

STATE OF MINNESOTA
COUNTY OF DAKOTA

DISTRICT COURT
FIRST JUDICIAL DISTRICT

Norma Izaguirre,

Case Type: Employment

Plaintiff,

Court File No. 19HA-CV-25-1277

and

Rebecca Lucero, Commissioner of the
Minnesota Department of Human Rights,

COMPLAINT IN INTERVENTION

Plaintiff-Intervenor,

vs.

Absolute Drywall, Inc.,

Defendant.

The State of Minnesota, by Rebecca Lucero, Commissioner of the Minnesota Department of Human Rights, brings this complaint in intervention against Defendant Absolute Drywall, Inc. to remedy and enjoin discrimination in violation of the Minnesota Human Rights Act (“MHRA”), Minn. Stat. ch. 363A. The Commissioner alleges that:

JURISDICTION AND VENUE

1. Plaintiff Norma Izaguirre (“Plaintiff”) brought claims against Defendant Absolute Drywall, Inc. (“Defendant”) under the MHRA. The Court has jurisdiction over the claims brought under the MHRA pursuant to Minn. Stat. § 363A.33, subds. 1 and 6 (2024).

2. Plaintiff-Intervenor Rebecca Lucero, Commissioner of the Minnesota Department of Human Rights (“the Commissioner”), has the authority to intervene in a civil action brought by a private party under the MHRA. Minn. Stat. § 363A.33, subd. 5. The Commissioner’s complaint is issued pursuant to Minn. Stat. § 363A.33. The Court has jurisdiction over the Commissioner’s

claims, and the authority to allow the Commissioner to intervene, under Minn. Stat. § 363A.33, subd. 5, as well as Minn. R. Civ. P. 24.

3. Venue is proper in Dakota County pursuant to Minn. Stat. § 363A.33, subd. 6. Defendant's registered address and principal executive office address on record with the Minnesota Secretary of State are in Dakota County.

PARTIES

4. Plaintiff is an adult woman who resides in Hennepin County, State of Minnesota.

5. Defendant is a business corporation registered under Minn. Stat. ch. 302A with a registered office address at 16738 Joplin Way, Lakeville, Minnesota 55044.

6. Pursuant to information available with the Minnesota Secretary of State, the chief executive officer of Defendant is L.O. Upon information and belief, L.O. is also known as D.O.

7. Plaintiff-Intervenor is the State of Minnesota by Rebecca Lucero, Commissioner of the Minnesota Department of Human Rights. The Commissioner is a state officer with the authority to administer and enforce the MHRA on behalf of the State of Minnesota. Minn. Stat. §§ 363A.05, 363A.06, 363A.28. The Commissioner heads the Minnesota Department of Human Rights ("MDHR").

8. The Commissioner is authorized pursuant to Minn. Stat. § 363A.33 to intervene in a civil action brought by a private party under the MHRA upon certification that the case is of general public importance.

9. The Commissioner certifies that this civil action is of general public importance. MDHR seeks intervention in this lawsuit to obtain relief to ensure that Defendant ceases discriminatory practices affecting Defendant's employees and that Defendant operates its business in compliance with the MHRA.

FACTUAL BACKGROUND

10. Defendant is in the business of providing drywall construction services.

11. During all relevant times, Defendant had no written or formal policies regarding sexual harassment, including but not limited to policies prohibiting sexual harassment or addressing procedures for reporting and investigating sexual harassment.

12. Plaintiff was employed with Defendant from approximately January to September 2021 as a drywall laborer.

13. Plaintiff learned of the position with Defendant from D.M., who, upon information and belief, is also known as J.D.M.C.

14. Plaintiff met D.M. at a restaurant in late December 2020 or early January 2021. D.M. informed Plaintiff that his boss was seeking to hire women.

15. In approximately March 2021, D.M. began pursuing Plaintiff at work and contacting her outside of work hours. D.M. told Plaintiff that he liked her and wanted to sleep with her. Plaintiff rejected his advances, but D.M. persisted.

16. Plaintiff contacted her supervisor at the time, G.H.V., to complain about D.M.'s conduct. G.H.V. stated that D.M.'s conduct was not permitted, and G.H.V. would speak with D.M. about it.

17. Yet G.H.V. also engaged in inappropriate behavior. For example, he joked that the women Defendant hired as cleaners were his, they all wanted him, and he could take whomever he wanted.

18. D.M. continued to sexually harass Plaintiff at work. He groped her rear end several times and grabbed her genitals at least once. D.M. told Plaintiff that he would not get in trouble because G.H.V. and D.M. were good friends.

19. On or about May 20, 2021, while Plaintiff was cleaning bathtubs at a worksite, D.M. sexually assaulted and raped Plaintiff. D.M. aggressively grabbed Plaintiff from behind and forcibly penetrated her. Plaintiff told D.M. “no” and to let her go, but D.M. did not stop. When Plaintiff told D.M. that she would report him and call the police, D.M. replied that the supervisor would not believe her and that Plaintiff would be fired.

20. Plaintiff made another complaint to G.H.V. in approximately August 2021. Plaintiff reported that as she was cleaning tubs, D.M. grabbed her from behind and thrust his hips against her bottom. Plaintiff was too embarrassed to share more details with G.H.V.

21. Shortly after Plaintiff made this complaint, Defendant directed her to clean tubs at a different worksite, away from D.M.

22. After Plaintiff was moved to a different worksite, D.M. called Plaintiff, with another female colleague on speakerphone. D.M. and the colleague made fun of Plaintiff, and D.M. told Plaintiff that he wanted to have sex with her and would pay Plaintiff for sex.

23. Plaintiff called her supervisor at the time, and reported that D.M. was harassing her and that she had reported this behavior already to G.H.V. twice. The tub-cleaning supervisor indicated that he did not know this was happening and promised to investigate.

24. Later, while Plaintiff was at Defendant’s main office for an administrative question, she asked the secretary for an update on her sexual harassment report. A human resources employee was also present, and neither employee was aware of Plaintiff’s previous complaints. The human resources employee said they would investigate.

25. The tub supervisor then called Plaintiff and told her that she was causing problems and that he would fire both her and D.M. Plaintiff responded that if she was fired, she would report this to the police and there would be consequences for firing her for this.

26. Defendant began reducing Plaintiff's work hours and then eventually stopped giving her work.

27. Plaintiff contacted D.O., the owner of Defendant, and met with him to complain about the reduction in her hours. Plaintiff informed D.O. that D.M. grabbed her from behind and she wanted to work without people touching her.

28. D.O. first heard about Plaintiff's harassment allegations approximately a month or two before Plaintiff contacted and met with D.O.

29. At their meeting, D.O. informed Plaintiff she was a good worker, but he was advised to fire Plaintiff if she kept giving them trouble. D.O. told Plaintiff he would find work for her, but because he was about to leave on vacation, Plaintiff should wait until he called her. Plaintiff never received a call from Defendant for more work.

30. Plaintiff's employment with Defendant ended in the beginning of September 2021.

31. According to a document dated September 13, 2021, in Plaintiff's personnel file with Defendant, Plaintiff "was dismissed" because her job would be "taken care of by hangers"; upon information and belief, "hangers" are workers who hang drywall. The document states that Plaintiff's last day of work with Defendant was September 1, 2021.

32. In October and November 2021, Defendant hired two women to perform cleaning work.

33. Plaintiff's personnel file with Defendant contains an undated document entitled "Summary of Reported Incident and Investigation." This document claims that Plaintiff was let go because the only available work for Plaintiff was to clean tubs and showers, which she did not want to do.

34. The Summary of Reported Incident and Investigation claims that both Plaintiff and D.M. were “let go” because work had slowed down. According to Defendant’s records, D.M. continued to work for Defendant through December 2021.

35. The Summary of Reported Incident and Investigation indicates that two of Defendant’s supervisors, including G.H.V., talked with unidentified employees about Plaintiff’s harassment complaint. The report claimed, without evidence, that Plaintiff and D.M. were in a relationship that ended and that Plaintiff created a toxic work environment with employees of Defendant’s subcontractors.

36. The supervisors informed D.O. about their purported investigation and unsupported conclusion that this was a relationship gone sour.

37. Upon information and belief, Defendant did not conduct further investigation into the complaints or reports Plaintiff made.

38. Defendant did not discipline or terminate D.M. for any of his conduct toward Plaintiff and did not take steps to protect its other employees. Rather, Defendant allowed D.M. to continue working as scheduled, until December 2021.

39. D.M.’s conduct toward Plaintiff was severe or pervasive, unwelcome, objectively offensive, and unlawful.

40. Plaintiff suffered significant emotional distress and mental anguish as a result of the illegal and non-consensual sexual activity and the sexually hostile work environment she experienced.

41. In July 2022, D.M. was criminally charged in Dakota County District Court File No. 19HA-CR-22-1726 with one count of criminal sexual conduct in the third degree, a felony in violation of Minn. Stat. § 609.344, subd. 1(c), and one count of criminal sexual conduct in the fifth

degree, a gross misdemeanor in violation of Minn. Stat. § 609.3451, subd. 1(1). The allegations in the criminal complaint are based on D.M.'s conduct towards Plaintiff during her employment with Defendant.

42. On February 13, 2025, D.M. pleaded guilty to the felony count of criminal sexual conduct in the third degree, in Court File No. 19HA-CR-22-1726.

43. On May 12, 2022, Plaintiff filed a charge of discrimination with MDHR alleging discrimination in the area of employment on the basis of sex and reprisal, in violation of Minn. Stat. §§ 363A.08, subds. 2(3) and 363A.15(1). The charge was served on Defendant.

44. MDHR investigated the charge and on April 30, 2024, determined there was probable cause to find Defendant discriminated against Plaintiff on the basis of sex by subjecting her to sexual harassment during her employment with Defendant.

45. On June 7, 2024, Defendant requested MDHR to reconsider the probable cause determination.

46. On June 21, 2024, MDHR affirmed the probable cause determination.

47. MDHR invited Defendant to participate in conciliation of this matter after finding probable cause. Defendant agreed to participate in conciliation.

48. On or about December 17, 2024, Plaintiff commenced this civil action against Defendant, thus withdrawing the charge with MDHR.

COUNT I
EMPLOYMENT DISCRIMINATION: SEXUAL HARASSMENT
(MINN. STAT. § 363A.08, SUBD. 2(3))

49. All preceding paragraphs are incorporated herein as though set forth in full.

50. It is an unfair employment practice for an employer to discriminate against a person with respect to hiring, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment, because of sex. Minn. Stat. § 363A.08, subd. 2(3).

51. Under the MHRA, discrimination based on sex includes sexual harassment. Minn. Stat. § 363A.03, subd. 13. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when the conduct or communication has the purpose or effect of substantially interfering with an individual's employment, or creating an intimidating, hostile, or offensive employment environment. *Id.*, subd. 43.

52. D.M. engaged in sexual harassment toward Plaintiff during her employment, which had the purpose and effect of substantially interfering with Plaintiff's employment and which created an intimidating, hostile, and offensive employment environment for Plaintiff.

53. Plaintiff reported the sexual harassment at least five times, including to at least two supervisory employees and to Defendant's owner/president. Defendant did not take steps to adequately investigate, prevent, or correct D.M.'s conduct, but instead allowed D.M. to remain in his position.

54. Defendant failed to adopt, implement, and disseminate effective policies or procedures prohibiting sexual harassment in the workplace and identifying how and to whom employees could make complaints of sexual harassment. Moreover, given the number of its

Spanish-speaking employees, Defendant should have adopted, implemented, and disseminated such policies and procedures to be in Spanish as well as in English.

55. Defendant failed to exercise reasonable care to prevent and promptly correct D.M.'s behavior. Defendant's failure subjected Plaintiff to an intimidating, hostile, and offensive employment environment, and substantially interfered with and affected the terms, conditions, and privileges of Plaintiff's employment. Moreover, Defendant allowed an intolerable work environment to persist in which D.M. could harass a female co-worker.

56. As a result of Defendant's actions, Plaintiff suffered and continues to suffer harm and damages, as alleged in this Complaint and in Plaintiff's Complaint.

COUNT II
REPRISAL
(MINN. STAT. § 363A.15(1))

57. All preceding paragraphs are incorporated herein as though set forth in full.

58. It is an unfair discriminatory practice for an employer to engage in reprisal against a person who opposed a practice prohibited under the MHRA or who participated in any manner in an investigation, proceeding, or hearing under the MHRA. Minn. Stat. § 363A.15(1) (2024).

59. Reprisal includes, but is not limited to, any form of intimidation, retaliation, or harassment. Minn. Stat. § 363A.15. With respect to a person who engaged in activity protected by section 363A.15, it is a reprisal for an employer to refuse to hire the person, depart from any customary employment practice, or transfer or assign the person to a lesser position (in terms of wages, hours, job classification, job security, or other employment status). *Id.*

60. Plaintiff made at least five reports to Defendant—including to at least two supervisors and to Defendant's owner—of sexual harassment occurring during her employment.

61. One supervisor threatened to fire Plaintiff for her reports, and Plaintiff informed him there would be legal consequences for that.

62. Defendant also described Plaintiff as toxic and/or creating a toxic environment.

63. With respect to Plaintiff's protected activity, Defendant departed from any customary employment practice, or transferred or assigned Plaintiff to a lesser position, including but not limited to transferring her to a different worksite, reducing her hours, and terminating her employment.

64. As a result of Defendant's actions, Plaintiff suffered and continues to suffer harm and damages, as alleged in this Complaint and in Plaintiff's Complaint.

REQUEST FOR RELIEF

Pursuant to Minn. Stat. § 363A.33, subd. 6 (2024), the Commissioner requests that the Court:

1. Enter an order finding that Defendant has violated Minn. Stat. §§ 363A.08, subd. 2(3) and 363A.15;

2. Enter an order requiring Defendant to cease and desist from engaging in practices that violate the MHRA;

3. Order Defendant to create, implement, and disseminate policies, procedures, and guidelines to ensure compliance with the MHRA, and to submit copies of such policies, procedures, and guidelines to the Commissioner for review, pursuant to Minn. Stat. § 363A.33, subd. 9;

4. Order Defendant's employees (including but not limited to ownership, managers, supervisors, forepersons, and laborers) to undergo training, approved by the Commissioner, on sex discrimination and sexual harassment, pursuant to Minn. Stat. § 363A.33, subd. 9;

5. Order Defendant to retain an ombudsperson or other third party who will be responsible for soliciting, investigating, monitoring, and resolving complaints of Defendant's employees related to the working conditions, including but not limited to complaints of sexual harassment, retaliation, or other discrimination. The ombudsperson shall have training in applicable anti-discrimination laws and have experience investigating sexual harassment complaints in the construction industry. The ombudsperson's selection and retention shall be approved by the MDHR Commissioner. *See* Minn. Stat. § 363A.29, subd. 3.

6. Order Defendant to submit reports to the Commissioner regarding Defendant's compliance with the Court's Order, including but not limited to reports on whether any reports of harassment have been made and how Defendant has handled such reports, pursuant to Minn. Stat. § 363A.33, subd. 9;

7. Order Defendant to compensate Plaintiff in an amount up to three times the actual damages sustained, as well as punitive damages and damages for mental anguish and suffering, in an amount that may be greater than \$50,000, pursuant to Minn. Stat. § 363A.33, subd. 8;

8. Order Defendant to pay a civil penalty to the State of Minnesota, pursuant to Minn. Stat. § 363A.33, subd. 8;

9. Order Defendant to reimburse MDHR and the Minnesota Attorney General's Office for all appropriate litigation and court costs expended in preparing for and conducting the hearing, pursuant to Minn. Stat. § 363A.33, subd. 7; and

10. Award such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

The Commissioner demands a trial by jury on all counts and issues so triable.

Dated: March 4, 2025

Respectfully submitted,

KEITH ELLISON
Attorney General
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/s/Jennifer C. Moreau

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MINNESOTA DEPARTMENT OF HUMAN
RIGHTS

**MINN. STAT. § 549.211
ACKNOWLEDGMENT**

The party on whose behalf the attached document is served acknowledges through its undersigned counsel that sanctions, including reasonable attorney fees and other expenses, may be awarded to the opposite party or parties pursuant to Minn. Stat. § 549.211 (2024).

Dated: March 4, 2025

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