

4.

Beginning in April, 2012, and continuing to the present, Plaintiffs all observed that Ms. Fragall's physical condition and mental state had continued to deteriorate. Plaintiffs have observed:

- Fragall began to suffer increasing episodes of pain related to long-standing issues with her kidney stones, back, shoulders, arms and legs;
- Fragall's comments and complaints about her pain and condition have become more frequent and more severe;
- Fragall now more frequently forgets how long food has been cooking, and at what temperatures;
- Fragall often forgets what food items to order from suppliers, or orders many times more than needed, or fails to properly store food items, resulting in spoilage, returns, and waste;
- Fragall often sits for long periods unable to walk or stand, and is obviously in serious pain, unable to manage the staff or participate;
- Fragall often fails to notice health and sanitation violations in the storage, preparation, and serving of food to the students and staff;
- During meetings with staff, Fragall appears disoriented and forgetful, often losing her train of thought or failing to understand the topic or issues;
- Fragall has made uncharacteristic, derogatory and demeaning statements to and about staff and students; and
- Fragall often arrives late, leaves campus for extended periods during the school day, and departs early, obviously exhausted and in pain.

5.

In April, 2012, a meeting was held with Defendant Taylor, a representative of the union and the entire kitchen staff. In that meeting Plaintiffs related the observations contained in paragraph 4, above.

6.

Immediately after the meeting described in paragraph 5, above, Fragall's approach to, communications with Plaintiffs changed. Fragall became unreasonably critical of Plaintiffs, both verbally and in written performance reviews. Fragall cited Plaintiffs for violations not held against other staff, for failing to adequately identify students receiving food at lunch. Fragall withheld work related information from Plaintiffs. Fragall refused to speak to or interact with any of the Plaintiffs, except in curt and rude verbal directives. Fragall made unnecessary, temporary transfers of Plaintiffs to the North School for "training."

7.

In September, 2012, after Plaintiff Williams left the kitchen staff, Fragall announced to that Fragall wanted Plaintiffs Rowley and Passantino-Symonds "out of the kitchen." Plaintiffs reported the comments to Defendant Taylor and Komar, Ken Richardson and Don Grotting, all supervisory personnel at DDSD; there was no further response from DDSD.

8.

In April, 2014, Plaintiffs Rowley and Passantino-Symonds were summoned to a meeting with Fragall and Defendant Taylor. Fragall was objecting to Rowley and Passantino-Symonds reporting for work a half hour early on a prior Monday morning. Plaintiffs explained that there was a large shipment of food being delivered by Sysco, which would need to be unloaded and stored, before food preparation activities could start. Plaintiffs pointed out that others were allowed to come in early; and in one case, sometimes two hours early, for two years, without Fragall objecting. Plaintiffs complained of retaliation by Fragall.

9.

At the meeting described in paragraph 8, above, Fragall directed Plaintiffs Rowley and Passantino Symonds "not to enter ID numbers manually" of students in the cafeteria, but rather they must swipe the ID card into the school computer system. Plaintiffs countered that some of the students did not have their card or the card would not read. Defendant Taylor told Plaintiffs

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that the Vice Principal Charlene Baseen had forbidden the practice of manually entering ID numbers. When Plaintiffs checked with Baseen, they were told to use their “professional discretion.” Baseen advised Plaintiffs that both the staff and the students should benefit from “established relationships with the kids.” No such prohibition of manual entry of ID numbers were in place at North kitchen.

10.

During December, 2014, Plaintiff Rowley contacted Fragall so that they could plan for set up of the kitchen in preparation for the first week back from Christmas break. In meetings that followed in February, 2014, Defendants Komar and Taylor questioned Plaintiffs about why they had come to the school, and why the time was not listed on a time card. Plaintiffs explained that there were no time cards to fill out, but they made notes of the time spent at the school.

11.

On January 28, 2015 another meeting of all the staff of South Kitchen, and Defendants Komar and Taylor. Plaintiff Passantino-Symonds tried to attend that meeting but was informed by Komar’s office that she had “missed” the meeting and could not attend. Defendant Taylor told Plaintiff Rowley that Rowley need not attend the meeting by Defendant Taylor, but Rowley was later reprimanded by Komar, and was told that Rowley could not “choose not to attend meetings.”

12.

Plaintiffs Rowley and Passantino-Symonds met with Defendants Komar and Taylor on February 6, 2015 and February 9, 2015. On Monday, February 9, Defendant Taylor informed Rowley and Passantino-Symonds that would each be transferred to North kitchen for a month of “cross training.” Rowley and Passantino-Symonds were among some of the people moved to North for this “cross training”; however, unlike others, Plaintiffs were not allowed by Defendants to “adjust or alter” their work schedules at North to accommodate personal needs.

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13.

In February, 2015, once Plaintiffs started at North kitchen, Fragall objected to the fact that Plaintiff Passantino-Symonds was receiving “second cook wages.” Fragall told Rowley that “they were looking to cut hours and [Plaintiff Passantino-Symonds] would be the first to go.”

14.

During the cross training, Plaintiff Passantino-Symonds was approached by a North cook and asked if Plaintiff felt she job was “protected” in the South kitchen. Members of the North staff told Plaintiffs that rumors were that they would be removed from their jobs at South kitchen.

15.

On May 16, 2015, Fragall, with Janet Barber, instigated and spread a rumor among the North kitchen staff, that Plaintiffs “had a lawsuit against the District and they don’t know why.”

16.

Since November, 2014 Plaintiff Williams has participated in a student-operated Italian soda cart, which sold beverages to students and staff to raise money for student activities like the cart. The cafeteria does not sell Italian sodas. Usually the cart was operated in the cafeteria; then Defendant Taylor ordered the cart moved to the hallway adjacent to the cafeteria. On April 3, 2015, Plaintiff Williams was notified by Defendant Taylor that the school would no longer allow the soda cart to operated ion “any place were food is served or eaten”, because the cart “competed” with the food service. The kitchen staff had begun to sell and distribute food in the hallways.

17.

Plaintiff Williams objected, and sent a formal written complaint to the Vice-Principal Rolando Florez. On April 13, 2015, all of Plaintiff Williams’ emails from her work account related to her complaints concerning Defendants and to Florez were missing. Florez had previously cautioned Plaintiff Williams to copy the emails to a personal account. The assistant

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superintendent later reported to Plaintiff Williams that “the District does not delete emails”, but had no explanation as to where those emails could be found.

18.

Fragall continues to speak to Plaintiffs in rude, abusive, and dismissive terms and tone. The acts and statements alleged in paragraphs 1-17 hereof, were made with the express intent to harass, alarm, and annoy Plaintiffs. Said acts and statements created a hostile working environment, in a purposeful retaliation for Plaintiffs complaints related to the food, safety and health issues raised by Plaintiffs report to staff at DDSD.

19.

Beginning in 2012, and continuing to the current school year, Plaintiffs have repeatedly told Defendants of Plaintiffs’ concerns for the health and safety of students and staff related to food preparation and service practices in the South kitchen. Plaintiffs have notified school officials of their intention to seek local health official’s assistance of measures were not taken to remedy those health and safety issues. Plaintiffs did communicate with local health officials about these issues. Plaintiffs have repeatedly notified Defendants and others of the retaliatory actions taken against them by Defendants and others against Plaintiffs.

20.

Defendants’ staff and Plaintiffs have noticed a marked reduction in the number of students eating at the cafeteria. Many students have simply refused to eat the food served at South.

For their FIRST CLAIM FOR RELIEF, Plaintiffs alleges:

[ORS 659A.199 -hostile working environment - whistle-blowing]

21.

Plaintiffs reallege paragraphs 1-20 of this complaint.

22.

Plaintiffs reported to Defendant safety violations and conduct that Plaintiffs believed

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were violations of state, county or federal laws. Defendants discriminated and retaliated against Plaintiffs because of the reports made by Plaintiff. Defendant's actions violated ORS 659A.199, are an unlawful employment practice, and caused Plaintiff non-economic damages.

23.

As a direct and proximate result of Defendants' actions, Plaintiffs suffered, and continue to suffer, non-economic damages, in the form of emotional distress, embarrassment and humiliation, anxiety, anger, concern and stress in an amount to be determined by a jury, not to exceed \$250,000 for each Plaintiff.

24.

Pursuant to ORS Chapter ORS 659A.885 and ORS 20.107, the Plaintiff is entitled to recover reasonable attorney fees and costs, including expert witness fees.

25.

Plaintiff is entitled to post judgment interest on all damages, costs, expenses, and fees from the date of judgment until the date paid.

WHEREFORE, plaintiff prays for judgment against defendants:

On the FIRST CLAIM FOR RELIEF, for non-economic damages in the amount of \$250,000 for each Plaintiff;

together with Plaintiffs' attorneys fees, costs and, disbursements incurred herein, interest at the legal rate and such other relief that the Court deems just and proper.

DATED this 12th day of August, 2015.


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