

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI  
AT KANSAS CITY

MICHELLE BOLEN,	)	
	)	
8018 NW Potomac Ave.	)	
Weatherby Lake, MO 64152	)	
	)	
<i>Plaintiff,</i>	)	Case No. 1616-CV03466
	)	
v.	)	
	)	
	)	Division 13
CATHOLIC DIOCESE OF KANSAS CITY-	)	
ST. JOSEPH,	)	
	)	Case Type: Other Misc. Actions
Serve:	)	
Person in Charge of Office	)	
20 West Ninth Street	)	
Kansas City, MO 64105	)	
	)	
and	)	
	)	
CAROL LENZ,	)	
	)	
Serve:	)	
Carol Lenz	)	
7277 N.W. Highway 9	)	
Kansas City, MO 64152-2996	)	
	)	
<i>Defendants.</i>	)	

**SECOND AMENDED PETITION**

Plaintiff Michelle Bolen states the following on personal knowledge as to her own acts and observations and on information and belief following reasonable investigation as to all other matters.

**PARTIES**

1. Plaintiff Michelle Bolen worked for the Catholic Diocese of Kansas City-St. Joseph. She resides in Weatherby Lake, Missouri, and is a citizen of Missouri.

2. Defendant Catholic Diocese of Kansas City-St. Joseph is a Missouri corporation which constitutes the Roman Catholic Church in portions of western Missouri, including Jackson County. The Diocese operates numerous parishes, including St. Therese Catholic Church and School, and the Diocese employed Plaintiff Michelle Bolen. The Diocese maintains a principal place of business in Kansas City, Jackson County, Missouri, and is a citizen of Missouri.

3. Defendant Carol Lenz was the Principal at St. Therese Catholic School, and was Ms. Bolen’s direct supervisor. She resides in Kansas City, Missouri, and is a citizen of Missouri.

**JURISDICTION AND VENUE**

4. This Court has subject matter jurisdiction under Mo. Const. art. V, § 14, and RSMo 478.070. No federal court has subject matter jurisdiction. The claims here arise under Missouri law, and the Plaintiff shares Missouri citizenship with the Defendants. Further, this case is nonremovable because the Defendants are citizens of the forum state.

5. This Court has personal jurisdiction as the Defendants are residents and domiciliaries of this state, and in connection with the acts forming the basis of this action, engaged in business, made contracts, and committed tortious acts within this state.

6. Venue is proper as at least one Defendant resides in this county.

## FACTS

7. Michelle Bolen worked at St. Therese Catholic School, which is a unit of the Catholic Diocese of Kansas City-St. Joseph, from approximately August 28, 2000, to July 31, 2015. She began as an Assistant Director in the Early Childhood Center.

8. On August 9, 2005, Ms. Bolen became a “Lay Teacher” in the parish school, most recently teaching first grade. Her performance reviews were positive and she consistently had her contracts renewed by the Diocese until late 2014.

9. Ms. Bolen was not married at the time she learned she was pregnant. She met with Fr. Joseph Cisetti, the pastor with oversight over St. Therese Catholic School, to tell him that she was pregnant.

10. Fr. Cisetti said that Ms. Bolen had made the right choice in terms of “keeping the baby,” but that she had violated the terms of her contract by being pregnant while not being married. In that same conversation, Fr. Cisetti stated that Ms. Bolen could not “return to sender,” but that had she done so (meaning, had she gotten an abortion), they would not have been there that day having the discussion about her pregnancy and its repercussions.

11. The Catholic Church’s public opposition to abortion is well-known, but its handling of Ms. Bolen’s situation would result in the ultimate irony. The Diocese, especially under the leadership of then-Bishop Robert Finn, was more concerned with “keeping up appearances” than actually following Catholic moral teachings.

12. During this meeting, it was implied that had Ms. Bolen terminated her pregnancy, the school would not have to deal with whispering and the “scandal” of an unmarried teacher being pregnant.

13. When Ms. Bolen made clear that she was pregnant and was looking forward to welcoming her child into the world, the Diocese and its agents embarked on a campaign of harassment of Ms. Bolen, and ultimately terminated her employment.

14. At the same meeting, Fr. Cisetti informed Ms. Bolen that he wanted to set up a meeting with Defendant Carol Lenz, the principal of St. Therese School and Ms. Bolen's supervisor. On March 6, she met with the Fr. Cisetti and with Ms. Lenz in Ms. Lenz's office. At that meeting, Fr. Cisetti told Ms. Bolen that she should be "protected" as far as the Church is concerned because the Church "values life," but that Ms. Lenz would be giving her a yearly review soon. He characterized the review as "the other side of things."

15. Up to this point, Ms. Bolen's reviews had been very positive, and she did not expect a negative review. Abruptly, Ms. Lenz blurted out that Ms. Bolen's contract was not guaranteed. Ms. Bolen was taken aback. Then Fr. Cisetti cautioned Ms. Bolen not to say anything about her pregnancy, and to wear loose clothing to conceal it. He also added that Ms. Bolen would need to keep news about her pregnancy quiet because it would be considered a "scandal" in the eyes of the church. Ms. Lenz expressed her agreement with these statements. After that, Fr. Cisetti added that he would also need to tell then-Bishop Robert Finn about Ms. Bolen's situation.

16. On March 17, 2015, Ms. Lenz emailed Ms. Bolen to set up another meeting. At this meeting, she told Ms. Bolen that there was "speculation" among the staff that she was pregnant. She said that she would be setting up a meeting between herself, Assistant Principal Kathy Teson, Fr. Cisetti, and Ms. Bolen to decide how to "handle" the situation.

Ms. Lenz stated that she and Fr. Cisetti had two additional meetings set up with the Diocese to discuss Ms. Bolen's pregnancy.

17. Ms. Bolen complied with her employer's request to not spread news of her pregnancy, and to wear loose clothing.

18. Despite her compliance, Ms. Teson and Ms. Lenz began to harass Ms. Bolen in other ways. For example, on March 19, Ms. Bolen received an email from Ms. Lenz accusing Ms. Bolen of being late and alleging that Ms. Teson had to find someone to watch Ms. Bolen's class in the morning. This was not true. Ms. Bolen responded to Ms. Lenz that she had been on time, noting that she was there even before the bell rang for students to come into her classroom. That same day, Ms. Teson came into Ms. Bolen's classroom to tell her that she was not "watching her." She made this statement in front of Ms. Bolen's son, and also in front of a student whom Ms. Bolen was tutoring.

19. As this campaign of harassment ensued, Ms. Bolen complied with her employer's directives but also actively stated her opposition to the school's management about how she was being treated because of her pregnancy.

20. Soon after, Fr. Cisetti told Ms. Bolen that the entire staff of St. Therese – numbering dozens of people – would have to be informed of Ms. Bolen's pregnancy. Ms. Bolen did not desire any such announcement to be made about her personal business.

21. Carol Lenz and Fr. Cisetti sent an invasive, humiliating, public letter to the entire staff about Ms. Bolen's pregnancy, calling it "less than ideal," and ensuring that everyone on the staff was informed that she was not married to the father of her child.

22. Ms. Bolen continued to resist what she believed was discriminatory and retaliatory behavior, expressing opposition to how she was being treated to management.

23. In return, the Diocese placed her on a performance improvement plan on March 31, 2015.

24. As Ms. Bolen continued to oppose and question the school's discrimination against her, the pressure increased.

25. On April 29, 2015, Ms. Bolen had a prenatal appointment. Ms. Bolen signed out in the book for appointments like this one, which made it clear that she was taking time for a medical appointment. However, Ms. Lenz behaved as if she did not know about the appointment, and went to another teacher to inquire where Ms. Bolen was— although she knew from Ms. Bolen's sign-out. The next day, Ms. Bolen received an email from either Ms. Lenz or Ms. Teson scolding her for not filling out a "purple form," something she was not required to do for a short appointment. Ms. Bolen was made to feel like her prenatal appointment was a "problem" for the school and, moreover, it was a performance problem.

26. In addition, during this time, Ms. Bolen reported to the school that another teacher, P.H., had bullied a student, and had behaved in ways that made her son, also P.H.'s student, uncomfortable. P.H. had placed her hands on one or more students in ways they found offensive and made them uncomfortable.

27. In response, Ms. Lenz accused Ms. Bolen of reporting this information inappropriately and demanding that she confront P.H. directly in a meeting. Ms. Bolen told Ms. Lenz that she believed Ms. Lenz was treating her differently and retaliating against her because of her pregnancy.

28. On May 1, 2015, the Diocese informed Ms. Bolen that her contract would not be renewed for the next year, despite the fact that her employer had admitted that she met all requirements of her performance improvement plan. The termination document included pretextual reasons for the termination.

29. The Diocese ceased Ms. Bolen's employment at the end of her contract term, July 31, 2015. She has been unable to find comparable employment.

30. Following her termination, Ms. Bolen requested a service letter, and the Diocese provided a non-compliant letter that gave inaccurate information about her employment, and repeated some of the pretextual allegations that were made against her.

### **COUNT I**

#### **VIOLATION OF THE MISSOURI ABORTION ACT OF 1986, RSMo 188.100 through 188.120 DISCRIMINATION (against both Defendants)**

31. Ms. Bolen incorporates each and every foregoing and succeeding paragraph of this Petition as if fully set forth here.

32. The Diocese was an employer within the meaning of the Missouri Abortion Act of 1986 (*codified in relevant part at RSMo 188.100-.120*).

33. The Diocese employed Ms. Bolen.

34. Instead of terminating her pregnancy, Ms. Bolen chose to bear her child and bring a new life into the world.

35. Had Ms. Bolen terminated her pregnancy, she would have suffered no adverse employment consequences, because her abortion would have remained a private

and confidential matter—and Fr. Cisetti made this clear in his initial meeting with Ms. Bolen by referring to the fact that if Ms. Bolen had “return[ed] to sender,” they would not be having the discussion they were having.

36. Because she chose instead to continue the pregnancy, the Diocese was faced with the reality that her pregnancy out of wedlock would become known.

37. The Diocese proceeded to discriminate against Ms. Bolen with respect to the terms, conditions, and privileges of her employment, including but not limited to subjecting her to additional monitoring, imposing differential work requirements on her, publishing her personal information to her coworkers, and terminating her employment.

38. Ms. Bolen’s refusal to participate in abortion was a contributing factor in the Diocese’s actions, because continuing a pregnancy necessarily means that the mother has decided not to undergo an abortion.

39. Further, the Diocese maintains a policy and/or practice of limiting, segregating, or classify its employees in a way which would deprive or tend to deprive them of employment opportunities or otherwise adversely affect their status as employees, because of their refusal to participate in abortion.

40. Even if the Diocese does not actually intend to encourage abortions, its policy and practice of disciplining and terminating unwed mothers has the effect of punishing women who carry their children to term instead of participating in abortion.

41. This policy and/or practice affected Ms. Bolen, resulting in her shunning and ultimate termination from employment.



42. In recent years, the Diocese has terminated at least one other employee for carrying a child while being unwed; by contrast, there are no known instances of the Diocese terminating an employee for participating in an abortion.

43. As a result of the Diocese's actions, Ms. Bolen has suffered damages.

44. Defendant Lenz aided, abetted, incited, and compelled these actions, and acted directly in the interest of the Diocese with respect to Ms. Bolen.

45. Ms. Bolen respectfully prays that this Court adjudge Defendants jointly and severally liable for violation of the Missouri Abortion Act of 1986 by way of discrimination, and grant all relief allowed under the law, as set forth in the Prayer in this Petition.

## **COUNT II**

### **VIOLATION OF THE MISSOURI ABORTION ACT OF 1986, RSMo 188.100 through 188.120 RETALIATION (against both Defendants)**

46. Ms. Bolen incorporates each and every foregoing and succeeding paragraph of this Petition as if fully set forth here.

47. The Diocese was an employer within the meaning of the Missouri Abortion Act of 1986 (*codified in relevant part at RSMo 188.100-.120*).

48. The Diocese employed Ms. Bolen.

49. Ms. Bolen opposed actions forbidden by the Missouri Abortion Act of 1986 by, among other things, conveying her disagreement to management with the manner in which they were publicizing her pregnancy, imposing differential job requirements on her,

and putting her on a performance improvement plan; she also opposed unlawful acts by filing this action.

50. The Diocese harassed Ms. Bolen, including but not limited to subjecting her to additional monitoring, imposing differential work requirements on her, publishing her personal information to her coworkers, and terminating her employment.

51. Later, when Ms. Bolen requested a service letter, the Diocese issued a letter that included pretextual reasons for her termination and was otherwise non-compliant.

52. Subsequent to her filing of this action, the Defendants have further retaliated against Ms. Bolen, including but not limited to disparaging her and/or inducing other teachers and former coworkers of Ms. Bolen not to provide employment references for her or otherwise assist her in her search for new employment, despite those coworkers' prior agreement to assist Ms. Bolen.

53. Ms. Bolen's protected activity was and continues to be a contributing factor in Defendants' actions.

54. As a result of the Diocese's actions, Ms. Bolen has suffered damages.

55. Defendant Lenz aided, abetted, incited, and compelled these actions, and acted directly in the interest of the Diocese with respect to Ms. Bolen.

56. Ms. Bolen respectfully prays that this Court adjudge Defendants jointly and severally liable for violation of the Missouri Abortion Act of 1986 by way of retaliation, and grant all relief allowed under the law, as set forth in the Prayer in this Petition.

### **COUNT III**

#### **VIOLATION OF THE MISSOURI SERVICE LETTER LAW,**

**RSMo 290.140  
(against Defendant Diocese only)**

57. Ms. Bolen incorporates each and every foregoing and succeeding paragraph of this Petition as if fully set forth here.

58. Ms. Bolen properly requested a letter of dismissal, or “service letter,” from the Diocese, under RSMo 290.140.

59. The Diocese is an employer covered by the Service Letter Law, as it is a corporation doing business in this state and employing seven or more persons in this state.

60. Ms. Bolen is an employee entitled to request a service letter, in that she was employed by the Diocese for at least 90 days before her discharge.

61. The Diocese failed to issue a proper and compliant service letter. The letter it sent is deficient and gives false reasons for her termination.

62. The Diocese acted in reckless disregard of Ms. Bolen’s rights and/or with evil motive, justifying an award of punitive damages.

63. Ms. Bolen respectfully prays that this Court adjudge Defendant Catholic Diocese of Kansas City-St. Joseph liable for violation of the Missouri Service Letter Law, and grant all relief allowed under the law, as set forth in the Prayer in this Petition.

**COUNT IV**

**WRONGFUL DISCHARGE IN VIOLATION OF PUBLIC POLICY  
(against both Defendants)**

64. Ms. Bolen incorporates each and every foregoing and succeeding paragraph of this Petition as if fully set forth here.

65. Ms. Bolen reported misconduct that is contrary to Missouri public policy; namely, she reported to her superior(s) the mistreatment of one or more students by a teacher, including that teacher's inappropriate touching of children.<sup>1</sup>

66. Thereafter, the Diocese terminated Ms. Bolen's employment.

67. The Diocese's discharge of Ms. Bolen has resulted in damages to her.

68. Ms. Bolen's protected conduct was a contributing factor in the Diocese's decision to terminate her; indeed, the Diocese expressly admitted in her termination paperwork that her report of the teacher's conduct factored into Ms. Bolen's termination.

69. The Defendants acted in reckless disregard of Ms. Bolen's rights and/or with evil motive, justifying an award of punitive damages.

70. Ms. Bolen respectfully prays that this Court adjudge Defendants liable for wrongful discharge in violation of public policy, and grant all relief allowed under the law, as set forth in the Prayer in this Petition.

## **COUNT V**

### **INVASION OF PRIVACY - PUBLIC DISCLOSURE OF PRIVATE FACTS (against both Defendants)**

71. Ms. Bolen incorporates each and every foregoing and succeeding paragraph of this Petition as if fully set forth here.

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<sup>1</sup> There is no indication at this point that the teacher's touching of children was sexually motivated, but it was nonetheless inappropriate, unwanted, intimidating, bullying, and unlawful.

72. The Diocese and Lenz gave publicity to private affairs of Ms. Bolen, namely the details of her pregnancy and impliedly her sex life, describing her pregnancy to dozens of her coworkers at St. Therese, and discussing it as out-of-wedlock and not ideal.

73. Ms. Bolen did not validly waive or grant a privilege to the Defendants to publicize these matters.

74. The private matters which the Defendants publicized were matters over which the recipients had no legitimate concern.

75. The Defendants knew that their actions would bring shame and humiliation to a person of average sensibilities.

76. The Diocese acted in reckless disregard of Ms. Bolen's rights and/or with evil motive, justifying an award of punitive damages.

77. Ms. Bolen respectfully prays that this Court adjudge Defendant Catholic Diocese of Kansas City-St. Joseph liable for violation of the Missouri Service Letter Law, and grant all relief allowed under the law, as set forth in the Prayer in this Petition.

### **JURY DEMAND**

Ms. Bolen respectfully demands a jury trial on all issues so triable.

### **PRAYER FOR RELIEF**

Ms. Bolen respectfully prays that this Court grant her the following relief in an amount that is fair and reasonable, and which is believed to exceed the \$25,000 threshold for Circuit Court jurisdiction:

1. All economic loss, including unpaid wages and fringe benefits;

2. Nominal and/or statutory damages for violation of the Missouri Service Letter Law;
3. Other actual damages, including damages for garden-variety emotional distress;
4. Liquidated and/or treble damages as may be provided by law;
5. Punitive damages;
6. Pre-judgment and post-judgment interest at the maximum rate permitted by law;
7. Declaratory and injunctive relief, including reinstatement, backpay, frontpay, adjustment of amounts awarded for taxation, and deletion of negative personnel references;
8. The costs of this action;
9. Reasonable attorney's fees; and
10. Any other and further legal and/or equitable relief that this Court deems just and proper.

Dated: April 27, 2018

Respectfully submitted,

KEENAN & BHATIA, LLC

\_\_\_\_\_/s/ Sonal Bhatia\_\_\_\_\_  
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ATTORNEYS FOR PLAINTIFF

**CERTIFICATE OF SERVICE**

I certify that on the date set forth on which this document was filed with the Court, I served a true and correct copy on the following case participant, by efileing:

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An Attorney for Plaintiff