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KATHLEEN J. DELANOY

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MONMOUTH COUNTY

Fee Attached - 200
Batch # - 022
Check # - 120
Cash Reference # - _____
Overpayment Amount - _____

KATHLEEN J. DELANOY

Plaintiff,

v.

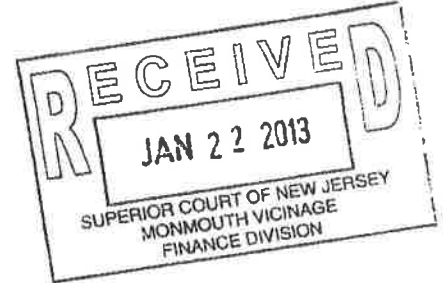
TOWNSHIP OF OCEAN; ANTONIO V. AMODIO, JR.; AND JOHN DOES 1-10 (being agents, servants and employees of defendants as a continuing investigation may reveal (who are fictitiously named because their true identities are unknown)),

Defendants.

CIVIL ACTION

DOCKET NO.:

L-302-13



COMPLAINT AND JURY DEMAND

Plaintiff, KATHLEEN J. DELANOY, residing in the Township of Neptune, County of Monmouth, and State of New Jersey, by and through her undersigned attorney DONALD F. BURKE, ESQ., by way of Complaint against defendants, states as follows:

PARTIES

1. Plaintiff KATHLEEN J. DELANOY is an individual who is a citizen of the State of New Jersey and resides in the Township of Neptune, County of Monmouth, and State of New Jersey.
2. Defendant TOWNSHIP OF OCEAN is a municipality located in the County of Monmouth, State of New Jersey with offices located at 399 Monmouth Road, Oakhurst, New

[Handwritten notes and signatures]

Jersey.

3. Defendant TOWNSHIP OF OCEAN is municipal entity that provides police protection services through its Police Department.

4. Defendant ANTONIO V. AMODIO, at all times relevant to this dispute, was employed by defendant TOWNSHIP OF OCEAN as Chief of Police.

5. Defendants JOHN DOES 1-10 are individuals and engaged in wrongful, retaliatory and discriminatory conduct towards plaintiff or who authorized and/or ratified such conduct, whose true identities are unknown but may be revealed through discovery.

JURISDICTION

6. This court has subject-matter jurisdiction over the instant lawsuit, as this action arises under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C.A. 2000e to -17 (as amended by the Pregnancy Discrimination Act, 42 U.S.C.A. 2000e(k)); Americans with Disabilities Act, 42 U.S.C.A. 12101 to 12213; New Jersey Law Against Discrimination (NJLAD), N.J.S.A. 10:5-1 to -49 and other common law claims.

7. Plaintiff KATHLEEN J. DELANOY complied with all the administrative prerequisites to this action by filing a charge of discrimination and receiving a Right to Sue letter dated October 23, 2012 as to her charge.

8. The court has personal jurisdiction over the defendants based on their residency within the jurisdiction of the State of New Jersey and based on the fact that defendant TOWNSHIP OF OCEAN is a municipal entity doing business within the jurisdiction of this court, and the individual defendants are its employees. Further, the acts complained of that are attributable to the defendants all occurred within the jurisdiction of this court.

BACKGROUND

9. Plaintiff KATHLEEN J. DELANOY has been employed by defendant TOWNSHIP OF OCEAN in the Ocean Township Police Department as a Law Enforcement Officer since January 2003.

10. Plaintiff is one of two women on the TOWNSHIP OF OCEAN police force of over fifty Police Officers.

11. From the time plaintiff became a member of the TOWNSHIP OF OCEAN Police Department until July 2011, there were no written policies pertaining to allowing Police Officers to work light duty when could not work their full-time assignment due to illness or non-work related injury.

12. Before July 2011, Police Officers who were unable to perform their full-time assignments due to illness or non-work related injury were allowed to work light/modified duty.

13. Before July 2011, Police Officers who were unable to perform their full-time assignments and provided light/modified duty were not required to use accumulated time (vacation, holiday, personal and Kelly time) before being placed on modified/light duty status.

14. In July of 2011, plaintiff notified defendants of her pregnancy status and requested light/modified duty based upon her inability to perform her full-time assignments due to her pregnancy.

15. Plaintiff was advised that there is no light/modified duty available for pregnant officers.

16. Subsequent to plaintiff notifying defendants of her pregnancy status, defendants promulgated separate written policies, one to "clarify the guidelines for all sworn officers re-

requesting light or modified duty when they cannot work in their current full-time assignment due to illness or non-work related injury” and the other to provide guidelines to “assist female officers in administering their leave time during pregnancy.”

17. This change in the existing unwritten policy was in direct response to plaintiff's pregnancy and her request for light/modified duty equal to that provided to male Police Officers.

18. The “Maternity Assignment” policy and the “Light/Modified Duty” policy are similar in many aspects, including the requirement that Police Officers use accumulated time (vacation, holiday, personal and Kelly time) before being placed on light/modified duty status.

19. The “Light/Modified Duty” policy, however, allows the Chief of Police discretion to waive the requirement to use accumulated time (vacation, holiday, personal and Kelly time) before being placed on light/modified duty status if the Chief of Police determines 1) the officer's current full-time assignment is necessary for the efficient operation and function of the department; 2) an extended leave by the officer would be a detriment to Department operations; and 3) the officer's condition does not prevent him or her from performing all the daily routine duties commensurate with his or her position.

20. The “Maternity Assignment” policy does not provide discretion to the Chief of Police to waive the requirement to use accumulated time (vacation, holiday, personal and Kelly time) before a Police Officer is placed on light/modified duty status as a result of her pregnancy.

21. Before plaintiff notified defendants of her pregnancy, the unwritten policy regarding

light/modified duty did not require using accrued time.

22. Plaintiff filed a charge of discrimination with the Equal Employment Opportunity Commission.

23. Plaintiff suffered and continues to suffer retaliation as a result in the change in the unwritten policy to provide light/modified duty to Police Officers placed on light/modified duty status without requiring the use of accumulated time (vacation, holiday, personal and Kelly time).

24. This continuing discrimination and retaliation includes being ostracized by co-workers and supervisors.

25. Furthermore, arising out of the Equal Employment Opportunity Commission's investigation, the Equal Employment Opportunity Commission determined that defendants violated the Americans with Disabilities Act by maintaining certain medical related documents in employee personnel files.

26. Defendants John Does 1 to 10 are agents, servants and employees of defendants who deprived plaintiff of her civil rights by discriminating against her because of her sex and pregnancy and who authorized and/ratified defendants' unlawful policies and procedures. Further, defendants John Does 1 to 10 are agents, servants and employees of defendants who have retaliated against plaintiff and continue to retaliate against her for seeking treatment equal to male employees and for bring a charge of discrimination.

FIRST COUNT
Violation of the New Jersey Law Against Discrimination

27. Plaintiff incorporates the above paragraphs as though set forth in full herein.

28. Defendants are employers of plaintiff.

29. Plaintiff KATHLEEN J. DELANOY is a woman and therefore is a protected class member as defined by the NJLAD.

30. Defendants individually and jointly in their individual and official capacities took adverse action against plaintiff or allowed others to take adverse action based on plaintiff's sex and/or pregnancy.

31. At all pertinent times, plaintiff was employed in and resided in New Jersey and was unlawfully discriminated against on the basis of her sex and/or pregnancy.

32. Further, plaintiff continues to suffer retaliation and hostility because she sought to be treated equal to males who were unable to perform full duty because of non-work related injuries or illnesses.

33. As a consequence of this discrimination and retaliation by defendants as aforesaid, plaintiff has sustained compensatory and consequential damages; has incurred costs of suit and attorney's fees; and is entitled to such other remedies as statutorily allowed by the NJLAD.

34. Further, defendants' discrimination and retaliation is intentional and deliberate conduct.

35. The conduct of defendant ANTONIO V. AMODIO, JR. is especially egregious, wantonly reckless or malicious inasmuch as they are members of upper management and actually participated in the unlawful conduct in their individual and official capacities.

36. Further, defendant TOWNSHIP OF OCEAN is liable for punitive damages for the conduct of defendant ANTONIO V. AMODIO, JR. and defendant TOWNSHIP OF OCEAN and

John Doe defendants knew or should have known of the unlawful and discriminatory conduct and hostile work environment but allowed and continue to allow it to permeate plaintiff's workplace by failing to properly supervise and failing to take prompt and appropriate remedial action.

SECOND COUNT

Violation of Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e to -17)

37. Plaintiff incorporates the above paragraphs as though set forth in full herein.

38. Defendants violated Title VII of the Civil Rights Act of 1964 by discriminating against plaintiff.

39. Plaintiff has exhausted her administrative remedies.

40. Plaintiff filed a charge with the Equal Employment Opportunity Commission

41. Plaintiff was issued a Notice of Right to Sue letter dated October 23, 2012.

THIRD COUNT

Violation of the Americans with Disabilities Act (42 U.S.C.A. §§ 12101 to 12213)

42. Plaintiff incorporates the above paragraphs as though set forth in full herein.

43. Defendants violated the Americans with Disabilities Act, 42 U.S.C.A. 12101 to 12213, by maintaining certain medical related documents in employee personnel files.


PRAYER FOR RELIEF

WHEREFORE, plaintiff KATHLEEN J. DELANOY demands judgment against defendants for:

- a. Compensatory damages;
- b. Consequential damages;
- c. Punitive damages (pecuniary and nonpecuniary);

- d. Reasonable counsel fees, costs and expenses; and
- e. Such other general or specific relief, both at law and in equity, to which plaintiff may be justly entitled.

Respectfully submitted,
LAW OFFICE OF DONALD F. BURKE
Attorneys for Plaintiff
KATHLEEN J. DELANOY

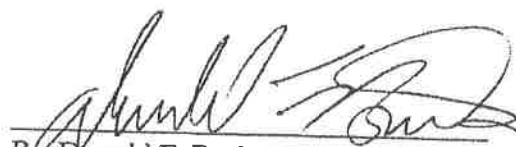

By: Donald F. Burke, Esq.

Dated: January 22, 2013

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by Jury as to the claims.

Respectfully submitted,
LAW OFFICE OF DONALD F. BURKE
Attorneys for Plaintiff
KATHLEEN J. DELANOY


By: Donald F. Burke, Esq.

Dated: January 22, 2013

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:5-1(c), DONALD F. BURKE, ESQ., is designated as trial counsel for

the plaintiff in the above matter.

Respectfully submitted,
LAW OFFICE OF DONALD F. BURKE
Attorneys for Plaintiff
KATHLEEN J. DELANOY

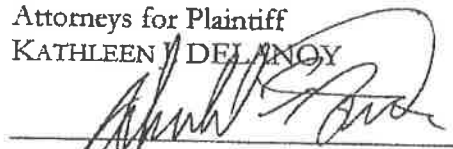
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CERTIFICATION OF NO OTHER ACTIONS

Pursuant to Rule 4:5-1(b)(2), 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 or belief. Also, to the best of our knowledge or 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 other than those identified as John Doe defendants. In addition, we recognize the continuing obligation of each party to file and serve on all parties and the court an amended certification if there is a change in the facts stated in this original certification.

Respectfully submitted,
LAW OFFICE OF DONALD F. BURKE
Attorneys for Plaintiff
KATHLEEN J. DELANOY



By: Donald F. Burke, Esq.

Dated: January 22, 2013

