

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT

HEATHER MacGREGOR,

Plaintiff,

v.

No. D-202-CV-2019-02258

CALVARY CHRISTIAN ACADEMY,

Defendant.

**COMPLAINT FOR DISCRIMINATION, AND TRIAL DE NOVO
PURSUANT TO THE HUMAN RIGHTS ACT**

COMES NOW Plaintiff, Heather MacGregor, by and through her counsel, Youtz & Valdez, P.C. (Shane C. Youtz, Stephen Curtice and James A. Montalbano), and hereby files this Complaint for Discrimination and for a Trial De Novo Pursuant to the Human Rights Act and as grounds therefore states:

Parties, Jurisdiction and Venue

1. Plaintiff is a resident of Sandoval County, New Mexico, and was employed by Defendant as a history teacher.
2. Plaintiff is an “employee” as that term is defined in the Human Rights Act, NMSA 1978, § 28-1-2(E) (2007).
3. Defendant operates a school which is located at 12820 Indian School Rd., NE, Albuquerque, NM 87112, within Bernalillo County, New Mexico.
4. Defendant is an “employer” as that term is defined in NMSA 1978, § 1978, § 28-1-2(B) (2007).
5. This Court has personal jurisdiction over Defendant.

6. This action is brought pursuant to the Human Rights Act, NMSA 1978, § 28-2-1 *et seq.*; this Court has subject-matter jurisdiction over those claims.

7. Because Defendant does business in Bernalillo County, venue is proper in this Court pursuant to NMSA 1978, § 28-1-13(A) (2005).

Factual Allegations

8. On or about the first week of July, 2018, Plaintiff was hired by Defendant as a history teacher for the 2018-19 school year. She is, and was, fully qualified for the position.

9. On or about July 3, 2018, Plaintiff executed an employment agreement with Defendant.

10. Plaintiff was a lay employee of Defendant, as she is not a member of the congregation that operates the school.

11. Defendant provided Plaintiff an Employee Handbook. In part, that Handbook provided: “CCA is proud to be in [sic] equal opportunity employer. It is our policy to grant equal employment opportunities to all qualified applicants and employees without regard to race, color, **sex, marital status**, age, national origin, citizenship status, disability, veteran status, or any other protected classification.” (Emphasis added).

12. Through that declaration, Defendant assented to comply with the requirements of the New Mexico Human Rights Act, including its prohibition against discrimination “because of ... sex.” NMSA 1978, § 28-1-7(A) (2004).

13. On or about August 7, 2018, Plaintiff informed an employee of Defendant that she was pregnant because she wanted to ensure that the children she was teaching would have a substitute, as she would have to be on an extended medical leave at some point. Plaintiff was told that they could find a long-term substitute, but her job was guaranteed.

14. Plaintiff is unmarried. Plaintiff had become pregnant prior to being hired by Defendant, and prior to executing the employment contract with Defendant. That employment contract required Plaintiff to “strive in keeping [her] life pure” and refrain certain activities, including “fornication.” Since executing that employment contract, Plaintiff had not engaged in any of the activities prohibited by the employment agreement.

15. On or about August 10, 2018, the same employee of Defendant who had previously informed her that her job was guaranteed informed Plaintiff that she was being terminated because she was pregnant. Plaintiff was told that “sins have consequences.”

16. On or about September 5, 2018, Plaintiff timely filed a charge with the New Mexico Department of Workforce Solutions, Human Rights Bureau.

17. On December 20, 2018, pursuant to a request from Plaintiff, the Bureau issued an order of non-determination, making this Complaint for Discrimination and for De Novo Trial timely if filed on or before March 20, 2019.

**Count I: Discrimination Based on Sex
(Pregnancy Status)**

18. Plaintiff incorporates the foregoing paragraphs as though fully set forth herein.

19. Defendant terminated Plaintiff’s employment because she was pregnant, and candidly informed her that was the basis of their decision.

20. Discrimination because of an employee’s pregnancy is discrimination “because of ... sex” as that phrase is used in the New Mexico Human Rights Act. NMSA 1978, § 28-1-7(A) (2004). *Behrmann v. Phototron Corp.*, 1990-NMSC-073, 110 N.M. 323, 795 P.2d 1015.

21. By terminating her employment because of her pregnancy, Defendant engaged in an unlawful discriminatory practice pursuant to NMSA 1978, § 28-1-7(A) (2004).

22. Pursuant to NMSA 1978, § 28-1-10(J) (2005), Plaintiff is entitled to a trial de novo with respect to her claims of discrimination under the New Mexico Human Rights Act.

23. As a direct and proximate result of Defendant's acts and omissions, Plaintiff has sustained damages, and is entitled to recover her all of her actual damages, together with attorney's fees and costs pursuant to the Human Rights Act.

WHEREFORE, Plaintiff respectfully requests that this Court

- A. Enter judgment in her favor;
- B. Award her all of her actual damages;
- C. Award her attorney's fees and costs of this litigation;
- D. Award her any other relief this Court finds just and proper.

Dated: March 19, 2019

Respectfully submitted,

YOUTZ & VALDEZ, P.C.

/s/ Stephen Curtice

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Attorneys for Plaintiffs

I hereby certify that a true and correct copy of the foregoing pleading electronically filed this 19th day of March, 2019, and mailed to the following, via certified US mail, return receipt requested:

STATE OF NEW MEXICO

DEPARTMENT OF WORKFORCE SOLUTIONS
Labor Relations Division - Human Rights Bureau
1596 Pacheco St., Ste. 103
Santa Fe, NM 87505-3979
Certified No. 7001 2510 0000 7420 4865

Calvary Christian Academy Albuquerque
12820 Indian School Rd. NE
Albuquerque, NM 87112
Certified No. 7001 2510 0000 7420 4858

Calvary Christian Academy
Joseph D. Gros, Registered Agent
3001 Hwy. 90 South
Silver City, NM 88061
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/s/ Stephen Curtice
Stephen Curtice