

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

1.	KATRAL MCKNIGHT, et al.,	)	
		)	
	Plaintiffs,	)	CIV-15-691-W
v.		)	
		)	(Oklahoma County, CJ-2014-4240)
1.	THE STATE OF OKLAHOMA ex rel THE OKLAHOMA WORKERS' COMPENSATION COMMISSION, et al.,	)	
		)	
	Defendants.	)	ATTORNEYS LIEN CLAIMED JURY TRIAL DEMANDED

**SECOND AMENDED COMPLAINT ON BEHALF OF PLAINTIFFS  
MCKNIGHT, CARRIER, ANDERSON, AND GRAY FOR  
DECLARATORY JUDGMENT AND OTHER RELIEF**

COME NOW the Plaintiffs, Katral McKnight, Rewa Lynn Carrier, Debbie Gray and Kara Anderson,<sup>1</sup> and for their Second Amended Complaint against the above-named Defendants, herein allege and state as follows:

**PARTIES**

1. The Plaintiffs filing this Second Amended Complaint are:
  - a) Katral McKnight, an adult female residing in Oklahoma County, Oklahoma;
  - b) Rewa Lynn Carrier, an adult female residing in Oklahoma County, Oklahoma;
  - c) Debbie Gray, an adult female residing in Oklahoma County, Oklahoma;

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<sup>1</sup>This Second Amended Petition is not brought on behalf of Plaintiff Idleman.



and

d) Kara Anderson, an adult female residing in Oklahoma County, Oklahoma.

2. The Defendants are:

a) The State of Oklahoma ex rel. The Oklahoma Workers' Compensation Commission (hereinafter referred to as "the Commission"), a governmental entity doing business in Oklahoma County, Oklahoma;

b) The State of Oklahoma ex rel. The Oklahoma Workers' Compensation Court of Existing Claims (hereinafter referred to as "the CEC"), a governmental entity doing business in Oklahoma County, Oklahoma;

c) Defendant Rick Farmer, who works for the Commission as the Executive Director;

d) Troy Wilson, who works for the Commission as a Commissioner; and

e) Robert Gilliland, who works for the Commission as a Commissioner.

3. Each of the individual Defendants is/was an employee of the Commission and/or CEC at all times relevant hereto and acted at all times relevant hereto under the color of the authority granted to them by the Commission and/or CEC.

#### **JURISDICTION AND VENUE**

4. This is a cause of action arising out of Plaintiff McKnight's, Carrier's, Gray's and Anderson's former employment with Defendants Commission and CEC. Plaintiffs

McKnight, Carrier, Gray and Anderson collectively seek a declaratory judgment stating that their July 9, 2014 terminations were legislatively prohibited under The Oklahoma Workers Compensation Act, 85A O.S. § 124A(1), and in violation of the Oklahoma Open Meetings Act, 25 O.S. § 301 *et seq.* Plaintiffs McKnight, Carrier, Gray and Anderson further collectively assert claims based on: violation of their right to due process guaranteed by the Oklahoma Constitution Art. 2 § 7; wrongful termination (*Burk* tort); age discrimination in violation of the Oklahoma Anti-Discrimination Act (“OADA”); religious discrimination in violation of Title VII of the Civil Rights Act of 1964, as amended and the OADA; tortious interference with contract/employment relationship; and tortious interference with prospective economic advantage.<sup>2</sup>

5. Plaintiffs Carrier, Gray and Anderson also bring claims for violation of the Family Medical Leave Act (“FMLA”) and corresponding state law.

6. Plaintiff Anderson brings a claim for violations of the Rehabilitation Act and

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<sup>2</sup> As background, this case was initially filed in Oklahoma County District Court on July 25, 2014 seeking declaratory judgment and alleging claims for violation of the Oklahoma Worker’s Compensation Act, violation of the Oklahoma Open Meetings Act, violation of the federal Age Discrimination in Employment Act (“ADEA”), public policy wrongful termination (*Burk* tort), due process/Oklahoma Constitutional violations, and failure to pay wages under Oklahoma law. Defendant Commission removed the case to federal court on August 18, 2014 and filed a Motion to Dismiss Plaintiffs’ ADEA and *Burk* tort claims. On October 9, 2014, the U.S. District Court Judge Lee West dismissed such claims without prejudice and remanded this action back to Oklahoma County District Court. On May 14, 2015, Plaintiffs (excluding Idleman) filed an Amended Petition in Oklahoma County District Court, which was removed by Defendant Commission on June 24, 2015.

the OADA.

7. Plaintiffs' constitutional injuries were caused by state actors.

8. All of the claims arose in and around Oklahoma County, and the Defendants are/were at all relevant times hereto located and/or doing business in such county and may be served in that county. Wherefore, venue is proper in this court.

9. To the extent required, Plaintiffs timely filed Charges of Discrimination with the Oklahoma Office of Civil Rights Enforcement ("OCRE") (as to the state law age claims, the religious discrimination claims and the disability discrimination claim). Thereafter, the OCRE transferred their Charges to the Equal Employment Opportunity Commission. Plaintiffs Carrier, Gray and McKnight received their Right to Sue letters dated April 29, 2015 (received by Plaintiffs by mail thereafter). The EEOC issued a Right to Sue letter to Plaintiff Anderson on or about May 14, 2015 (received by mail thereafter). This Amended Petition is timely filed within ninety (90) days of Plaintiffs' receipt of their Right to Sue letters.

10. Plaintiffs also timely submitted governmental tort claim notices on or about August 18, 2014 and December 30, 2014. Such notices were denied/deemed denied on or about December 1, 2014 and on or about March 31, 2015 (respectively) and the Amended Petition was filed within one hundred eighty (180) days of such denials.

#### **COLLECTIVE STATEMENT OF FACTS**

11. Plaintiffs were over the age of forty (40) at all times relevant hereto.

12. Plaintiffs were long-term employees at the Oklahoma Workers Compensation

Court (“OWCC”), each working there for more than twenty (20) years.

13. On or about February 1, 2014, the OWCC was dissolved as a result of the Oklahoma Legislature’s passage of 85A O.S. § 1, *et seq.* In place of the OWCC, legislation created the Oklahoma Workers’ Compensation Commission and the Oklahoma Workers’ Compensation Court of Existing Claims.

14. Consistent with the minutes from the Commission’s meetings, all OWCC employees became jointly employed by the Commission and the CEC. And, Plaintiffs performed job duties for both the Commission and the CEC.

15. Particularly, on or about February 3, 2014, Defendant Wilson issued a memo to the Commission/CEC employees. The memo stated a specific budget line was established for the CEC, and the Honorable Judge Brad Taylor had authority over the personnel assigned to him.

16. Significantly, the memo stated “[p]ersonnel assigned to the CEC include all judges, all court reports, three order writers (Anderson, Bennett & Richardson) and two administrators (Hall & Samples).” Thus, Plaintiff Anderson was assigned to perform work for the CEC. And, Anderson directly reported to Administrator Thomas Hall, who was also assigned to the CEC per Wilson’s memo.

17. In addition, the memo stated that all other employees would perform work as Commission staff, and that the Commission and the CEC would “share most functions.” These employees were later referred to as a “shared pool” of employees.

18. These “other” employees were advised by Wilson’s memo to provide the highest quality service to both the WCC and CEC, and that they were “all on the same team.”

19. Moreover, Commission emails following the February 1, 2014 transition identify the individuals performing work for both agencies as a “shared pool” of employees.

20. Following the February 1, 2014 transition, Plaintiffs’ job duties remained the same with no substantive variation. For instance, Plaintiff Anderson continued to write Orders for worker’s compensation judges. Once a worker’s compensation hearing was completed, the court reporters (who were assigned to the CEC per Wilson’s February 3, 2014 memo) brought Anderson the case file. Anderson then drafted an Order based on the information provided.

21. And, if Anderson was asked to provide assistance on a Commission matter, Anderson spoke with Administrator Hall, the Honorable Judge Taylor or the Honorable Judge Michael J. Harkey to obtain permission before providing such assistance.

22. Following the February 1, 2014 transition, Plaintiffs Gray, Carrier and McKnight continued in their former job duties as well, which included but were not limited to scanning, entering and verifying Form 2s (the document initiating a worker’s compensation proceeding) and Orders for the CEC and Commission. The Orders were picked up from the CEC Orders Department each day.

23. Plaintiffs Gray, Carrier and McKnight also fielded questions from claimants and attorneys regarding both CEC and Commission filings. And, if Plaintiffs Gray, Carrier

or McKnight had questions regarding whether a claim was to be handled by the CEC or the Commission, they sought direction from CEC Administrator Hall (who acted as a liaison between the Commission and the CEC). Plaintiffs Gray, Carrier and McKnight would then either file the Form 2 with the CEC or Commission or call the claimant or attorney back and advise them how to file it.

24. Plaintiff McKnight also created the new case files in both the CEC and Commission database. And, Plaintiff McKnight mailed various forms to claimants and attorneys for both the CEC and Commission.

25. As part of the legislation creating the Commission, 85A O.S. § 124A (1) mandated that “[t]here shall be no reduction-in-force as a result of the transfer” of OWCC operations to the Commission and CEC.

26. However, in or around June 2014, Plaintiffs began hearing rumors that a reduction-in-force was going to occur. Thus, Plaintiff McKnight asked CEC Judge Harkey whether there was going to be a lay off. Judge Harkey told McKnight that the CEC was not going to be able to keep all of the employees, and suggested that McKnight begin looking for another job.

27. Thereafter, McKnight asked her supervisor, Kathryn Fothergill, about the rumored lay off. Fothergill told McKnight that no one was going to lose their jobs.

28. And, Defendant Executive Director Rick Farmer and other management-level employees made affirmative statements that the Plaintiffs’ jobs were not in jeopardy. In fact,

in or around the last week of June 2014, Farmer stated that no one would be losing their job, although employees may be assigned different job duties with either the Commission or CEC moving forward. And, around that time, employees were asked to complete a form similar to a job application providing information regarding their prior work history and education.

29. Contrary to such legislation and assurances, on or about July 9, 2014, Defendants' employees were told that they were to attend one of two mandatory meetings with Farmer. Employees who attended the first meeting were told they would be keeping their jobs. And, employees called into the second meeting were told they were being terminated effective immediately.

30. Sixteen (16) employees were terminated. Plaintiffs Carrier, Gray and McKnight were terminated during this meeting. And, Plaintiff Anderson, who had been off work due to a serious medical condition (and released from the hospital on or about July 1, 2014), was called at her home and informed of her termination by Deputy Director Cliff Cypert. Anderson had never met Cypert.

31. All of the terminated individuals were over the age of forty (40), except one individual who had only worked for Defendants for less than one (1) year.

32. The fifteen (15) terminated individuals who were over forty (40) had worked for the OWCC (and later the Commission or CEC) for more than ten (10) years, some more than twenty (20) years (like Plaintiffs).

33. Farmer alleged that such terminations were due to a lack of funding. However,



such proffered reason was merely pretext for unlawful motive.

34. Despite this “lack of funding” reason, Farmer had hired approximately thirteen (13) new employees following the Commission/CEC’s creation on or about February 1, 2014 (just over four (4) months before the firings). And, none of the newly-hired employees were terminated as a result of this alleged lack of funding.

35. And, upon information and belief, Farmer is a member of the Church of the Nazarene. Many of the newly-hired employees are also members of the Church of the Nazarene. These employees did not have any experience in worker’s compensation administration. And, the employees were paid at a higher rate than other employees who had been at the OWCC for years.

36. Farmer referred to this higher rate of pay as the “Nazarene bump.” Such higher rate of pay for these new employees is also inconsistent with the alleged “lack of funding” argument.

37. Further actions also indicated there was no actual “lack of funding” that would justify such terminations. For instance, new furniture and carpet were purchased for the Commission offices following Plaintiffs’ terminations on July 9, 2014. And, Counselor Eric Russell (believed to be in his 30s) was given a significant pay increase following the reduction-in-force.

38. Moreover, email correspondence exchanged in or around June and July 2014 shows that the Commission and CEC agreed to separate all funding and personnel, rather

than share resources as it had since February 1, 2014. The correspondence further shows that the CEC was given the opportunity to select the individuals it wished to retain following the separation. According to email correspondence, the CEC opted to retain approximately twenty-two (22) employees.

39. The Plaintiffs were not retained by either the Commission or CEC in favor of younger employees. For instance, Matt Hanke (believed to be in his 30s) was selected to perform Plaintiff Gray's job function entering CEC Orders. Gray had recently trained Hanke to perform this function prior to her termination.

40. As a direct and proximate result of Defendants' actions, Plaintiffs have suffered the injuries described hereafter.

#### **COUNT I - DECLARATORY JUDGMENT**

For their first cause of action, Plaintiffs incorporate all prior allegations and further allege and state as follows.

41. This count is brought by Plaintiffs McKnight, Carrier, Gray and Anderson against Defendants Commission and CEC.

42. The acts described above constitute violations of 85A O.S. §124A(1) and 25 O.S. §301, *et seq.*

43. Title 85A O.S. §124A(1) provides that "[a]ll unexpended funds, assets, property, records, personnel and any outstanding financial obligations and encumbrances of the Workers' Compensation Court before February 1, 2014, are hereby transferred to the

Workers' Compensation Commission. The personnel transferred shall retain leave, sick and annual time earned and any retirement and longevity benefits which have accrued during their employment with the state. The salaries of employees who are transferred shall not be reduced as a direct and immediate result of the transfer. There shall be no reduction-in-force as a result of the transfer.”

44. In direct violation of this statute, Plaintiffs were part of a reduction-in-force resulting from the transfer.

45. Further, the meetings wherein the termination decisions were made occurred in violation of 25 O.S. §301, *et seq.* Specifically, Commission Meeting Agendas for January 16, 2014, May 30, 2014, and June 19, 2014 list as items of discussion “personnel needs and related budget priorities.” The agendas reference personnel actions “related to 2015 budget” and “funding and assignments” for the fiscal year. But the agendas fail to specifically state the nature of the actions taken or to be taken in the future regarding the reduction in force or the termination of specific personnel as required by statute.

46. Commissioner Denise Engle was not given the opportunity to provide input into Plaintiffs’ terminations. Engle stated that she was only briefly shown a list of employees being relieved and was not given an opportunity for input nor allowed to retain the list. Engle further stated that the Commission did not meet or vote on the list (of individuals being terminated) or on the severance packages offered to the terminated employees.

47. As such, pursuant to 12 O.S. §1651, *et seq.*, Plaintiffs seek a judicial

declaration that their terminations as a result of reduction in force were legislatively prohibited by 85A O.S. §124A(1) and in violation of the Open Meeting Act, 25 O.S. §301, *et seq.*

**COUNT II - Oklahoma Constitutional Violation**

For their second cause of action, Plaintiffs incorporate all prior allegations and further allege and state as follows.

48. This count is brought by Plaintiffs McKnight, Carrier, Gray and Anderson against all Defendants.

49. The acts as described above constitute a violation of the Oklahoma Constitution Article 2 § 7.

50. 85A O.S. §124A(1) and the statements made by Commission and CEC officials that Plaintiffs' jobs were not in jeopardy created a vested property interest in Plaintiffs' continued employment.

51. Plaintiffs and the other terminated employees were deprived of such property interest without due process of the law. Plaintiffs were not afforded a hearing or opportunity to be heard and defend their interest. Thus, Plaintiffs' constitutional right to due process has been violated.

52. Further, Defendants decision to terminate Plaintiffs' employment was an arbitrary decision resulting in an unfair and unreasonable impact on Plaintiffs' life, liberty and property thereby violating Plaintiffs' right to substantive due process.

53. Plaintiffs are entitled to recovery of all damages or other relief allowed by state law.

### **COUNT III - BURK TORT**

For their third cause of action, Plaintiffs incorporate all prior allegations and further allege and state as follows:

54. This count is brought by Plaintiffs McKnight, Carrier, Gray and Anderson against Defendants Commission and CEC.

55. The conduct alleged above constitutes a *Burk* tort, as Plaintiffs' terminations violated Oklahoma public policy embodied in 85A O.S. §124A(1), the Open Meeting Act, 25 O.S. §301, *et seq.*, and the Oklahoma Constitution.

56. As a direct and proximate result of Defendants' actions, Plaintiffs have suffered injuries and are entitled to recovery of all damages or other relief allowed by state law.

### **COUNT IV - Age Discrimination**

For their fourth cause of action, Plaintiffs incorporate all prior allegations and further allege and state as follows.

57. This count is brought by Plaintiffs McKnight, Carrier, Gray and Anderson against Defendants Commission and CEC only.

58. The matters alleged above constitute violations of the OADA in the form of age discrimination.

59. Plaintiffs are entitled to relief under the OADA because, at all times relevant to this action, they were over the age of forty (40), qualified for their jobs, they were terminated, and their jobs were either not eliminated or they were treated less favorably than significantly younger, similarly-situated employees.

60. As damages, Plaintiffs have suffered lost earnings, past and future, and other equitable and compensatory damages allowed by the OADA, including attorneys fees and costs.

61. Plaintiffs are entitled to liquidated damages based upon Defendants' willful misconduct.

**COUNT V - Title VII Religious Discrimination**

For their fifth cause of action, Plaintiffs incorporate all prior allegations and further allege and state as follows.

62. This count is brought by Plaintiffs McKnight, Carrier, Gray and Anderson against Defendant Commission only.

63. The matters alleged above constitute violations of Title VII of the Civil Rights Act of 1964 in the nature of religious discrimination. Specifically, Plaintiffs were treated less favorably than individuals who shared the same religious beliefs as Defendant Farmer and were terminated as a result.

64. As damages, Plaintiffs have suffered lost earnings, past and future, emotional distress and other equitable and compensatory damages allowed by the Civil Rights Act of

1991.

**COUNT VI - OADA Religious Discrimination**

For their sixth cause of action, Plaintiffs incorporate all prior allegations and further allege and state as follows.

65. This count is brought by Plaintiffs McKnight, Carrier, Gray and Anderson against Defendant Commission only.

66. The matters alleged above constitute violations of OADA in the nature of religious discrimination. Specifically, Plaintiffs were treated less favorably than individuals who shared the same religious beliefs as Defendant Farmer and were terminated as a result.

67. As damages, Plaintiffs have suffered lost earnings, past and future, liquidated damages, attorneys fees and costs and other equitable and compensatory damages allowed by state law.

**COUNT VII - Interference with Contract**

For their seventh cause of action, Plaintiffs incorporate all prior allegations and further alleges and states as follows:

68. This count is brought by Plaintiffs McKnight, Carrier, Gray and Anderson and goes against Defendants Farmer, Wilson and Gilliland.

69. The acts above-described constitute unlawful tortious interference with a contractual/employment relationship. Defendants' actions were malicious and caused an actual harm to Plaintiffs' employment relationship with Defendants Commission and CEC.

Defendants had no justification, excuse, or privilege for such interference.

70. As a result, Plaintiffs are entitled to all damages allowed by state law.

**COUNT VIII - Interference with Prospective Economic Advantage**

For their eighth cause of action, Plaintiffs incorporate all prior allegations and further alleges and states as follows:

71. This count is brought by Plaintiffs McKnight, Carrier, Gray and Anderson and goes against Defendants Farmer, Wilson and Gilliland.

72. The acts above-described constitute unlawful tortious interference with Plaintiffs' prospective economic advantage.

73. 85A O.S. §124A(1) and the statements made by Commission and CEC officials that Plaintiffs' jobs were not in jeopardy created a reasonable expectation for profit, i.e. continued employment.

74. Defendants had knowledge of this relationship and/or expectancy.

75. Defendants intentionally induced or caused a breach or termination of Plaintiffs' relationship or expectancy.

76. Such breach resulted in damage to Plaintiffs.

77. As a result, Plaintiffs are entitled to all damages allowed by state law.

**COUNT IX - FMLA Retaliation**

For their ninth cause of action, Plaintiffs incorporate all prior allegations and further allege and state as follows:



78. This count is brought by Plaintiffs Gray, Anderson and Carrier and goes against all Defendants.

A. Plaintiff Gray

79. While employed with Defendants, Plaintiff Gray took medical leave to care for family members with serious medical conditions. For instance, Gray's husband had five (5) surgeries from in or around 2011 to 2013 on his shoulder and neck. Gray was required to care for her husband during each recovery and was off work approximately one (1) week for each surgery.

80. Also, in or around July 2013, Gray began taking intermittent time off to care for her seriously ill father and brother. Gray's father and brother required constant care, including transportation to and from medical appointments. Such leave was qualifying leave under the FMLA. Gray intermittently took such leave until in or around February 2014.

81. Both Commission and CEC representatives were aware that Gray used FMLA leave. Particularly, before February 1, 2014, Gray notified OWCC management-level employees, including her supervisor Chris Herndon, that she was taking this FMLA-qualifying leave. Gray also asked Administrator Hall (who was later assigned to the CEC) whether she should apply for FMLA, since she was missing time to care for her family members. Hall advised that this was not necessary because Gray had available leave time. Moreover, the Worker's Compensation Court Judges (assigned to the CEC), including but not limited to the Honorable Judge Harkey, were aware that Gray was missing work to care

for her ill family members.

B. Plaintiff Anderson

82. Beginning in or around November 2013, Plaintiff Anderson was off work for approximately two (2) weeks to care for her mother, who was suffering from a serious medical condition and could not care for herself. After her return to work, Anderson was off work intermittently to take her mother to necessary medical appointments. Such leave was protected leave under the FMLA.

83. And, on or about June 23, 2014, Anderson was off work on sick leave. The following day, Anderson was admitted to the hospital for severe infections in her kidneys, bladder and blood stream. Anderson was discharged from the hospital on or about July 1, 2014 but was not released to return to work at that time.

84. Anderson notified CEC Administrator Hall that she was admitted to the hospital. Upon information and belief, Hall reported Anderson's hospitalization to the CEC Judges and her co-workers.

C. Plaintiff Carrier

85. In or around May 2014, Carrier took approximately three (3) weeks of FMLA leave to care for her mother who had surgery due to a serious health condition. Carrier was initially off work for two (2) weeks, but was required to take additional days off when her mother was readmitted to the hospital.

86. Then, in or around June 2014, Carrier notified MIS/Data Processing Supervisor

Chris Herndon that she would need to be off additional time due to the readmittance. Upon doing so, Herndon asked several questions about why Carrier needed to be off work and asked personal questions regarding why Carrier's other family members would not "step up" to care for her mother. Carrier explained that her other family members were not capable of caring for her mother, but Herndon's comments forced Carrier to return to work earlier than her leave would have covered. In fact, at that time, Carrier had hundreds of leave hours available which she accrued during her tenure with OWCC.

87. Both Commission and CEC representatives were aware of Carrier's leave to care for her mother. In fact, Carrier notified Tammy Samples, Administrative Assistant to the Honorable Judge Harkey (and assigned CEC employee), that she had been leaving work periodically to care for her mother.

88. As a result of this pressure, Carrier took less time off to care for her mother. Thus, Defendants interfered with Carrier's right to take FMLA leave.

89. The matters alleged above constitute retaliation for Plaintiffs' use or attempted use of medical leave in violation of the FMLA, in that Plaintiffs engaged in the use of FMLA leave, they were terminated on or about July 9, 2014, and there is a causal connection between the use of leave and their terminations.

90. Plaintiffs were entitled to medical leave because they worked for Defendants Commission and CEC, entities with more than 50 employees within a 75 mile radius of Plaintiffs' work site, for more than one (1) year and for more than 1,250 hours within the one

year prior to their need for leave.

91. As the direct and proximate result of Defendants' willful conduct, Plaintiffs suffered injuries and are entitled to recovery of all damages or other relief allowed by the FMLA, including but not limited to, lost wages (past and future), liquidated damages, and attorney's fees and costs.

**COUNT X - FMLA Interference**

For their tenth cause of action, Plaintiffs incorporate all prior allegations and further allege and state as follows:

92. This Count is brought by Plaintiff Carrier and goes against Defendants Commission and CEC.

93. As shown above, representatives of the Commission and CEC were aware of Carrier's need for FMLA-qualifying leave.

94. The matters alleged above constitute interference with Plaintiff Carrier's attempted use of medical leave in violation of the FMLA. Specifically, Plaintiff Carrier took less medical leave to care for her mother than she was entitled to take due to pressure to remain at work.

95. As the direct and proximate result of Defendants' willful conduct, Plaintiffs suffered injuries and are entitled to recovery of all damages or other relief allowed by the FMLA, including but not limited to, lost wages (past and future), liquidated damages, and attorney's fees and costs.

**COUNT XI - Violation of FMLA Right under State Law**

For their eleventh cause of action, Plaintiffs incorporate all prior allegations and further allege and state as follows:

96. This Count is brought by Plaintiffs Gray, Anderson and Carrier and goes against Defendants Commission and CEC only.

97. As shown above, Defendants interfered with Plaintiff Carrier's use of FMLA leave and retaliated against Plaintiffs Gray, Anderson and Carrier for their use of FMLA-qualifying medical leave. Defendants' actions were taken in response to Plaintiffs' attempt to exercise their rights under the FMLA.

98. The matters alleged above constitute violations of Plaintiffs' rights to family and medical leave under Oklahoma state law, Okla. Stat. tit. 74 § 840-2.22 and OPM 530:10-15-45.

99. As a direct and proximate result of Defendants' actions, Plaintiffs have suffered injuries and are entitled to recovery of all damages or other relief allowed by Oklahoma state law.

**COUNT XII - Title VII Disability Discrimination**

For their twelfth cause of action, Plaintiffs incorporate all prior allegations and further allege and state as follows:

100. This Count is brought by Plaintiff Anderson against Defendants Commission and CEC only.

101. The matters alleged above constitute discrimination based on a disability, a record of a disability and/or perceived disabilities in violation of the Rehabilitation Act.

102. Due to her medical conditions resulting in her using medical leave from on or about June 23, 2014 until her termination on or about July 9, 2014, Plaintiff Anderson is a qualified individual with a disability within the meaning of the Rehabilitation Act in that she was disabled, has a record of disability, and/or was perceived as disabled. Further, her disabilities substantially limit and/or limited her in one or more of her major life activities, including but not limited to eating and urinating. Her disabilities impact one or more of her internal bodily processes, including but not limited to digestive and urinary function. However, at all times relevant hereto, she was able to perform the essential functions of her job with or without reasonable accommodations.

103. As a direct and proximate result of Defendants' actions, Plaintiff Anderson has suffered lost income, past and future, emotional distress and other non-pecuniary losses.

**COUNT XIII - OADA Disability Discrimination**

For their thirteenth cause of action, Plaintiffs incorporate all prior allegations and further allege and state as follows:

104. This Count is brought by Plaintiff Anderson against Defendants Commission and CEC only.

105. The matters alleged above constitute discrimination based on a disability, a record of a disability and/or perceived disabilities in violation of the OADA.

106. As damages, Plaintiff Anderson has suffered lost earnings, past and future, liquidated damages, attorneys fees and costs and other equitable and compensatory damages allowed by state law.

**REQUEST FOR RELIEF**

**WHEREFORE**, Plaintiffs pray that this Court enter judgment in favor of the Plaintiffs and against the Defendants and assess actual, compensatory, punitive damages, and liquidated damages, together with pre- and post-judgment interest, costs, attorney's fees and such other relief as this Court may deem equitable and appropriate.

**RESPECTFULLY SUBMITTED THIS 4th DAY OF SEPTEMBER, 2015.**

S/ Lauren W. Johnston  
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JURY TRIAL DEMANDED  
ATTORNEY LIEN CLAIMED

**CERTIFICATE OF SERVICE**

This is to certify that on this 26th day of August, 2015, I electronically transmitted this document to the Clerk of Court using the ECF System for filing and transmittal of a Notice

of Electronic Filing to the following ECF registrants:

Electronic Mail Notice List:       The following are those who are currently on the list to receive e-mail notices for this case.

Jana Beth Leonard leonardjb@leonardlaw.net, dorfflert@leonardlaw.net

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Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

Kevin Idleman

S/ Lauren W. Johnston