

FIRST JUDICIAL DISTRICT COURT
COUNTY OF SANTA FE
STATE OF NEW MEXICO

CHRISTA VALDEZ,

Plaintiff,

vs.

No. D-101-CV-2018-00710

Case assigned to Ortiz, Raymond Z.

INTERNATIONAL ALLIANCE OF
THEATRICAL STAGE EMPLOYEES
LOCAL 480, AND JON B. HENDRY,

Defendants.

COMPLAINT FOR COMMON-LAW WRONGFUL DISCHARGE, NEGLIGENCE,
FRAUDULENT MISREPRESENTATION, INTERFERENCE WITH CONTRACTUAL
RELATIONS AND PROSPECTIVE ECONOMIC ADVANTAGE, AND COMPENSATORY
AND PUNITIVE DAMAGES

Plaintiff Christa Valdez (“Ms. Valdez”), by and through her counsel, Trent A. Howell, brings this Complaint against International Alliance of Theatrical Stage Employees Local 480 (“IATSE Local 480”) and Jon B. Hendry (“Mr. Hendry”) in both his official and individual capacities.

1. This action is brought under the common law of the State of New Mexico and for redress of Defendants’ violations of the New Mexico Human Rights Act, NMSA §28-1-1, *et seq.* (“NMHRA”). *See Gandy v. Wal-Mart Stores, Inc.*, 117 N.M. 441, 445-46 (1994) (holding that existence of NMHRA remedy did not preclude retaliatory discharge claim).

PARTIES AND JURISDICTION

2. Ms. Valdez at all relevant times was a resident of New Mexico and is a “person claiming to be aggrieved by an unlawful discriminatory practice” within the meaning of NMSA §28-1-10(A).

3. Defendant IATSE Local 480 is and/or at all relevant times was a New Mexico-

based and -operating unincorporated association, with a principal place of business at 1418 Cerrillos Road, Santa Fe, New Mexico, 87505 and thereby operating and maintaining offices in Santa Fe County, making venue in this Court proper pursuant to NMSA §38-3-1(A). IATSE Local 480 is a “labor organization” within the meaning of NMSA §28-1-2(F) and §28-1-7(B).

4. Upon information and belief, Defendant Jon B. Hendry is a resident of Santa Fe, New Mexico, making venue in this Court proper pursuant to NMSA §38-3-1(A). Hendry is and/or at all relevant times was Business Agent of IATSE Local 480 and President of the New Mexico Federation of Labor, AFL-CIO.

5. The unlawful discriminatory practices alleged herein were committed in, directed by Defendants to, and arise from their contractual actions in or from Santa Fe County, New Mexico, thereby conferring jurisdiction and venue over the parties and subject matter hereto in this Court.

6. Ms. Valdez filed written complaints with the New Mexico Human Rights Bureau (“NMHRB”) setting forth the same allegations under NMHRA as are included in this Complaint.

7. Ms. Valdez is exhausting administrative remedies and satisfying preconditions to sue under the NMHRA.

8. The court has jurisdiction over the parties and subject matter pursuant to Article VI, §13 of the Constitution of the State of New Mexico.

FACTUAL ALLEGATIONS

9. Defendants employed Ms. Valdez as a public relations representative for approximately five years, through October 31, 2017.

10. Hendry continually harassed and intimidated Ms. Valdez with sexual propositions and inappropriate conditions to maintain employment.

11. The work environment was hostile, harassing, and discriminatory, through Hendry's continual and continuing quid pro quo and unprofessional conduct toward Ms. Valdez, which included:

- a. Hendry grabbing Ms. Valdez and other IATSE Local 480 employees' buttocks;
- b. Hendry showing Ms. Valdez and other IATSE Local 480 employees and members naked photos on his phone;
- c. Hendry on August 30, 2016 texting Ms. Valdez: "Sorry. Could you send me a pic of your naked sweaty skinny body. At least one of us will feel much better;"
- d. Hendry asking Ms. Valdez to make false statements to reassure another IATSE Local 480 employee with whom he was romantically involved; and
- e. Hendry bragging frequently about how he ruined careers of people in the industry who crossed him.

12. Despite such history, Defendants left Hendry in place, and on August 13, 2017, he advised Ms. Valdez she was being terminated.

13. At that time, Hendry's office stated the reason for terminating Ms. Valdez was because IATSE Local 480 was "bringing [the work] back in house."

14. Defendants' stated reason for terminating Ms. Valdez is a pretext for discrimination and retaliation, as evidenced by circumstances including but not limited to the following:

- a. as noted below, Defendants' stated reason(s) for the termination changed over time;
- b. post-termination, Defendants cited two incidents as having been their

reasons for being dissatisfied with Ms. Valdez;

c. Defendants fabricated the incidents; and

d. while employing Ms. Valdez, Defendants never brought these incidents to her attention as grounds for dissatisfaction or termination.

15. Ms. Valdez complained of the same within Defendants' corporate structure to no avail.

16. After the August 13, 2017 notice of termination, Ms. Valdez complained to Doug Acton (IATSE Local 480 President) and Frank Garcia (IATSE Local 480 CFO and Corresponding Secretary) about how Mr. Hendry treated her and other employees and members.

17. Mr. Acton and Mr. Garcia acknowledged they were aware of other persons making similar complaints against Mr. Hendry.

18. However, IATSE Local 480 still left Mr. Hendry in place, and he continued to use his agency and authority for IATSE Local 480 to retaliate against Ms. Valdez.

19. Ms. Valdez performed her final services for IATSE Local 480 on or by October 31, 2017 and thereafter received no work or compensation from Defendants.

20. Within two months, individual IATSE Executive Board members approached Ms. Valdez to discuss a new contract, requesting a proposal.

21. After Ms. Valdez submitted her proposal, on December 17, 2017, an executive member of the board made the presentation to the full board. At the meeting and in response to the presentation, Mr. Hendry objected to Ms. Valdez's reinstatement in any form and falsely claimed Ms. Valdez had spoken out in a derogatory way against IATSE.

22. On January 31, 2018 a local film industry company, Robert Baxter Casting, offered Ms. Valdez a new public relations contract.

23. Ms. Valdez began preliminary work for the company on February 1, 2018.

24. On February 5th, Robert Baxter, the head of the company, told Ms. Valdez Mr. Hendry (1) strongly advised him not to have anything to do with Ms. Valdez and (2) threatened that Robert Baxter Casting would “have no place” on film projects of or related to Mr. Hendry/IATSE if Mr. Baxter worked with Ms. Valdez.

25. When Mr. Baxter questioned the sudden disdain Hendry had for Ms. Valdez, Hendry falsely claimed Ms. Valdez had “tried to take credit” for a large scale IATSE-related project.

26. In response to Hendry’s threats, Robert Baxter Casting ceased performance on its contract with Ms. Valdez.

27. Defendants have caused and continue to cause Ms. Valdez damages including, but not limited to, lost income and economic advantage.

CAUSES OF ACTION

COUNT I

COMMON-LAW WRONGFUL DISCHARGE: NMHRA EMPLOYMENT DISCRIMINATION – SEXUAL HARASSMENT AND DISCRIMINATION

28. Ms. Valdez incorporates each paragraph of this Complaint as if fully set forth herein.

29. Each Defendant is a “person” within the meaning of New Mexico Statutes § 28-1-2(A).

30. Each Defendant is an “employer” within the meaning of New Mexico Statutes § 28-1-2(B).

31. Ms. Valdez is a “person” within the meaning of New Mexico Statutes § 28-1-2(A).

32. Ms. Valdez was and is otherwise qualified to perform the essential functions of a public relations representative.

33. By the above conduct, Hendry:

a. attempted to and did aid, abet, incite, compel or coerce the doing of an unlawful discriminatory practice, in violation of § 28-1-7(I)(1); and

b. willfully obstructed or prevented persons, including but not limited to IATSE Local 480 from complying with the provisions of the NMHRA, in violation of § 28-1-7(I)(3).

34. Through the authorized and/or ratified conduct of Hendry, and/or by negligently retaining Hendry and ratifying his conduct, IATSE Local 480:

a. discriminated in matters of compensation, terms, conditions, or privileges of employment because of sex in violation of New Mexico Statutes § 28-1-7(A);

b. excluded, expelled, or otherwise discriminated against Ms. Valdez because of sex in violation of New Mexico Statutes § 28-1-7(B); and

c. engaged in, aided, and abetted the same violations of New Mexico Statutes § 28-1-7(I)(1)-(3).

35. Contravening a clear mandate of public policy, Defendants terminated Ms. Valdez based on her sex (female) and her rejection of Hendry's advances and quid pro quo.

36. Under the common law of wrongful and retaliatory discharge and New Mexico Statutes § 28-1-13, Defendants are liable to Ms. Valdez for compensatory damages including but not limited to back pay, front pay, and emotional distress, and for reasonable attorney fees, and litigation costs including but not limited to expert fees.

COUNT II
COMMON-LAW WRONGFUL DISCHARGE: NMHRA RETALIATION

37. Ms. Valdez incorporates each paragraph of this Complaint as if fully set forth

herein.

38. Contravening a clear mandate of public policy, Defendants terminated Ms. Valdez in violation of New Mexico Statutes § 28-1-7 (I)(1) and (2), and engaged in, aided, abetted, incited, compelled and/or coerced forms of threats, reprisal or discrimination against Ms. Valdez for having “opposed [an] unlawful discriminatory practice” with respect to the sexual harassment and discrimination of Hendry and IATSE Local 480.

39. Under the common law of retaliatory discharge and New Mexico Statutes § 28-1-13, Defendants are liable to Ms. Valdez for her resulting compensatory damages, including but not limited to back pay, front pay, employee benefits, and emotional distress, and for reasonable attorney fees, and litigation costs including but not limited to expert fees.

COUNT III
NEGLIGENCE AND/OR FRAUDULENT MISREPRESENTATION

40. Ms. Valdez incorporates each paragraph of this Complaint as if fully set forth herein.

41. In addition and/or the alternative to the claims stated herein, Ms. Valdez states that Defendants made negligent, false, and fraudulent representations to their board and to Robert Baxter Casting regarding prior conduct of Ms. Valdez.

42. Defendants made each representation with knowledge and/or reckless disregard of its being false.

43. Defendants made each representation with the intent to deceive and to induce their board and Robert Baxter Casting to rely on the representation.

44. IATSE Local 480, its board, and Robert Baxter Casting did in fact rely on the representations to the detriment of Ms. Valdez, and with resulting damages.

45. In all the above misconduct and offenses, including misrepresentations, harassment, discrimination, termination, and retaliation, Defendants negligently breached their duties of ordinary care, with the foreseeable and actual result of causing Ms. Valdez damages for which she now sues.

46. Under New Mexico common law regarding negligence and fraud, Defendants are liable to Ms. Valdez for her lost expectancy in employment and special damages, including but not limited to litigation costs.

COUNT IV
INTERFERENCE WITH CONTRACT AND PROSPECTIVE ECONOMIC ADVANTAGE

47. Ms. Valdez incorporates each paragraph of this Complaint as if fully set forth herein.

48. Defendants had knowledge of the contract and/or the prospective economic advantage between IATSE Local 480 and Ms. Valdez, as well as the between Robert Baxter Casting and Ms. Valdez.

49. Performance of the contract was refused by IATSE Local 480, as well as by Robert Baxter Casting.

50. Defendants played an active and substantial part in causing Ms. Valdez to lose the benefits of the contract and prospective economic advantage in each instance.

51. Damages flowed from the breached contract and/or prospective economic advantage, in each instance.

52. Defendants induced the breach without justification or privilege to do so in each instance.

53. Under New Mexico common law regarding interference with contract and

prospective economic advantage, Defendants are liable to Ms. Valdez for her lost expectancy in employment and special damages, including but not limited to litigation costs.

PUNITIVE DAMAGES

54. Ms. Valdez incorporates each paragraph of this Complaint as if fully set forth herein.

55. Through one or more of the above Counts, Ms. Valdez can state a cause of action under which she would be entitled to compensatory or nominal damages against Defendants. *See Sanchez v. Clayton*, 117 N.M. 761, 877 P.2d 567, 573 (1994) (finding that plaintiff who thus states any such cause of action may pursue punitive damages based on an appropriately culpable mental state); *President and Fellows of Harvard College v. Elmore*, 222 F. Supp. 3d 1050, 1066 (D.N.M. 2016) (citing *Sanchez*).

56. While harassing, discriminating, and retaliating against Ms. Valdez, interfering with and terminating her IATSE Local 480 employment, and interfering with her contractual relations with Robert Baxter Casting, Defendants acted in bad faith, recklessly, dishonestly, maliciously, willfully, and/or wantonly.

57. Punitive damages are appropriate to punish defendants and to deter others from the commission of like offenses.

PRAYER FOR RELIEF

58. WHEREFORE, Ms. Valdez respectfully demands:

A. Judgment in favor of herself and against Defendants, awarding her general and compensatory damages, including but not limited to her back pay, front pay, and emotional distress;

B. Judgment awarding punitive damages;

C. Judgment awarding the costs and reasonable attorney fees incurred in prosecuting this action; and

D. Any other relief to which she may be entitled.

JURY DEMAND

59. Plaintiff Christa Valdez hereby demands trial by jury on all issues so triable.

Respectfully Submitted,
-/s/ Trent A. Howell - Electronically signed-
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