

10-4-2010

The evaluations I have received after the filing of my 2007 complaint were done in retaliation-violating the Fair Labor Standards Act, The Whistle Blower's Act and Sarbanes-Oxley Act of 2002. These laws state employers may not demote, suspend, threaten, harass or otherwise discriminate against employees who exercise their rights ; who "blow the whistle."

I started my employment with San Joaquin County Mosquito & Vector Control District on 4-19-2004. I held no prior experience or knowledge in this field of work, therefore I feel if I have failed in any way it is a lack of training and a reflection of management.

I would like to direct you to review all of my evaluations prior to January 2007, which is when I filed my complaint. Now compare those evaluations to the evaluations prepared after January 2007. The changes are drastic. This clearly warrants review.

I am requesting that these retaliatory evaluations be expunged from my file. I have taken the necessary steps that the district offers with no resolve, which brings me to this filing.

I would like for you to look at my file as a whole, but I would like to direct your attention to two particular evaluations that support my complaint:

- 1) The evaluation dated January 1 thru July 29, 2007 by Bob Durham and
- 2) July 30 through December 31, 2007 by Keith Neinheis.

Bob and Keith's personal feelings toward me after "blowing the whistle" color their evaluations of my performance. Bob and Keith also expressed their personal feelings toward me in every day field operations. Excluding me from team building skills, special assignments and overtime (when all of these opportunities were offered to my co-workers), I was blackballed and isolated.

I had blown the whistle on inappropriate behavior between supervisor and employee. I was relocated to Escalon, in July of 2007, in what appears to be an effort to further accommodate this violation of professional protocol. I wasn't the only person who felt concerned.

Property owner Nancy Simko, residing at 16049 Henry Road in Escalon, unbeknownst to me and acting as an independent individual, chose to call the office of my employer. Her reason? To inform my employer of her concern for my safety in the field. I did not know this person. I was informed by the secretary, Carol Askland, who laughed while telling me about the call, as she thought the woman's concern was silly. This valid concern for my safety was laughed at and ignored. This incident happened prior to my two knee surgeries.

Ignorant to the new location I was assigned to and denied the necessary information several events occurred could have been avoided (which increased liability to the county). I grabbed a hot wire line that caused such a significant shock it had the potential of causing a heart attack. I had an incident where I was pinned in by an aggressive angry bull. I was intimidated and threatened by hostile property owners.

When I brought these concerns to Keith, my supervisor, his only response was to laugh at me.

Vital information regarding irrigation practices, which were completely foreign to me, was not shared with me. This is a serious issue because I have two irrigation districts running through my zone, which run two different irrigation schedules. To date, I am still asking to have these schedules explained to me. The district does get a copy of the schedule.

This gives you an overview of why I am filing a complaint. I will now address the specific evaluations in question.

The Inaccuracies in Bob Durham's Evaluation of my performance from January 1 to July 29, 2007.

Within the first paragraph of Bob's write-up, he states: "...[Tiffany] continues to lack the knowledge and experience to perform her job... I am hopeful that with continued time and training Tiffany can overcome this..." Had these comments been sparked by the genuine concern of a supervisor, they would have resulted in real displays of time and training. Such as scheduling the trainings which he believed to be needed for my job performance to improve. In fact, no such training was offered, either before the evaluation or after. These comments are also in direct contrast to previous evaluations, which peg me as being "conscientious about her work performance," among other similar things.

In the following paragraph, Bob continues to abuse my performance, indicating that I don't know "how to complete the expected tasks and activities..." There is no precedent for this observation anywhere in my work history, and if true could only represent a dip that occurred solely under his watch and without his attention. For years I had completed my job to the glowing satisfaction of my supervisor; it was only when Bob became my supervisor that my services were found unsatisfying. If he found his expectations unfulfilled, then as a new supervisor he should have

provided clarification, education, and attention to ensure understanding of those new expectations. He did not; instead of correcting my perceived mishaps, he saved them as fuel for this scathing evaluation. The wording "Based on my observation" is ridiculous and laughable; Bob's continued absence during this time, and avoidance of his employees, would severely impinge upon his capacity for observation.

Following this, there are a number of inconsistencies. Bob criticizes my inability to think independently before citing an event in which I challenged his opinion based on my in-field observation. In this incident, I was scolded for refusing to enter an area that made me feel unsafe and had been indicated by a previous supervisor of some 39 years as being the site of marijuana growth. Though Bob includes in my evaluation very specific instructions as to the proper handling of the site (namely, to apply granule or briquette treatment by hand, alone) he would not follow this course after I was pulled from the zone after my best attempts to follow his directions. In fact, this "ideal spot for a hand application" required a crew of 5 workers and a Bobcat- sent in to handle this same site after I was removed from it. The zone matched my estimation, not his; this miscalculation would have placed me in severe jeopardy had I not stood by my assessment. Bob's comments misrepresent me, and do extreme disservice to my competence in the field.

Bob makes comments in the next paragraph that are blatantly incorrect. In his example regarding the Lower Jones Tract spud ditches he derides me for paying over-attention to them in lieu of my source card assignments; in reality, this site does match a source card, and is a specified area of concern. Furthermore, his account of my insufficient output of source cards cannot be taken seriously in light of Bob's incident overlooking zone 8 source cards, which came to light *during this evaluation*.

I noticed the new employee of zone 8 had an overabundance of daily service requests, and had ceased turning in source cards because of it. The lack of source cards should have been directly noticed by the employee's supervisor- Bob Durham. I mentioned to another supervisor that these unattended source cards were feeding the service requests. He likewise told management, who counseled Bob on the priority of source cards and the importance of his attention to them in his role as

supervisor. Bob not only formally chastised the new employee (Greg Edwards) in his evaluation for this incident, but also pinpointed me specifically as to blame for the rebuke.

As per office request I obtained doctor's notes excusing each of my absences, all of which were excusable by my accrued vacation time, my sick leave, and the family leave act.

Keith Neinhuis Performance Evaluation July 30 through December 31, 2007.

I wish to address the areas Keith claims need immediate attention:

- 1) Though Keith states that I am unreliable, I have only been late to work one time in my history of working for the district. On that day I was carpooling with Keith and there was an accident, which made our carpool group late. Other than that one incident, I have never been late.
- 2) He claims that I have abused scheduled four-day vacations by calling in sick in order to extend my vacations to five or more days. A review of my sick leave applications confirms that all of my sick leave was accompanied by physician verifications, confirming that I was taking bonafide sick leave, not calling in sick just to extend vacation time.

On at least one occasion, I experienced sexual harassment by being forced to take sick leave, instead of being allowed to clean myself up after a menstrual bleed out, and return to the field. This has been documented by a physician statement.

- 3) I interpret the remark "Tiffany has proven to be... not a team player," as "Tiffany does not keep quiet about issues that make her uncomfortable." In no other way has my presence debilitated friendly workplace relations. No one has accused *me* of delivering a constant barrage of sexually offensive "humor." I have never engaged in a workplace relationship, or allowed the strain of any such relationship to affect my capacity to work with my peers. If I can be blamed for any awkwardness in the workplace, it is only in pursuing accountability and enforcement of proper workplace conduct- goals that would certainly be to the benefit of the "whole team." Not taking harassment complaints seriously.
- 4) I admit that the situation spoken of regarding the district vehicle occurred. However, I wish to point out that district protocol was ignored when I was transferred into this district.

This is the protocol (which was followed with me on every prior transfer). When an employee is transferred to a new zone, he or she is entitled to a week of one-on-one training with a supervisor or reasonably seasoned technician, in order to ensure complete knowledge of every single obstacle that may be encountered in the unfamiliar territory. The purpose is to minimize potential danger to the employee.

As Keith points out in his evaluation, this situation occurred on my first day in my new zone. I was under a tremendous amount of stress. The protocol management set themselves when moving a technician was broken. I knew that day I was being put under conditions that would challenge my ability not to quit.

What he failed to mention is the fact that he had denied my rightful ride along time, so that I could become familiar with not only a new zone, but an entirely new region. Is it coincidence that right after I made my first report of workplace tension that I was moved, then denied the rights an operator in my position is entitled to?

What Keith also fails to mention is that he did not see fit to reduce the risk of danger to both myself and the district vehicle given to me. Not only was I denied my rightful ride-along time, I was informed by a neighboring technician that there were instructions to not talk to me or assist me in any way. The danger I was dropped into was inexcusable, and the needless risks I was instructed to make astound me.

Following is a description of some of the grosser displays of negligence or downright malevolence. Suffice to say, this was not a workplace that considered the welfare of its employee, but rather reflected a vindictive terrain of hostility.

I was removed from zone 9 and relocated to zone 18 after asking for relief from the misconduct I experienced from Bob Durham and Janine Esau.

The districts protocol, as I have witnessed and experienced in my years of service, goes as follows. The operator being relocated has the opportunity to spend at the minimum a week in the new assigned area, with a supervisor or seasoned technician who can introduce hidden or dangerous mosquito sources and get introduced to people who may hold helpful information.

Even though he had 22 years experience in the district, when he was relocated to the central region district, Bob Durham was offered this courtesy. This courtesy had always been given in the past, and my work evaluations reflected my competence in doing my job.

During my 7 month assignment in Linden, Keith Neinhuis trained me. He informed me he would stay with me as long as I needed to feel comfortable. When I was relocated to zone 9, Scott Andreas introduced me to my new

zone. We spent a few months together. Because a portion of zone 8 was being added to zone 9, Brian Heine spent a few days showing me sources where the assignment changes were taking place.

Also, each time I was moved to a new area, I was given keys to access areas that remain locked.

The day I was moved to zone 18, I was handed a box of cards and told to start working, card to card. No one handed me keys. I was given no information. The employees who took breaks and lunches on Seidner road were informed that they should not talk to me. All of the information I needed to do my job had been cut off.

I faced a number of issues. 1) The pasture mosquito builds up when not treated. Because this zone had only been mopped up due to the last technician going out on a knee injury this zone was considered dirty. 2) The source cards given to me were out-dated. 3) This zone had been vacant for over two years. Due to the housing boom, large pieces of land were divided and made into 10-acre ranchettes. A majority of the new home owners were from out of the area and were ignorant to irrigation practices, flooding and over irrigating their property. I pointed this out to Keith who at the time was thankful and took care of the problem by asking the people to cut back their irrigation, yet on my evaluation I was dinged for inspecting sources that were not my source cards. The sources had changed and had not been updated. 4) Addresses and contact information were missing. 5) Maps were missing or outdated. When I asked for up-to-date maps, I was denied them. (Updated regional maps to date have not been given to the technicians). 6) Escalon zone 18 has two irrigation districts, South San Joaquin and Oakdale Irrigation District running irrigations simultaneously. I was not educated on how the irrigations worked or what procedure to follow when someone over-irrigated. 7) I was required to work with chemicals I had little to no experience working with, namely granules. I was not shown the proper application procedures. Altosid was the only pre-emergent product we had (and continue) to use. I was questioned at every use of this product and finally asked to make a list of where I was going to put it. This procedure had never been required of any employee. After my list was made, I was told to cut the list in half. Altosid is usually applied twice in the season; I was informed I could only use one application in the season.

I could mention other issues as well:

The Municipal wastewater handbook which is a state requirement was never discussed or given to me or any of the other employees that I am aware of. This information was not taught despite the fact that it is a state requirement.

5) Keith makes reference to me not following source cards according to township section and range. Only a technician familiar to the area could fulfill this request. These properties are separated by water, ditches, cattle equipment, gates and locks. Without the benefit of maps and instructions for how to enter the different properties, following the cards for each section was confusing. Once again my supervisor did not consider his failure to provide that first week of supervision and an overview of the territory that normally has been extended to other employees when they are transferred into a new region.

In summary, I was in a brand new region unfamiliar to me. I was not only expected to learn a new zone, but a whole new region as well. Then in addition to this, under Keith's supervision, I was constantly being pulled out of my zone assignment to inspect pools, treat catch basins and treat cemetery urns in other zones. Many days I was given instructions in my own zone, disallowing me to have the time needed to get around and learn the new territory. My supervisor failed to provide an environment in which I could succeed.

I find it demeaning that the only thing which I could be recognized for in this evaluation is my ability to facilitate pleasant holiday-themed gatherings - hardly one of the key duties I applied for. Yet this contradicts the statement that I am not a team player.

My service to San Joaquin County has been diligent, and I have taken initiative to make sure that the residents of this County are receiving the service they deserve from someone in the County's employ.

For example, during this evaluation cycle our regional crew was sent out to inspect and treat vacant swimming pools that resided on property repossessed by banks during the housing crash. The banks padlocked many gates.

While other technicians left door hangers on these properties, reporting back to Keith that they were unable to gain access. I tried some of the keys I had on my key chain. I found that I was able to gain access to the majority of these pools. When I reported my results to Keith, he had copies of my key made and distributed to the other employees, greatly increasing the number of pools that could be inspected.

Anyone reading this evaluation would be left with the impression that I am a unsuitable, lazy employee who is incapable of obtaining any degree of proficiency in her job. Unfortunately, that is the impression I face whenever this evaluation introduces me to a new supervisor I have.

It is unfair that I should work in the shadow of this vindictive document, and its presence in my personal record serves to perpetuate the hostile "whistle-blower" [See California Whistleblower Protection Act (Government Code Sections 8547-8547.12)] atmosphere that I've been expected to surrender to. I will not. The amount

of evidence that rebukes this evaluation leaves no fair course of action but to have it removed from my file to prevent it from further tarnishing my reputation.

CC: Christopher Eley, Marc Warmerdam, Jack Snyder, Gerald Schibler, Chester Miller, Gregory O'Leary, Francis Groen, Frank Cavaco, Jack Fiori, Allan Feters, Frank DeBenedetti, John Stroh, Eddie Lucchesi, Brian Heine, Scott Andreas, and to be placed in my employee file attached to the evaluations that pertains to this content matter.

A hostile work environment is primarily a legal term used to describe a workplace situation where an employee cannot reasonably perform his work, due to certain behaviors by management or co-workers that are deemed hostile. Hostility in this form is not only a boss being rude, yelling, or annoying. It is very specific, especially in the legal setting when one is suing an employer for either wrongful termination or for creating an environment that causes severe stress to the employee.

a hostile work environment may be defined is when a boss or manager begins to engage in a manner designed to make you quit in retaliation for your actions. Suppose you report safety violations at work, get injured at work, attempt to join a union, complain to upper level management about a problem at work, or act as a whistleblower in any respect. Then, the company's response is to do all manner of things to make you quit, like writing you up for work rules you didn't break, reducing your hours, scheduling you for hours that are in total conflict with what you can do, or reducing your salary. The company's reaction can be viewed as creating a hostile work environment, one that makes it impossible to work and is an attempt to make you quit so that the employer does not have to pay unemployment benefits.

Lastly, overt hostility that threatens you physically are hostile work environments. If you really feel that you are at physical risk because of the behavior of another employee, specifically through violent behavior or threats of a violent nature, the employee's manner is not only hostile but also potentially criminal.

This letter brings the reader to the date of January 2007. Without an investigation by the board I will continue my writing efforts to cover the experiences I had from 2008, which resulted in two knee surgeries.

Tiffany Anderson Technician 306

