

IN THE DISTRICT COURT OF (redacted) COUNTY, NEBRASKA

_____)	
PRISCILLA DOE,)	
)	
Plaintiff,)	
)	Case No.
v.)	
)	COMPLAINT
A NEBRASKA RESTAURANT)	
)	
)	
Defendant.)	
_____)	

Plaintiff Priscilla Doe (a pseudonym), by and through her attorneys, files this Complaint pursuant to Neb. Rev. Stat. § 20-168 (2003) against defendant, a Nebraska Restaurant (a pseudonym), for discrimination based on plaintiffs' HIV status when she was fired from her job as a hostess. Plaintiff demands a jury for the following claim asserted hereinafter.

PARTIES

1. Plaintiff Priscilla Doe ("Priscilla") was employed as a hostess by defendant, a Nebraska Restaurant.
2. Defendant is a Nebraska Restaurant located in a small town in Nebraska (the "Restaurant").
3. Priscilla brings this action using a pseudonym for both herself and the defendant because she reasonably fears that further disclosure of her identity as someone with HIV would result in discrimination against her in employment and in other aspects of her life in her community. This fear is based on past experience. She has already been discriminated against by two employers because of her HIV status. Given that defendant is a small restaurant with few

employees and is located in a small town, disclosure of the Restaurant's identity is tantamount to disclosure of plaintiff's identity. Contemporaneous with the filing of this complaint, plaintiff is filing a motion for leave to proceed using pseudonyms for both plaintiff and defendant.

JURISDICTION AND VENUE

4. Plaintiff brings this action to redress her former employer's discrimination against her based on the fact that she has human immunodeficiency virus (HIV), in violation of Neb. Rev. Stat. § 20-168(1).

5. Venue is proper in this Court pursuant to Neb. Rev. Stat. § 20-168(5) because the discrimination Plaintiff experienced occurred in this county, and Neb. Rev. Stat. § 25-403.01 because defendant resides in this county and the cause of action arose in this county.

FACTS

6. Priscilla is HIV-positive.

7. Priscilla began working at the Restaurant as a hostess in August 2002. Her position involved serving food and drink to customers, bussing tables, and occasional food preparation.

8. On Tuesday, May 6, 2003, Priscilla reported for work as usual, but the Restaurant owner told Priscilla she was not needed that day. The owner told Priscilla not to come in again until Friday, May 9.

9. On Friday, May 9, 2003, the Restaurant owner called Priscilla at home shortly before she was scheduled to come in to work at the Restaurant and fired Priscilla from her

employment at the Restaurant. The owner gave Priscilla contradictory reasons for terminating her. She told Priscilla both that she had hired an additional waitress because there was too much work for one waitress, and that business was slow.

10. Upon information and belief, the Restaurant owner discovered that Priscilla was HIV-positive on Sunday, May 4, 2003, when Priscilla's former manicurist, to whom Priscilla had disclosed her HIV status, disclosed this information to the Restaurant owner.

11. Upon information and belief, during the week of May 4, 2003, the Restaurant owner had a conversation with the Restaurant's chef while they were outside behind the Restaurant taking a break. During this conversation, the Restaurant owner told the chef that she planned to fire Priscilla because she was HIV-positive. The owner stated that she was afraid her business would suffer if customers became aware that an HIV-positive person was working in her Restaurant. The chef then advised the Restaurant owner to contact a lawyer and the health department to find out if she was "doing the right thing." The Restaurant owner stated that she would do this.

12. Upon information and belief, another Restaurant employee told the chef that the Restaurant owner had asked her if Priscilla had AIDS. The owner also told that employee that she had contacted an attorney after her conversation with the chef, and learned that she could not lawfully terminate Priscilla based on her HIV status.

13. Upon information and belief, the reasons the Restaurant owner gave Priscilla for her termination are pretextual, and the reason defendant discharged Priscilla is because the owner knew or believed Priscilla was HIV-positive.

14. At all relevant times, Priscilla was able to perform all of her tasks as a hostess at the Restaurant.

15. At no time did her employment at the Restaurant pose any threat to the health or safety of herself or others.

16. Because of her discriminatory firing from the Restaurant, Priscilla has lost income that she would otherwise have earned. Priscilla has also experienced significant emotional distress as a result of her discriminatory firing from the Restaurant.

CLAIM FOR RELIEF

17. Plaintiff hereby incorporates paragraphs one through sixteen above.

18. Defendant violated Neb. Rev. Stat. § 20-168(a) when it fired plaintiff because she is HIV-positive.

19. Defendant's unlawful conduct has caused plaintiff lost income as well as significant emotional distress.

WHEREFORE, plaintiff respectfully requests the following relief:

1. a declaration that defendants' termination of Priscilla Doe on the basis of her HIV-positive status violated Neb. Rev. Stat. § 20-168;

2. an order enjoining and permanently restraining this violation of Neb. Rev. Stat. § 20-168;

3. an award of back pay, reinstatement or front pay, and compensation for the emotional distress caused by defendant's unlawful conduct in an amount to be determined by the Court;

4. granting such other and further relief as the Court deems just and proper.

Dated: November ____, 2003

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been
furnished by _____ this ____ day of November, 2003, to:
