

RESNICK LAW GROUP
A Professional Corporation
5 Becker Farm Road, Suite 410
Roseland, New Jersey 07068
(973) 781-1204
Attorneys for Plaintiff
Gerald Jay Resnick, Esq. (ID # 01551197)
Corrin A. Cicoria, Esq. (ID # 440442023)

VERONICA BURNS

Plaintiff,

v.

CITY OF BAYONNE; PETER AMADEO,
SUZANNE CAVANAUGH, Individually

Defendants.

SUPERIOR COURT OF NEW JERSEY

**HUDSON COUNTY
LAW DIVISION**

DOCKET NO.

CIVIL ACTION

**COMPLAINT, JURY DEMAND AND
DESIGNATION OF TRIAL COUNSEL**

Plaintiff, Veronica Burns, residing in the City of Bayonne, County of Hudson, by way of complaint against the Defendants City of Bayonne, Peter Amadeo and Suzanne Cavanaugh states as follows:

THE PARTIES

1. At all times relevant hereto, Plaintiff Veronica Burns (hereinafter "Plaintiff" or "Burns") was an employee in the City of Bayonne since 1986.
2. The City of Bayonne ("Bayonne") located in Hudson County provides an Ability Day Program ("The Program") which is a social group for special needs children and adults. The Program is run by the Division of Recreation. As stated by its website, to become a member of the Ability Day Program, "a person must live in Bayonne, be at least 15 years old,

and be classified as a “handicapped individual”.

3. Defendant, Peter Amadeo (“Amadeo”) is the Supervisor of Recreation for Bayonne and was Burn’s supervisor, and as such is in a supervisory/upper management position.

4. Defendant, Suzanne Cavanaugh (“Cavanaugh”) is the Director of Municipal Services for Bayonne and was involved in the decisions that impacted Burns’ employment with Bayonne. As such she is in a supervisory/upper management position.

FACTUAL BACKGROUND

5. Burns is a highly educated woman whose passion is to work with handicapped individuals. She has a Bachelor of Arts from Jersey City State College where she majored in Special Education and minored in Psychology.

6. Burns was initially hired on a part-time basis working as a Recreational Assistant for The Program. She was then promoted and began working full-time in 2018. In total, Burns spent over 36 years working in The Program for Bayonne.

7. Burns loved her job and thrived in her role for over three (3) decades. Her performance was consistent, always meeting or exceeding her employer’s expectations.

8. On May 5, 2022, Burns suffered an ischemic stroke. She was admitted to the hospital and discharged the following day.

9. Unfortunately, just two (2) days later, on Saturday, May 7, 2022, Burns suffered a second, more severe stroke.

10. Burns was in the hospital for 10 days and then was transferred to a rehabilitation facility where she remained through June 15, 2022. Thereafter she received occupational and physical therapy both at home and at out-patient facilities.

11. Burns' therapies continued through the Spring of 2023.
12. Throughout this time, Burns and/or her husband periodically updated Mr. Amadeo as to her medical status through either phone calls or in-person visits.
13. In June 2023, Burns' primary doctor cleared her to return to work.
14. Burns immediately contacted Mr. Amadeo to find out what she needed to do in order to return to her job.
15. In response, Mr. Amadeo told her that in order to return to work she needed to be cleared by the City's physician.
16. Burns then met with Dr. Levine at his office on June 26, 2023.
17. Dr. Levine was not familiar with a Recreational Leader's job responsibilities, which did not include riding on a school bus.
18. Even so, for some inexplicable reason, Dr. Levine's examination was focused on whether Burns would be able to get on and off a school bus, and whether she could assist the participants on the bus in the event of an emergency.
19. A review of the job description for Recreational Leader reveals there is no requirement to be on the bus with the camp participants.
20. Burns learned later that day from Dr. Levine's nurse that she was not cleared to return to work. No further explanation was given.
21. Burns never received any communications from Bayonne as to the reasons why she was being denied the ability to return to work, nor did she receive further guidance about alternative return to work options.

22. Determined to get back to work, Burns continued with her therapies because she desperately missed the participants in The Program who she had developed a very strong bond with.

23. In early September, Burns reached out to Mr. Amadeo to discuss again returning to work. She was told she had to be re-evaluated and cleared by Dr. Levine before being permitted to return to work. No other information or options were discussed.

24. Burns thereafter attended another evaluation with Dr. Levine on September 20, 2023.

25. Burns tried to provide Dr. Levine with a copy of her job description, but Dr. Levine had no interest in reviewing it. Instead, he merely told Burns to walk down the hallway, while being distracted with conversations he was having with other staff members in this office. He did not ask for any other medical updates. He essentially did not communicate with Burns at all during the evaluation.

26. Later that day, Burns' own physician called to tell her that Dr. Levine had stated that 'they don't want her [Burns] on a bus because she will have to break up fights between mentally unstable people". In the last 20 years Burns has not had to break up any fights.

27. Thus, the only reason for denying Burns' return to work (a second time) was some non-existent requirement to be on the bus with camp participants.

28. Frustrated, Burns went to Mr. Amadeo's office on or about September 25, 2023 to discuss other responsibilities she could be assigned and asked how she could dispute Dr. Levine's findings.

29. Thereafter, a meeting occurred with Mr. Amadeo and Ms. Cavanaugh wherein the only thing discussed was Plaintiff's ability to ride on the school bus, even though they were well aware that even if she chose to ride the bus there were Recreation Assistants who could assist her.

30. In an effort to end the discussion about returning to work, Ms. Cavanaugh emphatically claimed there were no light duty jobs available in the Recreation Department, to which Mr. Amadeo concurred.

31. The meeting concluded with Burns being instructed to go to the Human Resources Department and request her retirement papers. Burns told both Mr. Amadeo and Ms. Cavanaugh that she did not want to retire, but wanted to return to work. Even so her comment was ignored.

32. Bayonne never gave Burns the opportunity to return, in any capacity.

33. Nor did Defendants enter into any discussion with Plaintiff about returning to work, or any possible reasonable accommodation she might need in order to allow her to return to the position she had held for so many years.

34. The participants in The Program adored Burns, and they continue to ask her when she will be returning to the program when they see her locally in town.

35. Burns was a fixture in the program for well over 30 years, and was considered to be reliable, caring and completely dedicated to the participants.

36. Bayonne, along with the individual Defendants, were aware that Plaintiff might require a workplace accommodation as a result of the residual impact from her stroke, but instead of engaging in the interactive process in good faith to arrive at an accommodation for her

disability (if necessary), they instructed her to retire.

37. At all times pertinent hereto Burns was ready and willing to return to work to be with 'her kids', but Bayonne and the individual Defendants refused to allow her to do so.

38. The City's very own job description for the role Burns held states: "Persons with mental or physical disabilities are eligible as long as they can perform the essential functions of the job after reasonable accommodation is made to their known limitations. If the accommodation cannot be made because it would cause the employer undue hardship, such persons may not be eligible".

39. At no time prior or at the time of her termination was there any mention of an undue hardship in regard to Plaintiff's return to work. Instead, Defendants compelled Burns to retire because of what they wrongfully and unlawfully decided or perceived to be Plaintiff's inability to do her job because of her medical condition.

CAUSES OF ACTION

COUNT I

VIOLATION OF THE NEW JERSEY LAW AGAINST DISCRIMINATION, N.J.S.A. 10:5-1 ET. SEQ. (HANDICAP/DISABILITY/PERCEIVED DISABILITY DISCRIMINATION)

40. Plaintiff repeats each and every allegations set forth above as if set forth at length herein.

41. The New Jersey Law Against Discrimination, *N.J.S.A. 10:5-1 et. seq.* makes it unlawful for an employer to treat its employees disparately in the terms and conditions of their employment, or subject them to an adverse employment action because of their perception of a disability and/or the disability itself, Zive v. Stanley Roberts, 182 N.J. 436 (2005).

42. At all times pertinent hereto, the conduct of the Defendants above, either individually or in concert with one another, constituted discrimination in violation of the *N.J.S.A. 10:5-1 et seq.*

43. Pursuant to *N.J.S.A. 10:5-3*, the legislature has determined that, because of discrimination, people suffer personal hardships, including economic loss, time loss, physical and emotional stress, and, in some cases, severe emotional trauma, illness, homelessness or other irreparable harm, resulting from the strain of employment controversies; relocation, search and moving difficulties, anxiety caused by lack of information, uncertainty, and resultant planning difficulty, career, education, family and social disruption, and adjustment problems, which particularly impact on those protected by this act. Such harms have, under common law, given rise to legal remedies, including compensatory and punitive damages. The Legislature intends that such damages be available to all persons protected by this act and that this act shall be literally construed in combination with all protections available under the laws of this state.

44. As a direct and proximate result of Defendants' unlawful actions, Plaintiff has suffered severe emotional distress, humiliation, embarrassment, loss of income, loss of benefits, and other severe financial losses.

45. At all times pertinent hereto, the conduct of the Defendants was egregious, willful and wanton and in reckless disregard of Plaintiff's rights and involved the direct participation of upper management for which punitive damages are appropriate.

46. Under Section 25 of the NJLAD, *N.J.S.A. 10:5-27.1*, the prevailing party in an action brought under the NJLAD may be awarded a reasonable attorney's fee as part of the costs of the action.

COUNT II

VIOLATION OF THE NEW JERSEY LAW AGAINST DISCRIMINATION, N.J.S.A. 10:5-1 ET. SEQ. (FAILURE TO ACCOMMODATE/ ENGAGE IN THE INTERACTIVE PROCESS

47. Plaintiff repeats each and every allegations set forth above as if set forth at length herein.

48. N.J. Division on Civil Rights (DCR) regulations, N.J.A.C. 13:13-1.1 et. seq. and 13:13-2.5(b)(3)(iv) seq., requires employers to provide reasonable accommodations for the handicapped before making a decision that may adversely impact the employee unless the employer can demonstrate that the accommodation would cause an undue hardship on the employer. This requirement is implicit in the New Jersey Law Against Discrimination (NJ LAD), N.J.S.A., 10:5-4.1.

49. Employers must provide reasonable accommodations to their employees to do their job, such as special equipment, modified duties or schedules, job restructuring or even job reassignment, N.J.A.C. 13:13-2.5.

50. Once the employer learns of the employee's need for assistance because of a disability, it is the employer's obligation to initiate an interactive process to determine an appropriate accommodation to allow the disabled employee to meet the essential functions of his or her job duties, Tynan v. Vicinage 13, 351 N.J. Super. 385 (App. Div. 2002). This requirement is implicit in the New Jersey Law Against Discrimination (NJ LAD), N.J.S.A., 10:5-4.1.

51. At all times pertinent hereto, Defendants failures include, but may not be limited to: (1) requiring repeated medical evaluations without objective evidence of a disabling condition that would impact job performance; (2) not allowing Burns to return to work even though she was

able to perform the essential functions of her job as Recreational Leader with or without a reasonable accommodation; (3) failing to enter into an "interactive process" to determine how, or if a reasonably accommodation was necessary; (4) not articulating an undue burden; and (5) taking an adverse job action before considering possible reasonable workplace accommodations.

52. The Defendants failed to fulfill their obligation under New Jersey's discrimination laws and instead refused to allow Burns to return, effectively terminating her employment.

53. Such acts are in violation of N.J.A.C. 13:13-1.1 et. seq., 13:13-2.5 et seq., and N.J.S.A. 10:5-1 et. seq.

54. Pursuant to *N.J.S.A. 10:5-3*, the legislature has determined that, because of discrimination, people suffer personal hardships, including economic loss, time loss, physical and emotional stress, and, in some cases, severe emotional trauma, illness, homelessness or other irreparable harm, resulting from the strain of employment controversies; relocation, search and moving difficulties, anxiety caused by lack of information, uncertainty, and resultant planning difficulty, career, education, family and social disruption, and adjustment problems, which particularly impact on those protected by this act. Such harms have, under common law, given rise to legal remedies, including compensatory and punitive damages. The Legislature intends that such damages be available to all persons protected by this act and that this act shall be literally construed in combination with all protections available under the laws of this state.

55. As a direct and proximate result of defendants' unlawful actions, Plaintiff has suffered severe emotional distress, humiliation, embarrassment, loss of income, loss of benefits, and other severe financial losses.

56. At all times pertinent hereto, the conduct of the Defendants was egregious, willful and wanton and in reckless disregard of Plaintiff's rights and involved the direct participation of upper management for which punitive damages are appropriate.

57. Under Section 25 of the NJLAD, N.J.S.A. 10:5-27.1, the prevailing party in an action brought under the NJLAD may be awarded a reasonable attorney's fee as part of the costs of the action.

COUNT III

NEGLIGENT/INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS

58. Plaintiff repeats and realleges each and every allegation set forth above as if set forth at length herein.

59. At all times pertinent hereto, Defendants' conduct either negligently or intentionally caused Plaintiff extreme emotional distress.

60. As a direct and proximate result of Defendants' wrongful actions, Plaintiff has suffered severe emotional distress, humiliation, embarrassment, loss of income, loss of benefits, and other severe financial losses.

WHEREFORE, Plaintiff seeks Judgment against the Defendants as follows:

- a. Compensatory damages, including past and future lost wages, and employment benefits;
- b. Damages for emotional and physical injury and distress;
- c. Pre-and post-judgment interest;
- d. Reasonable costs, including attorney's fees, expert witness fees and other costs incurred in connection with this litigation;

- e. Punitive damages; and
- f. Such other and further relief as this Court deems equitable and just under the circumstances.

RESNICK LAW GROUP, PC
Attorneys for Plaintiff

By: 
CORRIN A. CICORIA

Dated: November 26 2024

JURY DEMAND

Plaintiff hereby demands a trial by jury as to all causes so triable.

RESNICK LAW GROUP, PC
Attorneys for Plaintiff

By: 
CORRIN A. CICORIA

Dated: November 26 2024

DESIGNATION OF TRIAL COUNSEL

Plaintiff hereby designates Gerald J. Resnick, Esq. as trial counsel.

RESNICK LAW GROUP, PC
Attorneys for Plaintiff

By: 
CORRIN A. CICORIA

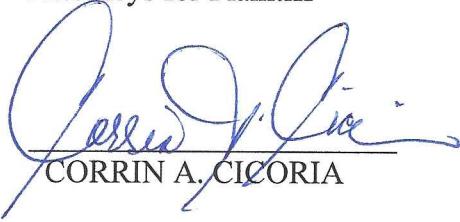
Dated: November 26 2024

CERTIFICATION PURSUANT TO R. 4:5-1

The undersigned attorney for Plaintiff hereby certifies that the matter in controversy is not the subject of any other action or arbitration proceeding pending or contemplated, nor are there any other parties known to Plaintiff who should be joined in this proceeding.

RESNICK LAW GROUP, PC
Attorneys for Plaintiff

Dated: November 26 2024

By: 

CORRIN A. CICORIA