

**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, NICOLE FOSTER, 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 by the City at the 311-Citizen Contact Center since June, 2005.**
- 2. Prior to working for the City I worked at Citibank. I left my employment at Citibank to take the 311 job with the City.**
- 3. I did not know the 311-CCC position was "unclassified" when I decided to leave my job at Citibank and accepted the position with the City. During City Orientation benefits were discussed but we were never told that we were "at will" employees or that we could be fired for no reason.**
- 4. When it was explained to us on the first day of training that we were "unclassified." Michael Padilla explained that he had worked out with Mayor Chavez**

**EXHIBIT 7
AFFIDAVIT OF
NICOLE FOSTER**

that the 311 agents would be unclassified and not be allowed to join a union, but that we would be paid more because we were unclassified.

5. Throughout my employment at 311-CCC Esther, Charles and the supervisors frequently told us that we were the same as other City employees, only we were paid more and weren't allowed to join the union.

6. Throughout the time I worked at the 311-CCC I frequently received kudos, awards for quality work and for satisfying all the key performance indicators.

7. In September 2009 I was using my cell phone one day in the chill room to call my son's doctor, and a couple of days later had my lunch in the chill room. It was very hot in the break room because Lisa Martin did not submit a Facility Maintenance Service Request after the air conditioning broke. Lisa Martin asked me to leave the chill room because this was not allowed. Later while at my desk Lisa brought me a copy of the policy and procedure. I read the policy and procedure, sent Esther Tenenbaum an e-mail stating I apologized, and told her that it would not happen again. According to the policy and procedure this is not a disciplinary violation.

8. I later learned during an unemployment hearing that the reason I was terminated was for my misconduct in the chill room.

9. October 19, 2009 the day Esther returned from vacation I was sent an instant message from Art Martinez asking me to come to the meeting room. When I arrived Esther Tenenbaum and Charles Cowen asked me to be seated and handed me a letter stating "my services were no longer needed." I asked why my services were no longer

needed Esther then pushed the letter closer to me and asked for my badge. I was then escorted out by Charles Cowen.

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

Nicole Foster
NICOLE FOSTER

12/27/2011
Nicole Foster