.

29. On one occasion, Plaintiff asked Frye to come look at a mold she was working on. As he approached Plaintiff, he said, "I wish you were ugly."

30. On multiple occasions, Frye gave Plaintiff unwanted hugs and kisses on the cheek before leaving at the end of the work day.

31. Occasionally, Frye would not speak to Plaintiff for short periods of time because he was upset about work or frustrated with Plaintiff. Plaintiff preferred when Frye was mad at her because then he was not speaking to her and thus not subjecting her to his constant harassment.

32. The harassment became worse in the summer of 2019. On June 7, 2019, Frye sent Plaintiff the following unwanted and inappropriate text messages, including, “Can I spank you?” and “Can we have sex now? I promise you will like it.” When Plaintiff said no, Frye responded “Anal?”

33. On June 19, 2019, Frye sent Plaintiff a message, “You couldn’t tell I hd[sic] feelings for you?” and “You truly don’t know what your missing.” “Gift certificate for Tampons-Or-Us? Come on now let me buy some lub[sic].”

34. When Plaintiff refused, Frye called her names. On June 20, 2019, Frye sent Plaintiff a message: “Self centered lil priss, your[sic] on your own. I tried to like you, but I’m just not good enough.”

35. On July 17, 2019, Frye sent Plaintiff a photograph of a naked woman with candy on her private parts and a man with a full face of candy.

36. Plaintiff could not even inquire about her schedule without being subjected to harassment. On July 18, 2019, Plaintiff asked Frye when he needed her at work. Frye responded, “Sexually? 6 months ago.” That same day, Frye asked Plaintiff if she was wearing a thong, and asked her, “Still get wet?”

37. On August 13, 2019, Frye sent Plaintiff the following inappropriate and unwanted sexual advances over the phone via text message:

- a. “Hey SEXY what are u wearing? WET?” Plaintiff did not respond.
- b. Following the above, “Unanswered questions, I’m hurt. It’s not that damn difficult surgery tits,” and “Sugar tits,” followed by, “What? To much on your mind to be WET? I guarantee you I can change that.”

- c. “You could RUIN my life any time. But will want to be with you. Shoot me please. No really.”

38. Shortly after, on August 15, 2019, Frye sent Plaintiff a degrading, lengthy text message about his unreciprocated attraction and love for her. He then told her she had a “MIRACLE vagina” and told her he loved her.

39. Muffie knew about the harassment but did nothing to stop it. In August 2019, Frye texted Plaintiff, “Text me I deleted your number. Mufgie [sic] knows I’m texting you.”

40. Frye began making dramatic gestures to get Plaintiff’s attention. On August 16, 2019, as her fall semester at Mineral Area College began, Defendant anonymously sent Plaintiff flowers at work. Plaintiff believed they were from Defendant but did not acknowledge the gesture. The next day, Defendant texted Plaintiff, “Your inability to just show a bit of feelings is beyond hurtful. Just the simplest of text would be just fine. But no, I get it, talk at work and leave you the fuck alone. Done! You have all the answers. Sorry”.

IV. Constructive Discharge

41. By the late summer of 2019, Plaintiff began having panic attacks because of the constant harassment at work.

42. Plaintiff struggled to focus in the hostile work environment and could no longer handle the relentless harassment. Finally, on August 28th, 2019, Plaintiff quit her job at Functional Esthetics.

43. After leaving her employ with Defendant, Plaintiff could not find similarly situated employment. Instead, she was forced to accept a job paying \$6.00 an hour less than what she made working for Defendant.

VIOLATIONS OF LAW

**COUNT I:
SEX DISCRIMINATION
IN VIOLATION OF THE MISSOURI HUMAN RIGHTS ACT**

44. Plaintiff incorporates by reference the allegations in the foregoing paragraphs as if fully set forth herein.

45. At all relevant times, Defendant is an employer as defined by R.S.Mo. § 213.010 (8).

46. At all relevant times, Douglas Frye acted as Plaintiff's supervisor. As described in more detail above, Mr. Frye subjected Plaintiff to sexual harassment. Mr. Frye subjected Plaintiff to quid-pro-quo harassment as well as harassment amounting to a hostile work environment based on Plaintiff's sex – female, in violation of R.S.Mo. § 213.055.

47. Mr. Frye harassed Plaintiff despite being aware his actions were illegal. At least two other employees complained about sexual harassment by Mr. Frye.

48. Mr. Frye harassed Plaintiff despite her opposition to his conduct.

49. Due to the hostile work environment caused by Defendant's conduct, Plaintiff was constructively discharged from her employment in violation of R.S.Mo. § 213.055 and R.S.Mo. § 213.070.

50. Plaintiff has been damaged and continues to be damaged by Defendant's unlawful employment actions.

51. Defendant's actions were undertaken maliciously or in reckless disregard for Plaintiff's right to be free from discrimination.

52. Given Defendant's willful and malicious conduct, Plaintiff will seek leave of Court to file a claim for punitive damages at the appropriate time as outlined by R.S. Mo. § 510.261.

PRAYER FOR RELIEF

53. WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in her favor and against Defendant, awarding lost wages and benefits, reinstatement, front wages, emotional distress damages, punitive damages, compensatory damages, pre- and post-judgment interest, and attorney's fees and costs, as well as any other relief this Court deems may be just and proper.

JURY DEMAND

PLAINTIFF REQUESTS A TRIAL BY JURY ON ALL ISSUES TRIABLE BY JURY.

Respectfully submitted,

/s/ MaryAnne Quill

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