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EL DORADO CO. SUPERIOR CT.

FILED AUG 21 2006

BY K. Shane
Deputy

Attorneys for Plaintiff
DELAINE GAW

8 SUPERIOR COURT OF CALIFORNIA
9 FOR THE COUNTY OF EL DORADO

10 DELAINE GAW, an individual,)
11)
12 Plaintiff,)
13 v.)
14 DST OUTPUT, a Corporation,)
15 Defendant.)

Case No. **PC 20060429**
**COMPLAINT FOR SEX
DISCRIMINATION & RETALIATION**
DEMAND FOR JURY TRIAL

18
19 Plaintiff DELAINE GAW alleges as follows:

- 20 1. Plaintiff DELAINE GAW (hereafter "GAW") is an individual female and was, at all
- 21 times relevant herein, a resident of the State of California, County of Sacramento.
- 22 2. Defendant DST OUTPUT, INC. (hereafter "DST") is a corporation h its principal
- 23 place of business located within the County of El Dorado.
- 24 3. Defendant DST meets the definition of "employer" as that term is defined in the Fair
- 25 Employment and Housing Act, Government code section 12940 et seq..
- 26 4. Venue is proper in the County of El Dorado because the acts upon which this
- 27 complaint is predicated occurred within this County.

1 **FIRST CAUSE OF ACTION**

2 (Sex Discrimination)

3 5. Plaintiff incorporates the allegations of paragraphs 1 through 4 of the complaint by
4 reference as though fully set forth herein.

5 6. GAW was hired in July of 2001 by DST as a Senior Project Manager (hereafter
6 "PM") at an annual salary of \$85,000. She consistently received exemplary performance
7 reviews, annual raises of not less than about 2% (nobody got more than 3% because company
8 performance was subpar during that recessionary era) , and a bonus of \$8,173.49 for 2004 (GAW
9 is informed and believes and thereon alleges that none of the PMs received bonuses in 2002 or
10 2003 because DST was not doing well).

11 7. Prior to being abruptly terminated on July 6, 2004, GAW had never be suspended or
12 demoted, nor was she ever issued any written warnings or job criticisms. GAW was also well
13 liked by her peers and subordinates and was very satisfied with her career at DST where she
14 envisioned working her way up into upper management.

15 8. For several years prior to her termination, GAW had managed DST's largest account
16 on the West Coast, and for the last seven months of her employment she did so singlehandedly
17 and without significant support. Additional projects were assigned to her during this period,
18 despite the fact that other project managers were looking for work.

19 9. GAW was so trusted by her superiors that she was asked to temporarily relocate
20 between September of 2004 and January of 2005, to Hartford from California, to manage a
21 major project. Despite DST having many qualified Project Managers based in Hartford, DST
22 preferred GAW and incurred substantial expense in arranging temporary housing for her there.

23 10. From her hiring in July 2001 until DST replaced the all female management team
24 with a new group led by Vice President Chris Henderson (hereafter "HENDERSON") in
25 February of 2004, GAW believed she was treated fairly by DST except for her belief that her
26 compensation was less than that paid to male peers. GAW had access to the salary information
27 on her team members and observed that males appeared to be more highly compensated than
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1 females of similar experience. While GAW did not have access to salary information of her
2 peers, based on her believe of gender based pay disparities at lower levels, GAW is informed and
3 believes and thereon alleges that the salaries of female PMs were also less than males with
4 comparable experience.

5 11. Soon after HENDERSON took over, he removed several female managers and also
6 also began subjecting GAW to inferior terms and conditions of employment because she female.
7 GAW was subjected to a pervasive, gender based, double standard by HENDERSON. GAW is
8 informed and believes and thereon alleges that HENDERSON intentionally made her job more
9 difficult and attempted to undermine her position as part of an effort to force her to quit.

10 12. HENDERSON's efforts came to a head on June 16, 2004, when GAW was informed
11 by Liz Drummond of Human Relations (hereafter "HR") that she needed to attend a meeting the
12 following day where her future with DST would be discussed. At that meeting, GAW was told
13 about alleged quality control problem for which she was being blamed and was told that she
14 might not be disciplined, she might receive a warning letter or she might be terminated.
15 Immediately after the meeting, GAW's direct supervisor Julie Jackson warned GAW that she had
16 not initiated any effort to discipline GAW and "that she needed to watch out" because
17 HENDERSON was trying to force her out of DST.

18 13. Less than an hour later, GAW notified HR Director Drummond that she believed her
19 gender (female) had been a contributing factor in a pattern of acts by HENDERSON which she
20 believed were discriminatory. Drummond asked why GAW believed that, and GAW told her,
21 *inter alia*, that a similar quality issued had occurred recently with a male PM yet no discipline
22 was imposed. GAW also asked why the male Quality Assurance Supervisor on the project had
23 never even been questioned about the quality issue for which GAW was being disciplined.
24 Drummond then told GAW directly that "it is because Chris [HENDERSON] is targeting you"
25 and said she would look into GAW's allegations. While GAW already believed that
26 HENDERSON was determined to get rid of her, and while she had previously expressed dismay
27 at the discriminatory treatment she received as a female manager (*inter alia* HENDERSON's
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1 veto of her supervisor Julie Jackson's decision to move GAW to a larger cubicle), GAW is
2 informed and believes and thereon alleges that actually using the word "discrimination" further
3 sealed her fate.

4 14. GAW was terminated for pretextual reasons on July 6, 2005.

5 15. Further, GAW is informed and believes and thereon alleges that DST has a pattern
6 and practice of discriminating against women in management positions.

7 16. DST, by its acts and omissions alleged hereinabove, discriminated against plaintiff
8 on account of her sex in the terms and conditions of their employment, in violation of
9 Government Code section 12940 et seq. .

10 17. GAW was performing adequately at the time of her termination. By terminating
11 GAW, at least in part, on account of her gender, defendant DST violated Government Code
12 section 12940 et seq..

13 18. GAW filed a complaint with the California Department of Fair Employment and
14 Housing, and has received a "right to sue" letter from that agency. A true and correct copy of
15 GAW's "right to sue" letter is attached hereto as Exhibit "A" .

16 19. Because GAW's termination violated government code section 12940 et seq, she are
17 entitled to recover all damages proximately caused by said termination, *inter alia*, lost wages
18 and fringe benefits. Despite diligent effort, GAW has been unable to obtain comparable
19 employment and seeks reinstatement to her former position in addition to all damages
20 proximately caused by the acts and/or omissions of defendant DST.

21 20. Because a portion of GAW's economic damages are either liquidated, or can be made
22 reasonably certain through calculation, she is entitled to prejudgment interest on those damages
23 pursuant to Civil Code section 3287.

24 21. In addition to economic damages, GAW has suffered severe emotional distress,
25 consisting of grief, shame, humiliation, embarrassment, anger, chagrin, disappointment,
26 depression and worry, as a proximate result of the discriminatory terms and conditions of her
27 employment and/or her unlawful termination.
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32. In addition to economic damages, GAW has suffered severe emotional distress, consisting of grief, shame, humiliation, embarrassment, anger, chagrin, disappointment, depression and worry, as a proximate result of the discriminatory terms and conditions of her employment and/or her unlawful termination.

33. In committing the conduct alleged herein, DST acted with a conscious disregard of the rights of the plaintiff entitling GAW to an award of punitive damages pursuant to Civil Code section 3294.

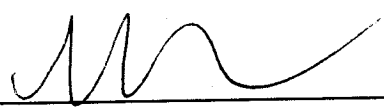
34. GAW has incurred attorneys fees due to DST's conduct, as alleged herein, and requests recovery of those fees pursuant to Government Code section 12940 et seq.

WHEREFORE, plaintiff prays for judgment against defendant DST as follows:

- 1. For compensatory damages according to proof; and
- 2. For punitive damages on the First and Second Causes of Action; and
- 3. For attorneys fees incurred herein; and
- 4. For costs of suit herein incurred; and
- 5. For an order reinstating GAW to her former position; and
- 6. For such other and further relief as the Court deems proper.

Dated: August 18, 2006

CARTER & CARTER

By: 
Brian M. Carter
Attorney for Plaintiff
DELAINE GAW

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2000 "O" Street, Suite 120, Sacramento, CA 95814-5212
(916) 445-5523 TTY (800) 700-2320 Fax (916) 323-6092
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September 9, 2005

DELAINE GAW
2754 KALAMER WY
SACRAMENTO, CA 95835

RE: E200506E0344-00-rsc
GAW/DST OUTPUT

Dear DELAINE GAW:

NOTICE OF CASE CLOSURE

This letter informs that the above-referenced complaint that was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective September 8, 2005 because an immediate right-to-sue notice was requested. DFEH will take no further action on the complaint.

This letter is also the Right-To-Sue Notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

If a federal notice of Right-To-Sue is wanted, the U.S. Equal Employment Opportunity Commission (EEOC) must be visited to file a complaint within 30 days of receipt of this DFEH *Notice of Case Closure* or within 300 days of the alleged discriminatory act, whichever is earlier.

EXHIBIT**A**

*** EMPLOYMENT ***

COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT

DFEH # P-2005-06-E-0344-00-rac

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

YOUR NAME (Indicate Mr. or Ms.) Ms. Delaine GAW TELEPHONE NUMBER (Include Area Code) 916 928 6272 ADDRESS 2754 Kalamer Way Sacramento CITY/STATE/ZIP Sacramento, CA 95835 COUNTY COUNTY CODE

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY OR INDIVIDUAL WHO DISCRIMINATED AGAINST ME: NAME DST OUTPUT TELEPHONE NUMBER (Include Area Code) ADDRESS 1100 Investment Blvd CITY/STATE/ZIP EL Dorado Hills, CA 95762 COUNTY COUNTY CODE NO. OF EMPLOYEES/MEMBERS (if known) 3,000 DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (month, day, and year) July 6, 2005 RESPONDENT CODE

THE PARTICULARS ARE:

On July 6, 2005, I was X fired denied employment denied family leave laid off denied promotion denied pregnancy leave demoted denied transfer X denied equal pay harassed denied accomodation forced to quit other (specify)

by Chris Henderson, SR VP of OPS Name of Person Job Title (supervisor/manager/personnel director/etc.)

because of my: X sex race/color physical disability X (Circle one) filing: age national origin/ancestry mental disability protesting; participating in family marital status medical condition investigation (retaliation for) religion association other (specify)

the reason given by Chris Henderson, SR. VP of OPS Name of Person and Job Title

was because of Quality Issue [please state what you believe to be reason(s)]

I wish to pursue this matter in court. I hereby request that the Department of Fair Employment and Housing provide an authorization to file a lawsuit.

I have not been coerced into making this request, nor do I make it based on fear of retaliation if I do not do so. I understand it is the Department of Fair Employment and Housing's policy to not process or reopen a complaint once the complaint has been closed on the basis of "Complainant Elected Court Action".

I declare under penalty of perjury that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated 8/28/05 At San Francisco City

Delaine Gaw COMPLAINTANT'S SIGNATURE

DATE FILED: Sept. 8, 2005

SEP - 8 2005