

In the United States District Court
For The Middle District of Florida
Tampa Division

JENNIFER A. VERYZER,

Plaintiff,

v.

MILLS & MURPHY SOFTWARE SYSTEMS,
INC.,

Defendant.

Civil Action No. _____

Jury Trial Demanded

COMPLAINT

Plaintiff, Jennifer A. Veryzer ("Veryzer"), by the undersigned attorneys, makes the following averments:

1. This is a civil action brought pursuant to the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. §§ 4301 - 4333 ("USERRA").

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to 38 U.S.C. § 4323(b).

3. Venue is proper in this district under 38 U.S.C. § 4323(c)(2) and 28 U.S.C. § 1391(b) because Defendant, Mills & Murphy Software Systems, Inc. ("MMSSI"), maintains a place of business in this judicial district.

PARTIES

4. Veryzer resides in Riverview, Florida, within the jurisdiction of this Court.

5. MMSSI maintains a place of business at 618 94th Avenue North, St. Petersburg, Florida 33702, within the jurisdiction of this Court.

CLAIM FOR RELIEF

6. On or about May 15, 2000, Veryzer commenced full-time employment as a computer programmer with MMSSI.

7. In June of 2003, Veryzer joined the Georgia Air National Guard, a part of the Air Force Reserve. In June 2003, Veryzer informed Edward Murphy, the president of MMSSI, ("Murphy") that she had joined the Georgia Air National Guard.

8. Veryzer had military obligations in July, August, September, October, November and December, 2003.

9. On October 30, 2003, Murphy met with Veryzer and changed her salary calculations, which resulted in a decrease in her salary of approximately 20%. Murphy also required Veryzer to work eight hours on site at the location of a MMSSI client which, because of the time of her commute, increased Veryzer's work day to approximately eleven hours.

10. After the October 30, 2003, meeting with Murphy, Veryzer contacted her Air National Guard unit's Employer Support of the Guard and Reserve ("ESGR") representative. On November 26, 2003, Dave Parrott of ESGR contacted Murphy by telephone. Murphy responded to Parrott that Veryzer "was taking them down the wrong rat hole," or words to that effect, and hung up the telephone. Veryzer was then referred by ESGR to Frank Derfler ("Derfler"), a local businessman and the ESGR contact in Tampa, Florida. On December 12, 2003, after several

unsuccessful attempts, Derfler contacted Murphy by telephone. After Derfler identified himself, Murphy stated, "don't even go there," or words to that effect, and hung up the telephone.

11. On December 10, 2003, Veryzer informed Murphy and Vicky Fitzgerald, her direct supervisor at MMSSI, ("Fitzgerald") via e-mail that she would be on active duty "orders" from December 15 through December 19, 2003.

12. On December 10, 2003, Murphy responded to Veryzer by e-mail stating, "I am denying the PTO [personal time off] request for December 15 thru December 19. Please schedule this time for Dec 25, thru Jan 5." MMSSI's office was to be closed for the holidays from December 25, 2003, until January 5, 2004.

13. On December 10, 2003, Murphy sent another e-mail to Veryzer stating: "I'm attempting to run a business here and require advance notification of scheduling."

14. On December 14, 2003, Veryzer left for active military duty.

15. On or about December 18, 2003, while on active military duty, Veryzer was informed that her orders were extended through December 25, 2003.

16. On December 18, 2003, while on active military duty, Veryzer informed Murphy and Fitzgerald via e-mail that her orders were extended though December 25, 2003. Veryzer stated in her e-mail that she would report to work on January 5, 2004, the first day that the MMSSI office was due to open after being closed for the holidays.

17. On December 18, 2003, Murphy responded to Veryzer by e-mail in which he asked for a copy of Veryzer's orders and the name of her commanding officer. Veryzer replied to Murphy via e-mail on December 18, 2003, that under USERRA, she did not need to provide a copy of her orders, but she would provide a copy of her orders upon receipt of them from the Air Force.

18. On December 19, 2003, Murphy e-mailed Veryzer again, asking for a copy of her orders and the name of her commanding supervisor. On December 21, 2003, Veryzer replied to Murphy by e-mail that her commanding officer was serving temporary duty elsewhere, but that she would give Murphy contact information for her unit's JAG officer. In her e-mail, Veryzer requested that a meeting be held among Murphy, Derfler and herself on January 5, 2004, to discuss possible USERRA violations.

19. On December 24, 2003, Veryzer e-mailed Murphy that she was not being compensated properly for the holiday period and that she had filed a formal USERRA complaint against MMSSI with the Department of Labor, VETS division.

20. On December 24, 2003, Murphy responded to Veryzer's e-mail, stating that he would meet with Veryzer on January 6, 2004, to discuss any payroll concerns she had but not with any outside parties. Murphy stated in his e-mail to Veryzer that he was very concerned with the tone of her e-mail and he again requested a copy of Veryzer's orders.

21. On December 24, 2003, Murphy ordered Corine Neuhaus, MMSSI's human resources and office manager, to remove all security codes and access to MMSSI that related to Veryzer. Veryzer's office e-mail account at MMSSI was also deleted that same day, December 24, 2003.

22. On January 5, 2004, Veryzer reported for work at MMSSI's office. Upon arriving, she was given a termination letter by Murphy and asked to leave.

23. MMSSI violated Section 4311 of USERRA, among other ways, by discriminating against Veryzer, denying her reemployment and other employment benefits, and discharging her (a) because of her membership, service, or obligation to perform service in, the uniformed services,

and/or (b) because she took action to enforce a protection afforded her under USERRA or to exercise a right provided for in USERRA.

24. MMSSI violated Section 4312 of USERRA, among other ways, by discharging Veryzer and denying her reemployment and other employment benefits upon her return from service in the uniformed services.

25. MMSSI's violations of USERRA were willful.

26. Veryzer has suffered substantial loss of earnings and other benefits of employment as a result of MMSSI's violations of USERRA.

PRAYER FOR RELIEF

WHEREFORE, Veryzer prays that the Court enter judgment against MMSSI, its officers, agents, employees, successors and all persons in active concert or participation with it, as follows:

A. Declare that MMSSI's denial of reemployment to and discharge of Veryzer was unlawful and in violation of USERRA;

B. Require that MMSSI fully comply with the provisions of USERRA by reinstating Veryzer at the level of seniority, status and compensation that she would have enjoyed had she remained employed continuously with MMSSI, and by paying Veryzer for her loss of salary and other benefits suffered by reason of MMSSI's failure or refusal to comply with the provisions of this law;

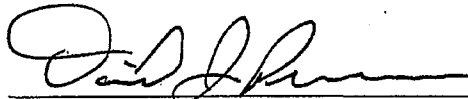
C. Declare that MMSSI's violations of USERRA were willful;

D. Require that MMSSI pay Veryzer as liquidated damages an amount equal to the amount of her lost salary and other benefits suffered by reason of MMSSI's willful failure or refusal to comply with the provisions of USERRA;

- E. Enjoin MMSSI from taking any action against Veryzer that fails to comply with the provisions of USERRA;
- F. Award Veryzer prejudgment interest on the amount of lost salary found due; and
- G. Grant such other and further relief as may be just and proper together with the costs and disbursements of this lawsuit.

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U.S. District Court

Middle District of Florida

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COMPLAINT brought pursuant to the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) against Mills & Murphy Software Systems, Inc.; filed by Jennifer A. Veryzer.(mrh)

The following document(s) are associated with this transaction:

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