

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

★ OCT 20 2008

JENNIFER SODANO
Plaintiff,

-against-

REFINANCE.COM, and NICK BRATSAFOLIS, PAUL (ST)
LEVINE, PHIL REILLY, ROSLYN BUSH,
and JIM CLOONEY, in their official and individual
capacities,

Defendants.

LONG ISLAND
VERIFIED
COMPLAINT

CV 08 4252

BIANCO, J.
TOMLINSON, M

JURY TRIAL
DEMANDED

Plaintiff, Jennifer Sodano (“Plaintiff” or “Sodano”), by and through her attorneys, Steinberg, Fineo, Berger & Fischhoff, P.C., complaining of the Defendants, Refinance.com, Nick Bratsafolis, Paul Levine, Phil Reilly, Roslyn Bush, and Jim Clooney, (hereinafter individually referred to by name or collectively as “Refinance” or “Defendants”), alleges as follows:

NATURE OF THE CASE

1. This is a lawsuit alleging disability discrimination, a related hostile work environment, and unlawful retaliation under the Americans with Disabilities Act, 42 U.S.C. section 12101 et seq., and under the New York State Human Rights Law, Executive Law sections 290 et seq. Relief is sought under each of the above referenced statutes, the Civil Rights Act of 1991, 29 U.S.C. section 1981a, and under common law principles. An award of attorney’s fees is sought under the Civil Rights Attorneys Fees Awards Act of 1976, 42 U.S.C. section 1988.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the within action under Federal question jurisdiction pursuant to 28 U.S.C. Section 1331. Jurisdiction over the supplemental state claims arises under 28 U.S.C. section 1367.

Venue is proper in this district pursuant to 28 U.S.C. Section 1391(b) because a substantial part of the events and/or omissions giving rise to the claims herein occurred in this district, and the Defendants have a place of business in this district.

3. Plaintiff Sodano duly filed a Charge of Discrimination with the Equal Employment Opportunity Commission. The Plaintiff's Charge of Discrimination was assigned Charge No. 520-2008-03924. Plaintiff received a Notice of Right to Sue dated October 1, 2008 from the Equal Employment Opportunity Commission. A copy of the Notice of Right to Sue is annexed hereto as Exhibit A.

PARTIES

4. Plaintiff is a citizen of the United States, and a resident of the State of New York, County of Nassau.
5. Defendant Refinance.com, is upon information and belief, a duly organized business entity doing business in interstate commerce, including but not limited to in the State of New York, in the Counties of Nassau, and New York.
6. During all times relevant to this Complaint, Defendant Nick Bratsafolis was and is the Chief Executive Officer and Chairman of Refinance.com.
7. During all times relevant to this Complaint, Defendant Phil Reilly was and is an employee, agent, manager, and/or officer of Refinance.com.

8. During all times relevant to this Complaint, Defendant Roslyn Bush, was and is an employee, agent, manager, and/or officer of Refinance.com.
9. During all times relevant to this Complaint, Defendant Jim Clooney, was and is an owner, employee, agent, manager, and/or officer of Refinance.com.
10. During all times relevant to this Complaint, Defendant Paul Levine was and is the Chief Operating Officer of Refinance.com.
11. Plaintiff was employed by Refinance for 2 years and 9 months as a Processing Manager, at their offices located at 60 Oak Drive, Syosset, New York. Plaintiff's job performance in this position was at all times more than satisfactory.
12. Plaintiff was never disciplined nor counseled for any performance issues during her employment at Refinance.
13. Despite Plaintiff's good work record, she was terminated from her position by Defendants on April 3, 2008.
14. Refinance is a mortgage company that at all relevant times had, and upon information and belief, still has a business location at 60 Oak Drive, Syosset, New York.
15. During all relevant times, Refinance has had more than 50 employees.
16. Defendant Phil Reilly was Plaintiff's direct supervisor at the time of Plaintiff's termination from employment.
17. Defendant Roslyn Bush was the Director of Human Resources at the time of Plaintiff's termination from employment.
18. Upon information and belief, Defendant Jim Clooney was and is the owner of Refinance during all times relevant hereto.

19. Plaintiff's termination was under circumstances indicating that she is the victim of disability discrimination and retaliation.
20. Refinance was aware during Plaintiff's employment that she suffers from medical conditions including a heart condition and a blood disorder.
21. From time to time during Plaintiff's employment, Plaintiff came to work wearing a heart monitor. In addition, Plaintiff had discussions with at least one Refinance employee concerning her blood disorder.
22. Despite these medical conditions, Plaintiff was fully qualified to perform her position and had been meeting all of her job expectations.
23. Approximately one month prior to Plaintiff's termination from employment, Defendant Phil Reilly became Plaintiff's immediate supervisor.
24. Approximately one week before Plaintiff was terminated, medical issues arose with her heart condition, and she collapsed upon her return home from work.
25. Plaintiff telephoned Refinance the next morning and advised them that she had collapsed, was having chest pains, that she needed medical attention and testing, and that she would not be at work that day.
26. Following Plaintiff's doctor visit that day, Plaintiff notified Refinance that she needed one more day of absence. Plaintiff faxed a note from her physician to Refinance verifying her medical need for absence.
27. Plaintiff returned to work following the aforesaid two days of absence wearing a heart monitor.
28. Plaintiff's co-workers and supervisor were aware that she was wearing the heart monitor because it is visible and makes audible sounds.

29. The day Plaintiff returned to work, Plaintiff advised Phil Reilly that she needed to leave work that day by 6 pm for a medical appointment. Defendant Reilly did not prevent Plaintiff from leaving on that day, but exhibited an obviously negative demeanor towards her in response to her request to leave no later than 6 p.m.
30. In the days following Plaintiff's return to work, she became aware from her doctor that she required additional testing and heart monitoring.
31. Despite Plaintiff's medical situation and needs, of which Defendants were made aware, Defendant Reilly demanded a "guarantee" from Plaintiff that she would work until at least 8 pm each night. Defendant Reilly advised Plaintiff that unless she gave this guarantee, she would have no place in the company.
32. Plaintiff advised Defendant Reilly that based upon her medical condition, she could not make that guarantee, and in response, he summarily terminated Plaintiff's employment.
33. While Plaintiff was getting ready to leave following Reilly's having terminated her, she received a call from Refinance's Human Resources department, confirming that she no longer had a job with Refinance.
34. Prior to Plaintiff's termination, she was never made aware of issues regarding her work hours, performance, or productivity. Plaintiff was terminated following her having made Defendants, and particularly Defendant Reilly, aware that her medical condition would require her to leave work earlier than 8 pm on some occasions.
35. Defendant Reilly circulated an e-mail to Plaintiff and other members of Refinance's staff demeaning Plaintiff and ridiculing her heart condition. This e-

mail caused Plaintiff embarrassment and humiliation in addition to extreme distress.

36. Although Plaintiff attempted to discuss her situation with the Human Resources Department, and object to her termination, these attempts fell on deaf ears and Plaintiff was not given any consideration for her medical situation.

37. Upon information and belief, Defendants lack an effective procedure for prompt remediation of discrimination/retaliation complaints from employees.

AS AND FOR A FIRST CAUSE OF ACTION

38. Plaintiff repeats and realleges paragraphs 1-37 as if set forth more fully hereat.

39. Plaintiff was qualified for her position as Processing Manager.

40. Plaintiff suffered from a disabling condition and/or conditions within the meaning of the Americans with Disabilities Act. These conditions were known to the Defendants.

41. Plaintiff was regarded as impaired by Defendants as a result of her health condition(s).

42. Plaintiff's request to leave work in time for physician appointments constituted a request for a reasonable accommodation under the Americans with Disabilities Act.

43. Plaintiff was terminated from her position following her request for reasonable accommodations.

44. Plaintiff's termination from work constituted an adverse employment action.

45. Plaintiff's termination under the foregoing circumstances amounted to a denial of her right to be free from disability discrimination under the Americans with

- Disabilities Act and/or to be granted reasonable accommodations for her health condition(s).
46. Plaintiff was terminated because of her medical condition(s) and/or because Defendants considered her to be impaired.
47. In addition, the Defendants retaliated against Plaintiff for pursuing her rights in violation of the Americans with Disabilities Act.
48. Upon information and belief, Plaintiff was replaced by a person who is non-disabled.
49. Upon information and belief, the aforesaid discrimination and retaliation was done willfully and/or recklessly, and/or intentionally.
50. The Defendants' actions have damaged Plaintiff in her person and in her employment and were in violation of her rights under the Americans with Disabilities Act.
51. As a result of defendant's unlawful acts, plaintiff has been damaged in her person, property and employment and has been deprived of wages, benefits, terms and conditions of employment and other entitlements, which she would have received but for Defendant's unlawful conduct.

AS AND FOR A SECOND CAUSE OF ACTION

52. Plaintiff repeats and realleges paragraphs 1-51 as if set forth more fully hereat.
53. The foregoing actions on the part of the Defendants constituted unlawful discrimination and retaliation under the New York Executive Law, sec. 290 et seq.

54. Defendant Reilly committed, orchestrated, incited, participated in, acquiesced in, condoned, aided, and/or abetted the unlawful discrimination and retaliation against Plaintiff.
55. Defendant Bush committed, orchestrated, incited, participated in, acquiesced in, condoned, aided, and/or abetted the unlawful discrimination and retaliation against Plaintiff.
56. Defendant Clooney committed, orchestrated, incited, participated in, acquiesced in, condoned, aided, and/or abetted the unlawful discrimination and retaliation against Plaintiff.
57. Upon information and belief, Defendant Bratsafolis committed, orchestrated, incited, participated in, acquiesced in, condoned, aided, and/or abetted the unlawful discrimination and retaliation against Plaintiff.
58. Upon information and belief, Defendant Paul Levine committed, orchestrated, incited, participated in, acquiesced in, condoned, aided, and/or abetted the unlawful discrimination and retaliation against Plaintiff.
59. The Defendants' actions have damaged Plaintiff in her person and in her employment and were in violation of her rights under the New York Executive Law sec. 290, et seq.
60. As a result of defendant's unlawful acts, plaintiff has been damaged in her person, property and employment and has been deprived of wages, benefits, terms and conditions of employment and other entitlements which she would have received but for Defendant's unlawful conduct.

WHEREFORE, Plaintiff demands judgment against the Defendants as follows:

1. On the FIRST CAUSE OF ACTION, awarding all damages as may be awarded by statute, including but not limited to back pay, front pay, compensatory damages, actual damages, incidental damages, consequential damages, lost wages, benefits, bonuses, and any salary increases Plaintiff would have received from the date of Defendants' unlawful acts in amounts to be determined at trial but not less than Five Hundred Thousand Dollars (\$500,000.00) along with punitive damages in amounts to be determined at trial of this action and attorneys fees and costs in favor of the Plaintiff and against the Defendants;
2. On the SECOND CAUSE OF ACTION, awarding such damages as may be awarded by statute, including but not limited to back pay, front pay, lost wages, benefits, bonuses, and any salary increases plaintiff would have received from the date of Defendants' unlawful acts in amounts to be determined at trial but not less than Five Hundred Thousand Dollars (\$500,000.00).
3. Awarding such other and further relief as to this Court may appear just and appropriate in the premises.

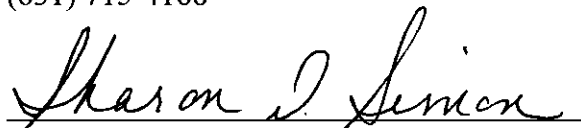
Plaintiff demands a jury trial of all issues that may be so tried.

Respectfully submitted,

STEINBERG, FINEO, BERGER & FISCHOFF, P.C.
Attorneys for Plaintiff

401 Broadhollow Road
Melville, NY 11747
(631) 715-4168

By:

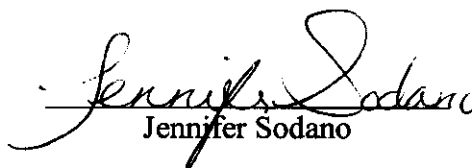

Sharon D. Simon, Esq.

VERIFICATION

STATE OF NEW YORK
)
COUNTY OF Nassau)ss.:

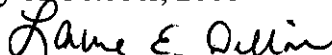
JENNIFER SODANO, being duly sworn, deposes and says:

I am the Plaintiff in the within action, and have read the annexed Verified Complaint, and know the contents thereof to be true to my own knowledge, with the exception of those matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true.


Jennifer Sodano

Duly sworn to before me this

7th day of October, 2008



LAURIE E. DILLON
Notary Public, State of New York
No. 01D16059238
Qualified in Nassau County
Commission Expires May 29, 20 11