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BURLINGTON COUNTY
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CLEVELAND M. REGIS, IV,
Plaintiffs,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
BURLINGTON COUNTY

v.

INTERNATIONAL PAPER COMPANY,
FREDERICK R. KLAUNN, JOHN DOES
1-10 (fictitious names of
entities and/or individuals whose
identities are presently
unknown), individually, jointly,
severally and/or in the
alternative,

CIVIL ACTION

DOCKET NO.:

COMPLAINT AND JURY DEMAND

Defendants.

The Plaintiff, CLEVELAND M. REGIS, IV, residing in Camden, New Jersey, by way of complaint against the Defendants, states as follows:

THE PARTIES

1. Upon information and belief Defendant, International Paper Company ("IPC"), is a global leader in paper and packaging products with worldwide headquarters in Memphis, Tennessee.
2. IPC has multiple sites in New Jersey and does business in every county in New Jersey, including Burlington County.
3. At all times relevant to this lawsuit, Plaintiff worked as a shipping checker in IPC's Barrington Container Plant and Ink Blending Facility, located in Barrington, New Jersey.
4. Upon information and belief, at all times relevant to this

lawsuit, Defendant Frederick R. Klawunn ("Klawunn") was the Complex Site Manager in charge of International Paper's Barrington and Bellmawr facilities and exercised authority over the Plaintiff, including the authority to make decisions, in conjunction with human resources, on the hiring and firing of employees, including Mr. Regis.

5. Upon information and belief, Frederick R. Klawunn is a resident of Moorestown, Burlington County, New Jersey.

COUNT ONE - VIOLATION OF THE NEW JERSEY LAW AGAINST DISCRIMINATION, N.J.S.A. 10:5-1 et seq. - ANCESTRY DISCRIMINATION

6. The Plaintiff repeats, realleges, and incorporates by reference each and every allegation contained in the previous paragraphs as if fully set forth herein.
7. Mr. Regis was employed as a shipping clerk for the Defendant from in or about October 2006 through December 1, 2010, when he was discharged by the Defendants.
8. The Defendants maintained a point system that was used to keep track of employee absences and tardiness.
9. Throughout his employment, the Plaintiff was a satisfactory worker, and, although he had previously been absent and/or late, had always stayed within the maximum guidelines of acceptable absenteeism and tardiness.
10. The Plaintiff was terminated for taking an approved absence to attend his grandfather's funeral. An explanation of the family's relationships is necessary in order to understand the events that led to his discriminatory termination.

The Ancestry of Cleveland M. Regis, IV

11. On November 18, 2010, James Anthony Pullen, Mr. Regis' biological grandfather, died in Virginia. James Pullen was the biological father of Mr. Regis' mother, Fran Pullen Regis.
12. The birth of Fran Pullen had been cloaked in a dark family secret for years. Evelyn Pullen, Fran Pullen's mother, was married to a man named Ottawa Pullen. James Anthony Pullen was the brother of Ottawa Pullen. Evelyn had a secret affair with her husband's brother, James Pullen, which resulted in a pregnancy, and the birth of Fran Pullen.
13. Because, at that time, husbands were legally presumed to be the father of children born to their wives, Fran Pullen's birth certificate listed her parents as Evelyn and Ottawa Pullen even though James Anthony Pullen was actually her biological father. Evelyn and Ottawa kept the secret from their daughter. Fran grew up believing that Ottawa Pullen was her father and James Pullen was her uncle.
14. When the Plaintiff, Cleveland Regis IV, was born and raised, he believed that Ottawa Pullen was his grandfather and James Pullen was his great uncle.
15. In or about 2007, after Ottawa Pullen passed away, Evelyn confessed to her daughter Fran about the circumstances of her birth and advised Fran that James Pullen was her biological father. In turn, Fran told her children, including the

Plaintiff, that James Pullen was actually her father.

16. During the remaining years of James Pullen's life, he got to better know Fran and his grandson, Cleveland, and, although they never had a parent-child bond, they did establish a closer relationship.
17. When the sordid affair between Evelyn and her brother-in law James came to light, James' other children were not pleased, and did not recognize Fran as the daughter of their father. This caused dissension among the descendants.
18. When James Pullen died on November 18, 2010, Fran was upset, and in light of the uncomfortable family situation, asked the Plaintiff to accompany her to the funeral of her father, the Plaintiff's biological grandfather.
19. Because of the rift in the family, another daughter of James Pullen, who wrote the obituary, chose not to acknowledge Fran as one of James Pullen's children, nor to acknowledge the Plaintiff as his grandson.

The Plaintiff requested, and was granted, bereavement leave

20. The Plaintiff requested bereavement leave on November 22, 23, and 24 to attend the funeral in Virginia. The Defendant, and specifically Fred Klawunn, granted Plaintiff's request for bereavement leave to attend his grandfather's funeral.
21. The bereavement policy at International Paper is dictated by the Union Contract which requires the employer to provide bereavement leave for the death of an immediate family

member, which includes the death of a grandfather. Neither the policy nor the contract differentiates between biological or non-biological family or require proof of birth certificate.

22. The Attendance Point Policy of International Paper assesses points for absences and latenesses. The policy has set point totals for warnings and disciplines, and exceeding a set number leads to termination. The Policy, however, does not count bereavement leave as an absence. The policy only requires that, in the event of bereavement leave, the employee produce an obituary or a death certificate.
23. The Plaintiff took his bereavement leave and attended his grandfather's funeral, as permitted by the Defendants. Upon his return to work, in accordance with the Defendants' policy, the Plaintiff produced Mr. Pullen's death certificate and his obituary.

The Defendants discriminated against the Plaintiff because of ancestry.

24. Upon reviewing the obituary, the Defendants noticed that the Plaintiff's name was not listed in the obituary and Klawunn and the HR manager called the Plaintiff in for a meeting to discuss why the Plaintiff's name was not in the obituary.
25. The Plaintiff explained that James Pullen was his biological grandfather, but that growing up he did not know it.
26. The Defendants asked the Plaintiff if he could produce any documents, such as his mother's birth certificate, to prove

that James Pullen was his biological grandfather.

27. Nothing in any of the Defendants' policies requires an employee to produce birth certificates in order to prove "legitimate" ancestry.
28. Such a policy would necessarily discriminate against persons who are adopted, foster children, abandoned children, children of same sex marriages, and "illegitimate" children, born out of wedlock with an unidentified or misidentified father, such as Fran Pullen Regis.
29. The Plaintiff explained that his mother's birth certificate did not list James Pullen as her father, even though James Pullen was his biological grandfather.
30. The Plaintiff provided the Defendants with the phone numbers for his mother and his aunt, and asked them to call his family so that they could verify that James Pullen was, indeed, the Plaintiff's biological grandfather.
31. The Defendants suspended the Plaintiff without pay, stating that they needed to conduct an investigation. But the Defendants took no further investigation and never called the Plaintiff's family members.
32. The Defendants decided that, on the sole basis that the Plaintiff could not produce a document proving that James Pullen was his grandfather, the Defendants would rescind the bereavement leave.
33. In addition to the unpaid suspension, the Defendants also

took back his bereavement pay. The Plaintiff was then assessed two points for an unexcused absence.

34. The two points raised the Plaintiff's point total to 10-1/2 points, one half point greater than the Defendants' 10 point limit for termination. As much as he wanted to attend his grandfather's funeral, the Plaintiff would not have taken the bereavement leave had he been advised in advanced that if his name did not appear in the obituary, he would be terminated. The only reason he took the bereavement leave is because the employer had approved the leave in advance.
35. The Defendants refused to make an exception or provide any leniency and terminated the Plaintiff's employment solely because he was unable to provide written documentation of his mother's biological ancestry.
36. The Defendants' policy of retroactively rescinding bereavement leave if a name does not appear in an obituary or birth certificate is discriminatory on its face on the basis of ancestry, as it denies fair bereavement to persons, like the Plaintiff, who have unusual or non-traditional family relationships, such as adoptive parents, foster parents, step parents, same sex parents, unmarried parents, and unusual lineage.
37. The Defendants' adverse actions against the Plaintiff violated the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, *et seq.*, which provides that it is unlawful for an

employer to discriminate against an employee on the basis of the employee's ancestry, which includes discrimination on the basis of legitimacy of parentage.

38. The adverse actions taken against the Plaintiff were expressly because his mother was an "illegitimate" child and the Defendants produced no legitimate non-discriminatory reason for the adverse actions and termination other than the Plaintiff's inability to produce written documentation proving that his mother's biological father was James Pullen.
39. The alleged discriminatory actions were outrageous and beyond all bounds of human decency, justifying the imposition of punitive damages against the Defendants.
40. The actual participation and willful indifference of upper management creates liability against the Defendants for punitive damages.
41. As a result of Defendants' intentional outrageous actions toward the Plaintiff, as detailed in the previous paragraphs, the Plaintiff has suffered, and continue to suffer, extreme emotional distress, anxiety, embarrassment, humiliation, monetary, emotional, reputational, and other personal injuries.
42. The Defendants' acts were performed with malice and reckless indifference to the Plaintiff's protected civil rights.

WHEREFORE, the Plaintiff demands judgment against all of the Defendants, jointly, severally, and alternatively, for

compensatory damages, including damages for emotional distress, loss of reputation, and other personal injury, back pay, front pay, consequential damages, punitive damages, pre- and post-judgment interest, compensation for adverse tax consequences, reasonable attorneys' fees enhanced under the LAD, and costs of suit.

COUNT TWO - VIOLATION OF THE NEW JERSEY LAW AGAINST DISCRIMINATION, N.J.S.A. 10:5-1, et. seq. - RACE DISCRIMINATION - DIFFERENTIAL APPLICATION OF ATTENDANCE POLICY BASED UPON RACE.

43. The Plaintiff repeats, realleges, and incorporates by reference each and every allegation contained in the previous paragraphs as if fully set forth herein.
44. The Plaintiff is a Black African-American.
45. As set forth above, despite satisfactory job performance for over five years, the Plaintiff was terminated for allegedly exceeding the Defendants' point policy by just one half of a point.
46. The Defendants refused to take into consideration unusual and extraordinary circumstances regarding the Plaintiff's inability to produce written proof of legitimate ancestry, and refused any leniency or exception to its attendance points policy.
47. The Defendants state that they adhere strictly to their attendance points policy, but, in fact, there have been many situation where the Defendants have given non-Black employees the benefit of the doubt, leniency, or made exceptions for

unusual circumstances in order to avoid terminating those non-Black employees. The Defendants refused to provide the Plaintiff with the benefit of the doubt, leniency, or make exceptions for the unusual circumstances because the Plaintiff is Black.

48. The Defendants did not undertake a fair investigation, and refused to call Plaintiff's mother and aunt, even though their telephone numbers were provided to the Defendants. The Defendants fairly investigate such claims for non-Black employees before rescinding bereavement leave and/or instituting such harsh adverse employment actions.
49. By enforcing its attendance policy in a racially differential manner, the Defendants have violated the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, *et seq.*
50. The alleged discriminatory actions were outrageous and beyond all bounds of human decency, justifying the imposition of punitive damages against the Defendants.
51. The actual participation and willful indifference of upper management creates liability against the Defendants for punitive damages.
52. As a result of Defendants' intentional outrageous actions toward the Plaintiff, as detailed in the previous paragraphs, the Plaintiff has suffered, and continue to suffer, extreme emotional distress, anxiety, embarrassment, humiliation, monetary, emotional, reputational, and other personal

injuries.

53. The Defendants' acts were performed with malice and reckless indifference to the Plaintiff's protected civil rights.

WHEREFORE, the Plaintiff demands judgment against all of the Defendants, jointly, severally, and alternatively, for compensatory damages, including damages for emotional distress, loss of reputation, and other personal injury, back pay, front pay, consequential damages, punitive damages, pre- and post-judgment interest, compensation for adverse tax consequences, reasonable attorneys' fees enhanced under the LAD, and costs of suit.

COUNT THREE - WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY (PIERCE CLAIM)

54. The Plaintiff repeats, realleges, and incorporates by reference each and every allegation contained in the previous paragraphs and Count of this Complaint as if fully set forth herein.

55. New Jersey and the United States of America have long held that discrimination against illegitimate children violates the equal protection clauses of the United States and New Jersey Constitutions.

56. New Jersey has a clear public policy goal of preventing discrimination against persons because of their parentage, including, but not limited to, the New Jersey Parentage Act, N.J.S.A. 9:17-38 to -59.

57. The Defendants, by their foregoing described actions, have

terminated the Plaintiff's employment in violation of public policy, and therefore in violation of common law as set forth in Pierce v. Ortho Pharm. Corp., 84 N.J. 58 (1980).

58. The alleged actions were outrageous and beyond all bounds of human decency, justifying the imposition of punitive damages against the Defendants.
59. Defendants' acts were performed with malice and a reckless indifference to the Plaintiff's protected rights.
60. The willful indifference and actual participation of upper management creates liability against the Defendant corporation.
61. As a result of the Defendants' intentional and outrageous actions toward the Plaintiff, as detailed in the previous paragraphs of this Complaint, the Plaintiff has suffered, and continues to suffer, extreme emotional distress, anxiety, embarrassment, humiliation, monetary, emotional, reputational, and other personal injuries.

WHEREFORE, the Plaintiff demands judgment against Defendants, jointly, severally, and alternatively, for compensatory damages including damages for emotional distress, loss of reputation and other personal injury, back pay, front pay, adjustment for negative tax consequences, consequential damages, punitive damages, pre- and post-judgment interest, reasonable attorney's fees, and costs of suit.

COUNT FOUR - JOHN DOES

62. The Plaintiff repeats, realleges, and incorporates by reference each and every allegation contained in the previous paragraphs and Counts as if fully set forth herein.
63. Although the Plaintiff believes that the acts complained of were performed or caused by the named Defendants, the Plaintiff cannot be certain that the named Defendants are the only person(s) or entity(ies) liable for the acts complained of as set forth herein. Therefore, the Plaintiff has named John Does 1 - 50, fictitious persons or legal entities as Defendant(s) to this action.
64. As such, the terms "Defendant" or "Defendants" as used in all of the above Counts and paragraphs should therefore be defined and read as "Defendant(s) and/or John Doe(s)".

WHEREFORE, the Plaintiff demands judgment against the Defendant and John Does 1 - 10, jointly, severally, and alternatively, for such sums as would reasonably and properly compensate the Plaintiff for all damages prayed for in the preceding Counts.

Alan H. Schorr & Associates, P.C.
Attorneys for the Plaintiffs

By: 
Alan H. Schorr, Esquire

Dated: September 29, 2012

DEMAND FOR DISCOVERY OF INSURANCE COVERAGE

Pursuant to R.4:10-2(b), demand is hereby made that you disclose to the undersigned whether there are any insurance agreements or policies under which any person or firm carrying on an insurance business may be liable to satisfy all or part of all of a judgment which may be entered in the action or to indemnify or reimburse for payment made to satisfy the Judgment. If so, please attach a copy of each, or in the alternative state, under oath and certification: (a) policy number; (b) name and address of insurer; (c) inception and expiration date; (d) names and addresses of all person insured thereunder; (e) personal injury limits; (f) property damage limits; and (g) medical payment limits.

JURY DEMAND

Plaintiff demands trial by jury as to all of the triable issues of this complaint, pursuant to R. 1:8-2(b) and R. 4:35-1(a).

DESIGNATION OF TRIAL COUNSEL

PURSUANT to the provisions of Rule 4:25-4, the Court is advised that Alan H. Schorr, Esquire, is hereby designated as trial counsel.

CERTIFICATION OF NO OTHER ACTIONS

Pursuant to Rule 4:5-1, it is stated that the matter in controversy is not the subject of any other action pending in any other court or of a pending arbitration proceeding to the best of

our knowledge or belief. Also, to the best of our belief, no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this pleading, we know of no other parties that should be joined in the above action. In addition, we recognize the continuing obligation of each party to file and serve on all parties and the Court an amended certification if there is a change in the facts stated in this original certification.

NOTICE REGARDING NON-DESTRUCTION OF EVIDENCE

Please be advised and noticed that the Defendant(s) should refrain from destroying, disposing or altering any potential evidence in its possession which would relate in any way to this matter.

Please also be advised and noticed that this includes any and all electronic records, including but not limited to the hard drives on any and all computers and/or servers. To that end:

- A. The Defendant(s) should not initiate any procedures which would alter any active, deleted, or fragmented files. Such procedures may include, but are not limited to: storing (saving) newly created files to existing drives and diskettes; loading new software, such as application programs; running data compression and disk defragmentation (optimization) routines; or the use of utility programs to permanently wipe files, disks or drives.
- B. The Defendant(s) should stop any rotation, alteration,

and/or destruction of electronic media that may result in the alteration or loss of any electronic data. Backup tapes and disks should be pulled from their rotation queues and be replaced with new tapes.

- C. The Defendant(s) should not alter and/or erase active files, deleted files, or file fragments on any electronic media that may have any relation to this matter.
- D. The Defendant(s) should not dispose of any electronic media storage devices replaced due to failure, upgrade, and/or lease expiration that may contain electronic data having any relation to this matter.

Alan H. Schorr & Associates, P.C.
Attorneys for the Plaintiff

By 

Alan H. Schorr
Attorney for the Plaintiff