


UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

FILED
FEB 05 2014

CLERK

GERALD ANDERSON,

Civ. No. 14-5005

Plaintiff,

vs.

Verified Complaint

NORTHLAND RESTAURANT GROUP,
LLC, D/B/A HARDEE'S,

Defendant.

For his Complaint, Plaintiff Gerald Anderson alleges:

Jurisdiction, Venue and General Allegations

1. This Court has jurisdiction pursuant to 42 U.S.C. §2000e-5, 28 U.S.C. §1331, and 28 U.S.C. §1367. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e).
2. On or about April 1, 2013, Plaintiff filed discrimination charges with the Equal Employment Opportunity Commission ("EEOC") and the South Dakota Division of Human Rights ("SDDHR").
3. On or about July 24, 2013, the SDDHR issued a Determination of Probable Cause.
4. On or about November 8, 2013, the EEOC adopted the findings of the SDDHR and issued a Notice of Right to Sue, which is attached as *Exhibit A* and incorporated herein by this reference.
5. Plaintiff, a male, is a resident of Rapid City, South Dakota.
6. Defendant is a Wisconsin Limited Liability Company that is authorized to conduct business in South Dakota.

7. Defendant is a Hardee's franchisee and, at all times relevant hereto, owned and operated a Hardee's Restaurant in Rapid City, South Dakota ("the Hardee's Restaurant").
8. In or about August of 2012, Plaintiff applied for a job at the Hardee's Restaurant. Plaintiff was interviewed and hired by Defendant's store manager, Danielle Dahlenburg ("Dahlenburg").
9. When she hired him, Dahlenburg told Plaintiff that if he "applied" himself and worked with her "on and off the clock," he could advance to a management position.
10. From that point forward, Dahlenburg subjected Plaintiff to unwelcome sexual advances, requests for sexual favors, and sexual touching.
11. Dahlenburg led Plaintiff to believe that his submission to her sexual advances was a condition of his employment and that he would be fired, or otherwise retaliated against, if he did not acquiesce. Based on this belief, Plaintiff succumbed to Dahlenburg's sexual advances.
12. In early October 2012, Plaintiff ended the sexual "relationship" with Dahlenburg. Approximately one week later, Plaintiff was terminated.

Count 1: Unlawful Discrimination in Violation of Title VII of the Civil Rights Act, as Amended, and the South Dakota Human Relations Act

13. Plaintiff incorporates and realleges Paragraphs 1-12 as if set forth fully herein.
14. Dahlenburg's unwelcome sexual advances toward Plaintiff were based on Plaintiff's sex.

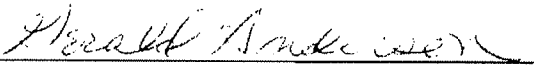
15. Plaintiff's submission to Dahlenburg's unwelcome sexual overtures and advancements was an express or implied condition of his employment.
16. Plaintiff was terminated because he ended the "relationship" and refused to submit to further sexual overtures and advancements by Dahlenburg.
17. Defendant's stated reason for terminating Plaintiff – "insubordination" – is pretext.
18. The conduct of Defendant as stated above violates the provisions of State and Federal law, specifically 42 U.S.C §2000(e) et seq. and SDCL §20-13-1 et seq.
19. As a result of Defendant's discriminatory actions, Plaintiff has compensatory and special damages, in an amount to be determined by a jury.

WHEREFORE, Plaintiff prays for the following relief:

- A. An award of compensatory damages for lost wages, benefits, out-of-pocket expenses, humiliation and embarrassment, and punitive damages, and such other loss as determined by the jury;
- B. Attorney fees as provided by law;
- C. Costs and disbursements;
- D. Pre- and post-judgment interest on all sums awarded; and
- E. Any other relief the Court deems equitable and just.

PLAINTIFF HEREBY DEMANDS TRIAL BY JURY

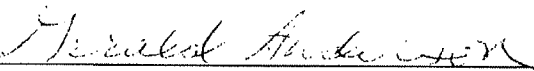
Dated this 5 day of February, 2014.



Gerald Anderson

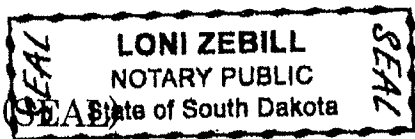
STATE OF SOUTH DAKOTA)
) ss:
COUNTY OF PENNINGTON)


Gerald Anderson, being first duly sworn, says that he is the person above named; that he has read the above and foregoing instrument; understands the contents thereof; and that the same is true of his own knowledge, information and belief.



Gerald Anderson

Subscribed and sworn to before me this 5th day of February, 2014.






Notary Public
My commission expires: July 1, 2019

Respectfully submitted this 5th day of February, 2014.

**BANGS, MCCULLEN, BUTLER, FOYE
& SIMMONS, L.L.P.**

By: 
Sarah Baron Houy
333 West Boulevard, Ste. 400
P.O. Box 2670
Rapid City, SD 57709
Telephone: (605) 343-1040
sbaronhouy@bangsmccullen.com

ATTORNEYS FOR PLAINTIFF

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

FILED

Attachment 2

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings of the parties required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

FEB 05 2014

[Signature]
CLERK 14-5005

I. (a) PLAINTIFFS

Gerald Anderson

(b) County of Residence of First Listed Plaintiff Pennington
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
Sarah Baron Houy, Bangs, McCullen, Butler, Foye & Simmons
PO Box 2670, Rapid City, SD 57709
(605) 343-1040

DEFENDANTS

Northland Restaurant Group, LLC, d/b/a Hardee's

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)
Lisa Marso, Boyce, Greenfield, Pashby & Weik
PO Box 5015, Sioux Falls, SD 57117
(605) 336-2424

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input checked="" type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations & Disclosure Act <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 USC 2000e

Brief description of cause:

Employment Discrimination Under Title VII

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

Feb 5, 2014

[Signature]

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____