

COSTELLO, MAINS & SILVERMAN, LLC

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Attorneys for Plaintiff

GENERA FISHER,

Plaintiff,

vs.

MILLVILLE PUBLIC CHARTER
SCHOOL A NJ NON PROFIT
CORPORATION; and JOHN DOES
1-5 AND 6-10,

Defendants.

:
: SUPERIOR COURT OF NEW JERSEY
: BURLINGTON COUNTY - LAW DIV.
:
: CIVIL ACTION
:
:
: DOCKET NO:
:
: **COMPLAINT AND JURY DEMAND**
:
:
:

Plaintiff, Genera Fisher, residing in Sewell, New Jersey, by way of Complaint against the Defendants, says:

Preliminary Statement

Plaintiff brings this suit alleging that Millville Public Charter School a NJ Non Profit Corporation violated the New Jersey Law Against Discrimination (“LAD”) and the doctrine set forth in *Pierce v. Ortho Pharmaceutical* and *Lally v. Copygraphics, Inc.* when it discharged Plaintiff in retaliation for her protected activity of reporting a hate crime and/or racial harassment.

Identification of Parties

1. Plaintiff Genera Fisher (“Plaintiff”) is, at all relevant times herein, a resident of the State of New Jersey and was employed by Defendant Millville Public Charter School a NJ Non Profit Corporation.

2. Defendant Millville Public Charter School a NJ Non Profit Corporation (“Defendant Millville Charter”) is, at all relevant times herein, a New Jersey non-profit corporation operating at 1101 Wheaton Avenue, Millville, New Jersey 08332, and was the employer of Plaintiff.

3. Defendants John Does 1-5 and 6-10, currently unidentified, are individuals and/or entities who, on the basis of their direct acts or on the basis of *respondeat superior*, are answerable to the Plaintiff for the acts set forth herein.

General Allegations

4. Defendant employed Plaintiff as a bus driver from January 2022 until on or around March 3, 2023.

5. Plaintiff identifies as Black or African American.

6. During her period of employment, Plaintiff performed up to or exceeded the expectations of Defendant Millville Charter.

7. On or around March 3, 2023, Plaintiff drove a bus route and her co-worker accompanied her.

8. On their route, a car drove in front of the bus.

9. The car was frequently braking and eventually turned without signaling.

10. Plaintiff honked because it was difficult to stop the bus short.

11. The car circled back behind the bus and began following close.

12. The driver of the car pulled up alongside the bus and shouted, “You, Black bitch,” “I know you saw me,” “I am going to beat your ass.”

13. Plaintiff recognized the driver as John Doe, whose child was a student at the school and who had previously had issues with other drivers, all of whom were Black.

14. Plaintiff remembered that another bus driver at Defendant Millville Charter, who is Black, had been removed from the route on which John Doe’s child rode because John Doe and his wife physically threatened this driver.

15. At this point, students on the bus were crying.

16. John Doe yelled that the bus had brake-checked him.

17. John Doe yelled that he was “cool with your boss,” and would get Plaintiff fired.

18. John Doe yelled that Plaintiff would not have a job when he got done with her.

19. John Doe was banging on the side of the bus although vehicles were still on the road at this time.

20. To the best of Plaintiff’s memory, the altercation occurred at stop lights and/or railroad tracks.

21. Plaintiff called the Millville Police Department.

22. By calling the police, Plaintiff engaged in protected activity under the LAD.

23. Officers from the Millville Police Department arrived and escorted the bus that Plaintiff drove back to the school.

24. Plaintiff was very shaken, emotionally, and contacted her two sons, and explained what had occurred.

25. Plaintiff’s two sons arrived at the entrance to the school to support and potentially intervene to help their mother.

26. However, police officers stopped their vehicle and asked Plaintiff's sons to leave, which they did.

27. Later that day, once Plaintiff was at home, her supervisor, Dennis ("Supervisor Dennis") (last name unknown), called Plaintiff and terminated her.

28. Supervisor Dennis is an upper-level manager as that term is defined under the LAD.

29. Plaintiff asked why and Supervisor Dennis created a pre-text for her termination stating that Plaintiff's sons had gone to John Doe's house with guns and been arrested.

30. This allegation was false, and Plaintiff objected to it on the phone with Supervisor Dennis.

31. Supervisor Dennis then shifted his justification for the termination, stating that Plaintiff's sons had shown up to the school with guns and threatened John Doe.

32. This shifting justification by Supervisor Dennis was also false, and Plaintiff said so, objecting that her sons did not have guns and had not even seen John Doe at the school.

33. Supervisor Dennis then hung up on Plaintiff.

34. Plaintiff contacted managers from Defendant Millville Charter in the subsequent days, however, Defendant Millville Charter upheld Plaintiff's termination.

35. Plaintiff spoke to Mr. A. (full name unknown), who is the upper-level manager of transportation at Defendant Millville Charter.

36. Mr. A. is an upper-level manager as that term is defined under the LAD.

37. Mr. A said that he had "heard it from the horse's mouth," because John Doe had reported these false facts to him.

38. Mr. A. stated that he would not bring Plaintiff back to work and upheld Plaintiff's termination.

39. Defendant's termination of Plaintiff was retaliatory based on Plaintiff's protected activity of reporting the hate crime and/or racial harassment by John Doe.

40. Plaintiff is further a member of a protected class pursuant to the doctrine established by the Courts in *Pierce v. Ortho Pharmaceutical* and *Lally v. Copygraphics, Inc.* as an individual who exercised her rights to report a hate or bias crime under New Jersey law.

41. Specifically, the New Jersey Code of Criminal Justice, N.J.S.A. 2C:16-1, makes it a crime to intimidate a person, or commit another unlawful act, based on a person's race or color.

42. Plaintiff's protected activity and/or membership in one or more of the protected categories set forth above was a determinative and/or motivating factor in Defendant Millville Charter's decision to terminate Plaintiff.

43. Plaintiff has suffered economic and emotional harm as a result of Defendant's adverse actions.

44. Punitive damages are warranted because the actions of Defendant Millville Charter were especially egregious and because they were perpetrated by members of upper management and/or members of upper management were willfully indifferent to the same.

COUNT I

Retaliation under the LAD

45. Plaintiff hereby repeats and re-alleges paragraphs 1 through 44, as though fully set forth herein.

46. For the reasons set forth above, Defendants are liable to Plaintiff for retaliation in violation of the LAD.

WHEREFORE, Plaintiff demands judgment against the Defendants jointly, severally and in the alternative, together with compensatory damages, non-economic compensatory damages, punitive damages, interest, costs of suit, attorneys' fees, enhanced attorneys' fees, equitable back pay, equitable front pay, equitable reinstatement, and any other relief the Court deems equitable and just.

COUNT II

Pierce v. Ortho Pharmaceutical and Lally v. Copygraphics Inc.

47. Plaintiff hereby repeats and re-alleges paragraphs 1 through 46, as though fully set forth herein.

48. To the extent that a determinative and/or motivating factor in Defendant Millville Charter's discharge of Plaintiff was that Plaintiff exercised her rights to report a hate crime and/or exercised her rights to report a criminal violation of law or policy, her discharge is actionable under the common law as a violation of a clear mandate of public policy pursuant to *Pierce v. Ortho Pharmaceutical and Lally v. Copygraphics, Inc.*

WHEREFORE, Plaintiff demands judgment against the Defendants jointly, severally and in the alternative, together with compensatory damages, non-economic compensatory damages, punitive damages, interest, costs of suit, attorneys' fees, enhanced attorneys' fees, equitable back pay, equitable front pay, equitable reinstatement, and any other relief the Court deems equitable and just.

COUNT III

Request for Equitable Relief

49. Plaintiff hereby repeats and re-alleges paragraphs 1 through 48, as though fully set forth herein.

50. Plaintiff requests the following equitable remedies and relief in this matter.

51. Plaintiff requests a declaration by this Court that the practices contested herein violate New Jersey law as set forth herein.

52. Plaintiff requests that this Court order the Defendants to cease and desist all conduct inconsistent with the claims made herein going forward, both as to the specific Plaintiff and as to all other individuals similarly situated.

53. To the extent that Plaintiff was separated from employment and to the extent that the separation is contested herein, Plaintiff requests equitable reinstatement, with equitable back pay and front pay.

54. Plaintiff requests, that in the event that equitable reinstatement and/or equitable back pay and equitable front pay is ordered to the Plaintiff, that all lost wages, benefits, fringe benefits and other remuneration is also equitably restored to the Plaintiff.

55. Plaintiff requests that the Court equitably order the Defendants to pay costs and attorneys' fees along with statutory and required enhancements to said attorneys' fees.

56. Plaintiff requests that the Court order the Defendants to alter their files so as to expunge any reference to which the Court finds violates the statutes implicated herein.

57. Plaintiff requests that the Court do such other equity as is reasonable, appropriate and just.

WHEREFORE, Plaintiff demands judgment against the Defendants jointly, severally and in the alternative, together with compensatory damages, non-economic compensatory damages, punitive damages, interest, costs of suit, attorneys' fees, enhanced attorneys' fees, equitable back pay, equitable front pay, equitable reinstatement, and any other relief the Court deems equitable and just.

COSTELLO, MAINS & SILVERMAN, LLC

By: /s/ *Erica B. Askin*
Erica B. Askin

Dated: March 7, 2024

DEMAND TO PRESERVE EVIDENCE

1. All Defendants are hereby directed and demanded to preserve all physical and electronic information pertaining in any way to Plaintiff’s employment, to Plaintiff’s cause of action and/or prayers for relief, to any defenses to same, and pertaining to any party, including, but not limited to, electronic data storage, closed circuit TV footages, digital images, computer images, cache memory, searchable data, emails, spread sheets, employment files, memos, text messages and any and all online social or work related websites, entries on social networking sites (including, but not limited to, Facebook, twitter, MySpace, etc.), and any other information and/or data and/or things and/or documents which may be relevant to any claim or defense in this litigation.

2. Failure to do so will result in separate claims for spoliation of evidence and/or for appropriate adverse inferences.

COSTELLO, MAINS & SILVERMAN, LLC

By: /s/ Erica B. Askin
Erica B. Askin

JURY DEMAND

Plaintiff hereby demands a trial by jury.

COSTELLO, MAINS & SILVERMAN, LLC

By: /s/ Erica B. Askin
Erica B. Askin

RULE 4:5-1 CERTIFICATION

1. I am licensed to practice law in New Jersey and am responsible for the captioned matter.
2. I am aware of no other matter currently filed or pending in any court in any jurisdiction which may affect the parties or matters described herein.

COSTELLO, MAINS & SILVERMAN, LLC

By: /s/ Erica B. Askin
Erica B. Askin

DESIGNATION OF TRIAL COUNSEL

Erica B. Askin, Esquire, of the law firm of Costello, Mains & Silverman, LLC, is hereby-designated trial counsel.

COSTELLO, MAINS & SILVERMAN, LLC

By: /s/ Erica B. Askin
Erica B. Askin

Civil Case Information Statement

Case Details: BURLINGTON | Civil Part Docket# L-000475-24

Case Caption: FISHER GENERA VS MILLVILLE PUBLIC
CHA RTER

Case Initiation Date: 03/07/2024

Attorney Name: ERICA B ASKIN

Firm Name: COSTELLO MAINS & SILVERMAN, LLC

Address: 18000 HORIZON WAY STE 800

MT LAUREL NJ 080544319

Phone: 8567279700

Name of Party: PLAINTIFF : FISHER, GENERA

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

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

Does this case involve claims related to COVID-19? NO

Are sexual abuse claims alleged by: GENERA FISHER? 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:

Please check off each applicable category: Putative Class Action? NO **Title 59?** NO **Consumer Fraud?** NO
Medical Debt Claim? NO

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)*

03/07/2024

Dated

/s/ ERICA B ASKIN

Signed

