

CAUSE NO. 08-01839

VANESSA JOHNSON,  
Plaintiff

vs.

KNOWLEDGE LEARNING  
CORPORATION,  
Defendant.

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IN THE DISTRICT COURT

E-101st

JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

FILED  
2008 FEB 19 AM 9:58  
GARY FITZGERALD  
CLERK  
JUDICIAL DISTRICT  
DALLAS COUNTY, TEXAS  
*Gary Richardson*

**PLAINTIFF'S ORIGINAL PETITION and REQUEST FOR DISCLOSURE**

COMES NOW, VENESSA JOHNSON, Plaintiff, in the above numbered cause and hereby files this, her ORIGINAL PETITION and REQUEST FOR DISCLOSURE on KNOWLEDGE LEARNING CORPORATION, Defendant, and would show unto the Court as follows:

**A.**  
**Discovery Control Plan**

1. Plaintiffs stipulate that discovery in this case shall proceed under Level 3 of Rule 190 of the Texas Rules of Civil Procedure.

**B.**  
**PARTIES**

- 2. Plaintiff, Vanessa Johnson, is a resident of Dallas County, Texas.
- 3. Defendant, Knowledge Learning Corporation, is an Oregon Corporation doing business within the Great State of Texas and maintains a local office at 3710 Spring Valley Rd, Addison, TX 75001, Dallas County, Texas. Service of process should be directed to its registered agent, C T CORPORATION SYSTEM, at its offices address as follows: 350 NORTH ST. PAUL ST., DALLAS, TX 75201.

**C.**  
**JURISDICTION and VENUE**

4. Plaintiff has suffered damages within the jurisdictional limits of this Court and such damages are the amount in controversy.

5. Venue is proper in Dallas County, Texas because the cause of action made the basis of this suit occurred in Dallas County, Texas, and, further, because Defendants maintain and operate offices or facilities in Dallas County, Texas.

**D.**  
**FACTS**

6. Vanessa Johnson, Plaintiff, was hired by Knowledge Learning Corporation on or about October of 2005, at Defendant's place of business, under the name Kindercare, at 3710 Spring Valley Rd, Addison, TX 75001, Dallas County, Texas.

7. Ms. Johnson was hired at a lower entry position, but through hard work and recognition by her employer, Defendant Knowledge Learning Corporation, she was promoted up the line until given the title and position as Center Director. This is the highest position one can attain at the local level in Defendant's corporation.

8. As Center Director, Ms. Johnson was in charge of the entire operation. From hiring and firing to supplies to training employees, Ms. Johnson made it her personal goal to always take all actions necessary in order to run a safe, clean facility that any mother or father would be proud to leave their child.

9. On or about October 2, 2007, Ms. Johnson was given a hand written accounting by employee India Alegeh (hereinafter "*Work Log*") which dictated specific allegation of possible child abuse by other employees against seven (7) of the children under care at Defendant's facility.

10. Ms. Johnson, out of concern for the children and due to the fact that she was aware of the severe penalties that attach to a party who fails to report child abuse if the action is under suspicion, decided to take action right away.

11. On or about the same day, Ms. Johnson notified her superior, an employee, agent and/or corporate representative for Defendant, regarding the *Work Log* and she told her superior that she planned on calling the local police in addition to the Texas Department of Family and Protective Services (commonly referred to in the child care industry as "Licensing") to report the allegation of possible child abuse.

12. Much to her dismay, she was prohibited from doing so at the time by the direct orders given to her by her superior.

13. Ms. Johnson, acting upon her conscience, chose to disobey her superior and picked up the phone and called the Texas Department of Family and Protective Services.

14. Ms. Johnson called in her complaint, but the Texas Department of Family and Protective Services wanted a copy of the *Work Log*, without which the allegations of child abuse could not be investigated. Ms. Johnson's superior flat out told her to stop talking and would not allow her to send out the *Work Log* per the instructions and request of the Texas Department of Family and Protective Services.

15. Exactly two (2) weeks after the events described herein, Defendant summarily **terminated** Ms. Johnson citing for reasons: Failure to Immediately Report allegations of inappropriate child guidance and discipline. The irony could not be any greater.

**E.**

**FIRST CAUSE OF ACTION:**

**Discharge for Refusing to Commit Illegal Act**

16. Plaintiffs re-allege paragraphs 1 through 16 as if replead in verbatim.
17. At the time in which Defendant discharged Ms. Johnson for refusing to commit an illegal act, Ms. Johnson was (i) an at-will employee, (ii) who refused to perform an illegal act; and (iii) was terminated solely because of the refusal.
18. Under the Texas Family Code, Section 261.109, it states as follows:

“A person commits an offense if the person has cause to believe that a child’s physical or mental health or welfare has been may be adversely affected by abuse or neglect and knowingly fails to report in accordance with the reporting law. An offense under this section is a Class B misdemeanor.”
19. Defendant wrongfully terminated Ms. Johnson because she would not cover up the allegations (specifically, not allowing Ms. Johnson to tender the *Work Log* to the Texas Department of Family and Protective Services) of possible child abuse against a child at Defendant’s premises. Just two weeks prior to her wrongful termination, Defendant sent out letters singing Ms. Johnson’s praises. Then, it summarily fired her after she refused to continue with Defendant’s inexcusable conduct in trying to cover up this report of possible child abuse. Clearly, her refusal to acquiesce to this level of baseless conduct is the sole reason for her wrongful termination by Defendant.

F.

**SECOND CAUSE OF ACTION:**

**Retaliation**

20. Plaintiff re-alleges paragraphs 1 through 16 as if replead in verbatim.

21. At the time in which Defendant discharged Ms. Johnson for refusing to commit an illegal act, she (i) opposed a protected activity, (ii) suffered an adverse employment action; and (iii) a causal connection existed between the opposition or participation in the protected activity and the adverse employment action.

22. Defendant retaliated against Ms. Johnson for her objection to her superior's actions (specifically, not allowing Ms. Johnson to tender the *Work Log* to the Texas Department of Family and Protective Services) by wrongfully terminating her. Just two weeks prior to her wrongful termination, Defendant sent out letters singing Ms. Johnson's praises. Then, it summarily fired her after she refused to continue with Defendant's inexcusable conduct in trying to cover up this report of possible child abuse by not tendering the *Work Log* to the proper authorities.

23. Clearly, her refusal to acquiesce to this level of baseless conduct is the sole reason for her wrongful termination by Defendant, which was done in retaliation for her refusal to act in a manner which may cause harm to an innocent child.

G.

**THIRD CAUSE OF ACTION:**

**Intentional Infliction of Emotional Distress**

24. Plaintiffs re-allege paragraphs 1 through 16 as if replead in verbatim.

25. Ms. Johnson, Plaintiff, is a (i) person; (ii) Defendant acted intentionally or recklessly; (iii) Plaintiff suffered emotional distress which was severe; (iv) Defendant's conduct was extreme and outrageous; (v) Defendant's conduct proximately caused Plaintiff's emotional distress; and (vi) There is no alternative cause of action that would provide a remedy for the sever emotional distress caused by Defendant.

H.

**FOURTH CAUSE OF ACTION:**

**Defamation**

26. Plaintiffs re-allege paragraphs 1 through 16 as if replead in verbatim.

27. With reference to the wrongful termination, Defendant tried to force Ms. Johnson to sign the Employee Conference Memorandum which stated that the reason for her termination was as follows:

**“Failure to Immediately Report allegations of inappropriate child guidance and discipline.”**

28. The only conclusion that could be drawn from this express language is that Defendant is calling Ms. Johnson a child abuser. Again, the downright insincerity of making such an outrageous statement against the very person who was in fact trying to comply with the requirements to report child abuse (by turning over the *Work Log*) demonstrates the willful and wanton actions of Defendant.

**K.**

**ACTUAL DAMAGES**

29. Plaintiffs re-allege paragraphs 1 through 16 as if replead in verbatim.

30. These causes of action are maintained against Defendants for damages

sustained by Plaintiff as Actual Damages

1. Back pay;
2. Front Pay;
3. Pecuniary loss;
4. Pain and Mental anguish, attributable past and future;
5. Loss of earnings;
6. Loss of earning capacity;
7. Pre-judgment interest; and
8. Post-judgment interest.

31. As a result of the Defendant's actions made the basis of this suit, Plaintiff suffered damages within the jurisdictional limit of this Court.

**L.**

**EXEMPLARY DAMAGES**

32. Plaintiffs re-allege paragraphs 1 through 16 as if replead in verbatim.

33. Additionally, because Defendant's acted willfully and wantonly in their wrongful termination of Plaintiff and/or Defendant's Retaliation against Plaintiff and for Defendant Defaming Plaintiff, Ms. Johnson is entitled an award of exemplary damages. Plaintiff seeks exemplary damages, in an amount that the jury may award in its discretion as an example to others and as a penalty or by way of punishment. In that connection, the jury should be instructed as to certain factors that they may consider, which include, but are not limited to, the following:

1. The nature of the wrong;
2. The character of the conduct involved;

3. The degree of culpability of the wrongdoer;
4. The situation and sensibilities of the parties concerned;
5. The extent to which such conduct offends a public sense of justice and propriety;
6. The net worth of Defendants; and
7. Inconvenience, attorney's fees, expenses of litigation, and other expenses not recoverable as actual damages.

34. In that connection, the jury should be entitled to consider evidence of actual damages as to award a proportional award of exemplary damages. Moreover, the jury should be allowed to hear evidence relating to loss of contributions of pecuniary value, including but not limited to, care, nurture, guidance, support, and other contributions of pecuniary value and mental anguish.

**M.**

**JURY DEMAND**

35. Plaintiff demands this case be tried to a jury. The appropriate fee for jury trial has been paid.

**N.**

**REQUEST FOR DISCLOSURE**

36. Pursuant to Texas Rule of Civil Procedure 194.3, Plaintiff requests that Tropical Plant disclose, within 50 days from the date of service of this request for disclosure, the information or materials described in the applicable subsections of Texas Rule of Civil Procedure 194.2.

**O.**

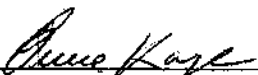
**PRAYER**

37. For the reasons cited herein, Plaintiff prays that Defendants be cited to appear and, on final trial, that Plaintiff have judgment against Defendants for damages,


with pre-judgment and post-judgment interest thereon, for costs of suit, and such other and further relief, both general and special, at law or in equity, to which Plaintiff may show herself justly entitled.

Respectfully submitted,

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