

(a) Defendant Palo Foods, Inc., is now, and at all times hereinafter mentioned was, a corporation organized under the laws of the State of Wisconsin, with a place of business at 903 Forest Avenue, Sheboygan Falls, Wisconsin, 53085 in Sheboygan County and is engaged in the business of producing flavored popcorn snacks, within the jurisdiction of this Court.

(b) Defendant was, at all times material herein, a “person,” as defined by Section 3 and Section 11(c) of the Act (29 U.S.C. § 652(4) and 660(c)(1)). Defendant is now, and at all times hereinafter mentioned was, an “employer,” as defined by Section 3(5) of the Act (29 U.S.C. § 652(5)).

III

Karla Lisowe was, at all times material herein, employed by Defendant Palo Foods, Inc., as a production worker, and was an employee employed by an employer as defined by Sections 3(5) and 3(6) of the Act (29 U.S.C. § 652(5) and (6)).

IV

(a) On or about January 11, 2011, Defendant Palo Foods, Inc., hired Ms. Lisowe to work as a production worker.

(b) In late March or early April 2013, Ms. Lisowe began working with a pickle spice known as “Dill Pickle Flavor, Snack Seasoning #3364” which was used as a coating on popcorn.

(c) During April 2013, Ms. Lisowe expressed health concerns over working with the pickle spice to her supervisor, plant manager Brian Pearson.

(d) During early April 2013, Ms. Lisowe requested that the company give her personal protective equipment (“PPE”) when working with the pickle spice. Ms. Lisowe also raised concerns over the ventilation in the area where she was working with the spice. Although the Defendant provided a respirator to Ms. Lisowe for working with the spice, Ms. Lisowe was not

properly fitted for the respirator. The location of the work area was also changed, however, Ms. Lisowe continued to suffer from nosebleeds and headaches from working with the spice.

(e) During April 2013, Ms. Lisowe repeatedly asked for a copy of the Material Safety Data Sheet (“MSDS”) for the pickle spice. Although Ms. Lisowe was able to review the MSDS and noted that personal protective equipment and proper ventilation were required when working with the pickle spice, she requested a copy of the MSDS to take home with her. Specifically, on April 22, 2013 and again on April 24, 2013, Ms. Lisowe asked her supervisor, Mr. Pearson, for a copy of the MSDS to take home with her.

(f) Mr. Pearson never provided Ms. Lisowe with her own copy of the MSDS. On or about April 22, 2013, Mr. Pearson told Ms. Lisowe that he was never going to have another conversation about her concerns or the MSDS again. On or about April 24, 2013, Ms. Lisowe was also told by Mr. Pearson that if she or any other employee thought the company was putting them in harm’s way, they should look for other employment.

(g) On May 2, 2013, Ms. Lisowe again requested her own copy of the MSDS from Mr. Pearson. Ms. Lisowe also informed Mr. Pearson that her husband had contacted OSHA. Ms. Lisowe was immediately terminated by Defendant.

V

(a) On or about May 2, 2013, Ms. Lisowe filed a timely complaint with Plaintiff, alleging that Defendant Palo Foods, Inc. discriminated against her in violation of Section 11(c) of the Act (29 U.S.C. § 660(c)(1)) by terminating her for engaging in the protected activity described in Paragraph IV above.

(b) Plaintiff thereafter investigated said complaint in accordance with Section 11(c)(2) of the Act (29 U.S.C. § 660(c)(2)) and determined that Defendant was in violation of Section 11(c) of the Act.

VI

As a direct and proximate result of Defendant's discriminatory actions, Ms. Lisowe incurred damages, which include the following: loss of salary, benefits, and compensation; emotional pain and suffering; and damage to her professional and personal reputation.

VII

By the acts described in Paragraph IV above, Defendant did knowingly or maliciously discriminate against Ms. Lisowe, and, by failing to reinstate her, is continuing to discriminate against her because of her exercise of rights under or related to the Act. Defendant thereby did engage in, and is engaging in, conduct in violation of Section 11(c) of the Act.

WHEREFORE, cause having been shown, Plaintiff prays for judgment:

(1) Ordering Defendant to make Karla Lisowe whole by (1) reimbursing her for lost wages and other lost benefits that resulted from her termination, with interest thereon from the date due until paid; (2) offering reinstatement to Ms. Lisowe in the position of production worker, her former position, or in lieu of reinstatement, providing her with front pay in an amount to be determined at trial; and (3) expunging from all personnel and company records references to the circumstances giving rise to her unlawful termination;

(2) Ordering Defendant to make Ms. Lisowe whole by providing compensation to reimburse her for any costs, expenses, and/or other pecuniary losses she incurred as a result of Defendant's discriminatory actions;

(3) Ordering Defendant to make Ms. Lisowe whole by providing compensation for non-pecuniary losses, including emotional pain and suffering and damage to her professional and personal reputation;

(4) Ordering Defendant to pay additional compensation to Ms. Lisowe as exemplary or punitive damages in an amount to be determined at trial;

(5) Ordering Defendant to post in a prominent place for a period of 60 consecutive days a notice stating it will not in any manner discriminate against any employee for engaging in activities protected by Section 11(c) of the Act;

(6) Permanently enjoining and restraining Defendant, its officers, agents, servants, employees, and those persons in active concert or participation with them, from violating the provisions of Section 11(c) of the Act; and

(7) Ordering such other and further relief as may be necessary and appropriate.

Dated: April 11, 2017

Respectfully submitted,

NICHOLAS C. GEALE
Acting Solicitor of Labor

CHRISTINE Z. HERI
Regional Solicitor

/s/ Margaret A. Sewell
MARGARET A. SEWELL (IL BAR #6243855)
Senior Trial Attorney
U.S. Department of Labor
Office of the Solicitor
8th Floor
230 S. Dearborn Street
Chicago, IL 60604
(312) 353-3481
(312) 353-5698 (fax)
sewell.margaret@dol.gov