

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED-EP

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Donald L. Ware
DLW-20
DW 04-048 - 30 Pages

AMY ROGERS)
)
Plaintiff,)
)
v.)
)
VEOLIA WATER NORTH AMERICA,)
UNITED STATES FILTER)
CORPORATION, and NALCO COMPANY)
)
Defendants.)

JUDGE SHADUR
CLERK
U.S. DISTRICT COURT

Case No. 050 0486

PLAINTIFF DEMANDS TRIAL BY JURY

MAGISTRATE JUDGE DENLOW

COMPLAINT AT LAW

NOW COMES the Plaintiff, AMY ROGERS, by and through her attorneys, LORI A. VANDERLAAN and KIMBERLY A. CARR of BEST, VANDERLAAN & HARRINGTON, and for her Complaint against Defendants, VEOLIA WATER NORTH AMERICA, UNITED STATES FILTER CORPORATION and NALCO COMPANY, hereby states as follows:

NATURE OF CLAIM

1. This is an action seeking redress for violations of the Family and Medical Leave Act, sexual discrimination, retaliatory discharge, and other common law theories of recovery. Plaintiff asserts claims under the Family and Medical Leave Act of 1993 and Title VII, as amended by the Civil Rights Act of 1991.

JURISDICTION AND VENUE

2. Jurisdiction lies in this Court pursuant to 28 U.S.C. §1343(a)(3) and (4) and 28 U.S.C. §1331; 42 U.S.C. Section 2000e-5(f)(3); 29 U.S.C. Section 2617(2)(A); and the Employee Retirement Income Security Act, (hereinafter "ERISA"), 29 U.S.C. §1132 *et seq.* Supplemental jurisdiction is based upon 28 U.S.C. §1367 (a).

3. Venue is proper in the Northern District of Illinois, Eastern Division, pursuant to 42 U.S.C. §2000(e)-5(f)(3) and 28 U.S.C. §1391(b), as Plaintiff's causes of action arose herein, and Defendants reside in this district.

PARTIES

4. AMY ROGERS is a female citizen of the United States and currently is a resident of Aurora, Illinois.

5. AMY ROGERS was at all relevant times an employee of Defendants, VEOLIA WATER NORTH AMERICA (hereinafter "VEOLIA") and UNITED STATES FILTER CORPORATION (hereinafter "US FILTER") and NALCO COMPANY (hereinafter "NALCO")¹ and at all relevant times worked for the Defendants in the State of Illinois.

6. Defendants US FILTER and VEOLIA are corporations doing business in the State of Illinois with offices located at 184 Shuman Blvd., Suite 300, Naperville, Illinois, 60563.

7. Defendant NALCO is a corporation doing business in Illinois, headquartered at 1601 West Diehl Road, Naperville, Illinois, 60563

PROCEDURAL REQUIREMENTS

8. Plaintiff ROGERS has fulfilled all conditions precedent to the institution of this action. She timely filed a Charge of Discrimination against Defendants with the Equal Employment Opportunity Commission and has received a Right to Sue letter. The Right to Sue letter is attached hereto and made part hereof as Exhibit "A".

9. Under the Family and Medical Leave Act of 1993 individuals may bring a private civil action against an employer for violations of the same.

¹Hereinafter collectively referred to as "the Defendants" or "Defendants")

FACTUAL BACKGROUND

10. Plaintiff ROGERS began her employment with Defendants US FILTER and VEOLIA on or about June 26, 2000, as a financial analyst.

11. Defendants began a joint venture with NALCO in or about July, 2003, at which time all three Defendants could direct and control her work duties, performance, tasks and assignments, and were all responsible for her compensation on a pro rata basis.

12. At all times throughout the course of her employment, Plaintiff ROGERS performed satisfactorily in all aspects of her job with Defendants.

13. In September 2003, Plaintiff ROGERS notified Defendants of her pregnancy.

14. In February 2004, Plaintiff ROGERS began leave under the Family and Medical Leave Act for the birth of her first child.

15. On March 3, 2004, Plaintiff was notified she was terminated from employment.

16. From September 2003 through March 3, 2004, Plaintiff was treated differently by Defendants than similarly situated male and non-pregnant employees in the terms and conditions of her employment because of her sex, female, and in retaliation for her opposition to discrimination under Title VII and the exercising of her rights under Title VII and the Family Medical Leave Act.

17. This differential treatment by Defendants included, but is not limited to the following:

- a. being repeatedly asked by Defendants if she was returning to work after having her baby;
- b. Failing to restore Plaintiff to the position she was in prior to her maternity leave;
- c. Terminating Plaintiff when similarly situated males and non-pregnant individuals, who were not performing as well as Plaintiff, were retained.

18. Plaintiff ROGERS complained to Defendants that they were treating her differently than similarly situated non-pregnant individuals with regard to the terms and conditions of her employment, and was subsequently terminated.

19. The entire sequence of events recounted herein, occurred in violation of Title VII, and because of her sex, female; her familial and pregnant status; occurred in violation of the Family and Medical Leave Act and/or were in retaliation for opposing discrimination and unlawful conduct in violation of Title VII and under the Family and Medical Leave Act.

COUNT I
DISCRIMINATION IN VIOLATION OF THE
FAMILY AND MEDICAL LEAVE ACT
29 U.S.C. §2601

20. Plaintiff repeats and realleges Paragraphs 1 through 19 as this paragraph 20 as if set forth fully herein.

21. The foregoing acts and conduct by Defendants, including but not limited to, failing to restore Plaintiff to her position after taking leave, and altering the terms and conditions of her employment upon return from her maternity leave violated the Family and Medical Leave Act.

22. Defendants, individually and/or by and through their agents, engaged in the foregoing acts and conduct when they knew or should have known that the same were in violation of the Family and Medical Leave Act and any alleged reasons to the contrary are pretextual.

23. Defendants' wrongful acts, individually and/or by and through their agents, were deliberate, intentional, willful, wanton and malicious and in total disregard to Plaintiff's rights under the Family and Medical Leave Act of 1993.

24. As a direct and proximate result of the acts engaged in by Defendants, Plaintiff suffered severe financial damages, including but not limited to loss of pay, past and future, loss of career opportunities, loss of future earnings and other incidentals and benefits of employment; severe emotional distress, humiliation, embarrassment; damage to reputation, attorneys fees, costs and other damages allowed under the Family and Medical Leave Act.

WHEREFORE, Plaintiff, AMY ROGERS, respectfully requests judgment against Defendants, VEOLIA WATER NORTH AMERICA, NALCO COMPANY and UNITED STATES FILTER CORPORATION, in an amount that will fully compensate her for her injuries and damages for Defendants' violation of Plaintiff's rights under the Family and Medical Leave Act and award Plaintiff damages for loss of wages, past and future, loss of future earnings, loss of career opportunities, loss of employee benefits, past and future, severe emotional distress, embarrassment, humiliation, damage to reputation, court costs, expense of litigation, expert witness fees, reasonable attorneys' fees, punitive damages and/or liquidated damages, as well as any other further relief as the Court deems just and appropriate.

COUNT II
VIOLATION OF FAMILY AND MEDICAL LEAVE ACT - RETALIATION

25. Plaintiff repeats and realleges Paragraphs 1 through 24 as this paragraph 25 as if set forth fully herein.

26. Plaintiff was terminated from her position with Defendants in retaliation for participating in protected activity and exercising her rights under the Family and Medical Leave Act.

27. Defendants, individually and/or by and through their agents, terminated Plaintiff when they knew or should have known that the same were in violation of the Family and

Medical Leave Act and any alleged reasons to the contrary are pretextual.

28. Defendants' wrongful acts, individually and/or by and through their agents, were deliberate, intentional, willful, wanton and malicious and in total disregard to Plaintiff's rights under the Family and Medical Leave Act of 1993.

29. As a direct and proximate result of the acts engaged in by Defendants, Plaintiff suffered severe financial damages, including but not limited to loss of pay, past and future, loss of career opportunities, loss of future earnings and other incidentals and benefits of employment; severe emotional distress, humiliation, embarrassment; damage to reputation, attorneys fees, costs and other damages allowed under the Family and Medical Leave Act.

WHEREFORE, Plaintiff, AMY ROGERS, respectfully requests judgment against Defendants, VEOLIA WATER NORTH AMERICA, NALCO COMPANY and UNITED STATES FILTER CORPORATION, in an amount that will fully compensate her for her injuries and damages for Defendants' violation of Plaintiff's rights under the Family and Medical Leave Act and award Plaintiff damages for loss of wages, past and future, loss of future earnings, loss of career opportunities, loss of employee benefits, past and future, severe emotional distress, embarrassment, humiliation, damage to reputation, court costs, expense of litigation, expert witness fees, reasonable attorneys' fees, punitive damages and/or liquidated damages, as well as any other further relief as the Court deems just and appropriate.

COUNT III
SEXUAL DISCRIMINATION IN VIOLATION OF TITLE VII

30. Plaintiff repeats and realleges the allegations of Paragraphs 1 through 29 as this paragraph 30 as if though fully set forth herein.

31. The foregoing adverse employment actions were taken against Plaintiff because of her sex, female, and/or her familial and/or pregnancy status, in violation of Title VII., 42 U.S.C. §2000 (e) et. seq.

32. Defendants, by and through their agents, engaged in the foregoing acts and conduct when it knew or should have known that the same were in violation of Title VII and any alleged reasons to the contrary are pretextual.

33. Defendants' wrongful acts, by and through its agents, were deliberate, intentional, willful and wanton and in total disregard for Plaintiff's civil rights.

34. As a direct and proximate result of the acts engaged in by Defendants, Plaintiff suffered severe financial damages, including but not limited to loss of pay, past and future, loss of career opportunities, loss of future earnings and other incidentals and benefits of employment; severe emotional distress, humiliation, embarrassment; damage to reputation, attorneys fees, costs and other damages allowed under Title VII.

WHEREFORE, Plaintiff, AMY ROGERS, respectfully requests judgment against Defendants, VEOLIA WATER NORTH AMERICA, NALCO COMPANY and UNITED STATES FILTER CORPORATION, in an amount that will compensate her for her injuries and damages of the past and future for Defendants' violation of Plaintiff's rights under Title VII, as amended by the Civil Rights Act of 1991, including but not limited to loss of wages of the past and future, loss of employee benefits, past and future, loss of future earnings, loss of career opportunities, severe mental and emotional distress, embarrassment and humiliation, damage to reputation, attorney fees and costs, punitive damages, and prejudgment interest, as well as any other further relief as the Court deems just and appropriate.

COUNT IV
RETALIATORY DISCHARGE UNDER TITLE VII

35. Plaintiff repeats and realleges the allegations of Paragraphs 1 through 34 as this paragraph 35 as if though fully set forth herein.

36. Title VII prohibits employers from engaging in retaliatory conduct against an employee who opposes any conduct made via an unlawful employment practice by Title VII, 42 U.S. C. §2000c-3(a).

37. Plaintiff attempted to exercise her rights under the foregoing provision of Title VII through complaints to Defendants regarding the unequal treatment she received, all of which she did reasonably and in good faith believed to be unlawful under Title VII.

38. In addition to Defendants' refusal to resolve Plaintiff's complaints, Defendant engaged in illegal acts of retaliation against Plaintiff, including but not limited to those acts set forth above.

39. Said retaliatory acts by Defendants were in violation of Title VII, and Defendants, by and through their agents, engaged in the foregoing acts and conduct when they knew or should have known that the same were in violation of Title VII and any alleged reasons to the contrary are pretextual.

40. Defendants' wrongful acts, by and through their agents, were deliberate, intentional, willful and wanton and in total disregard for Plaintiff's civil rights.

41. As a direct and proximate result of the acts engaged in by Defendants, Plaintiff suffered severe financial damages, including but not limited to loss of pay, past and future, loss of career opportunities, loss of future earnings and other incidentals and benefits of employment; severe emotional distress, humiliation, embarrassment; damage to reputation, attorneys fees,

costs and other damages allowed under Title VII.

WHEREFORE, Plaintiff, AMY ROGERS, respectfully requests judgment against Defendants, VEOLIA WATER NORTH AMERICA, NALCO COMPANY and UNITED STATES FILTER CORPORATION, in an amount that will compensate her for her injuries and damages of the past and future for Defendants' violation of Plaintiff's rights under Title VII, as amended by the Civil Rights Act of 1991, including but not limited to loss of wages of the past and future, loss of employee benefits, loss of future earnings; loss of career opportunities, severe mental and emotional distress, embarrassment and humiliation, damage to reputation, attorney fees and costs, punitive damages and prejudgment interest, as well as any other further relief as the Court deems just and appropriate.

COUNT V
EMPLOYEE RETIREMENT INCOME SECURITY ACT ("ERISA")

42. Plaintiff repeats and reasserts the allegations of paragraphs 1- 41 as this paragraph 42 as if though fully set forth herein.

43. At all relevant times herein, Plaintiff was a participant and beneficiary of the welfare, pension and health benefit plan provided by Defendants.

44. ROGERS was terminated in order to deprive her of continued participation in Defendants' funded employee welfare and benefit program.

45. Defendants' motivation and intent for terminating ROGERS was discriminatory and in part, in violation of the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. § 1132 *et. seq.* Defendants can offer no legitimate reason for such differential treatment or for the denial of Plaintiff's participation in said employee benefit program; any proffered reason is pretext for Defendants' illegal motivation.

46. Defendants' actions were intentional, wilful and wanton, and done with reckless disregard for Plaintiffs' federally protected rights and to Plaintiff's physical well being.

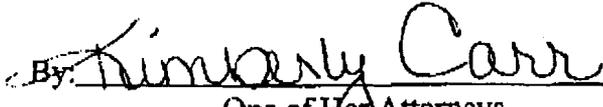
47. As a direct and proximate result of the acts engaged in by Defendants, Plaintiff suffered severe financial damages, including but not limited to loss of benefits, past and future; loss incidentals and benefits of employment; medical expenses; attorneys fees, costs and other damages allowable under ERISA.

WHEREFORE, Plaintiff AMY ROGERS respectfully requests judgment against Defendants VEOLIA WATER NORTH AMERICA, NALCO COMPANY and UNITED STATES FILTER CORPORATION, in an amount that will fully and justly compensate her for her injuries and damages of the past and future, including but not limited to equitable relief, lost employee benefits and other incidentals of employment, attorneys fees and costs, and prejudgment interest, as well as any further relief as the Court deems appropriate.

PLAINTIFF DEMANDS TRIAL BY JURY.

Respectfully submitted,

AMY ROGERS

By: 
One of Her Attorneys

Best, Vanderlaan & Harrington
Kimberly A. Carr
5 East Van Buren Street, Suite 210
Joliet, IL 60432-4292
(815) 740-1500
Attorney Number: 6272033

EEOC Form 181-B (2/00)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Amy Rogers
1821 Hobson Lane
Aurora, IL 60504

From: Equal Employment Opportunity
Commission
Chicago District Office
500 West Madison Street
Suite 2800
Chicago, Illinois 60661-2511

Certified No.: 7001 1940 0003 8823 5875

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1801.7(e))

Charge No.	EEOC Representative	Telephone No.
210-2004-05364	Amy Burkholder, Investigator	(312) 353-8906

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964 and/or the Americans with Disabilities Act (ADA): This is your Notice of Right to Sue, issued under Title VII and/or the ADA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII or the ADA must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

- More than 180 days have passed since the filing of this charge.
- Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of the charge.
- The EEOC is terminating its processing of this charge.
- The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.
- The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of your charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

John P. Rowe
John P. Rowe, District Director

10-29-04
(Date Mailed)

Enclosure(s)

cc: Veolia Water North America

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

JILL MCDONALD,

Plaintiff,

vs.

VEOLIA WATER NORTH AMERICA
OPERATING SERVICES, LLC, a foreign
limited liability corporation,

Defendant.

CASE NO.: 4:06cv-106 - SPM/WCS

ORIGINAL

VERIFIED COMPLAINT AND DEMAND FOR JURY TRIAL

PLAINTIFF, JILL MCDONALD (hereinafter "MCDONALD"), by and through the undersigned counsel, files this Verified Complaint and Demand for Jury Trial against Defendant, VEOLIA WATER NORTH AMERICA OPERATING SERVICES, LLC, a foreign limited liability corporation authorized to do business in the state of Florida (hereinafter "VEOLIA"), and states:

JURISDICTION AND VENUE

1. MCDONALD invokes this Court's jurisdiction under 28 U.S.C. §§ 1331 on the grounds that this action arises under 42 U.S.C. § 12112, the Americans with Disabilities Act, (hereinafter "ADA"). This suit is also authorized pursuant to the Florida Civil Rights Act of 1992, *et seq.*, Florida Statutes (2005) (hereinafter "the Act").



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2. On or about August 30, 2005, MCDONALD filed a Charge of Discrimination against VEOLIA with the Florida Commission on Human Relations (FCHR), FCHR Charge No. 200502812 and the U.S. Equal Employment Opportunity Commission (EEOC), EEOC Charge No. 15DA500899. A copy of the Charge of Discrimination is attached hereto as Plaintiff's Exhibit "A," and made a part hereof by reference. It has now been more than 180 days since the Charge of Discrimination was filed. MCDONALD is entitled to bring this action as a matter of law.

3. The venue of this action is properly placed in the United States District Court for the Northern District of Florida, Tallahassee Division, pursuant to 28 U.S.C. § 1391(b), because a substantial part of the events or omissions giving rise to the claim occurred in this district. At all times relevant, MCDONALD was employed by VEOLIA.

PARTIES

4. MCDONALD, a resident of Wakulla County, Florida, currently residing at 2017 Spring Creek Highway, Crawfordville, Florida 32327, was and is at all times material herein employed by Defendant VEOLIA on 02091 Wakulla Project, in Wakulla County, Florida.

5. At all times material, Defendant VEOLIA was and is a foreign limited liability corporation, organized in the state of Delaware, existing in the state of Texas at its principal address of 14950 Heathrow Forest parkway, Suite 200, Houston, Texas 77032, and authorized to conduct business in the state of Florida.

6. At all times material hereto, Defendant VEOLIA was and is a person engaged in commerce or in industry or activity affecting commerce which employed 50 or more employees for each working day during each of 20 or more calendar work weeks in the preceding calendar year as defined in 29 U.S.C. § 2611(4) and (8).

STATEMENT OF FACTS

7. On June 20, 2000, MCDONALD became an employee of VEOLIA working in the full-time position of Administrative Assistant, 40 hours a week, until January 14, 2005.

8. On or about January 14, 2005, MCDONALD completed VEOLIA's Employee Request for Leave of Absence, requesting Non-occupational Disability Leave of Absence for a period from January 15, 2005, to unknown date because she was suffering from inflammation as a result of Lupus.

9. On or about January 26, 2005, MCDONALD presented a Certificate of Stephen Meyer, M.D., MCDONALD's health-care provider, to her supervisor and VEOLIA's agent, Bobbie Stephens, in support of the Employee Request for Leave of Absence.

10. On or about February 7, 2005, Rhonda Sullivan, HR Supervisor and VEOLIA's agent, posted a letter to MCDONALD confirming approval of the Employee Request for Leave of Absence and informing MCDONALD that her non-occupational disability leave of absence would be handled in accordance with the Company's Disability

Leave of Absence Policy and that it did not meet the terms and conditions required for Family and Medical Leave. Further MCDONALD was advised that if she remained disabled 26 weeks from her Initial Date of Disability, she may become eligible for long-term-disability benefits of which she would be notified by separate correspondence at least 30 days in advance.

11. On or about February 8, 2005, MCDONALD was contacted by a co-worker who informed her that she had been replaced by a new girl.

12. On or about February 9, 2005, MCDONALD went to her immediate supervisor, Bobby Stephens, and requested to speak to her supervisor, Randy Merritt.

13. Randy Merritt told MCDONALD, in the presence of Ms. Stephens and plaintiff's husband, that when her disability ended she would not have a job to come back to. He further stated that this was because he wanted someone who would be there.

14. MCDONALD was prepared to return to work as of February 18, 2005, and has medical documentation to verify that date. At no point was MCDONALD informed by VEOLIA that she could return to work.

15. On February 28, 2005, MCDONALD, through her attorney, requested that VEOLIA provide a good-faith explanation for the reasons it was preventing MCDONALD from returning to her job. VEOLIA was reminded of MCDONALD's medical condition of which it was previously aware. VEOLIA did not provide MCDONALD of a date to return to work, or a location at which to work.

16. On December 15, 2005, MCDONALD was notified that if she did not return to work by January 16, 2006, her employment would be terminated.

17. From the period of February 18th through the present date, MCDONALD has only received compensation in the form of disability payments. As a result of VEOLIA's actions, MCDONALD has lost employer's contribution to her health insurance, pension plan, 401K plan, lost wages, paid leave and retirement benefits and interest on the above-described damages.

18. MCDONALD has had to hire an attorney to protect her rights and is required to pay him reasonable attorney fees and has incurred the costs of filing this lawsuit.

COUNT I

Disability Discrimination in Violation of the Americans with Disabilities Act (ADA), 42 U.S.C. § 12112 (2005)

19. MCDONALD incorporates by reference the allegations contained in paragraphs 1 through 18 above, as if fully set forth in full herein.

20. This is a complaint for discrimination in violation of the ADA, 42 U.S.C. § 12112 (2005).

21. Plaintiff has Lupus, a condition which causes "flare ups," which inhibit mobility and which substantially impair life activities as defined in the ADA, 42 U.S.C. § 12102 (2005).

22. VEOLIA was aware of MCDONALD's condition.

23. VEOLIA failed to reasonably accommodate MCDONALD's request for medical leave.

24. The adverse employment actions described herein were because of MCDONALD'S disability. VEOLIA engaged in discriminatory acts with malice or with reckless indifference of MCDONALD'S rights. VEOLIA's discriminatory practices have affected the terms and conditions of MCDONALD'S employment.

25. As a direct and proximate result of these violations of her rights, MCDONALD further alleges that she has suffered and will continue to suffer diminished wages, emotional distress, mental anguish, pain and suffering, loss of the capacity for enjoyment of life, humiliation, loss of dignity, injury to reputation and loss of savings.

26. As a result of VEOLIA's discriminatory action, MCDONALD has been forced to hire an attorney to protect her rights and, as such, is entitled to recover reasonable attorney fees and costs for bringing this action and other appropriate relief under 42 U.S.C. § 1981(a)(2005).

COUNT II
Retaliation in Violation of
the Americans with Disabilities Act (ADA), 42 U.S.C. § 12112 (2005)

27. MCDONALD incorporates by reference the allegations contained in paragraphs 1 through 18 above, as if fully set forth in full herein.

28. This is a complaint for unlawful retaliation in violation of the ADA, 42 U.S.C. § 12112 (2005).

29. MCDONALD engaged in protected activity by hiring a lawyer to protect her rights and by filing a charge of discrimination.

30. VEOLIA retaliated against her by not permitted her to return back to work after her attorney contacted them. They continued their retaliation and, to date, they have not allowed MCDONALD to return back to work even though she is medically capable of fulfilling her duties.

31. The adverse employment action described herein were because of MCDONALD'S disability. VEOLIA engaged in retaliatory acts with malice or with reckless indifference of MCDONALD'S rights. VEOLIA's retaliatory acts have affected the terms and conditions of MCDONALD'S employment.

32. As a direct and proximate result of these violations of her rights, MCDONALD further alleges that she has suffered and will continue to suffer diminished wages, emotional distress, mental anguish, pain and suffering, loss of the capacity for enjoyment of life, humiliation, loss of dignity, injury to reputation and loss of savings.

33. As a result of VEOLIA's discriminatory action, MCDONALD has been forced to hire an attorney to protect her rights and, as such, is entitled to recover reasonable attorney fees and costs for bringing this action and other appropriate relief under 42 U.S.C. § 1981(a)(2005).

COUNT III
Disability Discrimination in Violation of
the Florida Civil Rights Act (FCRA), Chapter 760.10, Florida Statutes (2005)

34. MCDONALD incorporates by reference the allegations contained in paragraphs 1 through 18 above, as if fully set forth in full herein.

35. This is a complaint for discrimination based on disability in violation of Chapter 760.01, *et seq.*, Florida Statutes (2005), the FCRA, by MCDONALD against VEOLIA.

36. Plaintiff has Lupus, a condition which causes "flare ups" which inhibit mobility and which qualifies as handicap for purposes of Chapter 760.10, Florida Statutes (2005).

37. VEOLIA was aware of MCDONALD's condition.

38. The adverse employment action described herein were because of MCDONALD'S disability. VEOLIA engaged in discriminatory acts with malice or with reckless indifference of MCDONALD'S rights. VEOLIA. discriminatory practices have affected the terms and conditions of MCDONALD'S employment.

39. As a direct and proximate result of these violations of her rights, MCDONALD further alleges that she has suffered and will continue to suffer diminished wages, emotional distress, mental anguish, pain and suffering, loss of the capacity for enjoyment of life, humiliation, loss of dignity, injury to reputation and loss of savings.

40. As a result of VEOLIA's discriminatory actions, MCDONALD has been forced to hire an attorney to protect her rights and, as such, is entitled to recover reasonable attorney fees and costs for bringing this action and other appropriate relief under § 760.11(5), Florida Statutes (2005).

COUNT IV
Retaliation in Violation of the
the Florida Civil Rights Act (FCRA), Chapter 760.10, Florida Statutes (2005)

41. MCDONALD incorporates by reference the allegations contained in paragraphs 1 through 18 above, as if fully set forth in full herein

42. This is a complaint for unlawful retaliation in violation of the FCRA 760.10, Florida Statutes (2005).

43. MCDONALD engaged in protected activity by hiring a lawyer to protect her rights and by filing a charge of discrimination.

44. VEOLIA retaliated against her by not permitted her to return back to work after her attorney contacted them. They continued their retaliation and, to date, they have not allowed MCDONALD to return back to work even though she is medically capable of fulfilling her duties.

45. The adverse employment actions described herein were because of MCDONALD'S disability. VEOLIA engaged in retaliatory acts with malice or with reckless indifference of MCDONALD'S rights. VEOLIA's retaliatory acts have affected the terms and conditions of MCDONALD'S employment.

46. As a direct and proximate result of these violations of her rights, MCDONALD further alleges that she has suffered and will continue to suffer diminished wages, emotional distress, mental anguish, pain and suffering, loss of the capacity for enjoyment of life, humiliation, loss of dignity, injury to reputation and loss of savings.

47. As a result of VEOLIA's discriminatory actions, MCDONALD has been forced to hire an attorney to protect her rights and, as such, is entitled to recover reasonable attorney fees and costs for bringing this action and other appropriate relief under § 760.11(5), Florida Statutes (2005).

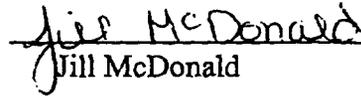
WHEREFORE, Plaintiff, JILL MCDONALD, respectfully demands judgment against Defendant, VEOLIA WATER NORTH AMERICA OPERATING SERVICES, LLC, and requests this Honorable Court for entry of an Order making MCDONALD whole by awarding her:

- A. Actual damages in an amount to be determined at trial;
- B. Compensatory damages in an amount to be determined at trial;
- C. Punitive damages in an amount to be determined at trial;
- D. All attorney's fees and costs of this action; and
- E. Any such other and further relief as this Court deems just and equitable.

Plaintiff respectfully requests a trial by jury.

VERIFICATION

I affirm under the penalty of perjury that the foregoing document is true and correct to the best of my personal knowledge, information and belief.



Jill McDonald

Respectfully submitted,



GARY LEE PRINTY
FLORIDA BAR ID NO. 363014
THE LAW OFFICE OF GARY LEE PRINTY
1804 Miccosukee Commons Drive, Suite 200
Tallahassee, Florida 32308-5471
Telephone (850) 877-7299
FAX (850) 877-2211

Attorney for Plaintiff
JILL MCDONALD

FLORIDA COMMISSION ON HUMAN RELATIONS
 2009 Apalachee Parkway, Suite 100, Tallahassee, Florida 32301

EMPLOYMENT COMPLAINT OF DISCRIMINATION

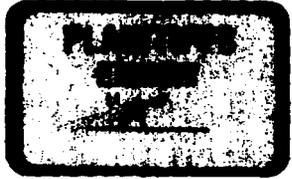
Date Stamp (FCHR Use Only)
 RECEIVED
 FLORIDA COMMISSION ON
 HUMAN RELATIONS
 2005 AUG 30 PM 2:52

A. PERSONAL INFORMATION		FCHR No.	CL
Name Mrs. Jill C. McDonald		E-Mail Address	Date of Birth 11/04/1973
Mailing Address 2017 Spring Creek Highway		Home Telephone Number (area code) (850) 926-1834	
City, State, and Zip Code Crawfordville, FL 32327		Work (if possible to call you there)	

B. BUSINESS INFORMATION (employer, labor organization, employment or government agency, etc.)		
Name Veolia Water North America Operating Service	Number of Employees 15+	Telephone Number (850) 926-7616
Street Address (Branch/Office in Florida) 340 Trice Lane	City, State and Zip Code Crawfordville, FL 32327	County Wakulla
C. CAUSE OF DISCRIMINATION BASED ON - Check appropriate box(es) <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input checked="" type="checkbox"/> DISABILITY/HANDICAP <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> AGE <input type="checkbox"/> MARITAL STATUS <input type="checkbox"/> RETALIATION		DATE MOST RECENT DISCRIMINATION TOOK PLACE (month, day, year) 02/09/2005

D. DISCRIMINATION STATEMENT:
 I believe I have been discriminated against pursuant to Chapter 760 of the Florida Civil Rights Act, and/or Title VII of the Federal Civil Rights Act, and/or the Age Discrimination in Employment Act, and/or the Americans with Disabilities Act as applicable for the following reason(s):

I believe that I have been discriminated against based on my disability, Lupus, which has resulted in termination. On January 14, 2005, I began my approved short-term disability due to a flare-up of Lupus. On February 8, 2005, I was called by a concerned coworker who asked why I had quit. I replied that I did not quit and that I was currently on short term disability. He then responded that I had been replaced by a new girl. The following day, I went to my immediate supervisor, Bobby Stevens, who stated that I needed to speak to her supervisor, Randy Merritt. I then spoke to Mr. Merritt in the presence of Ms. Stevens and my husband who was waiting at the door to the office. He informed me that when my short term disability ended I would not have a job to come back to. He then stated that this is because he wanted someone who would be there.



I REQUEST TO BE AFFORDED FULL RELIEF TO WHICH I AM ENTITLED TO UNDER THE LAW(S).

E. VERIFICATION. Under penalties of perjury, I declare that I have read the foregoing complaint of discrimination and that the facts stated in it are true. I will advise the agency if I change my address or telephone number and I will cooperate fully with them in the processing of my complaint in accordance with their procedures.

SIGNATURE OF COMPLAINANT <i>Jill C. McDonald</i>	DATE 8-29-05
--	------------------------

SWORN and SUBSCRIBED before me by Jill C. McDonald this 29th of August, 2005,

Jan M. Lewis
 Jan M. Lewis
 MY COMMISSION # DD240220 EXPIRES
 August 11, 2007
 BONDED THROUGH TROY FAIR INSURANCE, INC.

2. Defendants' conduct is in violation of the Fair Labor Standards Act (FLSA), which requires non-exempt employees to be compensated for their overtime work. See 29 U.S.C. § 201, et seq.

3. Plaintiffs Kenneth Reams, Daniel Downing, and Carlos Ruiz are non-exempt former employees who have been denied overtime pay as required by law, and file this collective action to recover unpaid overtime compensation owed to them individually and on behalf of all other similarly situated employees, current and former, of Defendants (hereinafter referred to as "Plaintiffs").

II. JURISDICTION AND VENUE

4. This Court has jurisdiction over the subject matter of this action under 29 U.S.C. § 216(b) and 28 U.S.C. § 1331.

5. Venue is proper in the Southern District of Texas under 28 U.S.C. §1391(b)(2), because a substantial portion of the events forming the basis of the suit occurred in this District.

III. THE PARTIES

6. Kenneth Reams is a resident of Brazoria County, Texas. Mr. Reams' written consent to this action is attached as Exhibit "A".

7. Daniel Downing is a resident of Brazoria County, Texas. Mr. Downing's written consent to this action is attached as Exhibit "B".

8. Carlos Ruiz is a resident of Brazoria County, Texas. Mr. Ruiz's written consent to this action is attached as Exhibit "C".

9. Other persons, similarly situated to Reams, Downing and Ruiz are/were all employees of Veolia Water North America Operating Services, Inc., formerly known as USFilter Operating Services, Inc.; Professional Services Group, Inc. ("PSG"), and U.S. Filter Wastewater Group, Inc., working in various positions in connection with Defendants' contract with the City of Angleton, Texas to implement and maintain the city's sewer and water filtration systems. Each

ORIGINAL COMPLAINT AND REQUEST FOR JURY TRIAL. PAGE 2

such other similarly situated persons who participate as a plaintiff in this lawsuit will execute and file a Consent to Sue form.

10. Defendant Veolia Water North America Operating Services, Inc., is a Delaware Corporation conducting business in the state of Texas and may be served with process by serving its registered agent for service, C.T. Corporation System, 350 N. St. Paul Street, Dallas, Texas, 75201.

12. Professional Services Group, Inc., is a Minnesota Corporation conducting business in the state of Texas and may be served with process by serving its registered agent for service, C.T. Corporation System, 1021 Main Street, Suite 1150, Houston, Texas, 77002.

13. U.S. Filter Wastewater Group, Inc., is a Delaware Corporation conducting business in the state of Texas and may be served with process by serving its registered agent for service, C.T. Corporation System, 350 N. St. Paul Street, Dallas, Texas, 75201.

IV. FACTS

20. At all material times, Defendants have been employers within the meaning of § 3(d) of the FLSA. 29 U.S.C. § 203(d).

21. At all material times, Defendants have been an enterprise within the meaning of § 3(r) and § 3(s)(1) of the FLSA. 29 U.S.C. § 203(r) and (s). Defendants, through unified operation or common control, engaged in the performance of related activities for a common business purpose.

22. Defendants market products and services that include the total design, construction, implementation, operation, maintenance, and management of a vast number of water treatment and wastewater facilities for municipalities, governmental agencies, and industrial concerns throughout North America. The services are provided on a contract basis. Defendants directly recruit and hire individuals, both locally and nationally, for positions as project managers, project supervisors, maintenance supervisors, crew leaders, and various construction and labor

ORIGINAL COMPLAINT AND REQUEST FOR JURY TRIAL. PAGE 3

positions. All of these employees, regardless of their position, frequently work in excess of 40 hours per week but have not been paid for the overtime worked. Defendants have withheld earned overtime wages from these employees. Although these employees frequently work over 40 hours a week, they are not compensated at the FLSA mandated time and a half pay rate for time worked in excess of 40 hours.

23. Plaintiffs have actual knowledge that the other similarly situated Plaintiffs have also been denied overtime pay for hours worked over forty hours in a week.

23. 24. Although Defendants suffer, permit, and/or require the other similarly situated Plaintiffs to work in excess of forty hours per week, Defendants have denied them full compensation for their hours worked over forty.

25. The Plaintiffs perform or have performed the same or similar work in the provision of products and services to clients.

26. In addition, Plaintiffs regularly work or have worked in excess of forty hours during a workweek. As such, the Plaintiffs are similar in terms of work similarities, pay structures and the denial of overtime.

27. Defendants' failure to pay minimum wage and overtime compensation at the rates required by the FLSA results from generally applicable policies or practices and does not depend on the personal circumstances of the Plaintiffs.

28. Plaintiff's experience is typical of the experience of all similarly situated Plaintiffs.

29. The specific job titles or precise job responsibilities of each of the Plaintiffs does not prevent collective treatment.

30. All Plaintiffs, irrespective of their particular job requirements, are entitled to be compensated at minimum wage and are entitled to overtime compensation for hours worked in excess of forty during a workweek.

31. Although the issue of damages may be individual in character, there remains a common

ORIGINAL COMPLAINT AND REQUEST FOR JURY TRIAL. PAGE 4

nucleus of liability facts.

V. CAUSES OF ACTION

32. Defendants' practice of failing to pay Plaintiffs and other similarly situated non-exempt employees (Plaintiffs) for all hours worked violates the FLSA 29 U.S.C. § 207(a). Defendants have engaged in a pattern or practice of knowing, willful and reckless disregard of FLSA regulations (as alleged herein) in that Defendants have failed to pay Plaintiffs their legal wages and overtime compensation. Defendants' failure to pay wages and overtime pay to Plaintiffs in accordance with FLSA regulations was neither reasonable, nor in good faith. Plaintiffs are entitled to recover their unpaid regular wages and overtime compensation. Plaintiffs are entitled to an amount equal to all of their unpaid regular and overtime wages as liquidated damages. 29 U.S.C. § 216(b). Additionally, Plaintiffs are entitled to recover attorney's fees and costs as required by the FLSA 29 U.S.C. § 216(b). Plaintiffs' damages exceed the minimum jurisdictional limits of the Court.

VI. JURY DEMAND

33. Plaintiffs request a jury trial.

VII. PRAYER

WHEREFORE, Plaintiffs pray that this Honorable Court:

- A. Enter judgment against Defendants and in favor of Plaintiffs and others similarly situated, for the compensation for all hours worked at a rate not less than the applicable minimum wage as well as the amount of unpaid and underpaid overtime that Defendants have failed and refused to pay in violation of the FLSA;
- B. Find that Defendants violations of the FLSA were willful;
- C. Enter judgment for Plaintiffs and others similarly situated and against Defendants for liquidated damages as allowed under the FLSA;
- D. Order Defendants to pay Plaintiffs and others similarly situated reasonable

ORIGINAL COMPLAINT AND REQUEST FOR JURY TRIAL. PAGE 5

attorney's fees, costs, and expenses of this action as provided by the FLSA;

- E. Order Defendants to pay Plaintiffs and others similarly situated pre-judgment and post judgment interest at the highest rates allowed by law; and
- F. Grant Plaintiffs and others similarly situated any such other relief as to which they may be entitled.

Respectfully submitted,

EBERSTEIN & WITHERITE, LLP



AMY K. WITHERITE
 State Bar No. 00788698
 3100 Monticello Avenue, Suite 500
 Dallas, Texas 75205
 Phone: 214/378-6665
 Facsimile: 214/378-6670

VAN WEY & JOHNSON, L.L.P



JOEL T. GOMEZ
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 Dallas, Texas 75205
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ATTORNEYS FOR PLAINTIFFS

CIVIL COVER SHEET

United States Court Southern District of Texas

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings of Filed papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THIS FORM) DEC 13 2004

I. (a) PLAINTIFFS

Kenneth Reams, Daniel Downing, and Carlos Ruiz, on behalf of themselves and All Others Similarly Situated

DEFENDANTS

Veolia Water North America Operating Services Inc., Veolia Water Operating Services, Inc., Professional Services Group, Inc., and U.S. Filter Wastewater Group, Inc

(b) County of Residence of First Listed Plaintiff Brazoria (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Harris (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number) Eberstein & Witherite, LLP 3100 Monticello Avenue, Suite 500 Dallas, Texas 75205

H 04-4733

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff x 3 Federal Question (U.S. Government Not a Party) 2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State 1 DEF 1 Incorporated or Principal Place of Business In This State 4 DEF 4 Citizen of Another State 2 2 Incorporated and Principal Place of Business In Another State 5 5 Citizen or Subject of a Foreign Country 3 3 Foreign Nation 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 main categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes sub-categories like Personal Injury, Product Liability, etc.

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity)

SA Violations. 29 U.S.C

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint JURY DEMAND: x Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE DOCKET NUMBER

DATE 12/9/04 SIGNATURE OF ATTORNEY OF RECORD [Signature]

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG JUDGE

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