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Superior Court of New Jersey

JAN 03 2012

**CIVIL ASSIGNMENT
UNION COUNTY**

<p>BEVERLY FIGUEROA,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>UNION COUNTY SHERIFF'S DEPARTMENT, SHERIFF RALPH G. FROELICH, UNDERSHERIFF JOSEPH CRYAN and JOHN DOE NOS. 1-10 (fictitious names for unknown individuals),</p> <p style="text-align: center;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY UNION COUNTY: LAW DIVISION</p> <p>DOCKET NO.:</p> <p style="text-align: center;">UNNL 0083 12 CIVIL ACTION</p> <p style="text-align: center;">COMPLAINT FOR DECLARATORY JUDGMENT AND JURY DEMAND</p>
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Plaintiff Beverly D. Figueroa, residing at 14 South Wickom Drive, Township of Westfield, County of Union and State of New Jersey, by way of Complaint against the Defendants named herein, says:

THE PARTIES

1. The Plaintiff is a 40 year old female who has been an employee of the Union County Sheriff's Department since May 18, 2001, serving as a Sheriff's Officer.
2. The Defendant Union County Sheriff's Department ("Department") is a governmental entity responsible for the administration of the Union County Jail and protecting both the personnel of the Union County Superior Court, members of the public using its facilities, the personnel of the

Union County government and members of the public using its facilities

3. The Defendant Ralph Froehlich ("Froehlich") is the Sheriff of the Department and the chief administrative officer of the Department and performs the necessary duties and functions in administering the Department.

4. The Defendant Joseph Cryan ("Cryan") is the Undersheriff of the Department and assists the Defendant Froehlich in administering the Department.

5. The Defendants John Doe Nos. 1-10 ("Doe") are agents, servants and/or employees of the Department, whose identities are presently unknown, who acted, or failed to act, in manners that affected and/or impacted upon the Plaintiff's employment with the Department.

FIRST COUNT
(REQUEST FOR DECLARATORY JUDGMENT)

6. On or about April 3, 2006, the Plaintiff and the Defendants Department and Froehlich entered into a written Settlement Agreement and Release ("Agreement"), pursuant to which those Defendants and their agents, servants, employees and assigns are each obligated not to "in any way retaliate against the Plaintiff in any aspect of her employment because she brought [a prior action against the Department in the Superior Court of New Jersey, Union County Law Division, Docket No. UNN-L-446-04]."

7. A controversy exists between the parties because the Plaintiff contends that the Defendants Department and Froehlich violated the Agreement in January 2010 by determining that the Plaintiff "had a problem getting along with people," which resulted in the Defendants Department, Froehlich, Cryan and Doe determining that the Plaintiff was "unfit for duty."

8. The Plaintiff was subsequently compelled to attend a psychological evaluation, which resulted in a determination that she was "unfit for duty." That resulted in her being compelled to turn in her firearm and attend psychiatric treatment for a prolonged period of time in 2010 and 2011.

9. Prior to the Plaintiff's hire by the Defendant Department, she was directed by the Defendants Department, Froehlich and Doe to attend a psychiatric examination by a doctor who recommended against the Defendants' hire of the Plaintiff, on the ground of alleged "personality problems." The Defendants subsequently failed and refused to hire the Plaintiff based upon its claim that she was "psychologically unfit to perform the duties of a sheriff's officer." The Defendants were subsequently compelled to hire the Plaintiff by the Merit System Board of the State of New Jersey Department of Personnel.

10. After her hire, the Plaintiff was subjected to discrimination in her employment in violation of the New Jersey Law Against Discrimination ("LAD"), N.J.S.A. 10:5-1, et seq., which precipitated the aforesaid prior action in the Superior Court of New Jersey, which was resolved by the Agreement.

11. The basis of the Defendants' initial refusal to hire the Plaintiff, their subsequent actions after her hire and their actions, together with the Defendants Cryan and Doe, in determining in January 2010 that the Plaintiff was "unfit for duty" as a Sheriff's Officer, after almost 9 years of employment, was their ongoing false and/or incorrect perception that the Plaintiff suffered from a psychological and/or psychiatric condition.

12. By reason of the foregoing acts of the Defendants since January 2010, a declaratory judgment is both necessary and proper in order to set forth and determine the rights, obligations and liabilities that exist among the parties to the Agreement.

WHEREFORE, the Plaintiff demands judgment as follows:

- A. Declaring that pursuant to the Agreement, the Defendants are barred from any consideration and/or perception of the Plaintiff suffering from a psychological and/or psychiatric condition;
- B. Declaring the rights and other legal relations of the Plaintiff and Defendants arising out of the Agreement;
- C. Awarding such other and further relief as the Court may deem equitable, just and proper

SECOND COUNT
(DISCRIMINATION BASED ON PERCEIVED HANDICAP UNDER THE LAD)

13. The Plaintiff repeats each and every allegation of the First Count and makes them a part hereof

14. The Defendants' Department, Froehlich, Cryan and Doe's aforesaid actions, commencing in January 2010, determining the Plaintiff to be "unfit for duty," compelling her to turn in her firearm and attend psychiatric treatment for a prolonged period of time in 2010 and 2011 also constituted employment discrimination under the LAD, based upon the ongoing false and/or incorrect perception that the Plaintiff suffered from a psychological and/or psychiatric condition. This made the Plaintiff a member of a protected class under the LAD.

15. Prior to the Defendants' aforesaid discriminatory acts, the Plaintiff had

complained of severe gender-based harassment by a co-worker, Sheriff's Officer John Santoro ("Santoro") and by Carol Gomez ("Gomez"), a civilian employee.

16. The Plaintiff had been reprimanded by the Defendant Cryan for her complaints about Santoro and advised that he "was not going to accept any further complaints from the Plaintiff about Santoro "or anyone else in the County."

17. The Defendants Department, Froehlich, Cryan and Doe Doe aided and abetted each other's aforesaid acts, which constituted discrimination under the LAD based upon perceived handicap/disability that the Plaintiff was psychologically and/or psychiatrically "unfit for duty" as a Sheriff's Officer.

18. The aforesaid acts also constituted discrimination under the LAD in the creation of a hostile work environment for the Plaintiff, based upon perceived handicap/disability.

19. The Plaintiff complained of the aforesaid acts of discrimination under the LAD to the Defendants, but the aforesaid acts of discrimination by the Defendants did not stop.

20. The aforesaid acts of the Defendants were outrageous, malicious and willful and done with reckless disregard for the rights of the Plaintiff under the LAD, warranting the imposition of punitive damages against each of them.

21. As a direct and proximate result of the aforesaid acts of discrimination by Defendants, the Plaintiff has suffered and sustained damages.

WHEREFORE, Plaintiff demands judgment on this Court against Defendants Department, Froehlich, Cryan and/or Doe, jointly and severally, for compensatory damages, punitive damages, counsel fees, costs of suit and such other and further relief as the Court may deem equitable and just

THIRD COUNT
(RETALIATION UNDER THE LAD)

22. Plaintiff repeats each and every allegation of the First and Second Counts of the Complaint and makes them a part hereof.

23. Since the Defendants were first advised of Plaintiff's claim, Defendants, by and through their agents and/or employees, have retaliated against her for the same, in further violation of the NJLAD. The acts of retaliation have included, but have not been limited to, assigning the Plaintiff a substantially increased caseload.

24. The aforesaid actions of Defendants, by and through its agents and/or employees were outrageous, malicious and willful and done with reckless disregard of the rights of Plaintiff, warranting the imposition of punitive damages against each of them.

25. As a direct and proximate result of the aforesaid acts of retaliation, in violation of Plaintiff's rights under the NJLAD by Defendants, through their agents, servants and/or employees, Plaintiff suffered and sustained damages.

WHEREFORE, Plaintiff demands judgment on this Count against Defendants Department, Froehlich, Cryan and/or Doe, jointly and severally, for compensatory damages, punitive damages, counsel fees, costs of suit and such other and further relief as the Court may deem equitable and just

FOURTH COUNT
(VIOLATION OF EMPLOYER'S POLICIES-BREACH OF CONTRACT)

26. The Plaintiff repeats each and every allegation of the First, Second and Third Counts and makes them a part hereof.

27. The Defendant Department employed the Plaintiff in accordance with certain written policies, which terms included, but were not limited to, provisions on non-discrimination against employees with handicaps and by implication, perceived handicaps and accommodation of employees with disabilities.

28. The aforesaid actions of the Defendants breached those aforesaid policies and terms, in violation of the rights of the Plaintiff.

29. As a direct and proximate result of the aforesaid breaches of the aforesaid policies and terms by the Defendants, the Plaintiff suffered and sustained damages

WHEREFORE, the Plaintiff demands judgement on this Court against Defendants Department, Froehlich, Cryan and/or Doe, jointly and severally, for compensatory damages, punitive damages, counsel fees, costs of suit and such other and further relief as the Court may deem equitable and just.

JURY DEMAND

Plaintiff demands trial by jury on all triable issues.

DESIGNATION OF TRIAL COUNSEL

Pursuant to **Rule 4:25-4**, Michael Farhi, Esq. is hereby designated as trial counsel for Plaintiff in the above matter.

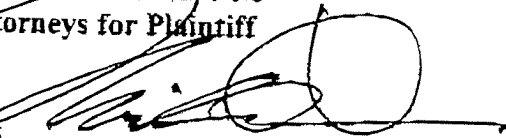
CERTIFICATION OF NO OTHER ACTIONS

Pursuant to **Rule 4:5-1**, it is hereby stated that the matter in controversy is not the subject of any other action pending in any other Court or of a pending arbitration proceeding to the best of our knowledge and belief. Also, to the best of our belief, no other action or arbitration proceeding is

contemplated. Further, other than the parties set forth in this pleading, we know of no other parties that should be joined in the above action. In addition, we recognize the continuing obligation of each party to file and serve on all parties and the Court an amended pleading if there is a change in the facts stated in this original pleading.

Dated: January 3, 2012

**KATES, NUSSMAN, RAPONE,
ELLIS & FARHI LLP
Attorneys for Plaintiff**

By: 

MICHAEL FARHI

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