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Diana Acevedo and Rex Fornaro

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ESSEX COUNTY
DOCKET NO. **L 8474-10**

DIANA ACEVEDO AND REX FORNARO

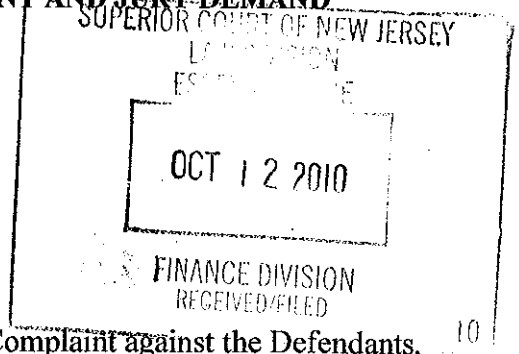
Plaintiffs

vs.

FLIGHTSAFETY INTERNATIONAL INC.,
GREG WEDDING, DANNY ROBAYO
and LISA ESPOSITO,

Defendants

COMPLAINT AND JURY DEMAND



Plaintiffs, Diana Acevedo and Rex Fornaro, by way of Complaint against the Defendants,

allege as follows:

FACTS COMMON TO ALL COUNTS

1. Plaintiff Diana Acevedo ("Acevedo") currently resides at 10 Cortland Street, Nutley, New Jersey.
2. Plaintiff Rex Fornaro ("Fornaro") currently resides at 41 Ann Road, Long Valley, New Jersey.
3. Upon information and belief, defendant, FlightSafety Inc. ("FlightSafety"), is a corporation duly organized and/or authorized to do business under the laws of the State of New Jersey, with a place of business at 100 Moonachie Avenue, Moonachie, New Jersey.

4. Upon information and belief, at all relevant times hereto, Greg Wedding (“Wedding”) was Fornaro’s and Acevedo’s manager at FlightSafety and a resident of the state of Connecticut, with a work address at 100 Moonachie Avenue, Moonachie, New Jersey.

5. Upon information and belief, at all relevant times hereto, Danny Robayo (“Robayo”), was a Director of Training at FlightSafety and a resident of the state of New Jersey with a work address at 100 Moonachie Avenue, Moonachie, New Jersey.

6. Upon information and belief, at all relevant times hereto, Lisa Esposito (“Esposito”) was a Human Resources Administrator for FlightSafety and a resident of the state of New Jersey, with a work address at 100 Moonachie Avenue, Moonachie, New Jersey.

ACEVEDO’S EMPLOYMENT WITH FLIGHTSAFETY

7. Acevedo commenced her employment with FlightSafety in January 2001 as a Customer Support Assistant.

8. Throughout her career with FlightSafety, Acevedo’s performance was exemplary, as evidenced by FlightSafety’s decision to promote her to Customer Support Representative in 2004, and again to Customer Support Manager Assistant in 2005.

9. Acevedo also consistently and routinely received exemplary performance reviews, and had never received any discipline or warning during her employment with FlightSafety.

10. Acevedo was also a dedicated employee and team player, and put off schooling in order to meet FlightSafety’s demanding schedule.

11. During her employment with FlightSafety, Acevedo developed a medical condition, requiring bunion surgery and hammer toe on both feet. Due to FlightSafety’s heavy

work demands, Acevedo put off the surgery. Acevedo's condition is a handicap and/or disability within the meaning of New Jersey's Law Against Discrimination, *N.J.S.A. 10:5-4.1*.

12. Finally, as a result of the serious pain associated with her medical condition, Acevedo was unable to put off the surgery any longer, and went on a leave of absence on September 5, 2008, with the first surgery occurring on September 5, 2008, and the second surgery on September 12, 2008.

13. As a result of her medical condition and the surgery, Acevedo was unable to drive and was severely limited in her ability to walk. Acevedo also required numerous physical therapy sessions.

14. Acevedo returned to work on November 10, 2008.

15. Upon her arrival at work, Wedding notified Acevedo that she was terminated effective immediately, without any prior notice or warning.

16. According to Wedding, FlightSafety had decided to make "some changes to the structure within the [Customer Support] organization" and that Acevedo's position was eliminated as a result of this new structure.

17. Upon information and belief, Acevedo's position was not eliminated.

18. Upon information and belief, no other position was eliminated as a result of this purported restructuring.

19. FlightSafety's purported "restructuring" was pretextual, and FlightSafety decided to terminate Acevedo's employment based on her handicap and/or disability.

20. FlightSafety decided to terminate Acevedo's employment so that it would not have to make reasonable accommodations for Acevedo's medical condition.

21. Upon information and belief, FlightSafety has discriminated against other employees based on their handicap and/or disability, including refusal to provide reasonable accommodations and/or discriminatory discipline and discharge.

22. Upon information and belief, Esposito and Wedding have aided and abetted in FlightSafety's discrimination against Acevedo.

23. As a result of the aforementioned acts of discrimination, harassment and retaliation, Acevedo has suffered and will continue to suffer past and future lost wages and benefits, embarrassment, humiliation and emotional distress.

FORNARO'S EMPLOYMENT WITH FLIGHTSAFETY

24. Fornaro commenced his employment with FlightSafety in August 1998, as an Instructor, training corporate pilots on sophisticated aircrafts.

25. Throughout his career with FlightSafety, Fornaro's performance was exemplary, as evidenced by FlightSafety's decision to promote him to Program Manager for the Avionics Department, and FlightSafety's later decision to assign him as Program Manager for Enrichment Courses.

26. In addition, Fornaro consistently led the Avionics Department in productivity, with the most daily activity log hours within the department.

27. Fornaro also consistently and routinely received exemplary performance reviews, from both his management and clients, frequently receiving all 5s, the highest possible rating, with many clients commenting that, out of all of FlightSafety's instructors and training, Fornaro's training was their favorite classroom scenario. For example, one client gushed, "I can't imagine a more knowledgeable person anywhere on avionics and related subjects."

28. Fornaro's supervisor, Wedding, also acknowledged to Fornaro that "it seems to me the level of professionalism at the center is increasing thanks to you. You are making the difference which is pulling us above the competition and makes the future look much brighter. Thanks Rex. Can't tell you how much I appreciate your support in making Teterboro such a terrific place in which to work."

29. Throughout his employment, Fornaro received many other accolades from both clients and FlightSafety management.

30. Fornaro was also a dedicated employee, frequently entertaining clients at lunches and dinners to help strengthen the relationship between FlightSafety and its clients, as well as answering client calls from home regarding operation of their aircraft.

31. As a result of his prolonged standing during his numerous training sessions and repeated entry into the flight simulator seat, Fornaro developed various disabilities and handicaps, including severe pain associated with a torn meniscus and herniated discs.

32. In fact, Fornaro's limping and pain was so severe that, on February 22, 2010, Robayo questioned Fornaro about his condition. Fornaro responded that he had an appointment to see a doctor regarding his knee condition.

33. On February 25, 2010, Fornaro's physician issued a note establishing that Fornaro was suffering from "DJD [Degenerative Joint Disease] knees with acute exacerbation." Fornaro's condition of Degenerative Joint Disease is a handicap and/or disability within the meaning of New Jersey's Law Against Discrimination, *N.J.S.A. 10:5-4.1*

34. The physician further prescribed "Light duty starting today & going for 7-10 days."

35. Fornaro's physician also referred Fornaro to an orthopedic specialist.

36. Following up on his physician's diagnosis and advice, Fornaro made an appointment to see an orthopedic specialist.

37. Fornaro also provided the doctor's note to Esposito on March 1, 2010, requesting a reasonable accommodation of light duty for 7 to 10 days.

38. Upon receiving the doctor's note, Esposito contacted Fornaro's physician's office, stating that she "need[s] some clarification on what Rex's limitation are (how long he can't sit, stand, etc.)"

39. On March 1, 2010, Fornaro's physician responded that "only limitation is standing for more than 1 hour without resting knees until they improve."

40. Rather than provide the reasonable accommodation that was requested, and without engaging in any interactive process with Fornaro, on March 2, 2010, FlightSafety immediately prepared a "Final Warning" to Fornaro, even though he had received no verbal or written warnings, or any disciplinary action, since 2007.

41. The purported performance issues were pretextual, and were intentionally manufactured by FlightSafety in order to avoid providing reasonable accommodations to Fornaro, and were discriminatory based on Fornaro's handicap and disability.

42. For example, although FlightSafety complained of certain alleged conduct by Fornaro on February 24 and 27, it did not discuss any of these purported issues with Fornaro until after he provided his doctor's note on March 1, 2010.

43. More specifically, FlightSafety, aided and abetted by Esposito, Robayo and Wedding, placed Fornaro on final written warning for working from home on Courseware Development on February 24, 2010, even though he was never told that he needed to be present at FlightSafety's center to work on this material. Further, upon information and belief, no other

employee has ever been put on final written warning, without prior warning, for working from home. Moreover, upon information and belief, it is not uncommon for employees to work from home from time to time, without any discipline, much less final written warning.

44. FlightSafety also placed Fornaro on final written warning because he was eight minutes early for a course on February 24, rather than 15 minutes early, even though it is frequently impossible for an instructor to be at a course 15 minutes before the course begins, as courses may be scheduled back-to-back in the same room, and/or the instructor may be teaching courses back-to-back. Further, upon information and belief, no other employee has ever been put on final written warning, without prior warning, for being less than 15 minutes early to a class. Moreover, upon information and belief, it is not uncommon for instructors to be less than 15 minutes early to a class, without any discipline, much less final written warning.

45. Fornaro recognized that the discipline was illegitimate, and was a mere pretext for unlawful discrimination based on his notification, one day earlier, of his medical condition and need for a reasonable accommodation. Accordingly, Fornaro refused to sign the written warning.

46. On Friday, March 5, 2010, Fornaro was examined by an orthopedic specialist. The specialist diagnosed Fornaro with a torn meniscus, and prepared a Letter of Disability for FlightSafety, recommending that Fornaro remain out of work from March 5 through March 22, 2010, with a restriction on standing. . Fornaro's condition is a handicap and/or disability within the meaning of New Jersey's Law Against Discrimination, *N.J.S.A. 10:5-4.1*.

47. Fornaro's orthopedic specialist also ordered an MRI of Fornaro's knees, which was scheduled for the evening of Monday, March 8, 2010.

48. On March 8, 2010, Fornaro submitted to Esposito a response to FlightSafety's discriminatory and pretextual final written warning. In his response, Fornaro put FlightSafety on notice that he believed that the warning was illegitimate, and was based solely on his request for a reasonable accommodation for his handicap and/or disability.

49. Rather than engage in any discussion with Fornaro, or conduct a further investigation into his allegations, FlightSafety engaged in further discriminatory and retaliatory action, and refused to engage in any interactive process regarding Fornaro's request for a reasonable accommodation. More specifically, on March 8, at 5:09 p.m., Esposito advised Fornaro that his response was "not an acceptable plan of correction." Esposito further stated that Fornaro could prepare a plan that addresses the issues by "the end of the day today," even though her e-mail was written after close of business, affording Fornaro no real or meaningful opportunity to respond.

50. Not only was Esposito's request for a response by close of business patently illusory (as it was written after close of business), it was impossible for Fornaro to formulate a timely response to Esposito's e-mail, as he was undergoing an MRI on his knee precisely at that time.

51. The MRI on Fornaro's right knee indicated that there was a complex tear of the posterior horn of the medial meniscus extending mainly to the inferior articular surface, with extensive intra-substance degeneration. Fornaro's condition is a handicap and/or disability within the meaning of New Jersey's Law Against Discrimination, *N.J.S.A. 10:5-4.1*

52. The following day, FlightSafety sent Fornaro notification that his employment was terminated effective March 8, 2010.

53. Upon information and belief, FlightSafety has discriminated against other employees based on their handicap and/or disability, including refusal to provide reasonable accommodations and/or discriminatory discipline and discharge.

54. Upon information and belief, Esposito, Robayo and Wedding have aided and abetted in FlightSafety's discrimination against Fornaro.

55. As a result of the aforementioned acts of discrimination, harassment and retaliation, Fornaro has suffered and will continue to suffer past and future lost wages and benefits, embarrassment, humiliation and emotional distress.

FIRST COUNT
(Acevedo – Failure to Accommodate)

56. Acevedo incorporates by reference the allegations and facts contained in the preceding paragraphs as though the same were set forth at length herein.

57. Defendant FlightSafety's actions constitute unlawful refusal to provide a reasonable accommodation for Acevedo's handicap and/or disability, in violation of the New Jersey Law Against Discrimination.

58. As a direct and proximate result of Defendant FlightSafety's illegal conduct, Acevedo has lost wages, benefits and other remuneration.

59. As a direct and proximate result of Defendant FlightSafety's illegal conduct, Acevedo has suffered emotional and psychological distress.

60. Defendant FlightSafety's actions have been extreme and outrageous, and actuated by actual malice and/or wanton and willful disregard for Acevedo.

WHEREFORE, Acevedo demands judgment against Defendant FlightSafety for damages, both compensatory and punitive, together with attorneys' fees, interest, and cost of suit.

WHEREFORE, Acevedo demands judgment against Defendants Esposito and Wedding for damages, both compensatory and punitive, together with attorneys' fees, interest, and cost of suit.

FOURTH COUNT
(Acevedo – Intentional Infliction of Emotional Distress)

69. Acevedo incorporates by reference the allegations and facts contained in the preceding paragraphs as though the same were set forth at length herein.

70. In the course of the wrongful actions taken by Defendants, Defendants willfully, deliberately and intentionally inflicted upon Acevedo severe emotional distress.

71. As a direct and proximate result of Defendants' intentional infliction of emotional distress, Acevedo has in the past suffered and will in the future continue to suffer, from severe emotional distress and anxiety.

WHEREFORE, Acevedo demands judgment against Defendants FlightSafety, Esposito and Wedding, jointly, severally or in the alternative, for damages, both compensatory and punitive, together with attorneys' fees, interest, and cost of suit.

FIFTH COUNT
(Fornaro – Failure to Accommodate)

72. Fornaro incorporates by reference the allegations and facts contained in the preceding paragraphs as though the same were set forth at length herein.

73. Defendant FlightSafety's actions constitute unlawful refusal to provide a reasonable accommodation for Fornaro's handicap and/or disability, in violation of the New Jersey Law Against Discrimination.

74. As a direct and proximate result of Defendant FlightSafety's illegal conduct, Fornaro has lost wages, benefits and other remuneration.

75. As a direct and proximate result of Defendant FlightSafety's illegal conduct, Fornaro has suffered emotional and psychological distress.

76. Defendant FlightSafety's actions have been extreme and outrageous, and actuated by actual malice and/or wanton and willful disregard for Fornaro.

WHEREFORE, Fornaro demands judgment against Defendant FlightSafety for damages, both compensatory and punitive, together with attorneys' fees, interest, and cost of suit.

SIXTH COUNT
(Fornaro – Discriminatory Termination)

77. Fornaro incorporates by reference the allegations and facts contained in the preceding paragraphs as though the same were set forth at length herein.

78. Defendant FlightSafety's actions, including the decision to discipline and terminate Fornaro, constitute unlawful discrimination against Fornaro based on his handicap and/or disability, in violation of the New Jersey Law Against Discrimination.

79. As a direct and proximate result of Defendant FlightSafety's illegal conduct, Fornaro has lost wages, benefits and other remuneration.

80. As a direct and proximate result of Defendant FlightSafety's illegal conduct, Fornaro has suffered emotional and psychological distress.

81. Defendant FlightSafety's actions have been extreme and outrageous, and actuated by actual malice and/or wanton and willful disregard for Fornaro.

WHEREFORE, Fornaro demands judgment against Defendant FlightSafety for damages, both compensatory and punitive, together with attorneys' fees, interest, and cost of suit.

SEVENTH COUNT
(Fornaro – Retaliation)

82. Fornaro incorporates by reference the allegations and facts contained in the preceding paragraphs as though the same were set forth at length herein.

83. Defendant FlightSafety's actions, including the decision to terminate Fornaro, were in retaliation for his complaints of illegal discrimination and refusal to accommodate his handicap and/or disability, in violation of the New Jersey Law Against Discrimination.

84. As a direct and proximate result of Defendant FlightSafety's illegal conduct, Fornaro has lost wages, benefits and other remuneration.

85. As a direct and proximate result of Defendant FlightSafety's illegal conduct, Fornaro has suffered emotional and psychological distress.

86. Defendant FlightSafety's actions have been extreme and outrageous, and actuated by actual malice and/or wanton and willful disregard for Fornaro.

WHEREFORE, Fornaro demands judgment against Defendant FlightSafety for damages, both compensatory and punitive, together with attorneys' fees, interest, and cost of suit.

EIGHTH COUNT
(Fornaro – Aiding and Abetting)

87. Fornaro incorporates by reference the allegations and facts contained in the preceding paragraphs as though the same were set forth at length herein.

88. Esposito, Robayo and Wedding aided and/or abetted unlawful discrimination and retaliation, in violation of the New Jersey Law Against Discrimination.

89. As a direct and proximate result of Defendant Esposito, Robayo and Wedding's aiding and abetting of the discrimination and retaliation, Fornaro has lost wages, benefits and other remuneration.

90. As a direct and proximate result of Defendants Esposito, Robayo and Wedding's violations of the New Jersey Law Against Discrimination, Fornaro has suffered emotional and psychological distress, as well as medical expenses.

91. Defendant Esposito, Robayo and Wedding's actions have been extreme and outrageous, and actuated by actual malice and/or wanton and willful disregard for Fornaro.

WHEREFORE, Fornaro demands judgment against Defendants Esposito, Robayo and Wedding, jointly and severally, for damages, both compensatory and punitive, together with attorneys' fees, interest, and cost of suit.

NINTH COUNT
(Fornaro – Intentional Infliction of Emotional Distress)

92. Fornaro incorporates by reference the allegations and facts contained in the preceding paragraphs as though the same were set forth at length herein.

93. In the course of the wrongful actions taken by Defendants, Defendants willfully, deliberately and intentionally inflicted upon Fornaro severe emotional distress.

94. As a direct and proximate result of Defendants' intentional infliction of emotional distress, Fornaro has in the past suffered and will in the future continue to suffer, from severe emotional distress and anxiety.

WHEREFORE, Fornaro demands judgment against Defendants, jointly, severally or in the alternative, for damages, both compensatory and punitive, together with attorneys' fees, interest, and cost of suit.

JURY DEMAND

Plaintiffs hereby demand a trial by jury on all issues herein.

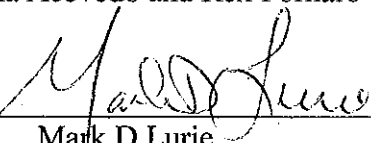
DESIGNATION OF TRIAL COUNSEL

Pursuant to R.4:25-4, plaintiffs hereby designate Mark D Lurie, Esq. as trial counsel in the within matter.

CERTIFICATION PURSUANT TO RULE 4:5-1

The undersigned hereby certifies that, to the best of my knowledge and information, this dispute is not the subject of any other action pending in any other court or a pending arbitration proceeding and is not aware of any additional parties who should be joined in this action at this time.

LURIE LAW FIRM LLC
Attorneys for Plaintiffs
Diana Acevedo and Rex Fornaro

By: 
Mark D Lurie

Dated: *October 8, 2010*