

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(NORTHERN DIVISION)**

UNITED STATES OF AMERICA,

Plaintiff,

v.

UNIVERSITY OF BALTIMORE,

Defendant.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff United States of America (“United States”) alleges:

1. This action is brought on behalf of the United States to enforce the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000 *et seq.* (“Title VII”). As set forth below, the United States alleges that Defendant, the University of Baltimore (“Defendant” or “University”), has engaged in sex discrimination in violation of Title VII by terminating Sarah Dechowitz (“Dechowitz”) and refusing to hire her for a similar position because of her pregnancy.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action under 42 U.S.C. § 2000e-5(f), 28 U.S.C. §§ 1331, 1343(a), and 1345.

3. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the District of Maryland, Northern Division. Therefore, venue is proper in this judicial district under 42 U.S.C. § 2000e-5(f) and 28 U.S.C. § 1391(b).

PARTIES

4. Plaintiff, the United States of America (“Plaintiff” or “United States”) is expressly authorized to bring this action by Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and (3).

5. Defendant is a public undergraduate, graduate, and professional university. The University is a corporate, governmental body created pursuant to the laws of the State of Maryland and located within this judicial district. The University controlled some aspects of Dechowitz’s compensation, terms, conditions, or privileges of employment. Dechowitz worked in one of its divisions from November 12, 2008 until October 30, 2013, and, its management officials, among other things, made hiring and firing decisions concerning Dechowitz.

6. Defendant is a person within the meaning of 42 U.S.C. § 2000e(a), and an employer within the meaning of Sections 701(b), (g), and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g), and (h).

7. On February 11, 2014, Dechowitz filed a timely charge alleging discrimination based on sex–pregnancy, with the Equal Employment Opportunity Commission (“EEOC”). Pursuant to Section 706 of Title VII, the EEOC investigated the charge and found reasonable cause to believe that Dechowitz was subjected to sex discrimination in violation of Title VII. The EEOC notified Defendant of its reasonable cause findings, unsuccessfully attempted to conciliate the charges, and subsequently referred the charge to the U.S. Department of Justice.

8. All conditions precedent to the institution of this lawsuit have been fulfilled.

FACTS

Dechowitz's Employment with the University of Baltimore.

9. Dechowitz began working for Defendant on or about November 12, 2008. The University initially hired Dechowitz as the Coordinator of Student Communications (“Coordinator”) in the Division of Enrollment Management Services & Student Affairs (“EMSA”).

10. Dechowitz’s initial appointment was on a six-month contractual basis.

11. After the initial six months, on or about May 13, 2009, the University extended Dechowitz’s contract for an additional six months.

12. On or about July 29, 2009, Dechowitz was hired as a regular full-time employee, remaining in her Coordinator position.

13. Dechowitz’s immediate supervisor was Janet Whelan (“Whelan”). Whelan was the Director of EMSA during the relevant time period of November 12, 2008 to May 1, 2013.

14. Dechowitz also reported to Miriam King (“King”). King was Vice President of EMSA during the relevant time period of November 12, 2008 to May 1, 2013.

15. As the Coordinator of Student Communications in EMSA, Dechowitz was responsible for, among other things, directing and implementing effective and consistent messaging in support of the University’s recruitment and retention goals.

16. Dechowitz managed and coordinated communication and marketing efforts among various offices in EMSA.

17. Throughout Dechowitz’s career with the University, she received positive performance evaluations.

18. In 2010, Dechowitz received an overall annual performance rating of outstanding.

19. In 2011, Dechowitz received an overall annual performance rating of outstanding.

20. No employees of Defendant ever told King or Whelan that Dechowitz had job performance problems.

Efforts to Reclassify the EMSA Coordinator Position.

21. Throughout her employment at the University, Dechowitz increasingly assumed more duties and responsibilities.

22. Conversations regarding a possible reclassification of Dechowitz's EMSA Coordinator position took place between Dechowitz, Whelan, and King. Whelan and/or King asked Dechowitz to prepare a revised job description for the Coordinator position in or around April 2012.

23. Dechowitz submitted the job description to Whelan, and after a few revisions, Dechowitz was provided with a final job description for the EMSA Coordinator position.

24. The revised job description prepared by Dechowitz had the title of Marketing and Communications Manager (formerly Student Communications Coordinator), EMSA. The final job description was submitted to the University finance department in July 2012.

25. Discussions regarding the official job reclassification continued throughout the end of 2012 and into early 2013. The reclassification never took place.

26. On or about March 20, 2013, King sent Peter Toran ("Toran"), Vice President of Planning & External Affairs (otherwise known as University Relations) for the University, a copy of the final job description for Dechowitz's Coordinator position in EMSA. King sent Toran the job description at his request.

Dechowitz Informs University of Baltimore of Her Pregnancy.

27. On or about January 28, 2013, Dechowitz informed Director Whelan that she was three months pregnant.

28. On or about February 18, 2013, Dechowitz informed Vice President King that she was pregnant. Dechowitz also told King that she would be gone for a few months for maternity leave.

29. Sometime between February 18, 2013 and April 15, 2013, Toran became aware of Dechowitz's pregnancy.

The University's 2013 Reorganization Results in Dechowitz's Position Being Eliminated.

30. Sometime in early 2013, Toran engaged in executive-level discussions regarding a possible reorganization. More specifically, Toran wanted to move the EMSA Coordinator position under him in University Relations.

31. University Relations is a department charged, in part, with institutional public relations, marketing, and communications responsibilities.

32. On April 15, 2013, King and Toran met with Mary Maher ("Maher"), Assistant Vice President for Human Resources for the University, to discuss the elimination and/or moving of Dechowitz's position. It was Maher's understanding, at the beginning of the meeting, that the new Communications Manager position in University Relations was the same EMSA Coordinator position held by Dechowitz.

33. Maher advised King and Toran that if Dechowitz's position was eliminated the degree to which the new position remained the same could influence the recall policy for the employee who was laid off, meaning that Dechowitz would have had priority for the new position.

34. Toran told Maher that the new Communications Manager role was going to be different from the EMSA Coordinator position, Dechowitz's previous position, and was going to be a higher-level position.

35. On or about May 1, 2013, the University notified Dechowitz that her position was being eliminated as part of a reorganization, effective October 30, 2013. As a result of this reorganization, Dechowitz's position was the only one eliminated and she was the only employee laid off.

Posting for Communications Manager, University Relations

36. Approximately two weeks later, on or about May 17, 2013, the University posted a new communications position, which was titled "Communications Manager, University Relations." The position description for the new Communications Manager position was similar to the revised job description Dechowitz had prepared several months earlier for her Coordinator position, and that had been given to Toran on or about March 20, 2013.

37. The plan for the reorganization was that Dechowitz's old EMSA Communications Coordinator position would be moved to University Relations.

38. Based on information and belief, the Communications Manager position in University Relations was the same as Dechowitz's Coordinator position in EMSA, just in a different office.

Dechowitz Informed that Relevant Decision Maker Had Said That He Did Not Want Her to Work at the University of Baltimore Because She Was Pregnant.

39. King and/or Whelan told Dechowitz that Toran had said that he did not want her to work at the University of Baltimore because she was pregnant and would be out for three months. Dechowitz was also told that Toran said, "I can't deal with that," referring to her pregnancy.

40. Toran was planning to have the new Communications Manager complete substantial work over the summer during the time that Dechowitz would be out on maternity leave.

41. When discussing the possibility of Dechowitz working in the new Communications Manager position, King told Dechowitz to think about her family and that “life changes when you have children.”

Dechowitz Applies for the Communications Manager Position in University Relations.

42. Dechowitz applied for the Communications Manager position in University Relations, which was posted on or about May 17, 2013. This was an open competitive process, meaning Defendant could not preselect someone for the position.

43. The University created a hiring committee, which consisted of Gabrielle Boam (“Boam”), Giordana Segneri (“Segneri”), and Catherine Leidemer (“Leidemer”).

44. The qualifications for the Communications Manager position required a minimum of five years’ relevant experience.

45. At the time of her application, Dechowitz had over six years of relevant experience, including over four years of experience in the Coordinator position with the University.

46. Gabrielle Boam, who was leading the hiring committee, directed the human resources specialist handling the Communications Manager announcement, Patrice Mason (“Mason”), to include the resume of Libby Zay (“Zay”).

47. Mason explained to Boam that she had excluded Zay from consideration because she did not meet the minimum qualifications of five years. At the time of her application, Zay only showed approximately 3 years and 11 months of relevant experience.

48. After learning of Zay's disqualification, Boam began the process of cancelling the announcement and reducing the minimum requirements for the job to three years.

49. The University canceled the Communications Manager announcement and reposted it with a revised minimum requirement of three years. Zay's information was forwarded to the hiring committee, along with all other qualified applicants.

50. Dechowitz applied for the re-posted Communications Manager position and her application was forwarded to the hiring committee.

51. Dechowitz was not interviewed for the Communications Manager position. Defendant ultimately hired Libby Zay for the Communications Manager position. Libby Zay was not pregnant when she was hired by Defendants.

52. Following her termination and non-hire during the last trimester of her pregnancy, Dechowitz experienced emotional distress, including, but not limited to, anxiety, stress, and humiliation, as a result of sex discrimination based on pregnancy.

53. Within 24 hours of delivering her baby and while still in the hospital, Ms. Dechowitz participated in an interview for a new job.

54. Dechowitz also has suffered monetary losses as a result of sex discrimination based on pregnancy.

COUNT ONE
Title VII, 42 U.S.C. § 2000e-2(a)
Unlawful Discrimination Based on Sex (Termination)

55. The United States repeats and re-alleges each and every allegation contained in paragraphs 1-54 as if fully set forth herein.

56. Defendant engaged in an unlawful employment practice in violation of Title VII when it terminated Dechowitz because of her sex-pregnancy.

57. Defendant's decision to terminate Dechowitz was because of or motivated by her pregnancy.

58. Defendant's purported reasons for terminating Dechowitz are pretext for sex-pregnancy discrimination.

59. The effect of the practice complained of above has been to deprive Dechowitz of equal employment opportunities and otherwise adversely affect her status as an employee because of her sex-pregnancy.

60. As a result of Defendant's unlawful discrimination, Dechowitz incurred damages including, but not limited to, lost income and benefits.

61. As a result of Defendant's unlawful discrimination, Dechowitz suffered emotional harm including, but not limited to, pain and suffering, emotional distress, anxiety, stress, and loss of enjoyment of life.

62. As a result of Defendant's unlawful discrimination, Dechowitz incurred damages related to out-of-pocket expenses including, but not limited to, health care expenses.

COUNT TWO
Title VII, 42 U.S.C. § 2000e-2(a)
Unlawful Discrimination Based on Sex (Failure to Hire)

63. The United States repeats and re-alleges each and every allegation contained in paragraphs 1-62 as if fully set forth herein.

64. Defendant engaged in an unlawful employment practice in violation of Title VII when it failed to hire Dechowitz for the Communications Manager position because of her sex-pregnancy.

65. Defendant's decision not to hire Dechowitz for the Communications Manager position was because of or motivated by her pregnancy.

66. Defendant's purported reasons for not hiring Dechowitz for the Communications Manager position are pretext for sex-pregnancy discrimination.

67. The effect of the practice complained of above has been to deprive Dechowitz of equal employment opportunities and otherwise adversely affect her status as an employee because of her sex-pregnancy.

68. As a result of Defendant's unlawful discrimination, Dechowitz incurred damages including, but not limited to, lost income and benefits.

69. As a result of Defendant's unlawful discrimination, Dechowitz suffered emotional harm including, but not limited to, pain and suffering, emotional distress, anxiety, stress, and loss of enjoyment of life.

70. As a result of Defendant's unlawful discrimination, Dechowitz incurred damages related to out-of-pocket expenses including, but not limited to, health care expenses.

PRAYER FOR RELIEF

WHEREFORE, the United States prays that the Court grant the following relief:

(a) Grant a permanent injunction enjoining Defendant, its officers, successors, assigns, and all persons in active concert or participation with them, from engaging in employment practices which discriminate on the basis of sex, including discrimination on the basis of pregnancy;

(b) Order Defendant to develop and implement appropriate and effective measures to prevent discrimination, including, but not limited to, implementing appropriate policies and procedures and providing adequate training to all employees and officials;

(c) Order Defendant to make whole Sara Dechowitz by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative

relief necessary to eradicate the effects of its unlawful employment practices, including, but not limited to, front pay or reinstatement;

(d) Order Defendant to make whole Sara Dechowitz by providing compensation for past pecuniary losses resulting from the unlawful employment practices described above, including, but not limited to, healthcare expenses, in amounts to be determined at trial;

(e) Order Defendant to make whole Sara Dechowitz by providing compensation for future pecuniary losses as well as past and future non-pecuniary losses resulting from the unlawful employment practices complained of above, including, but not limited to, pain and suffering, emotional distress, anxiety, stress, and loss of enjoyment of life, in amounts to be determined at trial pursuant to and within the statutory limitations of Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a;

(f) Grant such further relief as the Court deems necessary and proper in the public interest; and

(g) Award the United States its costs in this action.

JURY DEMAND

The United States hereby demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

Respectfully Submitted,

Date: March 5, 2018

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