

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS,
HOUSTON DIVISION**

MARIA JOCHIMS,

Plaintiff,

vs.

**HOUSTON METHODIST
SUGAR LAND HOSPITAL,
Defendant,**

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CIVIL ACTION NO. _____

JURY DEMANDED

PLAINTIFF’S ORIGINAL COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

NOW COMES, Maria Jochims (“Plaintiff”), files this Original Complaint against Houston Methodist Sugar Land Hospital, (hereinafter “Methodist” or “Defendant”) and for cause of action would show the following:

**I.
PARTIES**

1. Plaintiff, Maria Jochims, is a citizen of the United States and the State of Texas and resides in Harris County, Texas.
2. Defendant Houston Methodist Sugar Land Hospital is a Domestic Corporation and may be served with process through Registered Agent CT Corporation System 1999 Bryan Street, Suite 900 Dallas, Texas 75201. Plaintiff has requested a waiver of summons from Defendant at this time.

II.
JURISDICTION AND VENUE

3. This Court has jurisdiction pursuant to 28 U.S.C. § 1331, as Plaintiff's causes of action arise under federal statutes: Title VII of the Civil Rights Act of 1964 ("Title VII") (42 U.S.C. § 2000 et seq.), The Americans with Disabilities Act ("ADA") (42 U.S.C. § 12101 et seq.) and the Pregnancy Discrimination act of 1978 ("PDA") (42 U.S.C. § 2000e(k)).

4. Venue is proper in the Southern District of Texas, Houston Division pursuant to 28 U.S.C. § 1391(a) because this is the judicial district in which a substantial part of the events or omissions giving rise to the claim occurred.

III.
EXHAUSTION OF ADMINISTRATIVE REMEDIES

5. On June 2, 2017, Plaintiff filed a Charge of Discrimination based on sex discrimination, disability discrimination and retaliation with the United States Equal Employment Opportunity Commission ("EEOC"); Charge No. 460-2017-03107. Subsequently, on August 6, 2019 the EEOC determined that reasonable cause existed to support violations of Title VII, the Pregnancy Discrimination Act and the Americans with Disabilities Act by Methodist.

6. On September 13, 2019 the EEOC issued formal notice of the end of the conciliation process under Section 1601.25 of the Commission's Procedural Regulations. On this same date the Agency issued Plaintiff a Notice of Right Sue. *See Exhibit A.* Plaintiff files this lawsuit within ninety (90) days of receiving her Notice of Right to Sue and his lawsuit is, therefore, timely filed.

IV.
BACKGROUND AND FACTS

7. Maria Jochims was employed by Houston Methodist Sugar Land Hospital as an EMT Paramedic from November 18, 2013 until her termination on April 24, 2017. Ms. Jochims

performed well in her job receiving consistent praise from her colleagues and supervisors.

8. Despite Ms. Jochims' positive record, her career with Methodist was irreparably damaged soon after she became aware that she was with child and began to experience complications associated with the pregnancy. On August 2, 2016 she was placed on light duty and on August 6, 2016 she experienced a blood clot requiring her admission to the hospital. She remained on leave until August 25, 2016.

9. On October 8, 2016 Ms. Jochims was readmitted to the hospital after experiencing pre-term contractions. Although she was subsequently released to return to work, she was concerned that she might experience additional complications prior to her due date. Out of an abundance of caution, she requested and was approved for intermittent leave under the Family Medical Leave Act ("FMLA"). She requested and was eventually approved for a Medical Leave of Absence for the remaining months of her pregnancy. These private benefits ran concurrently with her intermittent FMLA leave through February 6, 2017.

10. Following the birth of her child Ms. Jochims contacted her supervisor Rita Richards to inform her that she would be cleared to return to work on February 27, 2017. She was subsequently informed that her position had been posted on February 5, 2017 and filled while Ms. Jochims was still on protected leave. The only alternative provided to her was a 7:00pm to 7:00am shift which was an extreme departure from the shift that she worked prior to her leave.

11. Ms. Jochims was shocked to learn that her position had been filled while she was on leave and reported internally that Methodist may have violated the law by posting her position while she was on leave. She also informed Ms. Richards that it would be impossible for her to work a 7:00pm to 7:00am shift due to her role as a caregiver for her children. In response to her

complaint she was contacted by Nittasha Naidu in Methodists' Human Resources department. In a series of email exchanges Ms. Naidu stated that Ms. Jochims' FMLA leave had exhausted on February 6, 2017 and that her Medical Leave of Absence exhausted on February 19, 2017. She further stated that if Ms. Jochims did not secure a new position with Methodist within 30 days she would be terminated.

12. Ms. Jochims tried unsuccessfully to secure a new position with Methodist throughout the brief window of time given to her by Ms. Naidu. Despite her obvious efforts to remain employed with Methodist, she was not selected for a new position and was terminated on April 24, 2017.

V.

COUNT 1: SEX DISCRIMINATION AND THE PREGNANCY DISCRIMINATION ACT

13. Title VII of the Civil Rights Act of 1964 ("Title VII") prohibits discrimination against any employee with respect to any term, condition or privilege of employment based on sex. The Pregnancy Discrimination Act of 1978 specifically amended Title VII to prohibit all forms of discrimination in employment on the basis of pregnancy, childbirth or related medical conditions. *See* 42 U.S.C. § 2000e(k).

14. Pursuant to 29 U.S.C. § 2000e-2, Maria Jochims pleads a cause of action against Defendant Houston Methodist Sugar Land Hospital for sex discrimination.

15. The allegations contained in all paragraphs of this Complaint are hereby incorporated by reference with the same force and effect as if set forth verbatim.

16. Defendant Houston Methodist Sugar Land Hospital intentionally engaged in unlawful employment practices involving Plaintiff by terminating her employment because of her sex and specifically medical conditions associated with her pregnancy.

17. Plaintiff was terminated by Methodist shortly after being released to return to work by her

doctor following the birth of her child. Prior to the exhaustion of Plaintiff's protected medical leave Defendant posted her position and selected her replacement virtually assuring that she would not be able to return to work upon being released by her physician.

18. Plaintiff asserts that her termination was a clear violation of VII of the Civil Rights Act of 1964 and the specific prohibitions contained in the Pregnancy Discrimination Act of 1978.

COUNT 2: DISABILITY DISCRIMINATION

19. Title I of the Americans with Disabilities Act of 1990 prohibits discrimination against a qualified person with a disability because of their disability. Additionally, Title I of the ADA expressly requires employers to provide a reasonable accommodation to the known limitations of an otherwise qualified individual with a disability.

20. Pursuant to 29 U.S.C. § 12112(a) Plaintiff Maria Jochims pleads a cause of action against Defendant Houston Methodist Sugar Land Hospital for disability discrimination.

21. The allegations contained in all paragraphs of the Complaint are hereby incorporated by reference with the same force and effect as if set forth verbatim.

22. The Defendant engaged in discrimination against Plaintiff Maria Jochims, a qualified EMT Paramedic with a disability. Ms. Jochims' position was posted while she was on protected medical leave due to medical complications associated with her pregnancy and childbirth. Additionally, the Plaintiff was denied the reasonable accommodation of a temporary leave extension which may have given her an opportunity to find a new position since her job was posted while she was on protected leave.

23. Plaintiff asserts that the Defendant discriminated against her by failing to engage in the interactive process after she requested the reasonable accommodation of leave extension, failing

to place her in qualifying position and terminating her employment in violation of the Americans with Disabilities Act.

COUNT 3: RETALIATION IN VIOLATION OF TITLE VII

24. The Title VII of the Civil Rights Act of 1964 prohibits retaliation against a person who has opposed discrimination by filing a charge, participating or testifying in an investigation, proceeding or litigation. *See* 29 U.S.C. § 2000e-3(a).

25. Pursuant to 29 U.S.C. § 2000e-3(a) Plaintiff Maria Jochims pleads a cause of action against Defendant Houston Methodist Sugar Land for retaliation.

26. The allegations contained in all paragraphs of the Complaint are hereby incorporated by reference with the same force and effect as if set forth verbatim.

27. Ms. Jochims engaged in protected activity by making an internal report to Nittasha Naidu in Houston Methodist's Human Resources Department on or about March 1, 2017. In her report she detailed how the Defendant violated its own internal policies and federal law by posting her position on February 5, 2017 while she was still out on protected leave. As a result of these reports Methodist refused to consider her for comparable positions in the Company and ultimately terminated her employment on April 24, 2017. The effect of these practices has been to deprive the Plaintiff of equal employment opportunities and otherwise adversely affected her status as an employee.

28. Plaintiff alleges that Defendant retaliated against her by depriving her of opportunities for placement in comparable positions at Methodist, refusing to extend her leave and ultimately terminating her employment in violation of Title VII of the Civil Rights Act of 1964.

VI.
DAMAGES

29. Plaintiff sustained damages as a result of the actions and/or omissions of Defendant described herein. Accordingly, Plaintiff is entitled to an award of actual, compensatory damages including lost wages and benefits in the past and future, in an amount within the jurisdictional limits of the Court.

30. Plaintiff also asserts that Houston Methodist Sugar Land acted with malice or reckless indifference to her federally protected rights entitling her to an award of **punitive damages**.

VII.
JURY DEMAND

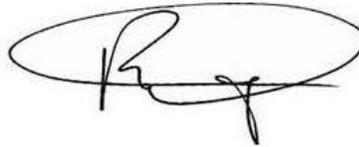
31. Plaintiff demands a jury on all issues to be tried in this matter and herein submits the jury fee.

VIII.
PRAYER

32. For the reasons set forth above, Plaintiff Maria Jochims respectfully prays that Defendant Houston Methodist Sugar Land be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against the Defendant for damages in an amount within the jurisdictional limits of the Court; together with interest as allowed by law; attorney's fees, costs of court and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully Submitted,

DUPREE LAW FIRM, PLLC

A handwritten signature in black ink, appearing to read 'R. Dupree', enclosed within a large, hand-drawn oval.

Ronald Dupree
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Southern Dist. No. 1046738
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Houston Texas 77056
Main: 832-800-4529
Fax: 281-503-7905
Email: Ronald@dupreelawfirm.com
ATTORNEY-IN-CHARGE FOR PLAINTIFF

EXHIBIT A

EEOC Form 181-A (11/18)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE
(CONCILIATION FAILURE)

To: Maria Jochims
5711 Casa Martin Dr
Katy, TX 77449

From: Houston District Office
Mickey Leland Building
1919 Smith Street, 7th Floor
Houston, TX 77002

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

EEOC Charge No.	EEOC Representative	Telephone No.
460-2017-03107	Leticia Flores, Investigator	(713) 651-4932

TO THE PERSON AGGRIEVED:

This notice concludes the EEOC's processing of the above-numbered charge. The EEOC found reasonable cause to believe that violations of the statute(s) occurred with respect to some or all of the matters alleged in the charge but could not obtain a settlement with the Respondent that would provide relief for you. In addition, the EEOC has decided that it will not bring suit against the Respondent at this time based on this charge and will close its file in this case. This does not mean that the EEOC is certifying that the Respondent is in compliance with the law, or that the EEOC will not sue the Respondent later or intervene later in your lawsuit if you decide to sue on your own behalf.

- NOTICE OF SUIT RIGHTS -
(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, 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 of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law 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 backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission



Rayford O. Irvin,
District Director

9-13-2019

(Date Mailed)

Enclosures(s)

cc: Dan Patton
SCOTT PATTON PC
5301 Katy Freeway, Suite 201
Houston, TX 77007

Ronald Dupree
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Houston, TX 77057