

**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, **SARA CLOVER**, being duly sworn upon my oath, hereby swear and affirm that I have personal knowledge of the following facts and allegations concerning the above-captioned case, and that they are true and correct to the best of my knowledge:

1. I was employed by the City as a citizen contact agent at the 311-Citizen Contact Center since March, 2005.
2. Prior to working for the City I worked at the maintenance call center of Gap Corporate.
3. I did not know the 311-CCC position was "unclassified" when I accepted the position with the City.
4. When it was explained to me in training that we were "unclassified" I understood that meant only that we could receive higher pay as unclassified employee than we could if we were classified, but that we received all other benefits and had all the rights of other City employees.
5. I thought that because I was very good at my job I would be able to stay at the 311-CCC. We were constantly told that we would be judged by our job performance and work quality.

EXHIBIT 4
AFFIDAVIT OF
SARA CLOVER

6. Soon after I returned to full time status I was struggling with the hours, new baby & post partum depression which I was taking medication prescribed by my OBGYN. On July 19th, 2006 I left for lunch feeling fine. I came back from lunch and ate my lunch in the breakroom. After returning to my desk I started to feel light headed and dizzy. I immediately spoke with my supervisor, Catherine Sanchez, who looked into my file to check my available sick hours, which she advised me I had sick time available. She advised me to go to the breakroom or chill room and relax with my head down. I preferred to stay at my desk with my head down. I sat at my desk for a good 1/2 hour when Catherine advised me to contact my husband, Marc to see if he could come pick me up and take me home. I could not reach him so she advised me if I was feeling good enough to drive, I should go home. I took her advise. She also requested I contact her as soon as I got home so she knew I made it safely. There was NO talk at this time about me being concerned about sick time or available hours. If I would have known, I would have stuck it out to the end of my shift to save my job. Once I got home I called Catherine and advised her I was home safe. She said she would see me tomorrow and that was that. Thursday morning, July 20th, I received a call from Esther Tenenbaum advising me not to come in and that she was speaking with HR in regards to my employment continuing. I called Esther Tenenbaum many times during Thursday to see what she had determined from HR. I asked for her contact at HR so I could speak with them directly and give my statement. Esther would not provide me that information. My last call with Esther was advising me to come to work Friday, normal time and come straight to her office. I never made it past her office. I was handed a letter stating "my services were no longer needed" and I was asked if I would like to resign or be terminated. I stated if you're terminating me, then terminate me. I refused to resign on my own. I was escorted by Charles Cowen out of the building with my belongings in boxes. I was never even allowed to return to my desk to make sure I received all my things. I was walked straight to my car and that was that. I soon spoke with HR and found my benefits had been terminated as of July 1st, 20 days before I was actually terminated. I was undergoing severe Post Partum Depression and was denied benefits.

~~Performance and work quality.~~

~~6. Soon after I returned to full-time status [describe what happened, being sent home, etc.]~~

7. As a contact agent with the 311-CCC I was expected to work under a strict set of rules and my performance was frequently monitored and rated. Throughout the time I was at the contact center I consistently met or exceeded all requirements and call quality standards.

8. I received numerous awards, certificates, and kudos concerning my attendance, performance, and competence as a 311 agent.

9. Even though I successfully and consistently performed my duties as a citizen contact agent, on July 20, 2009, Esther Tenenbaum called me into her office, told me my "services are no longer needed," handed me a letter, and had me escorted out of the contact center. I was not given any reason for my termination other than that my "services are no longer needed."

10. In December, 2006, the City approved my request for FMLA leave and I took maternity leave. I returned to work part-time in February, 2007, and in May, 2007, I returned to full-time employment.

11. I was a consistently excellent employee and my Agent Score Cards from the date of my employment to March 11, 2007, showed 100% attendance.

12. On July 18, 2007, I felt ill, and after checking to assure that I had sufficient paid leave time available, I went home. The next day I reported back to work and was summoned to Esther Tenenbaum's office, whereupon Ms. Tenenbaum ordered me to go home.

13. The next day, July 20, 2007, Ms. Tenenbaum gave me the option of

resigning or being terminated. She said it was because of my attendance. My medical benefits were cancelled effective July 1, 2007.

14. I believe my termination was related to my use of FMLA leave time, which I used primarily when my daughter was born.

15. I enjoyed my work as a 311 operator and expected to continue to do that work. I was very aware of the City's progressive discipline system, and although I received some warnings, I never thought I would be fired.

16. As far as I know, the 311-CCC and Esther Tenenbaum never gave any "employee incentives" or rewards or recognition of quality performance other than maybe a few candy or health-food bars or paper certificates and "awards."

17. I believe that as indicated by performance and quality records I was a very competent and capable employee and that the City had no good reason to terminate my employment.

I swear and affirm that the foregoing statements are true and correct and that they are made under penalty of perjury.


SARAH CLOVER