

3. At all relevant times, Defendant Jennifer Singer was an owner and manager of Blown Away and resided in Pennsylvania.

4. At all relevant times, Defendant Rand Singer was an owner and manager of Blown Away and resided in Pennsylvania.

Jurisdiction and Venue

5. Venue with respect to this action lies in the Eastern District of Pennsylvania because Defendants operated a beauty salon in Kennett Square, Pennsylvania and all events giving rise to this action occurred in Chester County, Pennsylvania. 28 U.S.C. § 1391.

6. At all relevant times, Blown Away was a “person” within the meaning of Sections 3(4) and 11(c)(1) of the Act, 29 U.S.C. §§ 652(4) and 660(c)(1), because it was a business or partnership.

7. At all relevant times, Blown Away was an “employer” within the meaning of Section 3(5) of the Act, 29 U.S.C. § 652(5), because it was a person engaged in a business affecting trade, traffic, commerce, transportation, or communication between the Commonwealth of Pennsylvania and states outside of Pennsylvania who had employees.

8. At all relevant times, Jennifer Singer was a “person” within the meaning of Sections 3(4) and 11(c)(1) of the Act, 29 U.S.C. §§ 652(4) and 660(c)(1), because she is an individual.

9. At all relevant times, Jennifer Singer was an “employer” within the meaning of Section 3(5) of the Act, 29 U.S.C. § 652(5), because she was a person engaged in a business affecting trade, traffic, commerce, transportation, or communication between the Commonwealth of Pennsylvania and states outside of Pennsylvania who had employees.

10. At all relevant times, Rand Singer was a “person” within the meaning of Sections 3(4) and 11(c)(1) of the Act, 29 U.S.C. §§ 652(4) and 660(c)(1), because he is an individual.

11. At all relevant times, Rand Singer was an “employer” within the meaning of Section 3(5) of the Act, 29 U.S.C. § 652(5), because he was a person engaged in a business affecting trade, traffic, commerce, transportation, or communication between the Commonwealth of Pennsylvania and states outside of Pennsylvania who had employees.

12. At all relevant times prior to being terminated, Kaliegh Szulkowski was an “employee” within the meaning of Sections 3(6) and 11(c)(1) of the Act, 29 U.S.C. §§ 652(6) and 660(c)(1), because she was employed by Blown Away, Jennifer Singer, and Rand Singer.

General Allegations

13. At all relevant times, Defendants operated a salon in Kennett Square (“salon”). The salon provides haircuts, hair styling, and other beauty services.

14. At all relevant times, there were approximately six employees working at the salon.

15. On or about August 17, 2015, Defendants hired Kaleigh Szulkowski (“Complainant”) as a stylist at the salon. Szulkowski’s duties included cutting, coloring, and styling hair for the salon’s clients.

16. On March 23, 2017, Complainant and other Blown Away employees were concerned about their health and safety because the toilet in the salon backed up and overflowed repeatedly, covering the bathroom floor with wastewater and used toilet paper. The salon smelled of human waste. In the basement, pipes were spewing waste or water. Jennifer Singer, who was on vacation, would not allow employees to close the salon despite receiving text messages and photographs describing the conditions.

17. On March 24, 2017, Complainant and Blown Away employees grew more concerned as a cleaning crew tracked soiled water through the salon and sprayed chemicals in the bathroom. Employees experienced gagging and nausea as a result of the smell of waste in the salon. After the cleaning crew sprayed chemicals in the bathroom, the staff experienced burning eyes, headaches, and nausea. Employees went outside or into the color room to try to escape the chemical and sewage smells.

18. Jennifer Singer, after yelling at the salon manager who described employees' symptoms, finally closed the salon on March 24, 2017 after employees had been in the salon approximately four hours.

19. Both before and after the salon closed on March 24, 2017 employees discussed whether to call OSHA or another government agency to intervene. Complainant discussed the conditions at the salon with her husband, Tony Kong. Complainant and Kong were concerned that Complainant and her coworkers were being exposed to hazardous materials or chemicals. Kong called the Kennett Square borough offices. The borough referred Kong to OSHA, and Kong contacted OSHA on Complainant's behalf. Complainant told her coworkers they did not need to contact OSHA because Kong had already done so.

20. Blown Away opened for normal business hours March 25, 2017. The bathroom remained closed, with the toilet sitting in the hallway. Jennifer and Rand Singer, back from vacation, were at the salon at various times during the day. When staff members expressed concern about the conditions in the salon, Rand Singer made jokes about animals eating their own feces.

21. Blown Away was closed per its normal schedule on March 26 and 27, 2017.

22. Complainant, who worked a part time schedule, did not work on March 28 or 29, 2017.

23. On the afternoon of March 29, 2017, another stylist approached Jennifer Singer and told her that Complainant's husband had called OSHA.

24. Jennifer Singer texted the staff at 4:57 p.m., falsely claiming that she received a call from OSHA and asking whether any of the staff had called OSHA.

25. When each of the employees replied that they had not called OSHA, Jennifer Singer asked whether any of them knew who called.

26. The staff had a separate group text conversation. Complainant told her coworkers that they were not required to respond to Jennifer Singer's requests to identify who called OSHA, and explained that they had the right to complain to OSHA confidentially.

27. When none of the employees gave a direct response to Jennifer Singer's text about whether they knew who called, Rand Singer texted the staff from Jennifer's phone at 6:56 p.m., saying:

Hey all it's rand!

My understanding is that someone from the Salon called the state to report the sewage in the basement. I'm not upset that you called, it is your right, but I am upset that "whoever called" is lying to us about it. I am going to give that person one more chance to text me directly and fess up. I will give u all until 9pm tonight. If I find out who it was after 9pm that person will be fired for lying to me. One of you knows who called. I will also put ANYONE who knows who it was on notice as well by 9pm. You will lose your job if you hide info from me. Come clean to me and you will not be fired. I think that sums it up. Pretty simple.

We will be having a meeting regarding this issue this week. I will let you know when.

Please respond to me on my phone 610-842-****.

All information given to me will be confidential.

28. Around the same time, a “Now Hiring” posting appeared on Blown Away’s Facebook page, and the same stylist who informed the Singers of Kong’s call to OSHA shared that posting with her coworkers via text. The timing of this post increased the level of fear among the staff that the Singers would actually fire someone.

29. Rand Singer separately texted the salon manager, asking her twice to identify who called OSHA.

30. The staff texted about whether and how to respond to the Singers’ ultimatum. The staff believed they would be fired if they did not comply with the Singers’ demands to identify who called OSHA.

31. Complainant believed she would be fired if she told the Singers that her husband had called OSHA. She asked her coworkers to say that they did not know who called.

32. Complainant provided information to the other staff members about their rights under Section 11(c). She told the staff group several times that what the Singers were doing was illegal.

33. Unbeknownst to Complainant and her other coworkers, the stylist who had identified Kong as the caller also forwarded the staff group text conversations to Jennifer Singer.

34. All of the staff, aside from Complainant and one other stylist, responded to the Singers’ texts and either directly or indirectly identified Kong as the caller.

35. On March 30, 2017 at 7:55 a.m., Rand Singer fired Complainant via text message.

36. The Singers made the decision together to terminate Complainant.

37. The Singers terminated Complainant in retaliation for engaging in activities that are protected under the Act, including but not limited to Complainant’s husband’s call to OSHA,

Complainant's refusal to identify her husband as the person who called OSHA, or Complainant's communications with her coworkers regarding their rights under the Act.

38. On April 10, 2017, Szulkowski filed a timely complaint with the Occupational Safety and Health Administration alleging that Defendants discriminated against her in violation of Section 11(c)(1) of the Act, 29 U.S.C. § 660(c)(1), by terminating her for engaging in protected activity by refusing to tell the Singers that Kong had called OSHA on her behalf.

39. On April 17, 2017, Defendants received notice that Szulkowski had filed a Section 11(c) complaint.

40. The Secretary thereafter investigated said complaint in accordance with Section 11(c)(2) of the Act, 29 U.S.C. § 660(c)(2), and determined that Defendants had violated Section 11(c) of the Act by terminating Szulkowski.

Violations of the Act

41. The Secretary incorporates by reference paragraphs 1 through 40 of this Complaint as if fully set forth herein.

42. The activities described in paragraphs 16-19, 25-26, and 30-32 constitute the filing of a complaint under the Act and the exercise of rights afforded by the Act, and thus are activities protected by the Act.

43. Defendants terminated Complainant because she exercised rights and engaged in activities protected by the Act, in violation of Section 11(c)(1) of the Act, 29 U.S.C. § 660(c)(1).

44. To date, Defendants have failed to compensate Complainant for wages lost as a result of her improper termination, in continuing violation of Section 11(c)(1) of the Act, 29 U.S.C. § 660(c)(1).

Relief Sought

WHEREFORE, cause having been shown, the Secretary requests a trial by jury, and further prays for judgment:

a. Permanently enjoining and restraining Defendants, their officers, agents, servants, employees and those persons in active concert or participation with them, from violating the provisions of Section 11(c) of the Act;

b. Ordering Defendants to pay damages to Complainant for all past and future lost wages that resulted from her termination, and prejudgment and post-judgment interest thereon, as authorized by Section 11(c) of the Act;

c. Ordering Defendants to post in a conspicuous place in the salon for a period of not less than sixty days a copy of the decree entered in this case and a notice that Defendants will not discriminate against any employee for engaging in activities protected by Section 11(c) of the Act;

d. Ordering Defendants to compensate the Secretary for all costs incurred in this litigation; and

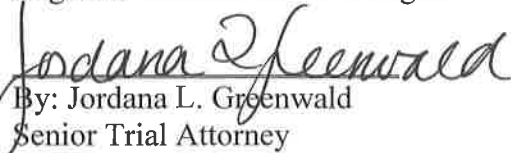
e. Ordering all other appropriate relief including punitive damages, emotional distress, pain and suffering, other expenses incurred by Complainant as a result of being terminated by Defendants.

Respectfully submitted,

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