

ALOIA LAW FIRM LLC
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Attorney for Plaintiff,
Angela Gioino-Kistner

SUPERIOR COURT OF NJ
CIVIL DIVISION
ESSEX COUNTY

SEP 15 2 3 24

CLERK OF COURT
ESSEX COUNTY
97

ANGELA GIOINO-KISTNER,

Plaintiff,

vs.

BELLEVILLE PUBLIC LIBRARY BOARD
and TOWNSHIP OF BELLEVILLE

Defendants.

: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION: ESSEX COUNTY

: DOCKET NO.: L6457-14

: CIVIL ACTION

Plaintiff, Angela Gioino-Kistner ("Ms. Gioino-Kistner"), having a home address of 218 Joralemon Street, Belleville, New Jersey 07109, by way of Complaint against the Belleville Public Library Board (the "Library Board") and the Township of Belleville (the "Township") says as follows:

PARTIES

1. Ms. Gioino-Kistner is a Belleville resident having a home address of 218 Joralemon Street, Belleville, New Jersey 07109, in the County of Essex, State of New Jersey.

2. The Library Board is the governing body responsible for the establishment and oversight of the Belleville Public Library (the "Library") and is organized pursuant to N.J.S.A. 40:54-1 et seq., with the Library's location being 221 Washington Avenue, Belleville, New Jersey 07109, in the County of Essex, State of New Jersey.

3. The Township is a municipal government located at 152 Washington Avenue, Belleville, New Jersey 07109, in the County of Essex, State of New Jersey.

FACTUAL ALLEGATIONS

4. Ms. Gioino-Kistner is a 37 year old, married female who, at all times relevant to the instant Complaint, was pregnant.
5. In or about February 2011, Ms. Gioino-Kistner began employment for the Library Board and was hired to the position of Monitor at the Library.
6. As Monitor, Ms. Gioino-Kistner's responsibilities including answering phone and checking out books at the Library.
7. On or about June 1, 2014, Ms. Gioino-Kistner received notice that her employment at the Library would be discussed at the Library Board's June 11, 2014 meeting (the "Meeting").
8. Pursuant to N.J.S.A. 10:4-6 et seq., the Library Board was only authorized to discuss Ms. Gioino-Kistner's employment status in the public portion of the Meeting subject to a written request to the Library Board from Ms. Gioino-Kistner granting authorization to discuss same.
9. Ms. Gioino-Kistner, however, never gave the Library Board any authorization, whether written, verbal, or otherwise, to discuss her employment status during the portion of the Meeting that was open to the public.
10. Nonetheless, the Library Board discussed Ms. Gioino-Kistner's employment at length during the Meeting.
11. The discussion of Ms. Gioino-Kistner's employment, at all times relevant hereto, occurred during the open/public portion of the Meeting.
12. At the Meeting, the Library Board first discussed the fact that Ms. Gioino-Kistner had been attending certain classes to become a purchaser in anticipation of the eventual retirement of another Library employee.

13. The Library Board recommended that Ms. Gioino-Kistner be made a full-time employee, to the position of Library assistant, from her current, part-time position, as Library monitor.

14. The Library Board's Secretary, Florence Pentol ("Ms. Pentol"), inquired of the Library Board if Ms. Gioino-Kistner was currently pregnant.

15. Ms. Pentol then inquired of the Library Board if Ms. Gioino-Kistner was going to go "out on leave pretty soon."

16. Ms. Pentol also inquired of the Library Board as to whether Ms. Gioino-Kistner's husband carries health insurance through his employment.

17. The Library's Director, Joan Taub ("Ms. Taub"), advised Ms. Pentol that she knew Ms. Gioino-Kistner's husband had health insurance through his employer.

18. Ms. Taub also commented that because Ms. Gioino-Kistner's husband had his own health insurance, that Ms. Gioino-Kistner could "opt-out" of the Library Board's health care plan at the time of her leave for her pregnancy.

19. In response, Mayor Richard Kimble ("Mayor Kimble"), a Board Trustee, stated that Ms. Gioino-Kistner could "opt-out" of the Library's health care plan during the time off for her pregnancy and then "opt back in" when she returned to work.

20. At this point, counsel for the Library Board stated that the Library Board could not deny Ms. Gioino-Kistner health benefits.

21. Mayor Kimble replied to counsel for the Library Board that the Library Board could deny her health insurance benefits if the Library Board kept Ms. Gioino-Kistner a part-time employee, in lieu of making her a full-time employee.

22. Ms. Pentol then responded to Mayor Kimble that the Library Board should keep Ms. Gioino-Kistner as a part-time employee.

23. Mayor Kimble then continued and stated that although the Library Board had "given [Ms. Gioino-Kistner] a great opportunity...that doesn't guarantee her [the position of purchaser]."

24. Mayor Kimble also stated that "that's the problem; once you send people to school, they think they have to move into [a new position]."

25. Mayor Kimble also stated, with regard to Ms. Gioino-Kistner's future pregnancy and impending pregnancy-related leave of absence, that promoting Ms. Gioino-Kistner at the current time would, in part, create a "a wasted position" at the Library.

26. At that point of the Meeting, Reverend Shirley Harris ("Reverend Harris"), a Library Board Trustee, discussed the possibility of revisiting the issue with regard to making Ms. Gioino-Kistner a full-time employee after she returned from her maternity leave.

27. Reverend Harris continued to say that, although she was compassionate to Ms. Gioino-Kistner's current pregnancy and birth of her forthcoming child, that she would have health coverage through her husband at the time of her maternity leave so by not making Ms. Gioino-Kistner a full-time employee at the current time "would not be really taking that much [from her]."

28. Mayor Kimble responded to Reverend Harris by stating that since Ms. Gioino-Kistner was having a baby, her full-time employment would mean that "[her insurance] is going to go to a family plan which jumps that policy to \$27,000.00."

29. Ms. Pentol then stated, "nothing against [Ms. Gioino-Kistner] that she is having a child, but [her insurance would] become[] a family plan and then it is so much money...."

30. The Meeting ended with the Library Board taking no action with regard to Ms. Gioino-Kistner or any Library employee's employment, and with the Library Board approving a motion to return further discussion of Ms. Gioino-Kistner's employment status to the Library's personnel committee.

FIRST COUNT

Violation of New Jersey Law Against Discrimination N.J.S.A. 10:5-12

31. Ms. Gioino-Kistner re-alleges and incorporates herein paragraphs 1 through 29 as if set forth fully herein.

32. The Library Board, acting under color of state law, engaged in coercive and deceptive practices to deprive Ms. Gioino-Kistner of process, rights, privileges and/or immunities secured for her including, but not limited to, Ms. Gioino-Kistner's age, gender, marital status, and/or status as a pregnant woman.

33. The Board was motivated by evil motive or intent and/or they showed reckless or callous indifference to the protected rights of Ms. Gammaro.

34. As a direct and proximate result of the aforementioned activities against Ms. Gioino-Kistner, the Board has directly and proximately caused Ms. Gioino-Kistner to suffer severe emotional distress, anguish, humiliation, pain and suffering and will continue to suffer severe physical and emotional distress, has suffered and will continue to suffer damage to her personal and professional reputation and has suffered and will continue to suffer financial losses, including lost wages and pension benefits.

WHEREFORE, cause having been shown, Ms. Gioino-Kistner demands judgment against the Library Board and seeks the following relief:

- (a) Appointment to the position of full-time Library Assistant;
- (b) Back pay, front pay, and pension benefits;
- (c) Compensatory damages for pain and suffering;
- (d) Attorney's fees and cost of suit;
- (e) Punitive damages; and
- (f) Such other relief as the Court deems just and equitable.

SECOND COUNT

Violation of New Jersey Law Against Discrimination N.J.S.A. 10:5-12

35. Ms. Gioino-Kistner re-alleges and incorporates herein paragraphs 1 through 33 as if set forth fully herein.

36. The Township, acting under color of state law, engaged in coercive and deceptive practices to deprive Ms. Gioino-Kistner of process, rights, privileges and/or immunities secured for her including, but not limited to, Ms. Gioino-Kistner's age, gender, marital status, and/or status as a pregnant woman.

37. The Township was motivated by evil motive or intent and/or they showed reckless or callous indifference to the protected rights of Ms. Gammaro.

38. As a direct and proximate result of the aforementioned activities against Ms. Gioino-Kistner, the Board has directly and proximately caused Ms. Gioino-Kistner to suffer severe emotional distress, anguish, humiliation, pain and suffering and will continue to suffer severe physical and emotional distress, has suffered and will continue to suffer damage to her personal and professional reputation and has suffered and will continue to suffer financial losses, including lost wages and pension benefits.

WHEREFORE, cause having been shown, Ms. Gioino-Kistner demands judgment against the Township and seeks the following relief:

- (g) Appointment to the position of full-time Library Assistant;
- (h) Back pay, front pay, and pension benefits;
- (i) Compensatory damages for pain and suffering;
- (j) Attorney's fees and cost of suit;
- (k) Punitive damages; and
- (l) Such other relief as the Court deems just and equitable.

DEMAND FOR TRIAL BY JURY

Plaintiff demands a Trial Jury of six (6) according to its Rule 1:8-2(b).

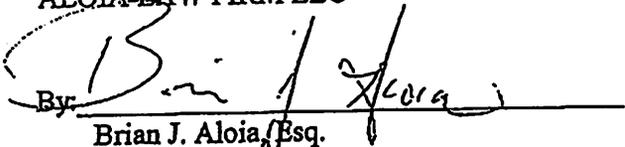
DESIGNATION OF TRIAL COUNSEL

Please take notice that Brian J. Aloia, Esq., is hereby designated as trial counsel in the captioned matter on behalf of the Plaintiff.

CERTIFICATION PURSUANT TO RULE 4:5-1

In accordance with Rule 4:5-1, I hereby certify that the matter in controversy is not the subject of any other action or arbitration proceeding, now or contemplated, and that at this time no other parties should be joined in this action.

ALOIA LAW FIRM LLC

By: 

Brian J. Aloia, Esq.
Attorney for Plaintiff

Dated: September 11, 2014

SETTLEMENT AGREEMENT AND GENERAL RELEASE

THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE, is made as of 6-29-15, 2015, by and between, ANGELA GIONIO-KISTNER ("Kistner") and the TOWNSHIP OF BELLEVILLE and BELLEVILLE LIBRARY BOARD (hereinafter "Belleville").

1. Kistner individually and on behalf of her heirs, executors, administrators, successors, assigns and anyone claiming under them hereby releases, discharges and acquits Belleville and its representatives including without limitation its past, present and future agents, employees, consultants, attorneys, successors and assigns (hereinafter referred to collectively as "releasees") of any and all claims including, without limitation, her claims that state and federal laws were violated as well as all other claims, demands, sums of money, actions, rights, causes of actions, obligations and liabilities of any kind whatsoever which Kistner may have had or claimed to have had or now has or claims to have or hereafter may have or assert to have which arose out of or in any way whatsoever directly or indirectly related to the civil action in the Essex County Superior Court bearing Docket No.: L-006457-14 (the "Action") the subject matter thereof or any claims or causes of action that could have been asserted by Kistner therein; and/or any act, omission, transaction, dealing, conduct and negotiation of any kind whatsoever by any of the Releasees or by anyone acting or purporting to act on behalf of the Releasees in connection with the Action.

2. In consideration of the foregoing release Belleville agrees to (a) appoint Kistner to the part time position of Library Assistant at a salary of \$ 16.57 per hour retroactive to June 11, 2014, (b) pay her back pay consistent with the aforementioned appointment exclusive of the period of time Kistner was receiving FMLA/disability benefits and (c) pay legal fees in the amount of Five Thousand Five Hundred and 00/100 (\$5,500.00). Payment of backpay and attorney's fees shall be made within thirty (30) days of execution of this agreement and the failure to do so will entitle Kistner to an award of reasonable attorney's fees should a motion to enforce be necessary. The foregoing is in full satisfaction of all claims for compensatory and punitive damages and attorney's fees and

disbursements, known or unknown, asserted or unasserted, including, but not limited to, claims for emotional distress, pain and suffering, legal or equitable relief, back or front pay, lost benefits, statutory claims, contract claims and costs.

3. Kistner acknowledges the sufficiency of the payment referenced above.

4. Plaintiff and Belleville understand and agree that Belleville denies every allegation of wrongdoing made by Kistner in the Action.

5. Kistner and Belleville understand and agree that the making of this Agreement shall not, in any way, be construed or be considered an admission by Belleville of liability or non-compliance with any federal, state or local law, or of any other wrongdoing whatsoever.

6. In exchange for the mutual promises made by the released parties herein, Plaintiff, Plaintiff's heirs, executors, administrators, fiduciaries, successors and/or assigns:

a. agree to the dismissal, with prejudice and without an additional award of costs or attorneys' fees, of the Complaint filed in this litigation.

b. unconditionally and irrevocably discharge and release Defendant, defendant's present or former attorneys, employees, insurers, re-insurers and/or agents and their successors and assigns individually and in their official capacities, (collectively referred to herein as "Released Parties" or "Released Party") jointly and severally, of and from all claims, known or unknown, that Plaintiff has or may have against Released Parties as of the date of execution of this Agreement, including, but not limited to, those claims set forth in the Action, or otherwise arising out of Plaintiff's employment or any alleged violation of:

- The National Labor Relations Act;
- Title VII of the Civil Rights Act;
- Civil Rights Act of 1991;
- Sections 1981 through 1988 of Title 42 of the United States Code;

- The Employee Retirement Income Security Act;
- The Fair Credit Reporting Act;
- The Immigration Reform Control Act;
- The Americans with Disabilities Act;
- The Rehabilitation Act;
- The Age Discrimination in Employment Act;
- The Occupational Safety and Health Act;
- The Family and Medical Leave Act;
- The Equal Pay Act;
- The Fair Labor Standards Act;
- The Uniformed Services Employment and Reemployment Rights Act;
- Worker Adjustment and Retraining Notification Act;
- Employee Polygraph Protection Act;
- The Sarbanes-Oxley Act of 2002;
- The New Jersey Law Against Discrimination;
- The New Jersey Family Leave Act;
- The New Jersey State Wage and Hour Law;
- The New Jersey Conscientious Employee Protection Act;
- The New Jersey Equal Pay Law;
- The New Jersey Occupational Safety and Health Law;
- The New Jersey Smokers' Rights Law;
- The New Jersey Genetic Privacy Act;
- The New Jersey Fair Credit Reporting Act;
- The New Jersey Statutory Provision Regarding Retaliation/Discrimination for Filing a Workers' Compensation Claim;
- The New Jersey Public Employees' Occupational Safety and Health Act;
- New Jersey laws regarding Political Activities of Employees, Lie Detector Tests, Jury Duty, Employment Protection and Discrimination;
- any other federal, state or local civil rights law or any other local, state or federal law, regulation or ordinance;

- any public policy, contract (oral, written or implied), tort, constitutional or common law;
- any claims for vacation, sick or personal leave pay or payment pursuant to any practice, policy, handbook or manual of Employer; or
- any allegation for costs, fees, or other expenses including attorneys' fees.

Kistner fully understands this release includes all claims related in any manner to Kistner's employment.

c. Kistner affirms that she has not filed or caused to be filed, and presently is not a party to, any claim, complaint, or action against Released Parties in any form or forum.

7. Kistner agrees that she is responsible for all applicable taxes, if any, as a result of the receipt of these monies. Kistner understands and agrees Belleville is not providing Kistner with any representations regarding tax obligations or consequences that may arise from this Agreement. Kistner agrees to indemnify Belleville and hold Belleville harmless for all taxes, penalties and interest, withholding or otherwise, for which Belleville may be found liable as a consequence of having paid monies to Kistner pursuant to this Agreement. Belleville shall notify Kistner within thirty (30) days, in writing and via certified mail, return receipt requested, of any IRS notifications, assessments or concerns. It is expressly agreed that if Belleville is required to provide payments for taxes or interest or penalties to any taxing authority, Kistner shall reimburse Belleville for such payments to such taxing authority within ten (10) days after Belleville notifies Kistner, in writing, via certified mail, return receipt requested, that it has incurred such liability.

8. Kistner warrants, represents and agrees that in executing this Settlement Agreement and Release she does so with full knowledge of any and all rights that she may have with respect to the controversies herein compromised. Kistner further represents that she is not relying upon and has not relied upon any representations or statements made by others with respect to all the facts involved in said controversies or with regard to the rights or asserted rights.

9. Kistner understands, acknowledges and agrees that nothing in this agreement or its performance constitutes an admission of liability by Belleville or any of the Releasees but to the contrary represents a compromise of asserted claims, liability for which Belleville specifically denies.

10. Kistner warrants and represents that no other person or entity has any interest in the matters released herein and that Kistner has not assigned or transferred or purported to assign or transfer to any person or entity all or any portion of the matters released herein with a possible exception of an arrangement as to fees with attorneys.

11. Kistner understands and agrees that the Releasees make no representations concerning the tax consequences, if any, of any payments made in connection with this agreement.

12. Kistner acknowledges that this agreement shall be effective as a full and final release of and as a bar to each and every claim, demand, sum of money, action, right, cause of action, obligation and liability hereto for referred to and released, which Kistner has or had or claims to have against Belleville or any and all of the Releasees so far as such claims, disputes and differences relate to or arise out of the action or Kistner's employment with Belleville. In connection with this Release Kistner acknowledges that she is aware that she or her attorneys may hereafter discover facts different from or in addition to the facts that she now knows or believes to be true with respect to the subject matter of this agreement but that it is Kistner's intention to hereby fully finally absolutely and forever release any and all claims, disputes and differences that now exist, may exist or heretofore have existed between Kistner and Belleville and between Kistner and any and all of the Releasees so far as such claims, disputes and differences relate to or arise out of Kistner's employment and/or the action. In furtherance of such intention, Kistner understands and agrees that this agreement shall not be subject to any claim of mistake or fact, duress, lack of mental capacity to execute the agreement or fraud and that it expresses the FULL, COMPLETE, AND FINAL SETTLEMENT AND RELEASE of any and all claims relating to her employment and/or the action.

13. Kistner specifically warrants and represents that she has had the opportunity to retain counsel of her choice with respect to the review, approval and execution of this agreement.

14. Kistner represents and warrants that she is of legal age under no legal disability that would preclude her from entering into this agreement and that she executes this agreement fully, voluntarily and with full knowledge of its terms and conditions.

15. This Agreement is to be governed by the laws of the State of New Jersey.

16. If any provision of this agreement is applied to any party or to any circumstance should be found by a court of competent jurisdiction to be void, invalid or unenforceable the same shall in no way effect any other provision of the agreement the application of any such provision in any other circumstance or the validity or enforceability of the agreement.

Sworn to and subscribed to before me this _____ day of _____, 2015.

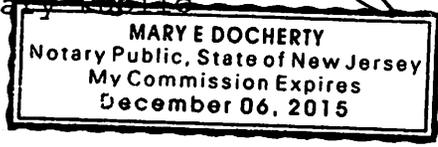
ANGELA GIONIO-KISTNER

Notary Public

Sworn to and subscribed to Before me this 7th day of July, 2015.

TOWNSHIP OF BELLEVILLE
By: Raymond Kimble
RAYMOND KIMBLE, Mayor

Mary E Docherty
Notary Public



Attested to by:
Kelly Cavanagh
KELLY CAVANAGH, Municipal Clerk

Sworn to and subscribed to Before me this _____ day of _____, 2015.

BELLEVILLE LIBRARY BOARD
By: _____
JOAN TAUB, Library Director

Notary Public