

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ANTOINETTE GONZALES, et al.,

Plaintiffs,

vs.

No. CIV-09-0520 JB/RLP

CITY OF ALBUQUERQUE, et al.,

Defendants.

AFFIDAVIT

I, **ANTOINETTE GONZALES**, being duly sworn upon my oath, hereby swear and affirm that I have personal knowledge of the following facts and allegations and that they are true and correct to the best of my knowledge:

1. I was employed at the City of Albuquerque's 311-Citizen Contact Center since March, 2004. At first I was a Client Contact Agent II, then a few months later I became a supervisor.

2. Prior to working for the City I worked at Clientlogic. I left that job because I believed that as a City employee I would have both benefits and job security; I did not know the City position was "unclassified" when I decided to accept the position.

3. When it was explained to me in training that we were "unclassified" I understood that meant only that we received higher pay as unclassified employees, but that we received all other benefits and had all the rights of other City employees.

EXHIBIT 1
AFFIDAVIT OF
ANTOINETTE GONZALES

4. What it meant to be “classified” or “unclassified” was never defined; at a City leadership conference I spoke with City labor negotiator Paul Broome about our status, and he assured me that we had all the rights any other City employee had.

5. Within a few months I was appointed to the Supervisor position that I held until I was terminated.

6. As a supervisor I was still required to take citizen calls, and the other supervisors and I routinely spent at least three quarters (3/4) of our time answering phones just as we had when we were contact agents.

7. As part of my duties I also monitored calls for quality, advised and counseled the contact agents, and kept track of the agents’ phone time, attendance, and statistics.

8. Agents and supervisors are not allowed to miss more than 5% of hours per month, regardless of the reason for the absence, when my house got flooded in 3 feet of water and I missed work for several days, I was given my only written warning for absence and I never had any lateness infractions.

9. Sometimes, but only rarely, Esther asked a supervisor to sit in on the hiring interview; however, all hiring and firing was done by Esther Tenenbaum without consultation with a supervisor.

10. Esther Tenenbaum attended the same management training sessions that I attended; I know that she received in depth training about union representation, disciplinary processes, classification of employees, and employee rights.

11. The policy and practice of the 311-CCC was to impose strict rules for every aspect of our work. As a supervisor, in addition to taking citizen phone calls, my primary duty was advising, counseling, and enforcing the rules of conduct and performance. I had no discretion or say in formulating any rules or guidelines. I was not allowed to vary prescribed rules and procedures.

12. I was very aware of the system of warnings and progressive discipline imposed at the 311-CCC, as well as the provisions for "immediate termination" in the 311-CCC manual. Despite my knowledge of the rules and practices at the 311-CCC, I never expected to be terminated and told that my "services are no longer needed."

13. In my work as a supervisor with the City I was almost never able to exercise any judgment or discretion about any important matter; in particular, I never had any role whatsoever in hiring or firing employees, or even in recommending their hiring or firing.

14. Supervisors , such as myself, did not have any authority to authorize overtime work or absence from work. All approvals were required to be in writing and could only be approved by Charles Cowen and Esther Tenenbaum.

15. Up to the time Esther Tenenbaum terminated my employment without any notice, reason, or right to respond, I truly believed that there were always valid reasons for Esther's disciplinary rulings and actions.

16. To my knowledge, the 311-CCC and Esther Tenenbaum have never "tailor(ed) specific employee incentives such as spot bonuses, awards, and social events to reward performance on an immediate or very prompt basis to motivate employees."

17. I am not aware of anything done to “reward performance” and “motivate employees” at the 311-CCC.

18. On January 4, 2008, I suffered a work-related wrist injury for which I received Workers' Compensation benefits. I had surgery on May 21, 2008, and a second surgery on July 30, 2008.

19. I was able to return to work on August 18, 2008, but on September 12, 2008, I was informed by Ms. Tenenbaum that the City was “no longer in need of my services.”

20. I believe I was terminated by Esther Tenenbaum because she thought she could avoid Workers' Compensation liability for my work-related injury if she fired me.

21. At the time I was terminated I was approved for FMLA leave and still had about 200 hours available. I had not exhausted my FMLA time.

22. On average I worked 55 to 65 hours a week, including holidays, and never received overtime pay, management leave, or compensatory time off. One snow weekend I worked for 3 days straight. We had mandatory weekly staff meetings once a week, for 2 to 3 hours, outside our regular time schedule. I was also called in several times to cover staff and agents that called in so that we could make service level.

23. Since we were required to be on the phone, 75 to 100% of the time, it was necessary for me to take work home to complete reports and to meet deadlines.

24. I estimate that in the three years before filing this lawsuit I worked at least 3,000 hours of overtime at the 311-CCC.

25. I never received anything in writing, and nothing was said verbally, indicating any problem or concern with my work performance or ability. To the contrary, everything was positive, with a positive scorecard and high performance ratings. In my yearly evaluation I received excellent comments and no negative items.

26. I received my performance evaluation, with no indication of any problem, in early July, 2008; one month later the City terminated my employment telling me that my "services are no longer needed."

27. In addition, when I was released I had about 200 hours of vacation pay, 150 hours of sick leave available, and 80 hours of floating holiday pay that I was told by Cindy Jaramillo, could not be reimbursed since I was dismissed by Esther.

28. On September 22, 2008, my attorney requested a hearing in accordance with Section 3-1-25 of the City's Merit System Ordinance. The City's Chief Administrative Officer, Ed Adams, first stated that the request "will be forwarded to the City Hearing Officer and you will be notified of the date and time scheduled for a hearing."

29. A few days later Mr. Adams wrote that "(t)here was a clerical administrative error" and that the "termination should not have been forwarded to the City Hearing Officer, since she has no right to appeal her termination."

I swear and affirm that I signed this on September 5, 2010, and that the foregoing statements and assertions are true and correct and are made under penalty of perjury.


ANTOINETTE GONZALES