

IN THE TENTH JUDICIAL DISTRICT  
DISTRICT COURT OF JOHNSON COUNTY, KANSAS

BROOKE NEMECHEK, an individual	)	
<i>2201 Harper St., Apt C2</i>	)	Case No.
<i>Lawrence, KS 66046</i>	)	Pursuant to K.S.A. Chap. 60
Plaintiff,	)	
	)	WHISTLEBLOWER RETALIATION
v.	)	
	)	WRONGFUL TERMINATION
ROBERT BROGDEN’S OLATHE	)	
BUICK GMC, INC.	)	INTENTIONAL INFLICTION OF
Serve Registered Agent:	)	EMOTIONAL DISTRESS
<i>Robert Brogden</i>	)	
<i>1500 E Santa Fe</i>	)	NEGLIGENCE
<i>Olathe, KS 66061</i>	)	
	)	
and	)	
	)	
ROBERT BROGDEN	)	
Serve at:	)	
<i>1500 E Santa Fe</i>	)	
<i>Olathe, KS 66061</i>	)	
	)	
Defendants.	)	

**PETITION FOR DAMAGES**

Plaintiff Brooke Nemecek, for her Petition for Damages, states as follows:

**PARTIES, JURISDICTION, AND VENUE**

1. Plaintiff Brooke Nemecek (“Plaintiff”) is an individual resident of Lawrence, Douglas County, Kansas.
2. Defendant Robert Brogden’s Olathe Buick GMC, Inc. (“Defendant Dealership”) is a corporation organized and existing under and by virtue of the laws of the state of Delaware, with its principal place of business at 1500 E Santa Fe, Olathe, Johnson County, Kansas 66061.

3. Defendant Robert Brogden (“Defendant Owner”) is an individual and, upon information and belief, the owner of Robert Brogden’s Olathe Buick GMC, Inc.

4. The acts complained of here occurred in Olathe, Johnson County, Kansas, and therefore, venue, pursuant to K.S.A. § 60-303, and jurisdiction, pursuant to K.S.A. § 60-308 are proper in this Court.

**GENERAL FACTS APPLICABLE TO ALL COUNTS**

5. Plaintiff is a female, 21 years of age, resident of Lawrence, Douglas County, Kansas. Plaintiff worked for Defendants from August 19, 2017, to November 23, 2021. At the time of her wrongful termination, Plaintiff was a salaried employee and served as a human resources specialist.

6. During Plaintiff’s employment with Defendant Dealership, but more so in the months preceding her forced resignation, Plaintiff was the victim of many verbal abusive language, harassment, intimidation, and bullying by Defendant Dealership’s general manager and others.

7. Defendant Dealership’s general manager’s behavior was crude and routinely abusive towards Plaintiff.

8. Plaintiff’s mental, moral, and even physical wellbeing was under constant attack and threat, to the point that Plaintiff did not feel safe at work.

9. Plaintiff reported these abusive and threatening incidents to her immediate supervisor, who then reported the same to Defendant Dealership’s upper management, specifically to the Chief Operations Officer Russell Dent. However, Defendant Dealership took no corrective measures or actions.

10. On the contrary, once Plaintiff reported the abusive and threatening incidents to her supervisor and management, she was retaliated against by Defendant Dealership and its general manager.

11. Defendant Dealership's general manager began routinely calling Plaintiff several derogatory names. For example, during a call, when the general manager was unaware that Plaintiff was in the room, he called her offensive names and demeaned her personhood.

12. When confronted the general manager simply laughed.

13. The incident, again, was reported to Defendant Dealership's upper management, specifically to Russell Dent. No action was taken.

14. Later, Plaintiff became aware of instances where the general manager, with the cooperation of the financial officer, was fraudulently adding additional provisions to financial agreements and forging customers' signatures on such financial agreements.

15. Plaintiff immediately reported the incidents of suspected fraud and illegal activity to her supervisor and to Defendant Dealership's upper management.

16. Defendant Dealership took no action to investigate and address the allegations of fraud. On the contrary, the general manager immediately intensified his threats and abusive behavior towards Plaintiff.

17. When Plaintiff complained of the added threats and abuse, she was told to just deal with it, because that was just "how the general manager was...with a history of flying off the handle...common in the car industry."

18. Defendant Dealership was well aware of the general manager's abusive behavior towards Plaintiff and others.

19. Defendant Dealership was well aware of the allegations and complaints against the general manager regarding fraud and illegal activities.

20. Defendant Dealership took no action to investigate, let alone correct the activities that were reported to it.

21. Instead, Defendant Dealership allowed its general manager to continue to harass, intimidate, threat, and bully Plaintiff in the hopes that Plaintiff would just quit.

22. Despite of her reporting of abusive behavior and of illegal activities, no actions were taken by Defendant Dealership, its management, or ownership.

23. Plaintiff felt threatened, both mentally and physically, and was forced to quit on or about November 2021.

**FIRST CAUSE OF ACTION  
(Whistleblower Retaliation Against Defendant Dealership)**

24. Plaintiff incorporates paragraphs 1 through 23 above, as if fully set forth here.

25. At all times relevant to this Petition for Damages, Defendant Dealership was Plaintiff's employer.

26. At all times relevant to this Petition for Damages, Defendant Dealership's general manager and others in Defendant Dealership's upper management, specifically Mr. Phil Skid, Mr. Russell Dent, and Mr. Robert Brogden, were the managing agents, agents, and/or employees of Defendant Dealership, and acting within their course and scope of their agency and/or employment.

27. Executive management of Defendant Dealership believed that Plaintiff had disclosed to a person with authority over Plaintiff as well as to other employees with authority to investigate, discover, and document numerous incidents of abusive, derogatory and offensive conduct, harassment, bullying, financial crimes, fraud, and other violations of law, including, but

not limited to, falsification, alteration and forgery of legal contracts all of which were actively being covered up by Defendant Dealership and its management.

28. In disclosing the above, Plaintiff had a reasonable cause to believe that the information disclosed violations of state and federal law as well as the ethical rules and policies of Defendant Dealership.

29. As a result of the disclosures, Defendant Dealership further harassed the Plaintiff, abused, intimidated, and retaliated against the Plaintiff which included, among other things, the forced resignation or termination of the Plaintiff from her employment.

30. As a direct and proximate result of the unlawful conduct of Defendant Dealership, Plaintiff was harmed and suffered special damages including, but not limited to, past and future loss income, benefits, medical expenses, and other damages in an amount to be proven at the time of trial.

31. As a direct and proximate result of Defendant Dealership's unlawful conduct, Plaintiff was harmed and suffered general damages, including but not limited to, shock, embarrassment, physical distress and injury, humiliation, emotional distress, stress, and other damages in an amount to be proven at the time of trial.

32. Defendant Dealership's conduct was a substantial factor in causing Plaintiff's harm.

33. Defendant Dealership committed the acts alleged here maliciously, fraudulently, and oppressively in conscious disregard for Plaintiff's rights, and such acts were committed by, and/or ratified by, and/or were committed with the knowledge of employees' lack of fitness in the workplace, but were allowed to proceed, and/or were ratified by officers, directors, managing agents, and owners of Defendant Dealership.

WHEREFORE for all the reasons stated above, Plaintiff prays for a judgment against Defendant Dealership Robert Brogden's Olathe Buick GMC, Inc. in an amount in excess of \$75,000.00 and sufficient to compensate Plaintiff for her injuries and damages, for her costs and disbursements incurred here, and for such other and further relief as the Court deems just and proper.

**SECOND CAUSE OF ACTION  
(Wrongful Termination Against Defendant Dealership)**

34. Plaintiff incorporates paragraphs 1 through 33 above, as if fully set forth here.

35. At all times relevant to this Petition for Damages, Defendant Dealership was Plaintiff's employer.

36. Plaintiff was terminated from or forced to resign her employment for reasons that violate a public policy. In this regard, Plaintiff engaged in activities protected under the Kansas Whistleblower Laws, including making "Whistleblower" complaints and exercising her legitimate rights by opposing the employer's practices forbidden under the Kansas Whistleblower Laws regarding offensive conduct or abuse, harassment, intimidation, falsification, alteration, and forgery of legal contracts; harassment; whistleblower retaliation; and wage theft that she experienced under Defendant Dealership.

37. Despite engaging in protected activities, the employer, Defendant Dealership unlawfully and aggressively harassed and retaliated against the Plaintiff, including, but not limited to, her unlawful termination, which resulted in, among other things, pain, humiliation, and anxiety.

38. On or about November 1, 2021, Plaintiff was wrongfully terminated or forced to resign.

39. Plaintiff engaging in protected activities including workplace whistleblower complaints and exercising her legitimate rights by opposing Defendant Dealership's practices

forbidden under Kansas Labor Code regarding the offensive conduct or abuse, harassment, intimidation, falsification, alteration, and forgery of legal contracts; harassment; whistleblower retaliation; and wage theft were motivating reasons for Plaintiff's wrongful termination or forced resignation.

40. As a direct and proximate result of Defendant Dealership's unlawful conduct, Plaintiff was harmed and suffered special damages including, but not limited to, past and future loss of income, benefits, and other damages to be proven at the time of trial.

41. As a direct and proximate result of Defendant Dealership's unlawful conduct, Plaintiff was harmed and suffered general damages including, but not limited to, shock, embarrassment, humiliation, emotional distress, stress, and other damages to be proven at the time of trial.

42. Defendant Dealership's wrongful termination of Plaintiff was a substantial factor in causing Plaintiff's harm.

43. As a direct and proximate result of the conduct of Defendant Dealership, Plaintiff was forced to retain an attorney in order to protect her rights. Accordingly, Plaintiff seeks the reasonable attorneys' fees and costs incurred and to be incurred in this litigation in an amount according to proof at trial.

WHEREFORE for all the reasons stated above, Plaintiff prays for a judgment against Defendant Dealership Robert Brogden's Olathe Buick GMC, Inc. in an amount in excess of \$75,000.00 and sufficient to compensate Plaintiff for her injuries and damages, for attorneys' fees, for her costs and disbursements incurred here, and for such other and further relief as the Court deems just and proper.

**THIRD CAUSE OF ACTION  
(Intentional Infliction of Emotional Distress Against Defendant Dealership)**

44. Plaintiff incorporates paragraphs 1 through 43 above, as if fully set forth here.

45. At all times relevant to this Petition for Damages, Defendant Dealership was Plaintiff's employer.

46. At all times relevant to this Petition for Damages, the new general manager as well as Defendant Dealership's upper management and owner, were the managing agents, agents, and/or employees of Defendant Dealership, and acting within the course and scope of their agency or employment.

47. Defendant Dealership, through the acts and conduct of its agents, acted intentionally and/or recklessly against Plaintiff.

48. Defendant Dealership's conduct was extreme and outrageous.

49. Defendant Dealership's verbal abuse, threats, and bullying was done with the intent of injuring, and did injure Plaintiff, and such conduct by Defendant Dealership was the direct and proximate cause of Plaintiff's severe emotional distress.

50. As a direct and proximate result of Defendant Dealership's unlawful and intentional acts, Plaintiff was caused to suffer and will continue to incur and suffer, injuries and damages.

51. Defendant Dealership's conduct was a substantial factor in causing Plaintiff's severe emotional distress.

52. Defendant Dealership committed the acts alleged here maliciously, fraudulently, and oppressively in conscious disregard for Plaintiff's rights. The unlawful conduct alleged above was engaged in by the officers, directors, supervisors, managers, and owners of Defendant Dealership, inclusive by those who were acting, at all times relevant to this Petition for Damages, within the course and scope of their agency or employment.



53. Defendant dealership knew or should have known of the conduct of its agents and ratified their unlawful conduct.

WHEREFORE for all the reasons stated above, Plaintiff prays for a judgment against Defendant Dealership Robert Brogden's Olathe Buick GMC, Inc. in an amount in excess of \$75,000.00 and sufficient to compensate Plaintiff for her injuries and damages, for attorneys' fees, for her costs and disbursements incurred here, and for such other and further relief as the Court deems just and proper.

**FOURTH CAUSE OF ACTION  
(Negligence)**

54. Plaintiff incorporates paragraphs 1 through 53 above, as if fully set forth here.

55. At all times relevant to this Petition for Damages, Defendants were Plaintiff's employers, and as such owed a duty of care to Plaintiff.

56. By the conduct alleged here, Defendants breached their duty by failing to exercise reasonable care, and as such, failed to perform their duty

57. By the conduct alleged here, Defendants acted negligently, outrageously, and/or with reckless disregard, and knew or should have known of the probability of causing Plaintiff harm.

58. As a direct and proximate result of the conduct of Defendants, Plaintiff was harmed and suffered special damages including but not limited to, past and future loss of income, benefits, medical expenses, and other damages in an amount to be proven at the time of trial.

59. As a direct and proximate result of the conduct of Defendants, Plaintiff was harmed and suffered general damages including, but not limited to, shock, embarrassment, physical distress and injury, humiliation, emotional distress, stress, and other damages in an amount to be proven at the time of trial.

60. Plaintiff further expects to suffer continuing, future loss and damages.

WHEREFORE for all the reasons stated above, Plaintiff prays for a judgment against Defendant Dealership Robert Brogden's Olathe Buick GMC, Inc. in an amount in excess of \$75,000.00 and sufficient to compensate Plaintiff for her injuries and damages, for attorneys' fees, for her costs and disbursements incurred here, and for such other and further relief as the Court deems just and proper.

**PLAINTIFF REQUESTS A TRIAL BY JURY ON ALL ISSUES**

Respectfully submitted,

/s/ Marcos A. Barbosa

Marcos A. Barbosa

KS #22015

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