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<p>DENISE VEGA MOORE,</p> <p>Plaintiff,</p> <p>v.</p> <p>HACKENSACK BOARD OF EDUCATION, NICOLE ADAMS, ROSEMARY MARTINS-MARK AND JOHN DOES 1 THROUGH 25, INCLUSIVE, FICTITIOUS NAMED DEFENDANTS, JOINTLY, SEVERALLY, AND IN THE ALTERNATIVE,</p> <p>Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY CIVIL DIVISION – BERGEN COUNTY</p> <p>Docket No.:</p> <p>Civil Action</p> <p>COMPLAINT, DEMAND FOR JURY TRIAL, DESIGNATION OF TRIAL COUNSEL, AND DEMAND PURSUANT TO RULE 1:4-8</p>
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Plaintiff Denise Vega Moore, residing in the Township of North Plainfield, County of Somerset, State of New Jersey, by way of complaint against Defendants says:

COUNT ONE

1. At all relevant times herein, Defendant Hackensack Board of Education (“Defendant Board”) was a municipal governmental entity and the employer of Plaintiff and the individual defendant , Rosemary Martins-Marks (“Defendant Martins-Mark”), and certain of the John Doe Defendants, which entity was created pursuant to law and had an obligation pursuant to certain New Jersey statutes and the New Jersey Constitution to provide Plaintiff with a work environment free of retaliation and interference with the exercise of legally protected rights as a citizen of the State of New Jersey.

2. At all relevant times herein, Defendant Adams was an individual employed as an Assistant Superintendent and later Interim Superintendent of Schools for Defendant Board and who acted within the scope and course of her employment as well as outside the scope and course of her employment when she established and perpetuated a hostile work environment and engaged in unlawful retaliatory conduct and other conduct that violated Plaintiff's rights under the LAD

3. At all relevant times herein, Defendant Martins-Mark was an individual employed as an Assistant Superintendent and later Interim Superintendent of Schools for Defendant Board and who acted within the scope and course of her employment as well as outside the scope and course of her employment when she established and perpetuated a hostile work environment and engaged in unlawful retaliatory conduct and other conduct that violated Plaintiff's rights under the LAD.

4. Plaintiff was hired by Defendant Board as an Assistant Principal for middle school in August of 2014.

5. Plaintiff performed all job duties assigned to her and received no negative performance reviews for the academic years of 2014-2015 and 2015-2016.

6. In August of 2014 Plaintiff was introduced to her direct supervisor; principal Corey J. Jones ("Jones").

7. With Plaintiff present, Jones would frequently make unsolicited and unprompted comments about other employees accusing him of sexual harassment.

8. Jones referred to one of these employees as "Little Miss Cupcakes" and told Plaintiff that this employee had no right to complain of sexual harassment, because "she always wore short skirts and tight pants."

9. Jones repeatedly grabbed Plaintiff around the waist during her first several months of employment.

10. Jones would also make jokes about Plaintiff engaging in sexual relations with male coworkers.

11. Jones, after engaging in these behaviors, would make a point of telling Plaintiff that she was a non-tenured employee, that she needed to “stay in her lane,” and that then Superintendent Karen Lewis, who was removed in March 2016, was “on his side.”

12. Plaintiff understood these comments to be threats that she would face adverse employment action if she reported Jones for sexual harassment.

13. On July 14, 2015, Jones sat next to Plaintiff at a Union meeting and placed his arm around her. Plaintiff sat huddled in a corner in order to avoid him.

14. On August 18, 2015, while Plaintiff was speaking with her coworkers, Jones approached her and said, “don’t you look tan?”

15. Jones than hugged Plaintiff and kissed her on the cheek.

16. Plaintiff visibly flinched and recoiled.

17. These events were witnessed by Defendant Adams.

18. Plaintiff spoke to several coworkers about the August 18th incident.

19. Plaintiff’s coworkers encouraged her to report Jones.

20. Plaintiff was hesitant to do so, because she considered Jones’s threats of retaliation to be credible and believed that reporting him would endanger her job.

21. On September 28, 2015, Jones attempted to initiate a conversation with Plaintiff about purchasing sex toys.

22. Plaintiff shook her head and walked away.

23. On September 29, 2015, Jones made unsolicited comments about the size of his genitalia and told Plaintiff that her husband was not “bulky,” like him.

24. Jones smiled and placed his hands on the crotch of his pants as he made these comments.

25. At a PTA-sponsored “tricky-tray” fundraiser on December 11, 2015, Jones told Plaintiff that he wanted her to dress as a “sexy elf” with “high boots, a short skirt, and a shirt that ties behind the neck.”

26. Plaintiff attempted to ignore Jones’ sexual harassment at the party, but Jones forced Plaintiff to pose for a picture with him before she left the party.

27. On December 23, 2015, Jones told Plaintiff that her husband had not, “laid her out,” “showed her who the man was,” and “cracked that back.”

28. Adams was present during this conversation and afterward casually texted Plaintiff: “*did you enjoy your sexual harassment today?*”

29. In the conversation that followed, Adams further texted Plaintiff: “*...well that’s job security...don’t get mad.*”

30. On March 4, 2016, after Plaintiff addressed Jones as “sir,” Jones instructed Plaintiff to call him “Papi.”

31. There were several incidents over the next several months in which Jones inappropriately touched Plaintiff on the back and shoulders.

32. On June 14, 2016, Jones approached Plaintiff as she was bending over and said: “Ohhh Girl! If Mr. Avery saw you like that, he’d buy you lunch for the rest of the year.”

33. Mr. Avery is Plaintiff’s male coworker.

34. PTA president Vinnetta Singletary was present when this occurred. She did not seem at all surprised by Jones's actions and merely commented that, "He [Jones] must be an ass man."

35. Plaintiff reported Jones's sexual harassment to Superintendent of Schools Joseph Cicchelli on June 17, 2016.

36. Thereafter, the Board of Education launched an investigation into Jones's behavior.

37. Jones was later permitted to resign in July 2017, though the Board Agenda stated that his contract renewal had been rescinded.

38. Immediately following Plaintiff's report to the Superintendent and Jones's resignation, Plaintiff experienced a noticeable shift in her treatment by her supervisors and coworkers.

39. Plaintiff was given more work on shorter notice, and frequently reprimanded for asking questions.

40. On June 23, 2016, Defendant Adams publicly avoided Plaintiff at graduation and would not look at her or speak to her.

41. Defendant Adams had never treated Plaintiff this way before.

42. In July of 2016, in one of his final acts as an employee of the Board of Education before his resignation took effect, Jones conducted Plaintiff's yearly performance review.

43. Jones was aggressive and combative toward Plaintiff throughout the evaluation process.

44. Plaintiff was forced to be alone with Jones during the evaluation, which caused her great anxiety.

45. On or around July 27, 2016, Defendant Adams replaced Jones as Acting Principal.

46. Under Adams' supervision, the entire Principal's office staff ostracized and ignored Plaintiff.

47. When school resumed for the Fall of 2016 academic year Defendant Adams increased Plaintiff's job duties to include: covering an extra grade, monitoring three consecutive lunch periods, hallway duty, coordinating and overseeing all safety drills, student discipline, overseeing all departments, overseeing all parent-teacher meetings, and providing daily administrative briefings to the Principal's office.

48. This increased workload was impossible for one person to manage.

49. Moreover, Defendant Adams would now often email Plaintiff assignments mere hours before making them due and then reprimand Plaintiff if they were not handed in on time.

50. Defendant Adams would complain to other office staff that Plaintiff, "did not like to work," and belittle Plaintiff in front of her peers if she asked for clarification on an assignment.

51. Defendant Adams had never behaved this way towards Plaintiff before she reported Jones for sexual harassment.

52. On at least one occasion, when Plaintiff told Defendant Adams that she was overworked and that her new job duties were unreasonable, Defendant Adams flat-out stated that she had changed her duties because Plaintiff was the one who, "...wanted Jones gone," and added, "everybody bleeds."

53. On December 21, 2016, Defendant Martins-Marks informed Plaintiff that she was investigating allegations that Plaintiff sexually harassed a coworker during a meeting on Oct 19, 2016.

54. The coworker was later identified as Mr. Avery.

55. Mr. Avery was confused and denied ever accusing Plaintiff of any misconduct.

56. On information and belief, the allegations of harassment being investigated by Defendant Martins-Marks were fabricated by Defendant Adams.

57. Later that week, Defendant Adams met with Plaintiff and delivered a scathing performance evaluation.

58. Defendant Adams demanded that Plaintiff sign the evaluation.

59. Plaintiff disputed the accuracy of the performance evaluation and refused to sign.

60. On information and belief, a copy of the evaluation is in the possession of the Defendants.

61. In February of 2017, Celso King replaced Defendant Adams as principal.

62. King continued Adams' practice of ostracizing and ridiculing Plaintiff.

63. On information and belief, this was a concerted effort at retaliation being directed by Superintendent Cicchelli's office.

64. On March 27, 2017, teacher Rosemary Morgan (requesting anonymity) reported that students alleged that they received impermissible teacher assistance during the 2016 PARCC.

65. This was reported to Defendant Martins-Marks on March 29, 2017, who was supposed to report to NJ Department of Education within 3 days but failed to do so.

66. On April 25, Plaintiff used her work email to report the incident to report the allegations of testing impropriety to NJ Department of Education out of fear that Defendant Board would make it look like Plaintiff failed to report it, which would risk revocation of her educator credentials in New Jersey.

67. Defendant Board was monitoring Plaintiff's emails and saw the transmittal.

68. In April of 2017, Plaintiff found out that Jones was opening a private school locally.

69. Upon learning this, Plaintiff contacted Defendant Board and requested a copy of the determination letter from its investigation into her complaint of sexual harassment against Jones.

70. Defendant Martins-Marks curtly told Plaintiff that the matter was “closed” and refused to provide a copy of Defendant Board’s determination letter.

71. On April 25, 2017, Plaintiff was informed by the Principal, in front of the President and Vice President of her union that her contract would not be renewed at the end of the year.

72. Plaintiff was absent the next two days, and instead of contacting Plaintiff for keys to testing materials that are required to be kept locked and secure, the Principal broke into Plaintiff’s office and desk.

73. In the following days, Plaintiff was locked out of her employee email account and materials were removed from her office.

74. On May 2, 2017, Principal King appeared in Plaintiff’s office and demanded that she sign a disciplinary letter for dereliction of duty.

75. The charge of dereliction in the letter was fabricated, and Plaintiff refused to sign.

76. King then demanded that Plaintiff turn over her keys and ID badge, at the request of Defendant Martins-Marks and Cicchelli.

77. On May 5, 2017, Plaintiff attended a meeting at the school district’s central offices, with Defendant Martins-Marks and Cicchelli and others in attendance.

78. Plaintiff was repeatedly threatened at the meeting and presented with a release form, waiving any and all claims against the District.

79. Plaintiff refused to sign.

80. On May 23, 2017, Defendant Board voted to terminate Plaintiff’s employment for “conduct unbecoming of a teacher.”

81. This was merely a show, as Plaintiff’s position had been posted as available on May 10, 2017.

82. Plaintiff's attorney from her Union recommended that Plaintiff decline to attend a hearing fearing that it was just an opportunity to further harass Plaintiff given that the fact that her position had already been posted and another candidate had already been selected. (See Exhibit "A", hereto.)

83. On May 24, 2017, Plaintiff filed for New Jersey unemployment benefits.

84. Defendant Board, in an act of post-employment retaliation, opposed Plaintiff's determination of eligibility for benefits.

85. Plaintiff has been unable to find comparable employment since her wrongful termination.

86. Defendant's conduct is particularly egregious due to the length of time that the conduct was allowed to continue, and the evidently well-known culture of tolerance for sexual harassment and protection of harassers within the district. Employees within the district joked about sexual harassment, and supervisors encouraged employees not to elevate known instances of harassment to upper management.

87. Moreover, employees were directly warned that engaging in the protected act of reporting sexual harassment would result in retaliation from the Office of the Superintendent.

88. As a result of Plaintiff engaging in protected conduct of reporting sexual harassment to management, contrary to law and public policy, Plaintiff was subjected to a retaliatory hostile work environment and ultimately terminated.

89. As a direct and proximate result of Defendants' violations of Plaintiff's rights under the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq., to a workplace free from sexual harassment, Plaintiff's rights have been violated in a most egregious manner.

90. The conduct of the Defendants was knowing, intentional, occurred with actual malice, a willful and wanton disregard of Plaintiff's civil rights, and was especially egregious as a result of which Plaintiff has been damaged.

WHEREFORE, Plaintiff demands judgment against the Defendants jointly, severally, and in the alternative for compensatory damages, back pay, reinstatement, front pay, punitive damages, interest, attorney's fees, costs of suit, an Order seeking Plaintiff to be reinstated to her position, and such other relief as is just and equitable.

COUNT TWO

91. Plaintiff hereby incorporates paragraphs 1 through 90 as though set forth in full herein.

92. The LAD prohibits reprisals against an employee who engaged in protected conduct under the Act.

93. Plaintiff engaged in protected conduct under the LAD by reporting Defendant Jones' sexual harassment.

94. In retaliation for Plaintiff's protected conduct, Defendants retaliated against Plaintiff by creating a hostile work environment that culminated in the termination of Plaintiff's employment.

95. As a result of the foregoing, Plaintiff's rights under the New Jersey Law Against Discrimination to be free from discrimination, retaliation, and a hostile work environment have been violated in a most egregious manner.

96. The conduct of the Defendants in this matter was willful, wanton, and intentional, and occurred with actual malice, was especially egregious and occurred in a reckless disregard for Plaintiff's civil rights, and the conduct of the individual Defendants occurred within and outside the scope and course of their employment, as a result, Plaintiff has been damaged.

WHEREFORE, Plaintiff demands judgment against the Defendants jointly, severally, and in the alternative for compensatory damages, back pay, reinstatement, front pay, punitive damages, interest, attorney's fees, costs of suit, an Order seeking Plaintiff to be reinstated to her position, and such other relief as is just and equitable.

COUNT THREE

97. Plaintiff hereby incorporates paragraphs 1-96 as though set forth fully herein.

98. Plaintiff's reporting of sexual harassment in violation of the LAD constitutes protected conduct under CEPA.

99. Plaintiff's April 25, 2017, communication to the NJ Department of Education of Rosemary Morgan's March 27, 2017, report of possible impermissible teacher assistance during the 2016 PARCC testing was also protected conduct under CEPA.

100. As a result of Plaintiff engaging in protected conduct in reporting and objecting to sexual harassment and in reporting potential cheating on the PARCC testing to the State, Plaintiff was terminated in direct violation of her right to be free of reprisal for protected conduct under CEPA.

101. As a direct and proximate result of Defendants' violations of Plaintiff's rights under CEPA, Plaintiff has been subjected to a retaliatory termination and her rights have been violated in a most egregious manner.

102. The conduct of Defendants was knowing, intentional, occurred with actual malice, a willful and wanton disregard of Plaintiff's civil rights, and was especially egregious, as a result of which Plaintiff has been damaged.

WHEREFORE, Plaintiff demands judgment against the Defendants jointly, severally, and in the alternative for compensatory damages, back pay, reinstatement, front pay, punitive

damages, interest, attorney's fees, costs of suit, an Order seeking Plaintiff to be reinstated to her position, and such other relief as is just and equitable

IONNO & HIGBEE, LLC
Attorneys for Plaintiff

BY: _____

SEBASTIAN B. IONNO

Dated: 4/4/18

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury.

BY: _____

SEBASTIAN B. IONNO

DESIGNATION OF TRIAL COUNSEL

Plaintiff hereby designates Sebastian B. Ionno, Esquire as trial counsel in this matter.

BY: _____

SEBASTIAN B. IONNO

CERTIFICATION

The undersigned counsel certifies that there are no other actions or arbitrations pending or contemplated involving the subject matter of this controversy at this time, and there are no additional known parties who should be joined to the present action at this time. I certify the foregoing to be true. I am aware if the above is willfully false, I am subject to punishment.

DATED:

4/4/18

BY:



SEBASTIAN B. IONNO

RULE 1:4-8 DEMAND

Plaintiff and his counsel hereby demand, pursuant to Rule 1:4-8, that the defendants or their agents, servants, or employees, or attorneys provide any and all facts and documents upon which they base any contention that this Complaint was instituted or continued in whole or in part for improper reasons, or that the claims are, in whole or in part, frivolous or without basis in law or fact.

BY:



SEBASTIAN B. IONNO

Civil Case Information Statement

Case Details: BERGEN | Civil Part Docket# L-002397-18

Case Caption: VEGA MOORE DENISE VS HACKENSACK BOARD OF EDUCAT

Case Initiation Date: 04/04/2018

Attorney Name: DEBRA REBECCA HIGBEE

Firm Name: IONNO & HIGBEE ATTORNEYS AT LAW LLC

Address: 140 S BROADWAY SUITE 5

PITMAN NJ 08071

Phone:

Name of Party: PLAINTIFF : Vega Moore, Denise

Name of Defendant's Primary Insurance Company

(if known): Unknown

Case Type: LAW AGAINST DISCRIMINATION (LAD) CASES

Document Type: Complaint with Jury Demand

Jury Demand: YES - 6 JURORS

Hurricane Sandy related? NO

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? YES

If yes, is that relationship: Employer/Employee

Does the statute governing this case provide for payment of fees by the losing party? YES

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

04/04/2018
Dated

/s/ DEBRA REBECCA HIGBEE
Signed