

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

KAITLIN VARNEY)
6632 State Route 132)
Goshen, Ohio 45122,)

Plaintiff,)

v.)

HEALTH CAROUSEL, LLC)
4000 Smith Road, Suite 410)
Cincinnati, Ohio 45209)

Serve Also:)

CORPORATION SERVICE)
COMPANY)
3366 Riverside Drive, Suite 103)
Upper Arlington, Ohio 43221,)

Defendant.)

CASE NO.

JUDGE:

**COMPLAINT FOR DAMAGES
AND INJUNCTIVE RELIEF**

**JURY DEMAND ENDORSED
HEREIN**

Plaintiff, Kaitlin Varney, by and through undersigned counsel, as her Complaint against Defendant Health Carousel, LLC (“Health Carousel”) states and avers the following:

PARTIES, JURISDICTION, AND VENUE

1. Varney is a resident of the City of Goshen, Clermont County, Ohio.
2. At all times herein, Varney acted in the course and scope of her employment.
3. Health Carousel is a domestic limited liability company that does business at 4000 Smith Road, Suite 410, Cincinnati, Ohio 45209.
4. Health Carousel is and, at all times herein, was an employer within the meaning of 42 U.S.C. § 2000e-2 *et seq.*

5. Health Carousel is and, at all times herein, was an employer within the meaning of 29 U.S.C. § 218 *et seq.*
6. Health Carousel hires citizens of the State of Ohio, contracts with companies in Ohio, and owns or rents property in Ohio. As such, the exercise of personal jurisdiction over Health Carousel comports with due process.
7. This court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 in that Varney is alleging federal law claims under Title VII of the Civil Rights Act of 1964 (“Title VII”) 42 U.S.C. § 2000e-2, the Providing Urgent Maternal Protections for Nursing Mothers Act (“PUMP Act”) 29 U.S.C. § 218(d), and the Pregnant Worker’s Fairness Act (“PWFA”) 42 U.S.C. § 2000gg.
8. All material events alleged in this Complaint occurred in Hamilton County, Ohio.
9. This Court has supplemental jurisdiction over Varney’s state law claims pursuant to 28 U.S.C. § 1367 as Varney’s state law claims are so closely related to her federal law claims that they form part of the same case or controversy under Article III of the United States Constitution.
10. Venue is proper in this Court pursuant to 28 U.S.C. § 1391.
11. Within 180 days of the conduct alleged below, Varney filed a charge of discrimination with the Equal Employment Opportunity Commission (“EEOC”), Charge No. 473-2024-01093 against Health Carousel (“Varney EEOC Charge”).
12. On or about August 7, 2024, the EEOC issued a Notice of Right to Sue letter to Varney regarding the charges of discrimination brought by Varney against Health Carousel in the Varney EEOC Charge.
13. Varney received her Right to Sue letter from the EEOC in accordance with 42 U.S.C. § 2000e-5(f)(1).

14. Varney has filed this Complaint within 90 days of the issuance of the Notice of Right to Sue letter.
15. Varney dually filed the Varney EEOC Charge with the EEOC and the Ohio Civil Rights Commission (“OCRC”).
16. On or about May 15, 2024, Varney requested her Notices of Right to Sue from the OCRC.
17. Varney has properly exhausted her administrative remedies pursuant to 29 C.F.R. § 1614.407(b).

FACTS

18. Varney is a former employee of Health Carousel.
19. Varney began working for Health Carousel on or about October 10, 2022.
20. Varney worked for Health Carousel as an Accounts Receivable Specialist.
21. Varney is a woman.
22. Monica Jagers works as an Accounts Receivable Manager for Health Carousel.
23. Jagers was Varney’s manager.
24. Jagers is a woman.
25. Throughout her time at Health Carousel, Varney was subjected to disparate treatment by her manager Jagers.
26. Varney gave birth to her child on April 25, 2023.
27. Varney provided breast milk to her child for the year following the birth.
28. Varney returned to work on or about July 18, 2023.
29. Varney needed to express breast milk with the assistance of a breast pump during work hours.
30. Varney informed Jagers of her need to express breast milk with the assistance of a breast pump.

31. Jagers expressed disgust at Varney's use of "pump" and "pumping" to refer to expressing breast milk with the assistance of a breast pump.
32. Jagers discouraged Varney from making it known to her coworkers that she was expressing breast milk at work.
33. Varney requested additional break time to express breast milk as a reasonable accommodation related to her pregnancy.
34. Health Carousel ostensibly approved Varney's additional break time as a reasonable accommodation.
35. On or about July 25, 2023, Jagers held an Accounts Receivable virtual team meeting for the employees working under her ("Team Meeting").
36. During the Team Meeting, Jagers invited her employees to share information about their personal lives.
37. Jagers invited Varney to share about her personal life.
38. Varney shared that she had a difficult morning because her baby had spit up breast milk on her just as she was about to leave for the office.
39. Jagers was disgusted and criticized Varney for sharing her experience.
40. Varney's coworkers joined in expressing their disgust at Varney following Jagers' lead.
41. The comments during the Team Meeting are collectively hereinafter referred to as, "Team Meeting Lactation Harassment."
42. On or about July 25, 2023, Varney reported the Team Meeting Lactation Harassment to Health Carousel's human resources ("First Report of Lactation Harassment").
43. Health Carousel failed to take prompt remedial action in response to Varney's First Report of Lactation Harassment.

44. After the First Report of Lactation Harassment, Varney's coworkers treated her more coldly.
45. After the First Report of Lactation Harassment, Jagers continued expressing frustration and disgust at having to accommodate Varney's pumping.
46. Varney had difficulty expressing breast milk using a breast pump due to a low flow.
47. Varney's low breast milk flow caused her pumping breaks to take longer and interfered with her ability to complete her work.
48. On or about September 26, 2023, Varney requested from Jagers permission to work overtime hours as an accommodation for her longer pumping breaks ("Overtime Request as Lactation Accommodation").
49. On or about September 27, 2023, Jagers denied Varney's Overtime Request for Lactation Accommodation.
50. Jagers refused to engage further in the interactive process or offer an alternative accommodation to Varney.
51. Jagers' refusal to accommodate Varney was pregnancy discrimination.
52. Jagers criticized Varney for taking longer pumping breaks.
53. On or about September 28, 2023, Varney reported Jagers' refusal to accommodate her and lactation-based harassment to Health Carousel Human Resources ("Second Report of Lactation Harassment").
54. Health Carousel Human Resources failed to take prompt remedial action in response to Varney's Second Report of Lactation Harassment.
55. Jagers retaliated against Varney for making the Second Report of Lactation Harassment by micromanaging her pumping breaks and being overly critical of her work.
56. On or about October 12, 2023, Varney accidentally lactated through her shirt while at work.

57. Varney messaged Jagers for permission to leave the office so that she could change her shirt and work the remainder of the day from home.
58. Jagers ignored Varney's request.
59. On or about October 13, 2023, Varney sought mental health treatment regarding the routine humiliation and harassment by Jagers related to her breastfeeding.
60. Over the next few weeks, Jagers's harassment continued and Varney's mental health declined.
61. On or about November 7, 2023, Varney submitted her resignation effective immediately.
62. Varney resigned in response to Jagers' harassment
63. Health Carousel constructively discharged Varney's employment ("Constructive Discharge").
64. Varney was entitled to pump breast milk for her child under the PUMP Act.
65. Varney was entitled to pump breast milk for her child under the PWFA.
66. Health Carousel knowingly constructively discharged Varney's employment.
67. Health Carousel knowingly took an adverse employment action against Varney.
68. Health Carousel knowingly took an adverse action against Varney.
69. Health Carousel intentionally constructively discharged Varney's employment.
70. Health Carousel intentionally took an adverse employment action against Varney.
71. Health Carousel intentionally took an adverse action against Varney.
72. Health Carousel knew that constructively discharging Varney would cause Varney harm, including economic harm.
73. Health Carousel willfully constructively discharged Varney's employment.
74. Health Carousel willfully took an adverse employment action against Varney.
75. Health Carousel willfully took an adverse action against Varney.

76. As a direct and proximate result of Health Carousel's conduct, Varney suffered and will continue to suffer damages.

**COUNT I: UNLAWFUL PREGNANCY DISCRIMINATION IN VIOLATION
OF TITLE VII**

77. Varney restates each and every prior paragraph of this Complaint, as if it were fully restated herein.

78. Title VII prohibits an employer from discriminating based on pregnancy when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, such as leave and health insurance, and any other term or condition of employment.

79. Pregnancy discrimination involves treating a woman (an applicant or employee) unfavorably because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth.

80. Title VII further mandates that pregnant women shall be treated the same for all employment-related purposes as other persons not so affected but similar in their ability or inability to work.

81. Health Carousel, by and through its agents and employees, created and/or maintained a work environment hostile to pregnant women.

82. Health Carousel's discrimination against Varney based on her pregnancy violates Title VII.

83. Health Carousel's constructive discharge of Varney based on her pregnancy violates Title VII.

84. As a direct and proximate result of Health Carousel's conduct, Varney suffered and will continue to suffer damages.

**COUNT II: UNLAWFUL PREGNANCY DISCRIMINATION IN VIOLATION OF
R.C. § 4112.01 et seq**

85. Varney restates each and every prior paragraph of this Complaint, as if it were fully restated herein.
86. Under R.C. § 4112.02 it is unlawful for an employer to discriminate against an employee on the basis of sex.
87. R.C. § 4112.01(B) provides that the term “on the basis of sex” includes, but is not limited to, “on the basis of pregnancy, any illness arising out of and occurring during the course of a pregnancy, childbirth, or related medical conditions.”
88. R.C. § 4112.01(B) further mandates that pregnant women shall be treated the same for all employment-related purposes as other persons not so affected but similar in their ability or inability to work.
89. Health Carousel, by and through its agents and employees, created and/or maintained a work environment hostile to pregnant women.
90. Health Carousel’s discrimination against Varney based on her pregnancy violates R.C. § 4112.01 et seq.
91. Health Carousel’s constructive discharge of Varney based on her pregnancy violates R.C. § 4112.01 et seq.
92. As a direct and proximate result of Health Carousel’s conduct, Varney suffered and will continue to suffer damages.

COUNT III: FAILURE TO ACCOMMODATE IN VIOLATION OF THE PUMP ACT

93. Varney restates each and every prior paragraph of this Complaint, as if it were fully restated herein.

94. Under the PUMP Act, “an employer shall provide (1) a reasonable break time for an employee to express breast milk for such employee's nursing child for 1 year after the child's birth each time such employee has need to express the milk; and (2) a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.”
95. Varney informed Health Carousel of her past pregnancy.
96. Varney informed Health Carousel of her need to express breast milk related to her pregnancy.
97. Varney requested break time to express breast milk as an accommodation for her pregnancy.
98. Varney requested a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used to express breast milk as an accommodation for her pregnancy.
99. Varney’s requested accommodations were reasonable.
100. There was a place available that would have been effective and would have not posed an undue hardship to Health Carousel.
101. Health Carousel retaliated against Varney for using her break time to express breast milk such that she had no choice but to resign.
102. Health Carousel failed to provide break time to express breast milk as an accommodation for Varney’s pregnancy.
103. Health Carousel violated the PUMP Act by failing to provide Varney with a reasonable accommodation.
104. Health Carousel violated the PUMP Act by constructively discharging Varney for requesting a reasonable accommodation.

105. Health Carousel violated the PUMP Act by constructively discharging Varney for utilizing a reasonable accommodation.
106. As a direct and proximate result of Health Carousel's conduct, Varney suffered and will continue to suffer damages.

COUNT IV: FAILURE TO ACCOMMODATE IN VIOLATION OF THE PWFA

107. Varney restates each and every prior paragraph of this Complaint, as if it were fully restated herein.
108. Under the PWFA, it is an unlawful employment practice to not make reasonable accommodations to known limitations related to pregnancy, childbirth, or related medical conditions.
109. Further, the PWFA makes it unlawful to take adverse actions in terms, conditions, or privileges of employment against a qualified employee on account of the employee requesting or using a reasonable accommodation to the known limitations related to pregnancy, childbirth, or related medical conditions.
110. Varney informed Health Carousel of her past pregnancy.
111. Varney informed Health Carousel of her need to express breast milk related to her pregnancy.
112. Varney requested break time to express breast milk as an accommodation for her pregnancy.
113. Varney requested a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used to express breast milk as an accommodation for her pregnancy.
114. Varney's requested accommodations were reasonable.
115. There was a place available that would have been effective and would have not posed an undue hardship to Health Carousel.

116. Health Carousel retaliated against Varney for using her break time to express breast milk such that she had no choice but to resign.
117. Health Carousel failed to provide break time to express breast milk as an accommodation for Varney's pregnancy.
118. Health Carousel violated the PWFA by failing to provide Varney with a reasonable accommodation.
119. Health Carousel violated the PWFA by constructively discharging Varney for requesting a reasonable accommodation.
120. As a direct and proximate result of Health Carousel's conduct, Varney suffered and will continue to suffer damages.

COUNT V: RETALIATION IN VIOLATION OF TITLE VII

121. Varney restates each and every prior paragraph of this Complaint, as if it were fully restated herein.
122. As a result of Health Carousel's discriminatory conduct described above, Varney complained about the pregnancy discrimination she was experiencing.
123. Health Carousel's actions were retaliatory in nature based on Varney's opposition to the unlawful discriminatory conduct.
124. Pursuant to Title VII it is an unlawful discriminatory practice to discriminate in any manner against any other person because that person has opposed any unlawful discriminatory practice.
125. As a direct and proximate result of Health Carousel's conduct, Varney suffered and will continue to suffer damages.

COUNT VI: RETALIATION IN VIOLATION OF R.C. § 4112.01 et seq

126. Varney restates each and every prior paragraph of this Complaint, as if it were fully restated herein.
127. As a result of Health Carousel’s discriminatory conduct described above, Varney complained about the pregnancy discrimination she was experiencing.
128. Health Carousel’s actions were retaliatory in nature based on Varney’s opposition to the unlawful discriminatory conduct.
129. Pursuant to R.C. § 4112.02(I), it is an unlawful discriminatory practice “to discriminate in any manner against any other person because that person has opposed any unlawful discriminatory practice defined in this section...”
130. As a direct and proximate result of Health Carousel’s conduct, Varney suffered and will continue to suffer damages.

COUNT VII: RETALIATION IN VIOLATION OF THE PWFA

131. Varney restates each and every prior paragraph of this Complaint, as if it were fully restated herein.
132. Under the PWFA § 2000gg-2(f)(1) it is unlawful to “discriminate against any employee because such employee has opposed any act or practice made unlawful by this chapter or because such employee made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.”
133. As a result of Health Carousel’s discriminatory conduct described above, Varney complained about being harassed for using her reasonable accommodation for her pregnancy.
134. Health Carousel’s actions were retaliatory in nature based on Varney’s opposition to the unlawful discriminatory conduct.

135. As a direct and proximate result of Health Carousel's conduct, Varney suffered and will continue to suffer damages.

DEMAND FOR RELIEF

WHEREFORE, Plaintiff Kaitlin Varney respectfully requests that this Honorable Court grant the following relief:

(a) Issue a permanent injunction:

- (i) Requiring Health Carousel to abolish discrimination, harassment, and retaliation;
- (ii) Requiring allocation of significant funding and trained staff to implement all changes within two years;
- (iii) Requiring removal or demotion of all supervisors who have engaged in discrimination, harassment, or retaliation, and failed to meet their legal responsibility to investigate complaints promptly and/or take effective action to stop and deter prohibited personnel practices against employees;
- (iv) Creating a process for the prompt investigation of discrimination, harassment, or retaliation complaints; and
- (v) Requiring mandatory and effective training for all employees and supervisors on discrimination, harassment, and retaliation issues, investigations, and appropriate corrective actions;

(b) An award against Defendant of compensatory and monetary damages to compensate Varney for physical injury, physical sickness, lost wages, emotional distress, and other consequential damages, in an amount in excess of \$25,000 per claim to be proven at trial;

(c) An award of punitive damages against each Defendant in an amount in excess of \$25,000;

- (d) An award of reasonable attorneys' fees and non-taxable costs for Varney claims as allowable under law;
- (e) An award of the taxable costs of this action; and
- (f) An award of such other relief as this Court may deem necessary and proper.

Respectfully submitted,

/s/ Trisha Breedlove
Trisha Breedlove (0095852)
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JURY DEMAND

Plaintiff Kaitlin Varney demands a trial by jury by the maximum number of jurors permitted.

/s/ Trisha Breedlove

Trisha Breedlove (0095852)

Attorney for Plaintiff Kaitlin Varney