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RECEIVED / FILED
Superior Court of New Jersey
APR 20 2012

CIVIL CASE MANAGEMENT
UNION COUNTY

DAVID ROSTAN, ESQ.
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248 Columbia Turnpike
Florham Park, New Jersey 07932
(973) 520-8301
Attorneys for Plaintiff

ROSE BRAVO	:	SUPERIOR COURT OF NJ	
Plaintiff,	:	LAW DIVISION	
v.	:	UNION COUNTY	
UNION COUNTY, UNION COUNTY BOARD OF ELECTIONS, DENNIS KOBITZ	:	CIVIL ACTION	
Defendant.	:	COMPLAINT AND JURY DEMAND	UNNL 1589 12
	:	Docket No.:	UNNL 1589 12

Plaintiff, Rose Bravo, by way of Complaint against the defendants,
says:

I. PRELIMINARY STATEMENT

1. This is an action for violation of rights and unlawful termination brought pursuant to the Family and Medical Leave Act of 1993, 29 U.S.C. § 2601 et seq. ("the FMLA") and the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq. ("the LAD").

II. JURISDICTION AND VENUE

2. All parties reside in the State of New Jersey, County of Union.

III. PARTIES

3. Defendant Union County Board of Elections upon information and belief is a governmental entity and subdivision of the Union County with its principal place of business located at 271 North Broad Street, Elizabeth, New Jersey 07208.

4. Defendant Union County is a governmental entity with its principle place of business located at the Union County Administration Building, 10 Elizabethtown Plaza, Elizabeth, New Jersey 07207.

5. Defendant Dennis Kobiz is the administrator with the Union County Board of Elections and works at 271 North Broad Street, Elizabeth, New Jersey 07208.

6. Plaintiff, Rose Bravo is a resident of Union County and resides at 443 Pine Avenue, Garwood, New Jersey.

IV. FACTUAL ALLEGATIONS

7. Plaintiff was hired as a computer operator by defendants, Union County and/or Union County Board of Elections on or about September 11, 1999.

8. Plaintiff worked full time as a computer operator for defendants, Union County and/or Union County Board of Elections until her termination on December 31, 2011 and thus was an "employee" of defendant within the meaning of 29 U.S.C.A. § 2611 (4)(A) at all times relevant to this action.

9. At all times relevant to this action, plaintiff's work performance was satisfactory.

10. Plaintiff worked for over one year for defendants and worked for more than 1,250 hours per year, and thus was an "eligible employee" within the meaning of the FMLA, 29 U.S.C. § 2601(2).

11. At all times relevant herein, defendant Union County engaged in interstate commerce and employed more than 50 employees, and thus was an "employer" covered under the FMLA, as set forth in 29 U.S.C. § 2601(4).

12. On or about Friday, December 15, 2006, plaintiff, Rose Bravo, discovered the body of her supervisor dead in his office. She immediately began treatment with Youth and Family Counseling Service which was affiliated with Union County's Employee Assistance Program.

13. In a December 27, 2006 letter, EAP counselor A. Giszpenc, determined plaintiff to be suffering from Post Traumatic Stress Disorder due to discovering her supervisor's dead body.

14. Plaintiff has continued to suffer since 2006 from Post Traumatic Stress Disorder, Depression, and Anxiety Disorder.

15. On or about September 30, 2011, Elizabeth Hanifin, LCSW, who had been treating plaintiff for the prior two years, made a recommendation to plaintiff that she be transferred to a different building and obtain a more supportive work environment.

16. On October 14, 2011, David G. Miller, MD, a psychiatrist treating plaintiff found that plaintiff continued to suffer from depression, requiring intensive treatment and a leave of absence.

17. On or about October 17, 2011 plaintiff spoke with Dennis and Joanne Arena requesting FMLA leave forms. Mr. Kobitz stated in response that plaintiff would have to wait until the County provided him with the forms.

18. The following week, when plaintiff still had not been provided with the FMLA forms, plaintiff returned to Mr. Kobitz's office and again asked for the FMLA papers. Mr. Kobitz responded by stating that he was still waiting for the paper work and therefore could not give her the FMLA application.

19. Receiving no assistance from Mr. Kobitz, plaintiff sought the assistance of counsel, Fred Shahrooz Scampato.

20. On or about October 24, 2011, plaintiff, via her counsel, yet again requested the necessary forms to apply for unpaid leave pursuant to the Federal Family and Medical Leave Act of 1993 ["FMLA"], 29 U.S.C. Section 2601.

21. Counsel's letter also indicated that Dr. Miller had referred plaintiff to the Intensive Outpatient Program of Overlook Hospital.

22. Counsel's letter included the October 14, 2011, medical report from David G. Miller, MD, plaintiff's treating psychiatrist.

23. Dr. Miller also made a request for a reasonable accommodation, to (1) change her work environment, or alternatively, (2) have her return to a more reduced schedule.

24. Defendants never responded to this specific reasonable accommodation request.

25. On or about October 28, 2011, defendants gave plaintiff FMLA forms to fill out. The form was subsequently filled out by plaintiff, Dennis Kobitz, and Dr. Miller.

26. On or about October 31, 2011, completed FMLA forms were submitted to defendants and forwarded via fax.

27. Dr. Miller provided in the FMLA form that plaintiff's estimated return to work date was to be December 26, 2011.

28. Defendants approved the FMLA leave request.

29. Prior to making her 2011 FMLA request, plaintiff had not exhausted any of her FMLA leave and thus was entitled to 12 weeks of FMLA leave.

30. On or about November 1, 2011, plaintiff began treating in the Intensive Outpatient Program of Overlook Hospital.

31. Between November 1, 2011 and December 6, 2011, defendants failed to contact plaintiff or discuss her ability to resume employment.

32. No later than December 6, 2011, defendants, during the course of the FMLA leave, made the decision to terminate plaintiff as of December 31, 2011.

33. Several days later plaintiff received a letter from defendants dated December 6, 2011 advising her of her termination.

34. The letter stated plaintiff would continue to be employed through December 31, 2011, at which time her employment would end.

35. Upon information and belief defendant relied in its decision to terminate plaintiff due to her taking a protected FMLA leave.

36. Beginning on or about December 6, 2011, and continuing through her termination date of December 31, 2011, plaintiff sought to communicate with defendant, Union County, to ascertain whether there were any open positions that she could bid for and/or transfer into rather than ending her employment. By requesting help from Union County's Human Resources Department, plaintiff, was making a request for a reasonable accommodation in an effort to avoid being terminated on December 31st. Plaintiff contends that she communicated with defendant Union County on at least three occasions to obtain information about open positions that she could bid for and/or transfer. The Union County Human Resources employees that plaintiff talked to advised her that they would get back to her with information to engage in the interactive process. However, these agents, employees and/or servants of defendant Union County never followed through and communicated with plaintiff regarding her requests.

37. On or about December 20, 2011, while still on FMLA leave, defendants were notified by Overlook Medical Center that plaintiff would be permitted to return to work on Tuesday, January 3, 2012, without any restrictions.

38. On or about December 22, 2011, counsel for plaintiff wrote to defendants pointing out again that defendants made the decision to terminate plaintiff's employment on or about December 6, 2011, without the benefit of

discussion with either Dr. Miller or plaintiff. Plaintiff was to be cleared to return to work by December 31, 2011, and through counsel's letter, was requesting that defendants engage in a dialogue concerning plaintiff's suitability to return to work to the extent defendants had any questions.

39. The letter also asked defendants to explore alternatives to termination such as transfer to another department. Counsel for plaintiff also asked that the County's decision to terminate plaintiff should be suspended or reversed until such time that the mandatory interactive process had occurred.

40. Defendants never responded to counsel for plaintiff's letter of December 22, 2011.

41. On January 6, 2012, counsel for plaintiff forwarded a one page letter from Dr. Miller advising that plaintiff was able to return back to work on a full time basis.

42. Defendants refused to allow plaintiff to return to work subsequent to the conclusion of her FMLA leave and failed to respond to counsel's letters.

43. Defendants discouraged and interfered with plaintiff from taking FMLA leave by failing to process her FMLA request, requiring her to hire counsel to process her request, and also interfered with her FMLA rights by failing to engage in a dialogue with her concerning her return to work..

44. Defendants retaliated against plaintiff and interfered with her FMLA protected rights by relying on the taking of protected FMLA leave in its decision to terminate plaintiff's employment.

45. At all times relevant to this complaint, plaintiff was a person with a "disability" within the meaning of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq.

46. At all times relevant to this action, plaintiff's depressive disorder and post traumatic stress disorder, were known to defendants.

47. Defendants also perceived plaintiff as an individual with a disability, within the meaning of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq.

48. Despite plaintiff notifying defendants of her ability to return to work during the course of her FMLA leave, defendants did not return plaintiff to her job.

49. Defendants also failed to engage in a dialogue concerning her return to work or her suitability to transfer to another position.

50. In firing plaintiff, defendants denied plaintiff her substantive right to reinstatement to her previous position.

51. Defendants interfered with plaintiff's entitlement to leave under the FMLA and retaliated for her taking FMLA leave.

52. Plaintiff's termination was discriminatory on the basis of disability, and/or perceived disability, in violation of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq.

53. Defendant Dennis Kobitz aided and abetted in the unlawful termination of plaintiff.

54. The acts of defendant Dennis Kobitz were undertaken within the scope of his employment for Union County and Union County Board of Elections.

55. Defendants Union County and Union County Board of Elections delegated to defendant Dennis Kobitz the authority to control the work environment of plaintiff.

56. Defendant Dennis Kobitz abused the authority delegated by defendants Union County and Union County Board of Elections when he discouraged plaintiff's FMLA request and wrongfully and unlawfully terminated plaintiff's employment on December 6, 2011.

57. Defendant Union County Board of Elections abused the authority delegated by defendant, Union County when it wrongfully and unlawfully decided to terminate plaintiff's employment on December 6, 2011.

58. Defendants Union County and Union County Board of Elections are strictly liable for the actions of defendant Dennis Kobitz in terminating plaintiff's employment.

59. Defendant Union County is strictly liable for the actions of defendant Union County Board of Elections in terminating plaintiff's employment.

60. Defendant Union County is vicariously liable for the actions of defendants Union County Board of Elections and/or Dennis Kobitz in terminating plaintiff's employment.

61. The actions of defendants described herein have a malicious and egregious motive.

62. The foregoing conduct of defendants is willful and intentional and evidences defendants' reckless and/or callous indifference.

63. The acts of defendants have been intentional and willful and are motivated by actual malice and ill will.

64. The acts of defendants were meant to cause, or caused in a gross or reckless manner, egregious and unjustified harm to plaintiff.

65. Defendants have acted in bad faith.

66. Defendants have acted with wanton recklessness and/or reckless indifference.

67. Upper level management either approved or acted with willful indifference or reckless disregard to the unlawful termination of plaintiff, so as to warrant punitive damages against defendants.

68. As a result of defendants' unlawful conduct, plaintiff has suffered and continues to suffer economic loss.

69. The acts of defendants were meant to cause, or caused in a gross and reckless manner, egregious and unjustified damage to plaintiff.

70. By the foregoing conduct, defendants unlawfully terminated plaintiff's employment, and denied plaintiff's right to medical leave, in violation of the FMLA.

71. By the foregoing conduct, defendants have discriminated against plaintiff on the basis of disability and/or perceived disability, in violation of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq.

72. There is no fully adequate remedy at law.

FIRST CAUSE OF ACTION FOR VIOLATION OF THE FMLA

WHEREFORE, plaintiff demands judgment and an order granting her:

- A. An award of actual damages in an amount to be determined at trial for loss of wages, benefits, and promotional opportunities, including an award of front pay, compensating plaintiff for loss of future salary and benefits;**
- B. An award of reasonable attorneys fees and the costs of this action;**
- C. And such other and further relief as this Court finds just and proper.**

73. In discouraging plaintiff for requesting her FMLA leave and subsequently terminating her employment during her FMLA leave, defendants violated plaintiff's rights under the FMLA.

**SECOND CAUSE OF ACTION FOR VIOLATION OF THE NEW JERSEY
LAW AGAINST DISCRIMINATION**

74. In firing plaintiff, defendants discriminated against plaintiff on the basis of disability and/or perceived disability, in violation of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq.

**THIRD CAUSE OF ACTION FOR VIOLATION OF THE NEW JERSEY LAW
AGAINST DISCRIMINATION**

75. In firing plaintiff without just cause and without providing a reasonable accommodation and hiring a replacement, defendants intentionally discriminated against the plaintiff based on her Disability and in violation of the NJ LAD requirement that "An employer shall consider the possibility of reasonable accommodation before firing a disabled person on the grounds that his or her disability precludes job performance." *N.J.A.C. 13:13-2.5(b)(2)*.

**FOURTH CAUSE OF ACTION FOR VIOLATION OF THE NEW JERSEY
LAW AGAINST DISCRIMINATION**

76. By the foregoing conduct, defendants Union County Board of Elections and/or Dennis Kobitz, aided and abetted in the wrongful and unlawful termination of plaintiff's employment, in violation of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq.

WHEREFORE, plaintiff demands judgment and an order granting her:

A. A declaration that the actions of the defendants described herein have violated the plaintiff's rights under the FMLA and the New Jersey Law Against Discrimination;

B. Compensatory damages for any and all economic losses caused by the termination, including but not limited to back pay, front pay, bonuses, incentive pay, overtime, accrued vacation pay, insurance benefits, expense

reimbursements, pension benefits and all other benefits to which plaintiff is entitled;

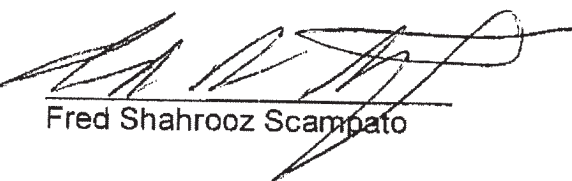
- C. Punitive damages;
- D. Costs and disbursements of this suit, including reasonable attorney's fees, expert witness fees, and costs to the plaintiff;
- E. Pre-judgment interest; and
- F. Such other and further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all actions triable to a jury.


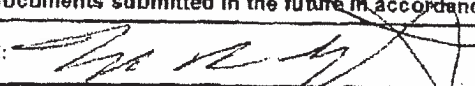
LAW OFFICE OF FRED SHAHROOZ SCAMPATO
DAVID ROSTAN, ATTORNEY AT LAW
Attorneys for Plaintiff

By:


Fred Shahrooz Scampato

Dated: April 18, 2012

Appendix XII-B1

	CIVIL CASE INFORMATION STATEMENT (CIS) Use for initial Law Division Civil Part pleadings (not motions) under Rule 4:5-1 Pleading will be rejected for filing, under Rule 1:5-6(c), if information above the black bar is not completed or attorney's signature is not affixed		FOR USE BY CLERK'S OFFICE ONLY PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA CHG/CK NO. AMOUNT: OVERPAYMENT: BATCH NUMBER:	
	ATTORNEY/PRO SE NAME FRED SHAHROOZ SCAMPATO		TELEPHONE NUMBER 908-301-9095	
FIRM NAME (if applicable) FRED SHAHROOZ SCAMPATO, P.C.		COUNTY OF VENUE UNION		12
OFFICE ADDRESS 445 EAST BROAD STREET, 2ND FLOOR WESTFIELD, NEW JERSEY 07090		DOCKET NUMBER (when available) UNNL 1589		
NAME OF PARTY (e.g., John Doe, Plaintiff) ROSE BRAVO		CAPTION ROSE BRAVO vs. Union County, Union County Board of Elections, DENNIS KOBITZ		DOCUMENT TYPE COMPLAINT
CASE TYPE NUMBER (See reverse side for listing) 618		IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.		JURY DEMAND <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
RELATED CASES PENDING? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, LIST DOCKET NUMBERS		
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known)		<input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN
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? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		IF YES, IS THAT RELATIONSHIP: <input checked="" type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS		
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, PLEASE IDENTIFY THE REQUESTED ACC OMMODATION		
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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).				
ATTORNEY SIGNATURE: 				

Side 2



CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under *Rule 4:5-1*

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (Including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE - PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE - PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE - PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT - OTHER

Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

Centrally Managed Litigation (Track IV)

- | | |
|----------------------------------|--|
| 280 ZELNORM | 290 POMPTON LAKES ENVIRONMENTAL LITIGATION |
| 285 STRYKER TRIDENT HIP IMPLANTS | 291 PELVIC MESH/GYNECARE |
| 288 PRUDENTIAL TORT LITIGATION | 292 PELVIC MESH/BARD |
| 289 REGLAN | 293 DEPUY ASR HIP IMPLANT LITIGATION |

Mass Tort (Track IV)

- | | |
|---------------------------------------|--|
| 248 CIBA GEIGY | 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL |
| 266 HORMONE REPLACEMENT THERAPY (HRT) | 282 FOSAMAX |
| 271 ACCUTANE/ISOTRETINOIN | 284 NUVARING |
| 274 RISPERDAL/SEROQUEL/ZYPREXA | 286 LEVAQUIN |
| 278 ZOMETA/AREXIA | 287 YAZ/YASMIN/OCELLA |
| 279 GADOLINIUM | 601 ASBESTOS |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category Putative Class Action Title 59

UNION COUNTY SUPERIOR COURT
2 BROAD STREET
ELIZABETH NJ 07207

received
5-3-12

TRACK ASSIGNMENT NOTICE

COURT TELEPHONE NO. (908) 659-4817
COURT HOURS

DATE: APRIL 30, 2012
RE: BRAVO VS UNION COUNTY OF ET AL
DOCKET: UNN L -001589 12

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 3.

DISCOVERY IS 450 DAYS AND RUNS FROM THE FIRST ANSWER OR 90 DAYS FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE PRETRIAL JUDGE ASSIGNED IS: HON KENNETH J. CRISPIN

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 001
AT: (908) 659-4823.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING. PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORD WITH R.4:5A-2.

ATTENTION:

ATT: FRED S. SCAMPATO
SHAHROOZ SCAMPATO FRED
445 EAST BROAD STREET
SECOND FLOOR
WESTFIELD NJ 07091-2123

JUTAN