

STATE OF MINNESOTA  
COUNTY OF DAKOTA

DISTRICT COURT  
FIRST JUDICIAL DISTRICT

<p>Janet Allen,  v.  Tempworks Software, Inc.,</p> <p style="text-align: right;">Plaintiff,   Defendant.</p>	<p>Case Type: Employment (7) Court File: <u>19HA-CV-16-148</u> Judge: _____</p> <p style="text-align: center;"><b>SUMMONS</b></p>
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THIS SUMMONS IS DIRECTED TO DEFENDANT TEMPWORKS SOFTWARE, INC.:

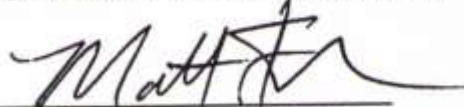
- 1. YOU ARE BEING SUED.** The Plaintiff has started a lawsuit against you. The Plaintiff's Complaint against you is attached to this Summons. Do not throw these papers away. They are official papers that affect your rights. You must respond to this lawsuit even though it may not yet be filed with the Court and there may be no court file number on this Summons.
- 2. YOU MUST REPLY WITHIN 20 DAYS TO PROTECT YOUR RIGHTS.** You must give or mail to the person who signed this Summons a **written response** called an Answer within 20 days of the date on which you received this Summons. You must send a copy of your Answer to the person who signed this Summons located at:  

BAILLON THOME JOZWIAK & WANTA LLP  
100 South Fifth Street, Suite 1200  
Minneapolis, MN 55402
- 3. YOU MUST RESPOND TO EACH CLAIM.** The Answer is your written response to the Plaintiff's Complaint. In your Answer you must state whether you agree or disagree with each paragraph of the Complaint. If you believe the Plaintiff should not be given everything asked for in the Complaint, you must say so in your Answer.
- 4. YOU WILL LOSE YOUR CASE IF YOU DO NOT SEND A WRITTEN RESPONSE TO THE COMPLAINT TO THE PERSON WHO SIGNED THIS SUMMONS.** If you do not Answer within 20 days, you will lose this case. You will not get to tell your side of the story, and the Court may decide against you and award the Plaintiff everything asked for in the Complaint. If you do not want to contest the claims stated in the Complaint, you do not need to respond. A default judgment can then be entered against you for the relief requested in the Complaint.

5. **LEGAL ASSISTANCE.** You may wish to get legal help from a lawyer. If you do not have a lawyer, the Court Administrator may have information about places where you can get legal assistance. **Even if you cannot get legal help, you must still provide a written Answer to protect your rights or you may lose the case.**
  
6. **ALTERNATE DISPUTE RESOLUTION.** The parties may agree to or be ordered to participate in an alternative dispute resolution process under Rule 114 of the Minnesota General Rules of Practice. You must still send your written response to the Complaint even if you expect to use alternative means of resolving this dispute.

Dated this 5<sup>th</sup> day of June, 2015.

BAILLON THOME JOZWIAK & WANTA LLP



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*Attorneys for Plaintiff*

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF DAKOTA

FIRST JUDICIAL DISTRICT

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Case Type: Employment

Janet Allen,

Plaintiff,

v.

**COMPLAINT AND  
JURY DEMAND**

Tempworks Software, Inc.,

Defendant.

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Plaintiff, for her complaint against Defendant, states and alleges as follows:

**Parties, Jurisdiction and Venue**

1. Plaintiff, Janet Allen, is a natural person residing in the Anoka County, Minnesota.
2. Defendant Tempworks Software, Inc. ("Defendant") is a Minnesota corporation licensed to do business in Minnesota.
3. At all times relevant to this Complaint, Plaintiff and Defendant were "employee" and "employer" respectively, within the meaning of Minnesota Statutes Section 363A.03.
4. This Court has subject-matter jurisdiction over this matter under Minnesota Statutes Section 363A.33, subdivision 6.
5. This Court has personal jurisdiction over the parties because Defendant is a domestic company doing business in Minnesota and the alleged unlawful employment actions occurred in Minnesota.

6. Under Minnesota Statutes Section 363A.33, subdivision 6, venue is proper in Dakota County because Defendant has its principal place of business in Dakota County, and because the unlawful discriminatory actions alleged in this Complaint occurred in the Dakota, Minnesota.

**Factual Allegations**

7. Plaintiff is a 52-year-old woman.

8. In December 2012, Plaintiff began her employment with Defendant as a Project Manager. Defendant hired Plaintiff to help develop its new Project Management and Implementation Department. She came into the position with many years of experience and success in similar jobs.

9. Plaintiff continued her success as an employee with Defendant: obtained great results for the company and earning positive reviews for her work. At no time before her termination did Defendant give Plaintiff a disciplinary warning—written or verbal—for poor performance.

10. In January 2013, Plaintiff received an offer from another company to leave Tempworks. At the time, Plaintiff was making \$75,000 a year at Tempworks; the new company offered her \$90,000 per year to leave.

11. When Plaintiff informed Defendant about the offer, Defendant offered to match the other company's offer: raising her salary at Tempworks to \$90,000 and giving her four weeks of vacation. Defendant also offered to cut Plaintiff's workday by 30 minutes and let her work from home on Wednesdays. As a result, Plaintiff chose to stay with Tempworks.

12. The average age of a Tempworks employee is approximately 30 years old.

13. The employees comprising the Plaintiff's Project Management and Implementation Department—like the rest of Tempworks—tended to be much younger than Plaintiff. For example, the Director of the Implementation Department, Taylor Mack ("Mack"), was approximately 28 years old, and at least ten other employees in Plaintiff's department were around 30 years old.

14. In general, Defendant maintains a work-environment more reminiscent of a college campus than a place of business. For example, Defendant serves drinks at its company meetings: 12-packs of beer are passed around per the wishes of the company President. Drinking was at the office was not limited to company meetings. Employees frequently walked around the halls in the late afternoons with beers in their hands. Team-building activities outside of work often included parties and more drinking. Plaintiff did not adopt the behaviors of her younger cohort.

15. At 52 years old, Plaintiff was the oldest Project Manager in her area and one of the oldest employees at Tempworks.

16. The other individuals who worked as Project Managers during Plaintiff's employment were approximately half Plaintiff's age. These other Project Managers included:

- a. Jessica Kitzmann, approximately 26 years old: Kitzmann was Project Manager for approximately 11 months before being fired;
- b. Marty Homer, approximately 30 years old: Homer replaced Kitzmann when Kitzmann and later left employment with Defendant for personal reasons;
- c. Kristy Bjorlin, approximately 27 years old: Bjorlin replaced Homer after Homer's separation. Bjorlin was still employed as a Project Manager when Plaintiff was terminated;

d. Sara Sagedahl, approximately 28 years old: Sagedahl was hired during Plaintiff's employment and still employed as a Project Manager when Plaintiff was terminated.

17. Around February 2014, Defendant gave Plaintiff a positive performance review and told her that it believed she would move into a Senior Project Manager role later that year.

18. Plaintiff continued to excel after the February 2014 review and looked forward to becoming a Senior Project Manager.

19. Then, on July 10, 2014, Defendant abruptly terminated Plaintiff's employment during a meeting with Director Mack and Vice President of Account Management, Susan Wurst ("Wurst").

20. Mack explained to Plaintiff that her performance review was "good" and that she was "clearly not being terminated for performance issues." Mack said she hoped Plaintiff would find a company where her "skills and experience were appreciated."

21. When Plaintiff pressed for the reason she was being terminated, Wurst responded that Plaintiff was being terminated for "financial reasons" and that "there were not enough sales in the pipeline" to justify her job. Wurst also suggested that Plaintiff was not alone in being terminated.

22. Indeed, other employees did lose their jobs. Two such employees were Hugh Gilpatrick and Jon Schachtele. Both were 45 years old, and, like Plaintiff, among the oldest employees at Tempworks.

23. At the time of her termination, Plaintiff was the oldest person in her department.

24. Notwithstanding Defendant's claim that Plaintiff's termination was the result of financial woes, Tempworks was doing rather well at the time of her termination. During the first

quarter of 2014, Tempworks reported a net profit of around \$400,000 and provided its employees with a 15% bonus. Indeed, at the end of 2014, Tempworks reported gross revenues of \$16 million for the year and double-digit growth for each of the past six years.

25. Additionally, Defendant had at least three open positions posted on its website at the time of Plaintiff's termination, including a post for an "Implementation Specialist" on Plaintiff's former team.

26. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered and continues to suffer emotional distress, humiliation, embarrassment, loss of reputation, loss of wages and benefits, and other serious damages.

**COUNT I**  
**AGE DISCRIMINATION IN VIOLATION OF**  
**THE MINNESOTA HUMAN RIGHTS ACT**

27. Plaintiff re-alleges each and every paragraph of this Complaint.

28. Defendant engaged in unlawful employment practices involving Plaintiff based upon her age in violation of the Minnesota Human Rights Act, Minnesota Statutes Sections 363A.01 *et seq.* These practices include, but are not limited to, Defendant's discharge of Plaintiff from her employment and replacing her with a younger, less experienced employee.

29. The effect of the practices complained of above has been to deprive Plaintiff of equal employment opportunities and otherwise adversely affect her status as an employee because of her age.

30. The unlawful employment practices complained of above were intentional and were performed by Defendant with malice or with reckless indifference to anti-discrimination laws that protect Plaintiff.

31. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered and continues to suffer emotional distress, humiliation and embarrassment, loss of reputation, loss of enjoyment of life, lost wages and benefits, has incurred attorney's fees and expenses and other serious damages.

**WHEREFORE, Plaintiff respectfully requests:**

1. That the practices of Defendant complained of in this complaint be declared a violation of the rights secured to Plaintiff under the law.
2. That Defendant be required to make Plaintiff whole for its adverse and/or retaliatory conduct through restitution in the form of back pay, with interest of an appropriate inflation factor.
3. That Plaintiff be awarded front pay and monetary value of any employment benefits to which she would have been entitled as an employee for Defendant.
4. That a permanent prohibitory injunction be issued prohibiting Defendant from engaging in the practices complained of in this complaint.
5. That Plaintiff be awarded compensatory damages in an amount to be established at trial.
6. That Plaintiff be awarded damages for mental and emotional anguish and suffering, humiliation, embarrassment, and loss of enjoyment of life in an amount to be established at trial.
7. That Plaintiff be awarded punitive damages as provided by statute in an amount to be established at trial.
8. That Plaintiff be awarded treble damages pursuant to the Minnesota Human Rights Act.



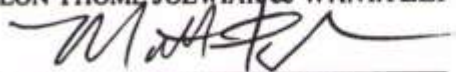
9. That the Court award Plaintiff her attorneys' fees, costs and disbursements pursuant to applicable law.

10. That the Court grant further relief as it deems fair and equitable.

**PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL COUNTS WHERE TRIAL BY JURY IS AVAILABLE**

Dated: June 5, 2015.

BAILLON THOME JOZWIAK & WANTA LLP



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*Attorneys for Plaintiff*

**ACKNOWLEDGMENT**

The undersigned hereby acknowledges that costs, disbursements, and reasonable attorney's fees may be awarded pursuant to Minn. Stat. § 549.211 to the party against whom the allegations in this pleading are asserted.

Dated: June 5, 2015.



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Matthew A. Frank