

CLERK OF SUPERIOR COURT
SUPERIOR COURT OF N.J.
MERCER COUNTY
RECEIVED AND FILED

OCT 10 2013

Sue Regan

SUE REGAN
DEPUTY CLERK OF SUPERIOR COURT

COSTELLO & MAINS, P.C.

By: Kevin M. Costello, Esquire
Attorney ID No.: 024411991
18000 Horizon Way, Suite 800
Mount Laurel, NJ 08054
(856) 727-9700
Attorneys for Plaintiff

SHELLEY PRITCHETT,	:	SUPERIOR COURT OF NEW JERSEY
	:	MERCER COUNTY-LAW DIV.
	:	
Plaintiff,	:	
	:	Civil Action
vs.	:	
	:	DOCKET NO. <i>MER-L-2149-13</i>
	:	
STATE OF NEW JERSEY; AND	:	
JOHN DOES 1-5 AND 6-10,	:	COMPLAINT AND JURY DEMAND
	:	
Defendants.	:	

Plaintiff, Shelley Pritchett, residing in Mt. Laurel, New Jersey, by way of Complaint against the Defendant states as follows:

Preliminary Statement

Plaintiff brings this suit under the New Jersey Law Against Discrimination ("LAD") alleging failure to accommodate disability and perception of disability discrimination.

Identification of Parties

1. Plaintiff Shelley Pritchett, is at all relevant times herein, a resident of the State of New Jersey, and was an employee of the Defendants, State of New Jersey, Juvenile Justice Commission (“JJC”), is a public entity subject to the LAD and is at all times relevant herein, Plaintiff’s employer.

2. Defendants John Does 1-5 and 6-10, currently unidentified, are individuals and/or entities who, on the basis of their direct acts or on the basis of *respondeat superior*, are answerable to the Plaintiff.

General Allegations

3. Plaintiff was employed by Defendant, State of New Jersey as a Senior Corrections Officer from March 4, 2006 until she was forced to retire on December 1, 2011. At all times relevant to this claim, Plaintiff performed her job up to and beyond the reasonable expectations of her employer.

4. On June 8, 2011 while working, Plaintiff was injured on the job. As a result of this injury, the Plaintiff eventually went out on Worker’s Compensation Leave.

5. After several operations regarding her injuries, Plaintiff eventually was given an MRI of her spine which revealed that she had thoracic lesions associated with Multiple Sclerosis.

6. On September 21, 2011, Plaintiff was taken off Worker’s Compensation and put out on temporary disability up until November 1, 2011.

7. On October 11, 2011, Plaintiff received a letter from the Human Resources Manager at the JJC, Lisa Bell, stating that Plaintiff exhausted her Family and Medical Leave Act (“FMLA”) Leave as of August 31, 2011.

8. The letter further stated that no leave would be granted to Plaintiff beyond November 1, 2011, and that she would be required to return to work on November 2, 2011.

9. The letter stated "If you are not medically released by that time and are unable to return to work on that date, you may resign from your position in good standing."

10. After receiving that letter, Plaintiff spoke with JJC's Human Resources Representative, Dolly Velez and Lisa Quinto, who told Plaintiff that Captain Kelly Gibson made the decision not to extend her leave past November 1, 2011.

11. On November 1, 2011 Plaintiff sent a letter to Manager Bell, indicating that she could not return to work on November 2, 2011 per her doctor's orders.

12. Plaintiff's letter further stated that she is not abandoning her position, and that she needed an extension for unpaid leave in order to undergo treatment for her Multiple Sclerosis.

13. Furthermore, as a result of what Plaintiff was told about Captain Gibson making the decision not to extend her leave, Plaintiff spoke to her Union Representative Michael Leffredo, and asked him to speak to Captain Gibson's superiors about extending her leave.

14. Leffredo spoke to Gibson's superiors, Linda Thomas and Felix Mickens. Thomas told Leffredo that the State was not going to extend her medical leave.

15. When Leffredo brought up the fact that medical leave had been extended for other employees, Thomas responded "We are going to stop it at some point so we are stopping it now."

16. When Leffredo spoke to Felix Mickens, Mickens stated to him "The State will not be extending Plaintiff's leave." Mickens further stated "Tell her if she doesn't put in for retirement, she'll face disciplinary charges."

17. As a result of this, Plaintiff was forced to retire from her position as a Senior Corrections Officers on December 1, 2011.

COUNT I

Failure to Accommodate/Failure to Engage in the Interactive Process Under the LAD

18. Plaintiff hereby repeats and realleges paragraphs 1 through 17 as if fully set forth herein.

19. For the reasons set forth above, Defendants' conduct in this matter violates the LAD's requirement of reasonable accommodation, intentionally and egregiously.

WHEREFORE, Plaintiff demands judgment against the Defendants jointly, severally and in the alternative, together with compensatory damages, punitive damages, attorneys' fees, enhanced attorneys' fees, interest, costs, equitable back pay, equitable front pay, equitable reinstatement and any other relief the Court deems equitable and just.

COUNT II

Discrimination Based on Disability

20. Plaintiff hereby repeats and realleges paragraphs 1 through 19 as if fully set forth herein.

21. For the reasons set forth above, a determinative and/or motivating factor in the actions undertaken against Plaintiff was Plaintiff's status as disabled person.

WHEREFORE, Plaintiff demands judgment against the Defendants jointly, severally and in the alternative, together with compensatory damages, punitive damages, attorneys' fees, enhanced attorneys' fees, interest, costs, equitable back pay, equitable front pay, equitable reinstatement and any other relief the Court deems equitable and just.

COUNT III

Discrimination Based Upon Perceptions About and/or of Disability

22. Plaintiff hereby repeats and realleges paragraphs 1 through 21 as if fully set forth herein.

23. For the reasons set forth above, a determinative and/or motivating factor in the actions undertaken against Plaintiff was on the basis of perceptions held regarding Plaintiff's disability.

WHEREFORE, Plaintiff demands judgment against the Defendants jointly, severally and in the alternative, together with compensatory damages, punitive damages, attorneys' fees, enhanced attorneys' fees, interest, costs, equitable back pay, equitable front pay, equitable reinstatement and any other relief the Court deems equitable and just.

COUNT IV

Request for Equitable Relief

24. Plaintiff hereby repeats and realleges paragraphs 1 through 23 as though fully set forth herein.

25. Plaintiff requests the following equitable remedies and relief in this matter.

26. Plaintiff requests a declaration by this Court that the practices contested herein violate the New Jersey Law Against Discrimination.

27. Plaintiff requests that this Court order the defendants to cease and desist all conduct inconsistent with the LAD going forward, both as to the specific Plaintiff and as to all other individuals similarly situated.

28. To the extent that Plaintiff was separated from employment and to the extent that the separation is contested herein, Plaintiff requests equitable reinstatement, with equitable back pay and front pay.

29. Plaintiff requests, that in the event that equitable reinstatement and/or equitable back pay and equitable front pay is ordered to the Plaintiff, that all lost wages, benefits, fringe benefits and other remuneration is also equitably restored to the Plaintiff.

30. Plaintiff requests that the Court equitably order the Defendants to pay costs and attorneys' fees along with statutory and required enhancements to said attorneys' fees.

31. Plaintiff requests that the Court order the Defendants to alter their files so as to expunge any reference to which the Court finds violates the statutes implicated herein.

32. Plaintiff requests that the Court do such other equity as is reasonable, appropriate and just.

WHEREFORE, Plaintiff demands judgment against the Defendants jointly, severally and in the alternative, together with compensatory damages, punitive damages, attorneys' fees, enhanced attorneys' fees, interest, costs, equitable back pay, equitable front pay, equitable reinstatement and any other relief the Court deems equitable and just.

COSTELLO & MAINS, P.C.

DATED: 10/9/13

By:



Kevin M. Costello

DEMAND TO PRESERVE EVIDENCE

1. All Defendants are hereby directed and demanded to preserve all physical and electronic information pertaining in any way to Plaintiff's employment, to Plaintiff's cause of action and/or prayers for relief, to any defenses to same, and pertaining to any party, including, but not limited to, electronic data storage, closed circuit TV footages, digital images, computer images, cache memory, searchable data, emails, spread sheets, employment files, memos, text messages and any and all online social or work related websites, entries on social networking sites (including, but not limited to, Facebook, twitter, MySpace, etc.), and any other information and/or data and/or things and/or documents which may be relevant to any claim or defense in this litigation.

2. Failure to do so will result in separate claims for spoliation of evidence and/or for appropriate adverse inferences.

COSTELLO & MAINS, P.C.

By: _____

Kevin M. Costello

JURY DEMAND

Plaintiff hereby demands a trial by jury.

COSTELLO & MAINS, P.C.

By: _____

Kevin M. Costello

RULE 4:5-1 CERTIFICATION

1. I am licensed to practice law in New Jersey and am responsible for the captioned matter.
2. I am aware of no other matter currently filed or pending in any court in any jurisdiction which may affect the parties or matters described herein.

COSTELLO & MAINS, P.C.

By: _____

Kevin M. Costello

DESIGNATION OF TRIAL COUNSEL

Kevin M. Costello, Esquire, of the law firm of Costello & Mains, P.C., is hereby designated trial counsel.

COSTELLO & MAINS, P.C.

By: _____

Kevin M. Costello