IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
Civil Action No.: 5:25-cv-00338

JOYLEN DIAZ, Plaintiff, v. THE DRISCOLL FIRM, P.C., Defendant.	)	**COMPLAINT** **JURY TRIAL DEMANDED**

COMES NOW Plaintiff Joylen Diaz ("Ms. Diaz"), complaining of Defendant the Driscoll Law Firm ("Defendant"), alleges and says the following:

1. This action arises from Defendant's decision to fire Ms. Diaz a day after learning about the return of her cancer.

2. Defendant's conduct towards Ms. Diaz was a violation of the 1964 Civil Rights Act ("Title VII"), Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. §§ 12101 *et seq.*, Family and Medical Leave Act (FMLA), 29 U.S.C. §2615(a), *et seq* and the North Carolina Wage and Hour Act (the "Wage and Hour Act"), N.C. Gen. Stat. § 95-25.1, *et seq*.

PARTIES

3. Ms. Diaz is a resident of Wake County, North Carolina and is neither a minor nor incompetent.

4. At all times relevant to this Complaint, Ms. Diaz was an "employee" of Defendant as that term is defined by Title VII, ADA, FMLA and the Wage and Hour Act.

5. Upon information and belief, Defendant The Driscoll Firm, P.C. is a professional corporation existing under the laws of the State of Illinois with its principal office in St. Louis, Missouri, but which operates a place of business in Raleigh, Wake County, North Carolina.

6. At all times relevant to this Complaint, Defendant was an "employer" of Ms. Diaz as that term is defined by Title VII, ADA, FMLA and the Wage and Hour Act.

JURISDICTION

7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331.

8. A substantial part of the unlawful acts alleged herein were committed within the jurisdiction of the United States District Court for the Eastern District of North Carolina.

9. This Court has personal jurisdiction over Defendant because Defendant conducts business in the State of North Carolina.

10. Venue is proper pursuant to 28 U.S.C. § 1391 as to Defendant because Defendant conducts business in this judicial district. Venue is also proper because this district is where a substantial part of the events giving rise to the claims occurred.

11. Costs and attorneys' fees may be awarded pursuant to Title VII, ADA, FMLA and the Wage and Hour Act.

ADMINISTRATIVE HISTORY

12. Ms. Diaz has exhausted all administrative remedies available to her.

13. On July 2, 2024, Ms. Diaz filed a timely charge of discrimination with the Equal Employment Opportunity Commission ("EEOC"). A copy of the July 2, 2024, Charge of Discrimination is attached hereto as Exhibit A.

14. The EEOC issued – and Ms. Diaz received – a "Dismissal and Notice of Rights" on March 28, 2025 for Ms. Diaz's Charge of Discrimination. A copy of the March 28, 2025 Dismissal and Notice of Rights letter is attached hereto as Exhibit B.

15. This Complaint was timely filed within 90 days from the date Ms. Diaz received the Dismissal and Notice of Rights from the EEOC.

FACTS

16. Ms. Diaz was hired by Defendant as a Paralegal in July 2023 and later promoted to Senior Paralegal.

17. Ms. Diaz qualified as disabled under the ADA due to her ongoing battle with ovarian cancer which significantly affected her major life functions.

18. In particular, Ms. Diaz has difficulty completing activities of daily living such as dressing and walking due to her medical condition. She also has difficulty sitting for more than two hours and typing for long periods of time which affect her ability to work.

19. On February 9, 2024, Ms. Diaz was diagnosed with a recurrence of ovarian cancer.

20. On March 13, 2024, Ms. Diaz informed Mr. Cullen Millsap, the Chief Financial Offer, and Mr. John Driscoll, owner of the Driscoll Law Firm, about the recurrence of her cancer.

21. Specifically, Ms. Diaz wrote "my ovarian cancer has metastasized to my liver, and I have become symptomatic. I would like to continue my employment as long as possible. I have bloodwork today and will keep you posted on prognosis."

22. In response to this email, Defendant noted concerns about Ms. Diaz's reactions to the medication she might be taking to treat the ovarian cancer.

23. Later that day, Ms. Diaz sent an email to John Driscoll outlining several complaints, including staff concerns, job security, lack of resources, and insufficient response and feedback on projects.

24. Ms. Diaz did not receive a response to that email.

25. Ms. Diaz did not request any accommodations for her disability during this meeting on March 13, 2024.

26. However, it was reasonably foreseeable to Defendant that Ms. Diaz would imminently request formal accommodations for her disability.

27. Since December 2023, Ms. Diaz had been requesting approval for her overtime work via email exchanges.

28. Ms. Diaz was assigned a substantial workload with strict deadlines, which required her to work overtime, including on holidays and weekends.

29. Defendant was aware of the number of hours with the number of hours Ms. Diaz was working overtime.

30. Despite repeated follow-ups via emails and text messages since November 2023, Ms. Diaz has not been paid for her overtime work.

31. On March 14, 2024, just one day after disclosing the recurrence of her medical condition, Ms. Diaz was terminated from her position.

32. It is reasonable to assume that Ms. Diaz was terminated due to the disclosure of her disability and retaliated against by being terminated on March 14, 2024.

FIRST CAUSE OF ACTION – DISABILITY DISCRIMINATION
42 U.S.C. §§ 12101 *et seq.*

33. Ms. Diaz hereby realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

34. Defendant is an employer under the ADA.

35. At all times relevant to this action, Ms. Diaz was a qualified individual with a disability, specifically her medical condition, which substantially limited and/or impaired her ability to perform everyday activities.

36. Alternatively, Defendant perceived Ms. Diaz as being disabled.

37. Defendant, by and through Ms. Diaz's supervisors and handlers, harassed and disparately treated Ms. Diaz based on her disability, including but not limited to:

    a. Wrongful termination;

    b. Termination based on the anticipation that she would request disability accommodation; and

    c. Other treatment that was wrongful and disparate on the basis of disability.

38. Defendant failed to reasonably accommodate Ms. Diaz despite being aware of her cancer recurrence.

39. As a direct and proximate result of Defendant's discrimination, Ms. Diaz has suffered loss of wages, including loss of back pay, loss of front pay, loss of amenities of employment and out of pocket expenses, emotional damages, embarrassment, humiliation, loss of reputation, and other similar damages.

40. Further, Ms. Diaz is entitled to recover her reasonable attorney's fees and costs.

SECOND CAUSE OF ACTION – INTERFERENCE IN VIOLATION OF FMLA
29 U.S.C. §2615(a) *et seq.*

41. Ms. Diaz hereby realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

42. Ms. Diaz was an eligible employee who was entitled to FMLA leave for her medical condition but that was interrupted by Defendant's discriminatory conduct.

43. Defendant believed that Ms. Diaz required FMLA leave in the immediate future due to her medical condition.

44. After a day of disclosing her medical condition, she was terminated.

45. The clear interference with her right to protected leave under the FMLA caused her significant harm and stress.

46. Defendant's interference with Ms. Diaz's ability to take leave caused her harm.

47. As a direct and proximate result of Defendant's discriminatory conduct, Ms. Diaz suffered and continues to suffer economic and other nonpecuniary losses.

48. Defendant's actions were intentional, willful, and done in reckless disregard of Ms. Diaz's rights as protected by FMLA.

49. Accordingly, Ms. Diaz is entitled to recover punitive damages from Defendant.

50. Further, Ms. Diaz is entitled to recover her reasonable attorney's fees and costs.

THIRD CAUSE OF ACTION – WAGE AND HOUR ACT
42 U.S.C. §§ 12101 *et seq.*

51. Ms. Diaz hereby realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

52. During the time relevant to this action, Plaintiff was an "employee" of Defendant within the meaning and definition of the North Carolina Wage and Hour Act, N.C. Gen. Stat. 95-5.2(4); and Defendant was an "employer" of the Plaintiff within the meaning and definition of the Act, N.C. Gen. Stat. 95-25.2(5).

53. Defendant failed to pay wages due to Plaintiff on or before the next regular payday after the termination of Plaintiff's employment.

54. Defendant's actions were violations of the Wage and Hour Act.

55. As a proximate result of the Defendant's violations of the Act, Plaintiff has sustained a loss of wages to which she was entitled pursuant to her employment with Defendant.

56. Plaintiff is entitled to liquidated damages and attorneys' fees, as provided in N.C. Gen. Stat. 95-25.22.

57. Plaintiff is entitled to pre- and post-judgment interest, and any other relief the court may deem just and proper.

FOURTH CAUSE OF ACTION – RETALIATION
42 U.S.C. §§ 12101 *et seq.*

58. Ms. Diaz hereby realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

59. The ADA prohibits retaliation against employees who engage in activities protected by the statute.

60. Ms. Diaz engaged in protected activity within the meaning of the ADA by disclosing the recurrence of her medical condition.

61. Ms. Diaz was punished and terminated from her position with Defendant in retaliation for her protected activity.

62. Defendant knew of Ms. Diaz's protected activity at the time of the retaliation.

63. As a direct and proximate result of Defendant's discriminatory conduct, Ms. Diaz suffered and continues to suffer economic and other nonpecuniary losses.

64. Defendant's actions were intentional, willful, and done in reckless disregard of Ms. Diaz's rights as protected by the ADA.

65. Accordingly, Ms. Diaz is entitled to recover punitive damages from Defendant.

66. Further, Ms. Diaz is entitled to recover her reasonable attorney's fees and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff hereby requests the following relief:

1. Judgment for Plaintiff against Defendant on all causes of action contained herein;
2. Award Plaintiff damages, including liquidated damages, in an amount to be proved at trial;
3. Tax the costs of this action against Defendant and award Plaintiff reasonable attorneys' fees and costs;
4. Recovery for pre-judgment and post-judgment interest on all amounts awarded herein; and

5. All other relief which this Honorable Court deems just and proper.

This the 17th day of June 2025.

COUNSEL CAROLINA

BY: /s/ JOSEPH D. BUDD

JOSEPH D. BUDD
N.C. Bar No. 44263
Ayesha Malik
N.C. Bar No. 61241
1100 Wake Forest Road, Suite 205
Raleigh, North Carolina 27604
joe@counselcarolina.com
919.373.6422
Facsimile: 919.578.3733