

STATE OF NEW HAMPSHIRE

ROCKINGHAM COUNTY

SUPERIOR COURT

Casey Willard
12 Magnolia Drive
Dover, New Hampshire 03820

v.

Pla-Fit Franchise, LLC (aka "Planet Fitness")
4 Liberty Lane West
Hampton, NH 03842

VERIFIED COMPLAINT AND JURY DEMAND

PARTIES

1. Casey Willard ("Ms. Willard") is an individual residing at 12 Magnolia Drive, Dover New Hampshire.
2. Defendant Pla-Fit Franchise, LLC (aka "Planet Fitness") is a New Hampshire limited liability company with a principal address at 4 Liberty Lane West, Hampton, New Hampshire.

JURISDICTION AND VENUE

3. The Court has jurisdiction over this matter pursuant to RSA 491:7.
4. Venue is proper pursuant to RSA 507:9.

FACTS RELEVANT TO ALL COUNTS

5. Ms. Willard began working for Planet Fitness as a Manager on April 27, 2015.
6. This was her first full-time job in the corporate world.

Debauchery at Corporate Offices

7. The work environment at Planet Fitness' corporate offices was, to say the least, debaucherous.

Drinking Competitions At Work

8. Senior members of management regularly directed subordinate employees to drink alcohol during work hours in the office.
9. They organized drinking activities which occurred as early as 8:30 a.m. during a work day.
10. One was called "Fireball Friday".
11. This had managers providing subordinate employees shots of alcohol.
12. The employees, including managers, competed regarding the number of shots they could consume in the least amount of time.
13. A Manager also brought vodka-based gummy worms to work.
14. They compelled subordinate employees to consume them during work hours.
15. Those employees who either did not participate in this conduct or who participated only *slightly* were teased, scorned, not invited to future events and told they were not acting like "part of the team."
16. Ms. Willard a new employee who followed management's direction sometimes found herself drunk at work by 11:00 a.m.

Sexual Comments, Jokes, Innuendo

17. Senior management almost entirely consisted of men many of whom openly made sexual comments, sexual innuendo, and engaged in pretend sexual conduct toward female employees.

HR Knew . . .

18. The corporate offices included a Human Resources Department.

19. The members of this Department, including its director Karen Ahern, knew of this drinking at work and the sexually offensive atmosphere. They ignored it.

20. Because neither management, nor HR addressed it they tacitly condoned it.

21. This emboldened male employees especially those who supervised directly or indirectly female employees to continue their offensive conduct and, in fact, escalate it.

22. Management and supervisors regularly commented to each other, at work in front of subordinate female employees, regarding their alleged sexual prowess.

Failure to Enforce Policies

23. The defendant had at least one policy to potentially protect subordinate employees from abuse.

24. Its Anti-Fraternization policy prohibited individuals, such as senior management, who supervised subordinate employees directly or indirectly from engaging in a sexual intimate relationship with the subordinate.

25. The defendant failed to enforce this policy even when it knew or should have known it was being violated.

26. Indeed, upon information and belief, members of senior management including the Chief Executive Officer Chris Rondeau and the former Chief Operating Officer Brian Belmont had sexually intimate relationships with subordinate employees.

27. This conduct, lack of discipline, and lack of policy enforcement created an atmosphere of intimidation and domination for younger female employees like Ms. Willard.

Success in Job Despite It

28. Despite it, Ms. Willard did very well at her job.

29. She received raises and bonuses.

30. Planet Fitness expanded her roles and responsibilities.

31. It promoted her three times.

32. She supervised two other employees.

33. She was never subjected to written discipline.

Raped and Drugged by A Manager

34. In September 2017 Ms. Willard was the Manager – Franchise Development & Construction.

35. The Company's Director of Construction Andy Choe ("Choe") directed Ms. Willard to travel to California for a site tour of Planet Fitness facilities then under construction.

36. During this business trip Choe and his friends drugged and raped Ms. Willard.

37. Ms. Willard reported this to the police.

38. She also reported it to Planet Fitness.

39. When she was able to return to work a few days later, Ahern ordered her to a meeting.

40. Two corporate attorneys, Fogg and Johnson, were present.

41. Ms. Willard was questioned extensively regarding what happened.

42. She was extremely emotional.

43. She specifically told Ahern and Planet Fitness counsel that she did not want others within the Company to know what happened to her.

44. Planet Fitness terminated Choe's employment.

Violated Right to Privacy

45. After this HR meeting, Ms. Willard met the new Chief Development Officer Robby Sopkin ("Sopkin").

46. Sopkin did not work for the company at the time of the rape.
47. He had no reason to know that it happened.
48. During their first meeting, though, Sopkin told Ms. Willard he knew about it.
49. Planet Fitness then assigned Ms. Willard a new supervisor.
50. He, too, mentioned that he knew what happened.
51. Ms. Willard communicated with Ahern asking why Planet Fitness breached her privacy.
52. Ahern denied telling them.
53. Ms. Willard also advised Attorney Fogg about the disclosures.
54. He responded that it should not have occurred advising that he would look into it.
55. Later, Ahern acknowledged telling these individuals but claimed that further breaches of Ms. Willard's privacy would not occur (i.e., no one else would be told).

Manager Violation of Anti-Fraternization Policy

56. In December 2017, Joshua Beyer ("Beyer") Vice President of Real Estate and Development, a forty-something year old married man who supervised Ms. Willard directly or indirectly started sending her emails on the Company email system in which he asked personal questions including her emotional state.

57. He, too, knew what happened to her.
58. These highly personal communications by a supervisor confused Ms. Willard.
59. He then started saying that he would help her become a Director with the company.
60. Beyer directed Ms. Willard to travel with him to Cleveland allegedly to tour Planet Fitness facilities under construction.
61. He said that this would help her advance to the Director position.

62. During this business trip Beyer not only continued to ask highly personal questions, but also followed Willard to her room where he accessed the mini-bar and plied Ms. Willard with alcohol.

63. Beyer then took advantage of a confused Willard by kissing her.

64. He took things even further—initiating a sexual relationship.

65. Beyer's conduct directly violated the Anti-Fraternization policy.

66. Following the trip, Beyer used the Company email to send Ms. Willard sexually explicit communications.

67. He did the same through text messages.

68. Beyer also arranged for Ms. Willard to travel with him a second time, to a Planet Fitness facility in Puerto Rico.

69. He followed the same pattern.

70. He communicated with Ms. Willard regarding highly personal matters.

71. He ensured private meetings with her in a hotel room.

72. He plied her with alcohol.

73. He convinced her to engage in sexually intimate behavior.

74. Again, Beyer violated the Company's policy.

75. This entire situation was confusing to Willard.

76. Ms. Willard began to suspect that management knew of the relationship.

77. Beyer, too, apparently became concerned.

78. He directed Ms. Willard to delete Company emails and personal texts he sent her.

79. He told her that he was doing the same.

80. Company representatives apparently did learn of situation.

81. Again, Ahern directed Ms. Willard to a meeting.

82. Again, legal counsel was present this time outside legal counsel.

83. Ms. Willard was concerned during this interview that she, a subordinate employee subjected to the above described conduct, might lose *her* job.

84. She was highly emotional and told those present that she felt that she was being attacked, interrogated, and cross-examined.

85. The Company also apparently interviewed Beyer who clearly violated the Anti-Fraternization policy.

86. Following the interviews, Beyer continued to be employed by or associated with the defendant.

87. In fact, Ahern specifically communicated to Ms. Willard that it was “business as usual.”

88. Ms. Willard, therefore, continued to work for and report information indirectly to him.

89. It was not “business as usual” for Ms. Willard.

90. Beyer appeared almost completely unaffected.

91. She, however, experienced extremely abrupt behavior from her co-workers.

92. She noticed a lack of co-operation from others.

93. She heard snickers, snide comments, and saw smirks.

94. She was shunned.

95. This treatment not only affected her ability to work, but also caused her to be emotional and upset at work.

96. Ms. Willard also then learned that defendant hired a former co-worker and friend of Choe who had raped her only months earlier.

97. She advised Ahern and her direct supervisor that she did not want to work with this person.

98. The level of disconnect between her and her co-employees became worse.

99. So, too, did her anxiety and emotion at work.

100. Sometimes she was so anxious and overwhelmed with how she was being treated and confused about her employment status that she sat at her desk crying and shaking.

101. Ahern personally observed this and had it reported to her by others.

102. Ahern addressed it by warning Ms. Willard that her behavior was distracting and impacting *others* in the workplace.

103. Because things were so overwhelming, Ms. Willard directly asked Ahern if she could periodically work from home as an accommodation for the emotional torment and apparent retaliation she was experiencing.

104. This was something that other corporate employees including Beyer frequently did.

105. Ahern denied Willard's request, indicating that she might consider it if Willard provided medical documentation.

106. Ahern later told Willard that working from home was not possible.

107. At the time Ahern denied this request and then requested medical documentation she knew extremely well the torment Ms. Willard was experiencing.

108. Ahern then advised Willard what she thought might be happening: the Company was planning to terminate her employment.

109. Ahern communicated that “the Company never does this” but as to Willard would pay her six (6) months salary if in exchange she signed a settlement agreement.

110. Ahern provided her three (3) days to consider this.

111. Ms. Willard declined.

112. Instead, she notified the Company that she was unable to return to work.

COUNT I

SEXUAL HARASSMENT/HOSTILE WORK ENVIRONMENT (RSA 354-A)

113. The plaintiff incorporates by reference all allegations within this Complaint.

114. Willard is a member of a protected class.

115. Willard was subjected to unwelcome sexual harassment.

116. The sexual harassment of plaintiff created an oppressive, hostile, intimidating and/or offensive work environment and interfered with plaintiff’s emotional well-being and ability to perform her duties.

117. The sexual harassment was sufficiently severe and pervasive as to materially alter plaintiff’s conditions of employment, and to create a hostile and abusive working environment.

118. As a result of the hostile work environment, plaintiff suffered and continues to suffer severe physical and emotional harm as a proximate and direct result of defendant’s actions. This includes, but is not limited to, depression, anxiety, post-traumatic stress, mental anguish, severe distress, severe disappointment, severe anger, severe resentment, severe embarrassment, severe grief, severe indignation, severe shame, severe despair and/or tremendous public humiliation. As a direct and proximate result of the foregoing, the plaintiff has suffered, continues to suffer, and will suffer into the future direct and consequential damages.

119. Defendant was aware of the offensive conduct and actions and could have implemented significant remedies, but chose not to, thus ratifying the offending employees' wrongful conduct.

120. Willard is entitled to and hereby demands compensatory and enhanced compensatory damages, lost wages, back pay, front pay, attorney's fees, costs, any and all other damages to which he is entitled including all interest all of which is within the jurisdictional limit of this Court.

COUNT II

RETALIATION (RSA 354-A)

121. The plaintiff incorporates by reference all allegations within this Complaint.

122. Defendant's actions caused the workplace to be permeated with discriminatory intimidation, ridicule, and insult that was sufficiently severe or pervasive to alter the conditions of the plaintiff's employment and create an abusive working environment that plaintiff reasonably believed to be in violation of RSA 354-A.

123. Plaintiff engaged in protected activity under RSA 354-A by reporting the Construction Director and Vice President's actions.

124. Thereafter, defendant retaliated against Willard by, inter alia, subjecting her to additional harassment and intimidation.

125. This retaliatory conduct was causally connected to Willard engaging in protected activity under RSA 354-A.

126. Willard is entitled to and hereby demands compensatory and enhanced compensatory damages, lost wages, back pay, front pay, attorney's fees, costs, any and all other

damages to which he is entitled including all interest all of which is within the jurisdictional limit of this Court.

COUNT III

DISCRIMINATION/RETALIATION (RSA 275:71)

127. The plaintiff incorporates by reference all allegations within this Complaint.

128. Willard is a victim of sexual assault and harassment.

129. Defendant threatened to discharge Ms. Willard and otherwise discriminated against her because she is a victim of sexual assault.

130. Willard is entitled to and hereby demands compensatory and enhanced compensatory damages, lost wages, back pay, front pay, attorney's fees, costs, any and all other damages to which he is entitled including all interest all of which is within the jurisdictional limit of this Court.

COUNT IV

(Wrongful Termination – Constructive Discharge)

131. The plaintiff incorporates by reference all allegations within this Complaint.

132. Defendant employed Ms. Willard.

133. At all times during her employment with defendant, Ms. Willard performed her duties with diligence and competence.

134. Ms. Willard engaged in acts that public policy encourages when she engaged in protected activity under RSA 354-A

135. The foregoing resulted in Ms. Willard' working conditions being so difficult and intolerable that a reasonable person subjected to these conditions would feel forced to resign.

136. The adverse working conditions were ongoing, repetitive, pervasive, and severe and included, but were not limited to, subjecting Ms. Willard to threats, hostility and intimidation.

137. Bad faith, malice, and/or retaliation motivated the defendant's actions.

138. As a direct and proximate result of the foregoing, Ms. Willard suffered damages.

139. Ms. Willard demands judgment against defendant, including, but not limited to compensatory and enhanced compensatory damages, lost wages, back pay, front pay, attorney's fees, costs, any and all other damages to which he is entitled including all interest all of which is within the jurisdictional limit of this Court.

JURY DEMAND

140. Plaintiff demands a jury trial on all claims so triable.

VERIFICATION

I, Casey Willard, after taking oath and/or making an affirmation do hereby swear and affirm that the foregoing facts are true and accurate to the best of my personal knowledge and belief.

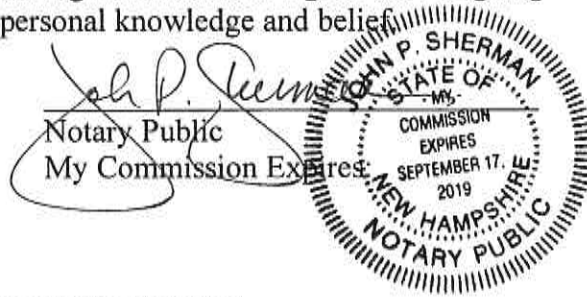
9/5/18
Date

Casey Willard
Casey Willard

County of Rockingham
State of New Hampshire

Personally appeared before me the above named Casey Willard known to me by motor vehicle license and after taking an oath and/or swearing an affirmation signed the foregoing attesting it as true and accurate to the best of her personal knowledge and belief.

September 5, 2018
Date



Respectfully submitted,

CASEY WILLARD

By her attorneys,

SHERMAN LAW, PLLC

Dated: 9/5/18

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