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<p>SARAH FEARON,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>BRICK TOWNSHIP MUNICIPAL COURT, MICHELE EDGIN, JOANNE BERGIN, and ABC CORPORATIONS 1-5 (fictitious names describing presently unidentified business entities); and JOHN DOES 1-5 (fictitious names describing presently unidentified individuals),</p> <p style="text-align: center;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION OCEAN COUNTY</p> <p>DOCKET NO.:</p> <p style="text-align: center;"><u>Civil Action</u></p> <p style="text-align: center;">COMPLAINT & DEMAND FOR TRIAL BY JURY</p>
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Plaintiff, Sarah Fearon (“Plaintiff”), by way of Complaint against Defendant Brick Township Municipal Court (“Defendant Brick Township”), Defendant Michele Edgin (“Defendant Edgin”), and Defendant Joanne Bergin (“Defendant Bergin”), (“Individual Defendants”) (collectively “Defendants”), alleges as follows:

INTRODUCTION

1. In this employment discrimination case, Plaintiff not only seeks redress for being subjected to racist, homophobic, and other derogatory conduct on almost a daily basis, she seeks to expose an office-wide scandal pertaining to the prejudicial treatment of public employees and citizens. As described herein, there is a pattern of discrimination at the Defendant Brick Township Municipal Court, which is aided and abetted by its managers and supervisors. Defendants enabled, tolerated, and encouraged a culture of racism, homophobia, and retaliatory conduct, so much so that individual employees felt free to openly display their unlawful biases in the workplace.

2. For years, Brick Township Municipal Court employees mocked minority employees and members of the public utilizing the court's services. By way of example but not limitation, employees openly stated in the workplace that interracial couples and/or marriages are "disgusting" and that members of the "LGBTQ community" should "not have the right to vote in elections." When Plaintiff, a court clerk, complained about the pervasive discriminatory conduct, Defendants did much worse than fail to address her valid complaints of discrimination – they unapologetically mocked her, brazenly retaliated in an effort to force her resignation, characterized the discriminatory comments as "normal," claimed Plaintiff was simply too "emotional," attempted to cover up the conduct, and even recommended Plaintiff ***"tell everyone that [she is] gay so they stop making jokes and comments... If people knew, they probably would be aware and not say anything."***

3. Although Defendants are the very employees responsible for administering justice for members of the tax paying public, the Brick Township Municipal Court is, disgracefully, riddled with the very cancer the New Jersey Law Against Discrimination ("NJLAD") was designed to eradicate. Plaintiff brings this lawsuit to put an end to the madness, once and for all.

PARTIES

4. Plaintiff is an individual residing in Manahawkin, New Jersey, and at all times relevant hereto was employed by Defendant Brick Township as a Keyboarding Clerk. Plaintiff is homosexual and married. While Plaintiff is an active member within the Lesbian, Gay, Bisexual, Transgender, Questioning (“LGBTQ”) community, until recently, she never disclosed her sexuality or preference to her employer or co-workers.

5. Defendant Brick Township is a New Jersey Municipal Court with its principal place of business at 401 Chambers Bridge Rd, Brick Township, New Jersey 08723. At all times relevant hereto, Defendant Brick Township is an “employer” as defined under the NJLAD.

6. Defendant Edgin, at all times relevant hereto, is an individual and Court Administrator at Defendant Brick Township. This claim is brought against Defendant Edgin in her individual capacity and as an agent of Defendant Brick Township. At all times relevant hereto, Defendant Edgin is an “employer” as defined under the NJLAD.

7. Defendant Bergin, at all times relevant hereto, is an individual Business Administrator and Americans With Disabilities Act (ADA) Coordinator at Defendant Brick Township. This claim is brought against Defendant Bergin in her individual capacity and as an agent of Defendant Brick Township. At all times relevant hereto, Defendant Brick Township is an “employer” as defined under the NJLAD.

8. Defendants ABC Corporations 1 through 5 are currently unidentified business entities who have acted in concert with Defendant Brick Township, and/or currently unidentified business entities responsible for the creation and/or implementation of harassment or anti-discrimination policies of Defendant Brick Township, and/or currently unidentified business entities who have liability for the damages suffered by Plaintiff under any theory advanced therein.

9. Defendants John Does 1 through 5 are currently unidentified individuals who acted in concert with Defendants and/or currently unidentified individuals responsible for the creation and/or implementation of harassment or anti-discrimination policies of Defendant Brick Township and are currently unidentified individuals who may have liability for the damages suffered by Plaintiff under any theory advanced herein.

FACTS COMMON TO ALL CLAIMS

10. Plaintiff repeats each allegation set forth above as if set forth fully herein at length.

11. Plaintiff commenced employment at Defendant Brick Township in March 2016 as a part time employee. In July 2016 Plaintiff was promoted to a full-time employee. Plaintiff currently holds the position of Court Clerk.

12. Plaintiff, at all relevant times, was a stellar employee, receiving compliments and positive performance reviews every single year of her employment.

13. Almost immediately after Plaintiff commenced employment with Defendant Brick Township, however, she realized the workplace was rife with harassment, discrimination, and retaliation.

14. Defendant Brick Township employees regularly made discriminatory and derogatory comments about fellow employees and individual citizens utilizing the court's services.

15. In addition, Defendant Brick Township employees openly retaliated against employees who complained of such conduct and conspired to destroy the careers of those who dared to challenge management.

16. For example, in or around January/February 2017, Plaintiff was asked to make false allegations and disparaging comments regarding one of Plaintiff's co-workers.

17. Even more shocking, Plaintiff was promised a pay increase by her direct supervisor, Defendant Edgin, if Plaintiff assisted in the removal of the complaining employee from the office.

18. When Plaintiff questioned why Defendant Edgin would make such a request, Defendant Edgin informed Plaintiff the employee made complaints about co-workers and supervisors using inappropriate, racially insensitive, and homophobic comments in the workplace. The employee had also complained that Defendant Brick Township employees made discriminatory and disparaging comments about citizens and litigants utilizing the workplace.

19. Plaintiff was stunned – rather than investigate and/or take corrective action to remediate the workplace, Defendant Edgin brazenly retaliated against the employee and solicited others to help destroy that employee’s career.

20. While Plaintiff outright rejected Defendant Edgin’s bribery attempt, she was alarmed and concerned about how Defendants would handle her own complaints.

21. Not surprisingly, due to Defendants failure to remediate the workplace, the Defendant Brick Township’s workplace became increasingly hostile towards minority employees and citizens and LGBTQ individuals in particular.

22. The administrative staff, court clerks, deputy’s, and court/business administrators all participated and/or witnessed the discrimination in the workplace.

23. The discriminatory and insensitive comments made in the workplace on a daily basis included but were not limited to:

- a. “Gay people are gross.”
- b. “Can you believe the gays?”
- c. “Gay people are crazy.”
- d. Making faces and negative comments regarding homosexual individuals and litigants utilizing the court’s services, homosexual

couples holding hands, or displaying any kind of modest affection toward one another.

- e. “I cannot believe people are *actually* gay.”
- f. Pointing to or referring to interracial couples, or Caucasian individuals dating someone of a different race, as “disgusting.”
- g. “They [LGBTQ community] should not have the right to vote in elections.”
- h. “So gay and so gross.”
- i. Mockingly responding to objections or complaints about the conduct by stating, “oh it’s nothing, we are just being racist.”
- j. Racist comments were permitted “as long as your quiet and no one hears you being racist.”
- k. “People are just gay to fit in.”
- l. “Gay people are only gay because they think it is cool, especially nowadays in high school.”
- m. “I find it [LGBTQ Community] disturbing.”
- n. “I just do not understand the reasoning or purpose behind being gay.”
- o. “I thought they were lesbians in the song the way they were singing.”

24. Defendant Brick Township employees also regularly approached Plaintiff, making discriminatory comments directly to her on a regular basis.

25. By way of example, after a co-worker recently got a haircut, she told Plaintiff, “***I got a lesbian haircut, now I look like a lesbian.***”

26. Later, that same co-worker told Plaintiff, “***I got a new car, it is a lesbian car.***” Plaintiff was shocked and outraged by these comments.

27. Similarly, another co-worker, knowing full-well Plaintiff’s sister is gay, asked Plaintiff, “***How is your mother okay with that, I don’t know what I would do if my daughter was.***”

I don't understand it and find it disgusting, I would disown my girls" while making face displaying her clear disgust with homosexuals.

28. Defendant Brick Township Employee, "Cathy" (last name currently unknown), approached Plaintiff while the song "Girl Crush" by artist Little Big Town was playing in the office. Cathy, while uncontrollably laughing said to Plaintiff, *"this song is about lesbians."* Plaintiff turned around in disbelief.

29. On another occasion, Cathy told Plaintiff *"I get nervous touching gay guy's money,"* explaining, *"it grosses me out."*

30. Defendant Brick Township employees also regularly approached Plaintiff informing her of what "percentage lesbian" they received after participating in an online "test."

31. In addition, Defendant Brick Township Employee, "Cody" (last name currently unknown) has made disparaging comments about the Armenian Genocide, including comments and jokes that appeared to applaud the attempted extermination of an entire ethnic group of people.

32. Defendants cultivated a workplace that allowed and encouraged employees and supervisors to engage in crude, racist, and homophobic behavior.

33. The conduct was accepted as normal and entrenched in the workplace culture. Plaintiff lived in a constant state of stress due to her working environment.

34. As a result, Plaintiff kept her sexuality a secret, though she suspected that her co-workers made discriminatory comments about her behind her back.

35. After several years of being subjected to a discriminatory and hostile working environment, in or around September/October 2018 Plaintiff complained to Defendant Edgin.

36. Defendant Edgin disregard Plaintiff's complaints and instead made the conversation about her personal life, telling Plaintiff "*I am bisexual and want a divorce from my husband because I think I should be with a girl.*"

37. In or around March/April 2019, Plaintiff complained to Defendant Edgin for a second time, explaining that the racial and homophobic comments in the office were extremely offensive and violations of workplace policy. Further, Plaintiff explained she is "gay" and that the homophobic comments were particularly offensive to her.

38. Rather than investigate or remediate the workplace, Defendant Edgin downplayed Plaintiff's complaint and attempted to justify the vile workplace behavior stating, "*just brush it off.... They are older and their going to have their opinions, they are from a different generation.*"

39. Defendant Edgin further responded, "*Oh, who cares. They are just dinosaurs....it is nothing, do not worry about it.*"

40. It became clear to Plaintiff that Defendant Edgin was not going to take any action to remediate the unlawful behavior in the office.

41. As a result, Plaintiff reached her breaking point and thus, in or around March/April 2019, Plaintiff contacted her Union Representative, Christina Scott, to complain about the inappropriate behavior.

42. Defendant Brick Township's Anti-Harassment Policy stated in relevant part:

It is the policy of the Township of Brick to promote and maintain a work environment in which all employees are treated with respect and decency. **No form of discriminatory or disrespectful conduct by any employee will be tolerated.** Acts or incidents of unlawful harassment should be promptly reported in accordance with the procedures outlined below. **The Township will promptly investigate all reports of unlawful harassment. Violation of this policy is an extremely serious matter and constitutes cause for**

disciplinary action, up to and/or including immediate termination. Note: Employees who violate this policy also risk personal legal liability.

43. Furthermore, Defendant Brick Township’s policy explicitly provides examples of what conduct is considered “harassment” under the policy:

While it is not easy to define precisely what harassment is, improper conduct that may violate the Township’s policy against harassment includes, but is not limited to the following:

- **Unwelcome remarks and actions based on protected classifications.** Some examples include **slurs, epithets,** threats, **derogatory comments, unwelcome jokes, teasing,** caricatures or representations of persons using electronically or physically altered photos, drawings or images, and **other similar verbal, written, printed or physical conduct.**
- **Affecting or denying employment opportunities** or benefits to an employee based upon the protected classifications.
- Engaging in a **negative tangible employment action based upon the protected classification.**
- **Retaliation against an employee who has reported an alleged violation of this Policy or participated in an investigation related to this Policy.**

44. Despite reporting clear violations of law and discrimination, Plaintiff’s union representative did not attempt to address the matter due to Plaintiff expressing fear of retaliation. In turn, the discriminatory and hostile working environment remain unchanged.

45. In November 2019, Plaintiff thus escalated the matter and complained to Defendant Bergin (Defendant Edgin’s supervisor).

46. Plaintiff specifically complained her co-workers make discriminatory comments on a daily basis, that the comments are inappropriate in a workplace, and that the conduct makes the workplace extremely uncomfortable for her.

47. Defendant Bergin, as with Defendant Edgin, ignored Plaintiff's complaints and instead advised her to share her sexual preferences with other employees. Specifically, Defendant Bergin stated, "*Maybe you should tell everyone that you are gay so they stop making jokes and comments... If people knew, they probably would be aware and not say anything.*"

48. Plaintiff was shocked by Defendant Bergin's callous suggestion.

49. Defendants thus violated their own Anti-Harassment Policy by taking zero action to remediate the workplace and to protect Plaintiff after she complained of such illicit conduct.

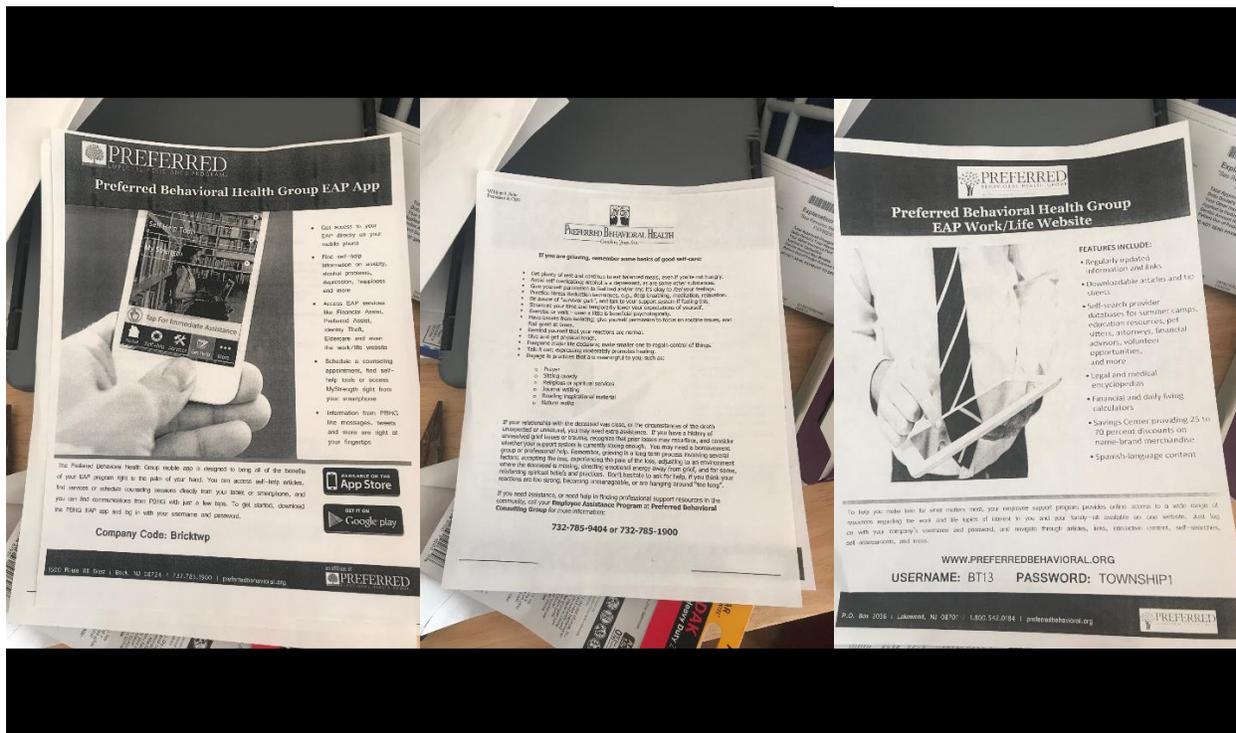
50. To the contrary, Defendants began to retaliate.

51. By way of example, Defendant Edgin knowing Plaintiff had confided in her earlier about her status as a gay woman, laughed when a co-worker made a derogatory comment about a gay man so loud that everyone in the office could hear. Defendant Edgin allowed such behavior in an attempt to embarrass and humiliate Plaintiff.

52. Shortly thereafter, on November 21, 2019, Plaintiff complained to Defendant Bergin about the discriminatory comments for a second time. Defendant Bergin, in response, set up a meeting with Plaintiff and a Human Resources representative.

53. During that meeting Plaintiff reiterated that she felt she was being targeted and that the discriminatory comments were inappropriate and made her uncomfortable in the workplace.

54. In response, Defendant Bergin suggested that Plaintiff was suffering from a disorder and needed medical treatment. Defendant Bergin, inexplicably, handed Plaintiff a *mental health brochure* and advised her "*you need help and to speak with someone.*"



55. But, of course, Plaintiff's sexual preference was not a disease and her complaints about discrimination in the workplace did not derive from her own purported mental health issues.

56. Defendant Bergin did not stop there, however. She continued to diminish Plaintiff's complaints, telling Plaintiff she *"could not handle the atmosphere,"* she was *"too immature for her position,"* and that she *"needs to learn how to handle it, needs to be more mature"* because *"people are allowed to have their own opinions."*

57. Plaintiff, desperate and in utter disbelief that Defendants outright refused to address the workplace behavior, stated ***“I need a transfer or this situation to be solved, it should not be going on in the office.”***

58. In response, Defendant Bergin said, ***“if you ask for a transfer, do not come back to me again.”***

59. When Plaintiff asked about her “options,” Defendant Bergin first attempted to dissuade Plaintiff from going forward with a formal complaint. Defendant Bergin told Plaintiff:

If we launch an investigation in the department, I am going to have to individually pull everyone out of the office one by one and I really do not know why you would want to do this because your name will be brought up in every meeting, that you are the one that complained.

60. When Plaintiff insisted that she wanted an investigation because the behavior would not stop without one, Defendant Bergin pushed further, questioning her decision yet again, asking ***“Are you SURE you want me to do this?”***

61. To further deter Plaintiff, Defendant Bergin reiterated that ***“I’m going to have to pull your coworkers one by one and tell them you complained.”***

62. When Plaintiff brought up the idea of a transfer, simply to get away from the discriminatory environment, Defendant Begin responded:

I do not know where you would be a good fit because you react to things and are immature, if you ever get a transfer you better not come walking down this hallway again in 2 years asking for another transfer.

63. Defendant Bergin concluded the meeting by telling Plaintiff, ***“you have a lot of growing and maturing to do,”*** even though it was Defendant Bergin that was acting grossly inappropriate and immature fashion.

64. Plaintiff left the meeting feeling ashamed and lost. Defendants made the workplace intolerable and, worse, her superiors refused to do anything about the matter.

65. On November 26, 2019 Plaintiff submitted a written complaint to Defendant Bergin. Specifically:

From: Sarah Fearon [<mailto:sarah.fearon@njcourts.gov>]
Sent: Tuesday, November 26, 2019 4:00 PM
To: Joanne Bergin
Cc: Sarah Zimmer-Scarpelli
Subject:

I want to thank you for meeting with me on November 21st. I am writing you because I don't feel like the meeting was productive at all nor have any of the meetings since then in fact I think their the opposite of helpful I think they have made things worse for me and I think it's in retaliation for my complaints to you. I came to you with a workplace problem that was not resolved after I brought it to the attention of my boss, Michele Edgin, twice. My primary concern was regarding gay/homophobic comments being made weekly, and how difficult it has been to continuously deal with this considering I identify as a gay woman. I informed you of Michele's responses to my concerns which included her saying, "Oh, who cares. They're just dinosaurs", in relation to older co-workers making comments in the office as if that is acceptable. It is almost 2020 and that is entirely inappropriate conversation for the workplace. Your response to my concerns was, "If people knew, they probably would be aware and not say anything". This is false because someone in the office did know and still made homophobic and racial comments to other co-workers. I also should not have to inform people that I am gay in order for them to not make inappropriate comments at work, especially in a workspace where these types of comments are so easily heard by the public when people come in. These types of comments should not be made in any workplace, especially not in a municipal court.

In addition, I came to you to fix this situation, your job is to fix situations like these. Instead of trying to fix anything I felt like my concerns were dismissed and you and HR acted like they were nothing. You tried to convince me to not bring an investigation by intimidating me, saying "are you sure you want me to do this, I'm going to have to pull your coworkers one by one and tell them what you said." Your supposed to help me, not make me question my concerns. You even handed me a mental health brochure and told

me “you need help and to speak with someone”, as if me being gay is a mental health disease that I need to get checked. When I finally asked for a transfer to get away from all of this after not getting help from anyone, your immediate response was, “I don’t know where you’d be a good fit because you react to things and are immature” and “if you were to ever get a transfer you better not come walking down this hallway again in 2 years asking for another transfer”. You also told me “you have a lot of growing and maturing to do”, and that made me feel like I was completely wrong to reach out to you at all. I was completely taken back, speechless, and confused. It made me feel ashamed of who I am and as though I did the wrong thing, when in fact I know I did not. I came to you, my business administrator, with a problem and you threw it in my face as though I’m supposed to be okay with hate comments being made regularly. That is not okay, that is a hostile working environment that I shouldn’t have to put up with it everyday. After the meeting, I was distraught which resulted in me having a panic attack in the office. I had trust in you being my business administrator, and you made me feel foolish, ill-advised, and irrelevant. This was the most traumatic experience I have ever been through. I would have never anticipated feeling this way about a place I used to love going to work to.

Then yesterday, on 11/25/19 I was called into meeting with Joanne, Sarah in HR and my union rep Christina. I explained everything that has been going on, starting with the gay comments that were made and gave two examples, the first being Cathy and Cody making fun of the LGBTQ community and Cathy saying “they shouldn’t be allowed to vote in elections”, 2nd being Lisa saying someone is “so gay and gross”. I told them I went to Michele twice and her reaction each time was entirely unconcerned, offering no suggestion. I also told you that Michele never followed up.

They were asking about other issues too and I told them about favoritism in the office and got frustrated because I felt I was being steered off topic intentionally and said the main focus here is the gay/homophobic and racist hate comments being made. They brought up if I came out and told people I am gay that people would be aware of that they are saying cause they would know. I proceeded to say that doesn’t make sense because they know relatives are gay and still say things and they say relatives are different and since I am actually gay and working with them maybe they wouldn’t make those comments. I said regardless it shouldn’t be okay in a workplace.

I felt as if Joanne had an attitude the entire time and like I was being intimidated again like the last meeting where they said that if they

start interviewing people, they will find out I'm gay as if that would make me want to stop the investigation which is not the case. Joanne kept saying I should have gone to HR and I told Joanne and Sarah why I did not regarding the sandy events and how Michele was telling me things Sarah told her and Michele made me pinky promise not to tell anyone. therefore I didn't trust HR and it doesn't matter because I brought it to my bosses attention twice, someone who is higher up then me, someone who could have resolved the issues months ago and someone who could have walked to HR with me if she didn't know how to handle it, instead she took no action. Also, in my other meeting, they called an HR person there anyway so HR was there.

Sarah from HR asked me to type a short paragraph of what was said. Sarah asked if these comments were recently said because if it was a while ago it would be harder for people to recall. I think that is ridiculous because it happens daily. I told her I would type something up and I also told Joanne how her response and calling me immature and saying I have a lot of maturing made me feel I wasn't being taken seriously. She said she didn't say it in that context, but she clearly did and the other person in the room knows that.

This is all entirely unacceptable and I don't feel like anything is being taken seriously which is very disappointing. I don't feel like any of my concerns are actually being heard and instead I just feel like every meeting is being held just in attempt to prevent me from wanting an investigation to happen. It's like everyone is already retaliating against me for placing my complaints and trying to bully me into not having an investigation, but if I don't have an investigation nothing will ever get better here and I will just have more days where I have to be in this environment that is not healthy because of all of the horrible comments about gays and people of other races. It's not right and I want it all to stop.

Sarah Fearon
 Brick Municipal Court
 401 Chambersbridge Road
 Brick, NJ 08723
 P - 732-262-1226 Ext. 1281
 F - 732-477-5418

66. Defendant Bergin responded to Plaintiff's complaint that same day:

On Nov 26, 2019, at 6:20 PM, Joanne Bergin
 <jbergin@twp.brick.nj.us> wrote:

Hello Sarah,

Thank you for your follow-up email. The Township's culture is one of support and professional courtesy; inappropriate and hurtful comments are not accepted as part of our dialogue and when issues or concerns are brought to our attention, they are addressed.

As discussed yesterday, we fully intend to launch a thorough investigation into the complaints you shared with me and human resources for the first time on Thursday, November 21. I asked to speak with you again yesterday, Monday, November 25 so that our HR Director, and your Union representative, could be present. Based on that meeting, I am copying the Union Representative on this email.

As of today, we are waiting for documentation from you of specific incidents to assist in our investigation. Please let me know if that information has been provided and if not, when it will be provided.

In terms of the investigation, it is important to me that we discuss what an investigation will entail in terms of speaking with all members of the Court staff. None of us want you feeling blindsided about what an investigation entails. Respecting your privacy is paramount. However, as your Union representative stated yesterday, the dialogue may lead to assumptions and conversations and there may be conclusions made about your life outside of Brick Township. We can't help that but we will absolutely not allow inappropriate, hurtful or disrespectful comments in the workplace about anyone's personal life.

Our investigation is underway. As I started earlier, as of today we were expecting additional information to use as part of that. If nothing additional is forthcoming we will proceed accordingly.

In the meantime, please contact Human Resources immediately if you feel in need of support or assistance, and certainly, if you have a complaint. As we discussed, raising a red flag when incidents occur is necessary in order for us to talk to people when incidents, comments, and conversations are fresh in their minds. Several months, or a year after an incident, makes it much harder to investigate.

We will circle back with you upon completion of our due diligence investigating the complaints.

Joanne Bergin

67. Christina Scott, Plaintiff's Union Representative, also emailed Defendant Bergin on November 26, 2019. Specifically:

From: CHRISTINA SCOTT <christinr4@aol.com>
Sent: Tuesday, November 26, 2019 7:08 PM
To: Joanne Bergin <jbergin@twp.brick.nj.us>
Cc: Sarah Fearon <sarah.fearon@njcourts.gov>; Sarah Zimmer-Scarpelli <szimmer@twp.brick.nj.us>
Subject: [External]Re:

Thank you for keeping me in the loop. As always I am available to assist anyone who comes to me with an issue so that it can be addressed with me by their side. I was under the impression from the meeting yesterday Sarah will be supplying HR with specific incidents and comments for the investigation. I believe she is working on that, I will confirm with Sarah and have her send it over ASAP. I by no means wish to stop someone from coming forward with a concern, it's actually the opposite, I try to encourage a meeting but I also can not force anyone to do something they don't want to do and I can only speak on someone's behalf to a certain point. As I mentioned yesterday, Sarah did come to me about situation a few months ago, sometime in March or April I believe but after setting up a meeting with HR to go over a few things I was asked by Sarah to cancel it. I respected Sarah's wishes and kept my door open if she wished to revisit it in the future. Once the interviews are complete I will meet with Sarah in HR for her findings, if anyone should ask for a union representative during their interview I will make sure Madeline or I are available for them.

Thank you,

Christina Scott
 President TWU Local 220
christinr4@aol.com
[732-995-7450](tel:732-995-7450) Cell

68. Plaintiff replied to the email thread and explained she had already submitted the requested documentation. Specifically:

From: Sarah Fearon <sarah.fearon@njcourts.gov>
Sent: Wednesday, November 27, 2019 8:01 AM
To: CHRISTINA SCOTT <christinr4@aol.com>; Joanne Bergin <jbergin@twp.brick.nj.us>

Cc: Sarah Zimmer-Scarpelli <szimmer@twp.brick.nj.us>
Subject: Re: [External]Re:

I emailed the documentation to Sarah yesterday around 3:30 pm.

Sarah Fearon
Brick Municipal Court
401 Chambersbridge Road
Brick, NJ 08723
P - 732-262-1226 Ext. 1281
F - 732-477-5418

69. Upon information and belief, Defendant Bergin advised Defendant Edgin about Plaintiff's complaints.

70. In response, Defendant Edgin began to retaliate against Plaintiff, by making her assignments unnecessarily difficult and denying assistance from co-workers when the office was short staffed.

71. Defendant Edgin either completely ignored Plaintiff or acted in a brusque manner whenever Plaintiff made simple requests or attempted to do her job.

72. For example, on one occasion, Defendant Egin simply refused to move aside to allow Plaintiff to move around her while in the office. Plaintiff politely stated "*excuse me*" but Defendant Edgin refused to move requiring Plaintiff to squeeze and shuffle to get past her.

73. On another occasion when Plaintiff asked Defendant Edgin about a fax she received Defendant Edgin ignored her and when Plaintiff began to speak again Defendant Edgin interrupted her and said, "*you can leave now,*" with a hostile tone.

74. Plaintiff knew that Defendant Edgin was retaliating against her for her complaints of discrimination.

75. Further, based upon Defendant Egin's handling of other similar matters, Plaintiff knew the situation was only going to get worse.

76. As a result, On December 4, 2019 Plaintiff sought medical treatment for the abundance of anxiety and stress arising out of the toxic work environment at Defendant Brick Township.

77. On December 9, 2019, Plaintiff, along with other Defendant Brick Township staff, were suddenly requested to review and acknowledge sixteen (16) different policies relating to Code of Conduct, CEPA Claims and Anti-Discrimination.

78. Notably, Defendants “Policy & Procedure for Reporting Involvement in Litigation” was designated as “(revised).”

Subject: Judiciary Policy Acknowledgements

Good afternoon,

Last Friday we briefly discussed the Judiciary Policy Acknowledgements at the Quarterly CA meeting. Please read through all the policies attached (also found on SharePoint in the forms folder) and sign off on page 2 of the form. Please upload into sharepoint, scan and email, or fax back to Erin and Lia by December 31st.

From: Lia Grasso-Pulaski <lia.grassopulaski@njcourts.gov>

Sent: Monday, December 9, 2019 2:57 PM

To: *eliminated email address for length and confidentiality purposes

Cc: James Liguori <James.Liguori@njcourts.gov>; Patricia Mathis <Patricia.Mathis@njcourts.gov>

Please note: All Court Administrators please ensure any court staff that does not have judiciary email such as part-time staff, sound recorders, or bailiff’s should acknowledge and sign off on the policies as well.

Thank you,

Attachment:

<p>NEW JERSEY JUDICIARY Municipal Division</p> <p>ACKNOWLEDGEMENT OF RECEIPT FOR THE FOLLOWING:</p> <ul style="list-style-type: none"> • 2014 Code of Conduct for Judiciary Employees and Supplement Code Opinions (E5-13) http://intranet.nicourts.gov/policies/assets/policies/E5-13_Code+of+Conduct+Manual+Rev+12+2014.pdf • 2014 Supplemental Code of Conduct For Judiciary Employees (E5-13a) http://intranet.nicourts.gov/policies/assets/policies/E5-13a_SUPPLEMENTAL+CODE+OPINIONS++2014.pdf • Policy Statement on EEO, AA and Anti-Discrimination (E4-7) http://intranet.nicourts.gov/policies/assets/policies/E4-7_EEO_AA_anti-discrimination.pdf • Revised Judiciary Policy on the Conscientious Employee Protection Act (CEPA) (E4-8) http://intranet.nicourts.gov/policies/assets/policies/E4-8_CEPA.pdf • Statewide Judiciary E-Mail Template Policy (E5-9) http://intranet.nicourts.gov/policies/assets/policies/E5-9_e-mail_template_policy.pdf • Judiciary Internet Access and Use Policy (E5-10) http://intranet.nicourts.gov/policies/assets/policies/E5-10_Internet_access_use.pdf • Judiciary Policy on Use of Social Media (E5-12) http://intranet.nicourts.gov/policies/assets/policies/E5-12_policy_social_media.pdf • Information Technology Security Policy (2015) (E5-14) http://intranet.nicourts.gov/policies/assets/policies/E5-14_JU_IT_security_policy_06-29-15.pdf • Policy & Procedures for Reporting Involvement in Litigation (Revised) (E5-16) http://intranet.nicourts.gov/policies/assets/policies/E5-16_Reporting+Involvement+in+Litigation.pdf • Judiciary Workplace Violence Policy (E5-17) http://intranet.nicourts.gov/policies/assets/policies/E5-17_workplace_violence.pdf • Notice of Outside Activities/Employment Policy http://home2.courts.judiciary.state.nj.us/forms/repository/co/general/10345.pdf http://home2.courts.judiciary.state.nj.us/forms/repository/co/general/10343.pdf • Supreme Court Policy Governing Municipal Court Administrators and Deputy Administrators Who are Married to or are the Parents or Children of Police Officers (Directive #1-82) https://nicourts.gov/attorneys/assets/directives/dir_1_82.pdf?cacheID=72k7GT0 • Municipal Court Employees Reporting Involvement in Municipal Court Cases and Criminal/Quasi-Criminal Matters – Policy Statement (Directive #3-08) https://www.nicourts.gov/attorneys/assets/directives/dir_03_08.pdf?c=9yJ 	<ul style="list-style-type: none"> • Employee Risk Avoidance Memo 10/8/09 http://tnpacheweb1.courts.judiciary.state.nj.us:84/mcs/training/2010_new_training/2010_orientation/EmpLOYEE_risk_avoidance.pdf • Opinion #8-01 http://tnpacheweb1.courts.judiciary.state.nj.us:84/mcs/memo/opinion_8_01_parties.pdf <p>I hereby acknowledge that I have received and read a copy of the above referenced materials and agree to abide by the provisions set forth in each document.</p> <p>NAME (printed): _____ SIGNATURE: _____</p> <p>DATE: _____ TITLE: _____</p> <p>COURT(S): _____</p>
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79. Despite the issuance of these policies, just three days later, or December 12, 2019, Plaintiff once again experienced discrimination at Defendant Brick Township – employees were literally shouting discriminatory comments around the office.

80. For example, a Defendant Brick Township employee openly mocked the accent and dialect of an individual of Chinese descent. When the employee noticed Plaintiff heard the racist comments she said, *“oh no, I hope I do not get in trouble”* while looking straight at Plaintiff with a smirk.

81. Later that same day, Defendant Brick Township employee was loudly talking in the office about watching pornography specifically referencing blow jobs and other sexual acts in great detail.

82. When a Defendant Brick Township employee noticed that Plaintiff was nearby and heard the comments, the employee quickly stood up and said “*shhh*” while pointing at Plaintiff. The employee pointed at Plaintiff, mocking her and stating “*oh sh*t.*”

83. In short, Defendants not only failed to address Plaintiff’s complaints and remediate the workplace, Defendants openly taunted Plaintiff for complaining of clear discrimination.

84. Thus, on December 13, 2019 Plaintiff complained to Defendant Bergin about the ongoing discrimination and retaliation in the workplace:

From: Sarah Fearon
Sent: Friday, December 13, 2019 8:06 AM
To: Joanne Bergin <jbergin@twp.brick.nj.us>
Cc: Sarah Zimmer-Scarpelli <szimmer@twp.brick.nj.us>; 'Christina Scott' <christinr4@aol.com>
Subject:

Last week on December 4th a Wednesday we were light staffed, out front it was Cody, mireya and I. We had court that day so Michele called us all into her room and told us mireya was going into the court room leaving Cody and me out front and dawn to come up and help us out. While we were back in her room she started assigning work to people since a lot of people were out. She said “sarah you’re sitting up front with Cody”, “sarah you’re to do the mail” and then said “mireya after you’re done cleaning your calendar you can schedule or you can have sarah schedule”. She mentioned Louise notices and I told her I already started them. Cody said “I can take care of the mail, I usually do when kelly is out” and Michele replies “I figured it would be too much since you’re sitting at the window” but yet she gave me the mail job while sitting at the window. So Cody did do the mail and mireya did say she would take care of the scheduling and I did tell mireya if I get all my work done I’ll be more than happy to help her with the scheduling. Point being Michele was purposefully giving me all the work, and not anyone else, the other co workers had to voice that they will take care of the other tasks. I am being treated differently, I am being treated worse

by Michele and feel this is in further retaliation to my complaints about the racial, discrimination/comments in the office.

It went even further yesterday, December 12. In the morning mireya was making fun of a Chinese guy who was her server the night before, even trying to mimic his voice. And after doing it said “oh no I hope I don’t get in trouble” and laughing after it, as if all of this is a joke. Later on there was inappropriate talking going on in the office and a co worker got up really quick and said “shh” to the other co workers. I got up at the same time and saw her pointing in my direction while saying “shh”. And then then person who was saying those comments said “ohh shit”. The confirms that my serious complaints are being talked about to other co workers and being brushed over in a joking matter which they shouldn’t be. The two bosses, Michele and Lisa, always involve co workers and now it’s just getting to be petty nonsense. Especially when after anything is said mireya adds to the end “will that get me in trouble” and laughs. This is just further retaliation for my complaints, being pointed at in this office, for just simply wanting a workplace that doesn’t demean or discriminate against other sexual orientations or races. Is that too much to ask? Is it too much to ask to want to work in a comfortable environment? That’s all I want and I just feel like ever since I complained this situation is getting worse and not better. This was the reason I didn’t want to say anything in the first place because I live in fear every day coming to work.

Sarah Fearon
Brick Municipal Court
401 Chambersbridge Road
Brick, NJ 08723
P - 732-262-1226 Ext. 1281
F - 732-477-5418

85. Plaintiff never received a response to this complaint. Not surprisingly, due to Defendants’ failure to address the matters, the retaliation only escalated.

86. On December 16, 2019, Plaintiff noticed she was being watched and followed by coworkers, making the workplace even more uncomfortable and unbearable.

87. Later that same day, Plaintiff’s Union Representative contacted Plaintiff to inform her that Defendant Bergin was requesting a meeting on December 20, 2019.

88. The next day, on December 17, 2019, Brick Township Municipal Judge Joseph D. Grisanti had held a holiday luncheon for all employees in the office. The luncheon was held at Ikko Japanese Steakhouse in Brick, New Jersey. Although Plaintiff was nervous and anxious about attending, she did so out of respect for Judge Grisanti.

89. Upon arrival at the restaurant, all of Plaintiff's co-workers purposefully sat on the opposite side of the table, leaving multiple seats open between Plaintiff, her seasoned coworker friend and all of the other employees and Judge. The isolation was so obvious the waitstaff instructed his guests to "move closer." To avoid being rude, Plaintiff moved closer, but she was otherwise ignored by virtually every single co-worker in attendance.

90. Further, in clear retaliation, Defendant Edgin, while staring and rolling her eyes at Plaintiff, singled out Plaintiff and announced to the entire office:

As you all know you were all called in by the Business Administrator and Human Resources for an investigation and because of that investigation Human Resources will be having only our office doing a class. I guess make the best of what you can out of it.

91. In addition, since complaining, Plaintiff's co-workers isolate Plaintiff, ignore her altogether, and give her dirty looks whenever she is in the office.

92. Despite Plaintiff's repeated complaints of discrimination and retaliation – which were corroborated by co-workers during the course of the investigation – on January 7, 2020 Defendant Bergin, a Defendant Brick Township Human Resources employee ("Sarah"), and Ms. Scott informed Plaintiff that they spoke with several employees *and all of her complaints were found to be "unsubstantiated."*

93. Immediately thereafter, feeling hopeless, filled with anxiety, and overcome with emotional distress, Plaintiff left the office to seek medical treatment.

94. Plaintiff continues to work in a workplace where she is targeted daily, discriminated against, and retaliated against for simply wanting a workplace free of unlawful discrimination and retaliation.

95. Defendant Edgin, Defendant Bergin, and employees of Defendant Brick Township have subjected Plaintiff to a pattern of severe and pervasive harassment, discrimination and retaliation.

96. Defendants have taken no action to protect Plaintiff from discrimination, harassment and retaliation. In fact, Plaintiff's use of the appropriate complaint structures has only made the situation worse.

COUNT ONE

NJLAD – DISPARATE TREATMENT & HOSTILE WORK ENVIRONMENT DISCRIMINATION DUE TO GENDER AND SEXUAL ORIENTATION

97. Plaintiff repeats each and every allegation set forth above as if set forth fully herein at length.

98. Plaintiff was subjected to pervasive, severe, and continuing instances of discrimination and harassment based on gender and sexual orientation.

99. The above-described conduct would not have occurred but for Plaintiff's gender and sexual orientation.

100. The conduct was severe or pervasive enough to make a reasonable person believe that the conditions of employment were altered and the working environment was hostile.

101. Defendants did not have an effective anti-harassment policy in place, Defendants have not maintained an anti-harassment policy that is current and effective, and Defendants' anti-harassment policy existed in name only.

102. Defendants did not maintain useful formal and informal complaint structures for

victims of discrimination, harassment, and retaliation.

103. Defendants did not properly train their supervisors and/or employees on the subject of discrimination, harassment, and retaliation.

104. Defendants failed to institute appropriate monitoring mechanisms to check the effectiveness of the policies and complaint structures.

105. Defendants did not have a commitment from the highest levels of management that harassment will not be tolerated.

106. Defendants failed to conduct prompt and thorough investigations of employee complaints of harassment or provide a remedial plan reasonably calculated to stop any harassment that is found.

107. As a result of the above harassing and discriminatory conduct, Plaintiff experiences ongoing and debilitating emotional distress and experiences significant economic damages.

108. As the employers and/or supervisors of the Plaintiff, Defendants are vicariously, strictly, and/or directly liable to the Plaintiff pursuant to the New Jersey Law Against Discrimination (“LAD”), *N.J.S.A. 10:5-1, et seq.*, in that the affirmative acts of harassment and discrimination committed by Defendant Edgin and Defendant Bergin occurred within the scope of his employment; the creation of the hostile work environment was aided by Corporate Defendants in delegating power to Defendant Edgin and Defendant Bergin; allowing Defendant Edgin and Defendant Bergin to control the day-to-day working environment; and/or the Corporate Defendants were deliberately indifferent, reckless, negligent and/or tacitly approved the hostile work environment; and/or Corporate Defendants failed to create and/or have in place well-publicized and enforced anti-harassment policies, effective formal and informal complaint structures, training, and/or monitoring mechanisms for same despite the foreseeability of

harassment and discrimination in the workplace; and/or by having actual knowledge of the harassment and discrimination of Plaintiff and failing to promptly and effectively act to stop it.

109. Defendant Edgin and Defendant Bergin aided, abetted, incited, compelled, and/or coerced, and/or attempted to aid, abet, incite, compel and/or coerce Corporate Defendants to commit acts and omissions that were in violation of the NJLAD by committing affirmatively harassing acts towards Plaintiff in violation of their supervisory duties to halt or prevent harassment, subjecting the Corporate Defendant to liability to Plaintiff pursuant to *N.J.S.A. 10:5-12(e)*.

110. As a proximate result of the aforementioned acts and omissions set forth herein, Plaintiff has sustained damages.

WHEREFORE, Plaintiff demands judgment in her favor and against Defendants on this Count, together with compensatory and equitable relief, all remedies available under the law, punitive damages, pre-and post-judgment interest, and attorney's fees and costs of suit. More specifically, Plaintiff demands judgment against Defendants for harm suffered in violation of the NJLAD as follows:

- A. Reinstatement of employment and all benefits;
- B. Back pay and benefits;
- C. Front pay and benefits;
- D. Compensatory damages;
- E. Consequential damages;
- F. Reinstatement;
- G. Punitive damages;
- H. Prejudgment interest and enhancements to off-set negative tax consequences;
- I. Any and all attorneys' fees, expenses and/or costs, including, but not limited to, court costs, expert fees and all attorneys' fees incurred by Plaintiff in the prosecution of this suit (including enhancements thereof required to off-set negative tax consequences and/or enhancements otherwise permitted under law);
- J. Such other relief as may be available pursuant to the LAD and which the Court deems just and equitable;
- K. Ordering Defendants to take appropriate corrective action to stop and prevent retaliation at the workplace;

- L. Ordering Defendants to take appropriate corrective action to stop and prevent harassment at the workplace;
- M. Ordering Defendants to undergo anti-discrimination training;
- N. Ordering Defendants to undergo anti-retaliation training;
- O. Ordering Defendants to undergo anti-harassment training;
- P. Ordering Defendants to undergo workplace civility training;
- Q. Ordering Defendants to undergo bystander intervention training;
- R. Ordering Defendants to engage a research organization to assess the effectiveness of their anti-discrimination training;
- S. Ordering Defendants to engage a research organization to assess the effectiveness of their anti-retaliation training;
- T. Ordering Defendants to engage a research organization to assess the effectiveness of their anti-harassment training;
- U. Ordering Defendants to engage a research organization to assess the effectiveness of their workplace civility training;
- V. Ordering Defendants to engage a research organization to assess the effectiveness of their bystander intervention training;
- W. Ordering Defendants to identify an appropriate professional to investigate any future complaints of discrimination;
- X. Ordering Defendants to identify an appropriate professional to investigate any future complaints of harassment;
- Y. Ordering Defendants to identify an appropriate professional to investigate any future complaints of retaliation; and
- Z. Such other relief as may be available and which the Court deems just and equitable.

COUNT TWO

NJLAD – RETALIATION/IMPROPER REPRISAL

- 76. Plaintiff repeats each and every allegation set forth above as if set forth fully herein at length.
- 77. Plaintiff complained and/or protested against the continuing course of harassing, discriminatory, and retaliatory conduct set forth at length above. Defendants had knowledge about those complaints and/or protests.
- 78. As a direct result, Defendants took retaliatory action against Plaintiff, which is outlined above.

79. Defendants are vicariously, strictly and/or directly liable to Plaintiff for unlawful retaliatory conduct in violation of the NJLAD pursuant to *N.J.S.A.* 10:5-12(d).

80. As a proximate result of the aforementioned acts and omissions set forth herein, Plaintiff has sustained emotional and pecuniary damages.

WHEREFORE, Plaintiff demands judgment in her favor and against Defendants on this Count, together with compensatory and equitable relief, all remedies available under the law, punitive damages, pre-and post-judgment interest, and attorney's fees and costs of suit. More specifically, Plaintiff demand judgment against Defendants for harm suffered in violation of the NJLAD as follows:

- A. Reinstatement of employment and all benefits;
- B. Back pay and benefits;
- C. Front pay and benefits;
- D. Compensatory damages;
- E. Consequential damages;
- F. Reinstatement;
- G. Punitive damages;
- H. Prejudgment interest and enhancements to off-set negative tax consequences;
- I. Any and all attorneys' fees, expenses and/or costs, including, but not limited to, court costs, expert fees and all attorneys' fees incurred by Plaintiff in the prosecution of this suit (including enhancements thereof required to off-set negative tax consequences and/or enhancements otherwise permitted under law);
- J. Such other relief as may be available pursuant to the LAD and which the Court deems just and equitable;
- K. Ordering Defendants to take appropriate corrective action to stop and prevent retaliation at the workplace;
- L. Ordering Defendants to take appropriate corrective action to stop and prevent harassment at the workplace;
- M. Ordering Defendants to undergo anti-discrimination training;
- N. Ordering Defendants to undergo anti-retaliation training;
- O. Ordering Defendants to undergo anti-harassment training;
- P. Ordering Defendants to undergo workplace civility training;
- Q. Ordering Defendants to undergo bystander intervention training;
- R. Ordering Defendants to engage a research organization to assess the effectiveness of their anti-discrimination training;
- S. Ordering Defendants to engage a research organization to assess the effectiveness of their anti-retaliation training;

- T. Ordering Defendants to engage a research organization to assess the effectiveness of their anti-harassment training;
- U. Ordering Defendants to engage a research organization to assess the effectiveness of their workplace civility training;
- V. Ordering Defendants to engage a research organization to assess the effectiveness of their bystander intervention training;
- W. Ordering Defendants to identify an appropriate professional to investigate any future complaints of discrimination;
- X. Ordering Defendants to identify an appropriate professional to investigate any future complaints of harassment;
- Y. Ordering Defendants to identify an appropriate professional to investigate any future complaints of retaliation; and
- Z. Such other relief as may be available and which the Court deems just and equitable.

DEMAND FOR TRIAL BY JURY

Plaintiff demands a trial by jury on all issues.

McOMBER & McOMBER, P.C.
Attorneys for Plaintiff,
Sarah Fearon

By: /s/ Matthew A. Luber
Matthew A. Luber, Esq.

Dated: January 9, 2020

DESIGNATION OF TRIAL COUNSEL

Pursuant to *Rule* 4:25-4, MATTHEW A. LUBER, ESQUIRE is hereby designated as trial counsel for Plaintiff.

CERTIFICATION

Pursuant to *Rule 4:5-1*, it is hereby certified that, to the best of my knowledge, there are no other civil actions or arbitration proceedings involving this matter with respect to this matter and no other parties need to be joined at this time. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

McOMBER & McOMBER, P.C.
Attorneys for Plaintiff,
Sarah Fearon

By: /s/ Matthew A. Luber
Matthew A. Luber, Esq.

Dated: January 9, 2020

Civil Case Information Statement

Case Details: OCEAN | Civil Part Docket# L-000114-20

Case Caption: FEARON SARAH VS BRICK TOWNSHIP
MUNICIPAL COURT

Case Initiation Date: 01/10/2020

Attorney Name: MATTHEW ALLEN LUBER

Firm Name: MC OMBER & MC OMBER, PC

Address: 54 SHREWSBURY AVENUE

RED BANK NJ 07701

Phone: 7328426500

Name of Party: PLAINTIFF : FEARON, SARAH

Name of Defendant's Primary Insurance Company

(if known): Unknown

Case Type: LAW AGAINST DISCRIMINATION (LAD) CASES

Document Type: Complaint with Jury Demand

Jury Demand: YES - 6 JURORS

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Are sexual abuse claims alleged? NO

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? YES

If yes, is that relationship: Employer/Employee

Does the statute governing this case provide for payment of fees by the losing party? YES

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? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO Title 59? NO Consumer Fraud? NO

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)*

01/10/2020

Dated

/s/ MATTHEW ALLEN LUBER

Signed