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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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ERIN BURNS RUBAS,	:
	: Civ. No.:
Plaintiff,	:
-against-	: Complaint and Jury Demand
	:
HUDSON COUNTY PROSECUTOR’S OFFICE, and	:
HUDSON COUNTY PROSECUTOR’S OFFICE CHIEF	:
OF INVESTIGATIONS GENNARO RUBINO (Individ-	:
ually and in his Official Capacity as the Chief of Investi-	:
gations of the Hudson County Prosecutor’s Office),	:
JOHN AND JANE DOES 1-10, individually and in their	:
official capacities.	:
	:
Defendants.	:

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INTRODUCTORY STATEMENT

This case is about a decorated Hudson County Homicide Detective and Crime Scene Specialist named Erin Burns Rubas who was passed over time and time again for promotions because of her choice to start a family. Over the course of her last two pregnancies, Plaintiff was subject to the Hudson County Prosecutor’s Office’s constant, continuous, and repeated acts of discrimination due to her pregnancies, including but not limited to, an attempt by Hudson County Prosecutor’s Office to take away Plaintiff’s on-call stipend, depriving Plaintiff of a work vehicle and confiscation of her crime scene equipment in retaliation, disclosure of private medical information about her pregnancy, and passing over Plaintiff for Sergeant Promotions three times despite being more qualified than her contemporaries

in terms of seniority, awards, certificates, letters of commendation, trainings, and experience. Accordingly, Plaintiff comes now before this Court and seeks protection under Pregnancy Discrimination and Gender Discrimination of Title VII of the Civil Rights Act of 1964 and the New Jersey Law Against Discrimination.

JURISDICTION AND VENUE ALLEGATIONS

1. This court has jurisdiction over this action under 42 U.S.C. § 2000e-5(f) and under 28 U.S.C. §§ 1331 and 1343(a)(4).
2. Venue is appropriate in this District pursuant to 28 U.S.C. 1391(b)(2) as all of the acts and events giving rise to these causes of action occurred in the District of New Jersey.

PARTIES

3. Plaintiff Erin Burns Rubas is a female with two toddler children.
4. Defendant Hudson County Prosecutor's Office ("HCPO") is a Municipal Corporation located in Hudson County, New Jersey and is a public employer of the individual defendant.
5. At all times mentioned herein, Defendant HCPO was an employer within the meaning of Title VII of the Civil Rights Act, 42 U.S.C.A. § 2000e ("Title VII") and New Jersey's Law Against Discrimination, N.J.S.A. 10:5-1 et seq. ("NJLAD"), and as such was prohibited from discriminating in employment on the basis of gender and pregnancy status and from engaging in retaliatory conduct.
6. Defendant Chief of Investigations Gennaro Rubino ("Rubino") was and is an Officer with the HCPO.
7. Rubino is not legally authorized to hold the title of "Chief of Investigations" as he failed to complete the required police academy training (see Exhibit A hereto) as mandated by New Jersey law, specifically, the Police Training Act, N.J.S.A. 52:17B-69 et seq. Despite the fact that Prosecutor Esther Suarez withdrew Rubino from police academy training effective March 14, 2016, the HCPO

has, with full knowledge of its illegality, allowed and permitted Rubino to continue to act as a sworn law enforcement role as the Chief of Investigation to the present day.

8. John and Jane Does are individuals who are yet to be identified but whose actions contributed to the unlawful conduct described herein.

FACTS

9. At all times mentioned herein, Plaintiff was an employee within the meaning of Title VII and NJLAD and was protected against discrimination in employment on the basis of her gender and her two pregnancies.
10. Plaintiff has been discriminated against by Defendants on the basis of her gender and pregnancies in violation of Title VII and NJLAD through continuous and reoccurring conduct by, among other things, attempting to take away Plaintiff's on-call stipend, depriving Plaintiff of a work vehicle and confiscation of her crime scene equipment as retaliation, and passing over Plaintiff for promotions three times despite being more qualified than her contemporaries, all only after her pregnancy announcements.
11. Plaintiff chose to have a family after 13 years of sworn law enforcement work.
12. Plaintiff became pregnant in January 2015 and advised Defendant's agents of the pregnancy.
13. Plaintiff was later advised by Defendant through its agents that her "on-call" stipend would be taken away. Upon information and belief, it has also been taken away from all other pregnant female detectives.
14. During a subsequent meeting with Rubino and Defendant's agents, Plaintiff was advised that "the guys" may have a problem with her continuing to receive on-call stipends during her pregnancies. When Plaintiff advised Rubino that she intended to file a union grievance, Rubino strongly cautioned against it.
15. On or about December 7, 2015, Rubino advised HCPO's detectives of upcoming sergeant

promotion interviews but willfully failed to inform Plaintiff of the promotion opportunity because she was on maternity leave.

16. Plaintiff was not informed of the upcoming promotion interviews until more than two weeks after the other detectives received notice, depriving Plaintiff of an equal and fair opportunity to prepare for the interviews.
17. Plaintiff was advised that she was passed over for the promotion in 2016. She was passed over for her promotion only because she was out on maternity leave and became pregnant.
18. Defendants believed that because Plaintiff became pregnant and had a child, she was incapable of performing her job functions at the HCPO.
19. Prior to returning to work from maternity leave, Plaintiff advised Defendants that she would be unable to work on-call due to childcare reasons and was again told by Defendants that if she were permitted to work in the Homicide Unit “the guys” would have a problem with.
20. Soon thereafter while still out on maternity leave, a HCPO Lieutenant recommended that Plaintiff be assigned to monitor the HCPO’s drug laboratory since the position was vacant for years due to a retirement. Remarkably, the HCPO’s drug laboratory which oversees the testing, transfer, and destruction of millions of dollars of drugs per year had no direct sworn law enforcement oversight for years. This Lieutenant stated that with Plaintiff’s “crime scene experience as well as the growing responsibilities of the lab, especially the drug monitoring initiative (DMI), it may be a good time to explore the installation of a sworn law enforcement officer to handle specific functions as well as civilian oversight.” Defendants retaliated against Plaintiff by not assigning her that position.
21. After Plaintiff returned to work, Defendants HCPO and Rubino retaliated against Plaintiff by denying her a work vehicle of the same quality as that of other individuals in the same position as Plaintiff.

22. On or about October 20, 2016, Defendants announced another set of promotional opportunities for the Sergeant position.
23. Shortly thereafter, Plaintiff learned that she was again pregnant. In light of the acts of discrimination and retaliation Plaintiff suffered as a result of her first pregnancy, Plaintiff sought to initially conceal her second pregnancy afraid that if known, she would face further discriminatory and retaliatory acts including, but not limited to, being passed over for promotion again.
24. A day after her initial Sergeant's interview, a Human Resources supervisor approached Plaintiff and asked Plaintiff if she was pregnant while rubbing her belly in front of other people. Plaintiff did not want to engage in a conversation and Plaintiff advised her that she would speak with her later. A short time later, the Human Resources supervisor continued in the hallway and stated that "she couldn't tell front or back" but could tell when Plaintiff turned sideways. The conversation was interrupted when another pregnant female detective walked to the supervisor's office wherein said supervisor stated "oh this bitch is a pain in my fucking ass." Immediately, thereafter rumors about Plaintiff's pregnancy circulated around the office and Defendants knew that Plaintiff was pregnant.
25. In continuation of their past practice of discriminating against Plaintiff, Defendants again refused to promote Plaintiff despite her outstanding qualifications, unimpeachable records, and her being far more qualified than any other candidate.
26. Plaintiff's supervisors made clear that Plaintiff "has always demonstrated professionalism of the highest order" and that she is "well respected by her peers, past and present supervisors, and the law enforcement community," amongst other glowing and stellar words of praise.
27. Indeed, Plaintiff helped modernize the crime scene unit at the HCPO, supplied and prepared the new crime scene truck, and helped establish best practices there.
28. Defendants passed over Plaintiff for promotion in favor of two detectives that were not as qualified

as Plaintiff.

29. Plaintiff had more seniority than both of the promoted detectives. In fact, one of the less senior detectives that had been promoted above Plaintiff had quit the office and left the employ of the HCPO to work as a civilian in the finance industry.
30. Plaintiff also had more awards/certificates/letters of commendation than both of the promoted detectives.
31. Plaintiff had more training hours logged than both of the promoted detectives. Plaintiff also had her Methods of Instruction Certification which permitted her to be a Crime Scene Instructor. The two other promoted detectives lacked these significant achievements.
32. Plaintiff had more experience, in terms of years in law enforcement, as well as number of work assignments, than both of the promoted detectives.
33. There were eight finalists for the Sergeant promotion. Three detectives were promoted to Sergeant, and all other male finalists were promoted to the rank of Senior Detective. Plaintiff was the only finalist not to receive a promotion to either Sergeant or Senior Detective. This was clearly a result of unlawful discrimination against Plaintiff due to her pregnancy.
34. Plaintiff was then informed that two males who were not part of the promotional group (not Sergeant finalists) were given the rank of Senior Detective over her. One of these detectives she personally trained as a Crime Scene Specialist.
35. All of Plaintiff's Homicide/Crime Scene contemporaries have been promoted except her. This was part and parcel of the continuous and systematic discrimination Defendants visited upon Plaintiff. Moreover, Plaintiff was the only promotional finalist who was not promoted to Sergeant who did not receive the rank of Senior Detective. Every other finalist who did not receive the promotion to Sergeant was awarded the rank of Senior Detective.
36. None of those promoted to the rank of Senior Detective were women or were pregnant while

employed by HCPO.

37. Defendant HCPO, its agents, and Rubino also engaged in other retaliatory acts against Plaintiff including, among other things, not making a childcare accommodation so that Plaintiff could continue to work in the Homicide Unit as a Homicide Detective and Crime Scene Specialist, Rubino threatened to hold Plaintiff personally responsible if other detectives had an accident with the crime scene truck, disclosure of private medical information concerning Plaintiff's pregnancy, confiscation of Plaintiff's crime scene equipment, permanently moving Plaintiff's parking space from the HCPO's building facility to blocks away while 5 months pregnant, denying Plaintiff training and classes, failing to offer Plaintiff donated sick time after her second pregnancy and birth of her premature child as well as thereafter for other medical needs, failing to respond to Plaintiff's repeated inquiries to receive donated sick time, and without any notice whatsoever, clearing out and boxing up the contents of Plaintiff's entire desk including personal items and family pictures while out on maternity leave.
38. What is more, all of Plaintiff's Crime Scene contemporaries have been promoted. All of them are men.
39. In or about January 2017, Plaintiff submitted her resume to the Monmouth County Prosecutor's Office for the position of detective.
40. Plaintiff is an ideal candidate for the job at Monmouth County Prosecutor's Office. She has all the required qualifications in addition to seniority and having accomplished significant achievements in her field.
41. Several weeks later, Plaintiff received a letter declining to hire her, and Plaintiff later learned that Defendant Rubino retaliated against Plaintiff and interfered with the employment opportunity and communicated with the individual in charge of hiring for the position due to her pregnancy.
42. Defendant Rubino gave a negative job reference solely based upon the fact that Plaintiff became

pregnant while employed by the HCPO. Indeed, Plaintiff was a qualified and exemplary employee, and there was no reason, other than unlawful discrimination and retaliation, to provide her with a negative job reference.

43. Thereafter Plaintiff filed a timely charge with the Equal Employment Opportunity Commission and received a notice dated February 28, 2018, of her right to sue in United States District Court pursuant to 42 U.S.C.A. § 2000e.

44. Even after, Defendants HCPO and Rubino continue to engage in discriminatory and retaliatory acts against Plaintiff as she was recently passed over for Sergeant promotions a third time

45. On April 5, 2018, Defendants announced another set of promotional opportunities to the rank of Sergeant.

46. On April 16, 2018, Plaintiff was once again passed over for Sergeant's promotion for the third time.

47. While every other previous promotional candidate was automatically rolled over to the next promotional opportunity, Plaintiff was not rolled over and was required to have been nominated again. This was part of the continuous practice of discriminatory conduct against Plaintiff.

48. As a proximate result of the foregoing, Plaintiff has lost wages, and been denied benefits, promotional opportunities, bonuses, has sustained emotional suffering, and has incurred damages thereby.

49. The Discriminatory actions described herein were perpetrated by Defendant Rubino and the HCPO. The unlawful conduct complained of herein continues to this day, and is part of a continuous pattern of unlawful conduct and discrimination that continues. Plaintiff continues to feel the effects of this unlawful conduct.

**AS AND FOR A FIRST CAUSE OF ACTION
GENDER DISCRIMINATION UNDER TITLE VII**

Against Municipal Defendant Hudson County Prosecutor's Office

50. Plaintiff re-alleges each and every Paragraph as if alleged herein.
51. Defendant treated Plaintiff adversely because of her gender.
52. Plaintiff was passed over for promotion despite being more qualified than her male contemporaries in terms of seniority, awards/certificates/letters of commendation, trainings, and experience.
53. The denial of promoting Plaintiff was due solely to her becoming pregnant and is a continuous pattern of discrimination perpetrated by Defendants.
54. Plaintiff was at all times supremely qualified for the positions to which she applied, and certainly more qualified than the persons ultimately promoted.
55. The aforementioned conduct is a clear violation of Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. § 2000e to § 2000e-17.

**AS A SECOND CAUSE OF ACTION
GENDER DISCRIMINATION UNDER THE NJLAD**

Against Municipal Defendant Hudson County Prosecutor's Office

56. Plaintiff re-alleges each and every Paragraph as if alleged herein.
57. Defendant treated Plaintiff adversely because of her gender.
58. Plaintiff was passed over for promotion despite being more qualified than her male contemporaries in terms of seniority, awards/certificates/letters of commendation, trainings, and experience.
59. Such conduct is a clear violation of New Jersey Law Against Discrimination.

**AS FOR A THIRD CAUSE OF ACTION
PREGNANCY DISCRIMINATION UNDER TITLE VII**

Against Municipal Defendant Hudson County Prosecutor's Office

60. Plaintiff re-alleges each and every Paragraph as if alleged herein.
61. Defendant HCPO discriminated against the Plaintiff on the basis of her pregnancy by passing

over Plaintiff for promotions for positions that she was more qualified than her contemporaries for, during her two pregnancies.

62. The aforementioned conduct is a clear violation of Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. § 2000e to § 2000e-17.

AS A FOURTH CAUSE OF ACTION
PREGNANCY DISCRIMINATION UNDER THE NJLAD
Against Municipal Defendant Hudson County Prosecutor's Office

63. Plaintiff re-alleges each and every Paragraph as if alleged herein.

64. Defendant HCPO discriminated against the Plaintiff on the basis of her pregnancy by passing over Plaintiff for promotions for positions that she was more qualified than her contemporaries for, during her two pregnancies.

65. Such conduct is a clear violation of New Jersey Law Against Discrimination.

AS FOR A FIFTH CAUSE OF ACTION
RETALIATION UNDER TITLE VII
Against Municipal Defendant Hudson County Prosecutor's Office

66. Plaintiff re-alleges each and every Paragraph as if alleged herein.

67. Defendants retaliated against Plaintiff for raising discrimination concerns by denying her a work vehicle of the same quality as that of other individuals in the same position as Plaintiff.

68. Defendants also retaliated against Plaintiff for becoming pregnant by refusing to promote her and providing undeserved negative job references.

69. The aforementioned conduct is a clear violation of Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. § 2000e to § 2000e-17.

AS A SIXTH CAUSE OF ACTION
RETALIATION UNDER THE NJLAD
Against Municipal Defendant Hudson County Prosecutor's Office

70. Plaintiff re-alleges each and every Paragraph as if alleged herein.

71. Defendants retaliated against Plaintiff for raising discrimination concerns by denying her a work vehicle of the same quality as that of other individuals in the same position as Plaintiff.
72. Defendants also retaliated against Plaintiff for becoming pregnant by refusing to promote her and providing undeserved negative job references.
73. Such conduct is a clear violation of New Jersey Law Against Discrimination.

AS FOR A SEVENTH CAUSE OF ACTION
GENDER BASED HOSTILE WORK ENVIRONMENT UNDER TITLE VII
Against Municipal Defendant Hudson County Prosecutor's Office

74. Plaintiff re-alleges each and every Paragraph as if alleged herein.
75. Defendant HCPO maintained policies that allowed for gender-based discrimination against Plaintiff by supervising employees and did not intervene.
76. Indeed, as described herein, Plaintiff was repeatedly passed over for promotions in favor of unqualified applicants, had her privileges taken away, and provided with an undeserved negative job reference simply because she became pregnant.
77. Indeed, at no point in time did Defendants ever claim that Plaintiff's work performance was unsatisfactory.
78. Yet time and time again they refused to promote her, punished her, and refused to provide an accurate/positive job reference.
79. The aforementioned conduct is a clear violation of Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. § 2000e to § 2000e-17.

AS A EIGHTH CAUSE OF ACTION
GENDER BASED HOSTILE WORK ENVIRONMENT UNDER THE NJLAD
Against Municipal Defendant Hudson County Prosecutor's Office

80. Plaintiff re-alleges each and every Paragraph as if alleged herein.
81. Defendant HCPO maintained policies that allowed for gender-based discrimination against

Plaintiff by supervising employees and did not intervene.

82. The conduct complained of herein was perpetrated by senior personnel in the HCPO and at all times know to the HCPO and condoned by it.
83. Moreover, despite having knowledge of these issues, the HCPO failed to intervene and inhibit the unlawful discrimination and retaliation, and therefore created a policy condoning and accepting of the unlawful practices.
84. Indeed, the promotional process involving Plaintiff involved numerous senior staff at the HCPO, and yet the discriminatory practices remained unabated.
85. Such conduct is a clear violation of New Jersey Law Against Discrimination.

AS A NINTH CAUSE OF ACTION
RETALIATION UNDER THE NJLAD
Against Defendant Gennaro Rubino

86. Plaintiff re-alleges each and every Paragraph as if alleged herein.
87. Defendant Rubino retaliated against Plaintiff for raising discrimination concerns by ruining her chances at getting hired with the Monmouth County Prosecutor's Office.
88. Plaintiff was supremely qualified for the position and had an unblemished record. She deserved a positive job reference. Instead, she received an undeserved negative reference simply because she chose to become pregnant.
89. Moreover, he retaliated against Plaintiff for becoming pregnant by refusing to promote her.
90. Such conduct is a clear violation of New Jersey Law Against Discrimination.

AS A TENTH CAUSE OF ACTION
Aiding and Abetting Unlawful Conduct
Against Defendant Gennaro Rubino

91. Plaintiff re-alleges each and every Paragraph as if alleged herein.
92. Defendant Rubino aided and abetted the unlawful conduct described herein

93. Defendant Rubino aided and abetted Defendant HCPO's unlawful employment practices.

94. This included directly participating in the unlawful activity described herein, including refusing to promote Plaintiff, taking away things such as on-call stipends, and providing an undeserved negative job reference.

95. As a senior member of the HCPO, one who has reasonability for promotions, Defendant Rubino is a policy maker and thereby created, condoned, and perpetuated the unlawful practices described herein.

96. Such conduct is a clear violation of New Jersey Law Against Discrimination.

WHEREFORE, Plaintiff prays that this Court grant judgment to her containing the following relief:

1. An order prohibiting Defendant HCPO from continuing or maintaining the policy, practice and/or custom of denying job benefits to employees on the basis of gender and pregnancy status.
3. An award to Plaintiff of her actual damages in an amount to be determined at trial for loss of wages, benefits, and promotional opportunities.
4. An award to Plaintiff damages in an amount to be determined at trial under 42 U.S.C. § 1981(a) and NJLAD.
5. An award of past, present, and future mental and emotional damages.
6. Punitive damages where available.
7. An award to Plaintiff of the costs of this action, together with her reasonable attorneys' fees; and
8. All rights and remedies afforded by Title VII of the Civil Rights Act and NJLAD, and such other and further relief as this Court finds just and proper.

Dated: April 23, 2018

Respectfully submitted,

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