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<p>MELISSA POMPHREY,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>PINELANDS REGIONAL SCHOOL DISTRICT; TROY HENDERSON; MARISSA ELWOOD; SCOTT BEATON; 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: right;">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 Melissa Pomphrey (“Plaintiff”), by way of Complaint against Defendant Pinelands Regional School District (“Defendant Pinelands”), Defendant Troy Henderson (“Defendant Henderson”), Defendant Marissa Elwood (“Defendant Elwood”), and Defendant Scott Beaton (“Defendant Beaton”) (collectively, “Individual Defendants”) alleges as follows:

PARTIES

1. Plaintiff is an individual residing in Barnegat, New Jersey. At all times relevant hereto, Plaintiff was employed by Defendant Pinelands as a Special Education Teacher.
2. Defendant Pinelands is a school providing services for students located at 520 Nugentown Road, Little Egg Harbor, NJ 08087. At all times relevant, Defendant Pinelands is an “employer” as defined under the Conscientious Employee Protection Act N.J.S.A. 34:19-1 *et seq.*

(“CEPA”) and the New Jersey Law Against Discrimination N.J.S.A. 10:5-1 *et seq.* (“NJLAD”).

3. Defendant Henderson, upon information and belief, is a citizen of New Jersey and, at all times relevant hereto, is employed by Defendant Pinelands as the High School Principal. This claim is brought against Defendant Henderson in his individual capacity and/or as an agent or servant of Defendant Pinelands during the course of his employment.

4. Defendant Elwood, upon information and belief, is a citizen of New Jersey and, at all times relevant hereto, is employed by Defendant Pinelands as the Director of Special Services. This claim is brought against Defendant Elwood in her individual capacity and/or as an agent or servant of Defendant Pinelands during the course of her employment.

5. Defendant Beaton, upon information and belief, is a citizen of New Jersey and, at all times relevant hereto, is employed by Defendant Pinelands as the Special Education Behavior Intervention Specialist. This claim is brought against Defendant Beaton in his individual capacity and/or as an agent or servant of Defendant Pinelands during the course of his employment.

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

7. 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 anti-retaliation policies of Corporate Defendants and are currently unidentified individuals who may have liability for damages suffered by Plaintiff under any theory advanced herein.

FACTS COMMON TO ALL CLAIMS

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

9. Defendant Pinelands is a school district located in Egg Harbor, New Jersey, serving students in grades sixth through twelfth grade.

10. After a fifteen (15) year career as a Special Education Teacher in the Barnegat School District, on or around March 28, 2021, Plaintiff commenced employment with Defendants.

11. Plaintiff was an exemplary employee with over twenty years of experience as an educator. Plaintiff was passionate about her job and cared deeply about the well-being of the students she taught.

12. As a Special Education Teacher at Defendant Pinelands' high school location, Plaintiff taught a class of six (6) students with autism, aged sixteen (16) to twenty-one (21) years old. Some of these students exhibited behavioral struggles, sometimes resulting in violent outbursts.

13. Each student in Plaintiff's classroom was assigned a paraprofessional to assist the child one-on-one throughout the day. As such, Plaintiff's classroom consisted of six (6) students and six (6) paraprofessionals, one for each for each student.

14. In or around January of 2024, Plaintiff learned that one of her paraprofessionals, Thomas Wyatt ("Mr. Wyatt"), was engaged in an inappropriate relationship with a high school student ("Jane Doe"). Critically, this student was not assigned to a special education classroom, but rather, was a student in the general education section of Defendants' high school.

15. Upon information and belief, Jane Doe, at all times relevant hereto, was a Junior at Defendant Pinelands high school, and was a minor under the age of eighteen.

16. Plaintiff learned that not only was Mr. Wyatt inviting the student to Plaintiff's classes, but Mr. Wyatt also brought the student to the special education elective classes. Critically, elective classes are not taught by Special Education Teachers, but are taught by their respective elective instructors, therefore, the elective instructors did not possess the same knowledge and experience as it relates to overseeing the Special Education classes.

17. Plaintiff was immediately concerned for the wellbeing of the student, as one of Plaintiff's students in the classroom was an eighteen (18) year old autistic male with a well-known propensity to be sexually violent towards females.

18. Plaintiff was perplexed that Mr. Wyatt, who was well aware of this student's propensity for sexual violence, would willingly and affirmatively subject an underage student to the threat of harm.

19. Beyond the severe risk of harm to not only the underage student, but to the other students and faculty within the classroom, Plaintiff was further concerned when she learned that Mr. Wyatt would frequently invite this underage student to hang out with him after school.

20. Plaintiff's reasonable concern was only heightened because of Mr. Wyatt's participation in nefarious after school activities – specifically, Plaintiff was aware of Mr. Wyatt and other employees of Defendant Pinelands hosting *“pedophile parties.”* Plaintiff learned that at these “pedophile parties,” the attendees, including Mr. Wyatt, often dressed as their “favorite pedophile.”

21. Critically, months prior, in or around August 2023, a member of Defendant Pineland's faculty complained to Defendant Pinelands, as well as Plaintiff's supervisor, Defendant Elwood, and Defendant Pinelands' Intervention Specialist, Defendant Beaton, of Mr. Wyatt's participation in the *“dress as your favorite pedophile party.”* Despite Defendants' knowledge of

Mr. Wyatt's egregious glorification of pedophiles, no disciplinary action was taken, and Mr. Wyatt was permitted to continue in his role with Defendant Pinelands.

22. Plaintiff's knowledge of the egregious parties and unfathomable glorification of pedophiles by Mr. Wyatt and his colleagues led Plaintiff to reasonably believe that the student was at risk of harm.

23. In fact, Plaintiff reasonably, and accurately, believed that Mr. Wyatt was in violation of various laws, regulations, and public policy, including, but not limited to N.J.A.C. 6A:14, which specifically outlines guidelines for educators and paraprofessionals in safeguarding a "positive" learning environment for students within the special education program.

24. Troubled by the safety concerns and suspected inappropriate relationship between Mr. Wyatt and Jane Doe, Plaintiff immediately reported her concerns to Defendant Henderson, Defendant Pinelands' principal, who assured Plaintiff that he would investigate the same.

25. Days after making her report, on January 16, 2024, Mr. Wyatt was removed from Plaintiff's classroom. However, Mr. Wyatt's employment was not terminated; rather, Mr. Wyatt was merely reassigned to a different classroom.

26. Upon information and belief, Mr. Wyatt was never formally disciplined for his inappropriate relationship with Jane Doe, nor for placing Defendant Pinelands' other students and staff in harm's way; and in fact, Mr. Wyatt remains employed by Defendant Pinelands.

27. In February 2024, after utter silence from Defendant Pinelands with respect to Plaintiff's reasonable concerns, and without any attempt on behalf of Defendant Pinelands to conduct an investigation into Plaintiff's January 2024 report, Plaintiff again reached out to Defendant Elwood to inquire as to whether Defendants would be conducting any investigation, or if they would even be taking a statement from Plaintiff or the other paraprofessionals.

28. Immediately after Plaintiff contacted Defendant Elwood, Defendants purportedly conducted an investigation – however, it was painstakingly clear that the same was nothing more than a sham and only conducted in an effort to placate Plaintiff.

29. In fact, Defendant Pinelands' Special Education Intervention Specialist, Defendant Beaton, texted Plaintiff and instructed her to send any paraprofessionals that ***Plaintiff wanted Defendants to “talk to”*** down to the office. Clearly, Defendants had no desire to interview any witnesses on their own, and were clearly engaged in an effort to placate Plaintiff.

30. Worse, after Plaintiff sent a few paraprofessionals to the office, Defendant Beaton texted Plaintiff and asked, ***“are we done yet?”*** making blatantly obvious that Defendants were not concerned with the purported investigation, and did not desire to take statements from those with information pertaining to the same.

31. To make crystal clear that Defendant Pinelands took no issue with Mr. Wyatt placing students, faculty, and staff at severe risk of injury in violation of New Jersey law, nor did they take issue with Mr. Wyatt's inappropriate relationship with a student, moments later, Mr. Wyatt ran down the hallway, and sang in the faces of the other paraprofessionals that he is ***“untouchable.”***

32. Plaintiff immediately reported the same to Defendant Henderson – highlighting the blatant disregard for the wellbeing of the students on behalf of Defendants. Defendant Henderson only doubled down on the same, and asked Plaintiff ***what she wanted him to do about it.***

33. Plaintiff was perplexed by Defendant Henderson's blatant disregard for the unlawful and unsafe conduct rife within Defendant Pinelands' workplace. However, Plaintiff soon learned that Defendant Henderson and Mr. Wyatt vacationed together in West Palm Beach, Florida in 2024.

34. Defendant Pinelands protected Mr. Wyatt and swept Plaintiff's report of the unlawful and unsafe conduct rife within Defendant Pinelands' schools under the rug.

35. Upon information and belief, Defendant Henderson, nor anyone within Defendant Pinelands' organization informed Jane Doe's parents of the inappropriate relationship perpetrated by Mr. Wyatt, nor of the dangerous circumstances to which Defendants permitted her to be subjected.

36. Soon thereafter, in May 2024, Defendant Pinelands advised Plaintiff that her class was being eliminated. This was pure retaliation.

37. Worse, Defendants' purported justifications for eliminating Plaintiff's class were nothing more than pure pretext. According to Defendant Pinelands, Plaintiff's class was reduced to four (4) students rather than the previous (6) students. As such, Defendant Pinelands made the decision to assign those four (4) students to a classroom taught by another teacher. Therefore, rather than permit Plaintiff to continue in her role, Defendants instead assigned the other Special Education Teacher a class of ten (10) students.

38. While Plaintiff is an experienced educator and remained committed to her role as a Special Education Teacher, Defendants intentionally reassigned Plaintiff to a middle school classroom that is widely considered a demotion within Defendant Pinelands' workplace, and each teacher assigned to this class consistently resigns. Therefore, it was abundantly clear that Defendants assigned Plaintiff this classroom in pure retaliation for her complaints of the unlawful, unsafe, and neglectful environment fostered by Defendants.

39. Plaintiff immediately experienced severe symptoms of anxiety and depression because of the demotion. Specifically, Plaintiff was aware that the curriculum implemented by Defendant Pinelands for this middle school classroom was insulting and degrading to the students,

and as a result, conflicted not only with Plaintiff's morals as an educator, but Plaintiff reasonably believed delivering the same to the students was in direct violation with the professional standards required of her in accordance with N.J.A.C. 6A:9-3.3. Plaintiff repeatedly and explicitly complained of the same to Defendants.

40. In fact, Plaintiff further complained that the reason Defendant Pinelands was unable to retain an educator within this classroom was because, despite the students within the classroom maintaining the social skills of non-autistic peers their age, the curriculum Defendant Pinelands required be taught to the children was at a kindergarten level. Therefore, the students often felt insulted, degraded, and 'othered' by the lessons, making it difficult for educators who cared deeply about the students to continue with Defendant Pinelands' requirements. Plaintiff reasonably believed this was in direct violation of her responsibilities as an educator, as governed by N.J.A.C. 6A:9-3.3 as it necessarily ran contrary to her obligation to ensure positive social interaction, active engagement in learning, and self-motivation.

41. Similarly, Defendant Pinelands provided little to no additional support to the educators assigned to this classroom, further complicating the educators' abilities to deliver the required curriculum which only furthered behavioral problems within the classroom.

42. Plaintiff was aware that her "reassignment" to the middle school was clearly a demotion and in direct retaliation for Plaintiff's previous reports of suspected unlawful conduct occurring at the high school and was nothing more than a calculated attempt carried out by Defendants to force her to resign.

43. As a result, Plaintiff spent the entire summer – from May 2024 until September 5, 2024 – suffering from severe symptoms of anxiety and depression, including the inability to leave her home, suffering from severe nausea, and uncontrollable vomiting.

44. Plaintiff made repeated and explicit requests to Defendant Pinelands, pleading with Defendants to address her reasonable concerns regarding the middle school class's curriculum. Similarly, Plaintiff repeatedly pleaded with Defendants to provide additional paraprofessionals to the classroom to further support the students.

45. Plaintiff further contacted her supervisor, Defendant Elwood, to inquire as to whether there were any other positions within Defendant Pinelands for the upcoming school year. Plaintiff was informed she could only return to the middle school classroom.

46. Defendant Pinelands refused to address Plaintiff's concerns, and instead continued to sweep the same under the rug in an effort to force Plaintiff out of her position.

47. Plaintiff, however, remained committed to ensuring the wellbeing of her students, and continued to reach out to Defendants to inquire as to whether Defendants ever disciplined Mr. Wyatt for his inappropriate, unsafe, and violative behavior. Again, Plaintiff received no information from Defendants' administration because Defendants made no legitimate effort to investigate Plaintiff's complaints, and took no steps to address the inappropriate and unlawful behavior rife within Defendants' schools, let alone issue any discipline to Mr. Wyatt for the same.

48. Defendants explicit refusal to accommodate Plaintiff, coupled with their plain indifference towards her reasonable concerns of the unsafe and unlawful conduct to which Defendants' students were subjected, only further exacerbated the severe symptoms of anxiety and depression from which she was suffering. Accordingly, Plaintiff sought treatment from her psychiatrist and was ultimately prescribed several prescription medications to treat her disability.

49. Plaintiff, dedicated to her role as an educator, returned to Defendant Pinelands workplace for the 2024 school year, on September 5, 2024, ready to teach the middle school to which she was assigned.

50. Defendants, however, remained committed to ensuring Plaintiff was forced out of her employment in direct retaliation for her complaints of Mr. Wyatt's inappropriate, unlawful, and unethical behavior, and Defendant Pinelands' utter indifference towards the unlawful conduct rife within Defendants' schools.

51. Plaintiff learned that Defendant Beaton explicitly informed Britney Smith-Horner, an employee of Defendant Pinelands, that the reason for Plaintiff's reassignment was to force her to resign. This was patently retaliatory.

52. Immediately after Plaintiff commenced her new role in Defendants' middle school, Plaintiff's emotional distress, anxiety, and depression because of the clearly retaliatory campaign against her drastically worsened. In fact, Plaintiff's symptoms were so severe that Plaintiff, on several occasions, had to excuse herself from her classroom due to the severe nausea and vomiting from which she was suffering while at work within Defendant Pinelands' workplace, and repeatedly informed Defendants that she needed to leave early as she knew she was imminently about to faint, and did not want her students to observe their teacher fainting in the classroom.

53. Plaintiff frequently communicated the same to Defendant Elwood, who made no effort to accommodate Plaintiff.

54. As a result, Plaintiff sought treatment from her psychiatrist and primary care physician, who placed Plaintiff on an unpaid disability leave of absence commencing November 15, 2024.

55. Shockingly, while Plaintiff was on medical leave, Defendant Pinelands **terminated her employment**. This was pure discrimination because of Plaintiff's disabilities and/or retaliation because of her complaints.

56. In May 2025, Defendant Pinelands sent Plaintiff written notice that Defendants

would not be renewing her contract for the upcoming school year, and therefore, unlawfully terminated her employment.

57. Worse, Defendants purported that Plaintiff's employment was terminated because ***"[Plaintiff] was not a good fit."***

58. Defendants' purported justification is clear pretext, especially in light of Plaintiff's nearly two decades of experience as an educator. Plaintiff was demoted and subsequently terminated in retaliation for lodging complaints regarding conduct she reasonably believed to be unlawful.

59. Further, as a result of this retaliation, Plaintiff suffered disabilities requiring a medical leave of absence. Plaintiff's employment was terminated as a result of her disability and in retaliation for seeking and utilizing an accommodation, specifically an approved medical leave of absence.

60. It is clear that Defendants terminated Plaintiff in direct retaliation for her reports and objections to unsafe, unethical, and unlawful conditions rife within Defendants' workplace.

61. The temporal proximity of Plaintiff's complaints and objections clearly demonstrates Defendants' retaliatory motive.

62. Defendants terminated Plaintiff in direct retaliation for her complaints.

63. Plaintiff's unlawful termination constituted a concerted effort by Defendants to silence her whistleblowing complaints. Plaintiff's termination is blatant discrimination and retaliation on account of Plaintiff's disability, related treatment, and requests for accommodations.

64. The temporal proximity between Plaintiff disclosing her disability and related leave for the same, and Defendants' immediate termination of Plaintiff, alone gives rise to an inference of discrimination.

65. At all relevant times, Defendants were well-aware of Plaintiff's disability.

66. The decision made by Defendants to terminate Plaintiff's employment was discriminatory based upon her disability, in violation of the NJLAD.

67. The decision made by Defendants to wrongfully terminate Plaintiff's employment was made in retaliation for her availing herself of rights and privileges guaranteed to her under the NJLAD, such as the right to request and receive a reasonable accommodation for her medical disability.

68. As a result of Defendants' unlawful conduct, Plaintiff suffered and continues to suffer from emotional distress and significant financial harm.

COUNT ONE

RETALIATION IN VIOLATION OF NEW JERSEY CONSCIENTIOUS EMPLOYEE PROTECTION ACT ("CEPA")

69. Plaintiff incorporates each and every allegation set forth above as if repeated fully herein at length.

70. CEPA's legislative purpose, as pronounced by the New Jersey Supreme Court, "is to protect and encourage employees to report illegal or unethical workplace activities and to discourage . . . employers from engaging in such conduct." *Lippman v. Ethicon, Inc.*, 222 N.J. 362, 378 (2015) (quoting *Abbamont v. Piscataway Twp. Bd. of Educ.*, 138 N.J. 405, 431 (1994)).

71. Indeed, "the purpose of CEPA is 'to protect and encourage employees to report illegal or unethical workplace activities and to discourage public and private sector employers from engaging in such conduct.'" *Mehlman v. Mobil Oil Corp.*, 153 N.J. 163, 179, (1998) (quoting *Abbamont v. Piscataway Bd. of Educ.*, 138 N.J. 405, 431, 650 A.2d 958 (1994))

1. CEPA provides, in pertinent part, that:

An employer shall not take any retaliatory action against an employee because the employee does any of the following:

- a. **Discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer, or another employer, with whom there is a business relationship, that the employee reasonably believes:**
- (1) is in **violation of a law, or a rule or regulation** promulgated pursuant to law, including any violation involving deception of, or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity, or, in the case of an employee who is a licensed or certified health care professional, reasonably believes constitutes improper quality of patient care; or
 - (2) is fraudulent or criminal, including any activity, policy or practice of deception or misrepresentation which the employee reasonably believes may defraud any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity;
- b. Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation promulgated pursuant to law by the employer . . . ; or
- c. **Objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes:**
- (1) **is in violation of a law, or a rule or regulation** promulgated pursuant to law, including any violation involving deception of, or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity, or, if the employee is a licensed or certified health care professional, constitutes improper quality of patient care;
 - (2) is **fraudulent or criminal**, including any activity, policy or practice of deception or misrepresentation which the employee reasonably believes may defraud any shareholder, investor, client, patient, customer, employee, former employee, retiree or

pensioner of the employer or any governmental entity; or

- (3) **is incompatible with a clear mandate of public policy concerning the public health, safety or welfare** or protection of the environment.

N.J.S.A. 34:19-3 (emphasis added).

72. Throughout the course of her employment, Plaintiff reported, complained, disclosed, objected to, and/or ultimately refused to permit the students of Defendant Pinelands to be subjected to unsafe conditions at the hands of Defendant Pinelands' employees.

73. Plaintiff maintained the reasonable belief that Defendant Pinelands' regular activities, policies, and practices, as alleged herein, were in violation of law, rules, or regulations promulgated pursuant to law, and/or was incompatible with a clear mandate of public policy concerning the public health, safety, or welfare.

74. The conduct that Plaintiff repeatedly complained of was conduct that Plaintiff reasonably believed was in violation of laws and regulations including but not limited to endangering the welfare of a child, failing to provide a safe learning environment for special education students, and violating professional standards set forth for educators.

75. During the course of her employment, Plaintiff reported, complained, disclosed, objected to, and/or ultimately refused to further participate in conduct, activities, policies and/or behaviors by which Plaintiff reasonably believed violation of a law, or a rule or regulation, pursuant to CEPA's subsection (c)(1). N.J.S.A. 34:19-3(c)(1).

76. During the course of her employment, Plaintiff reported, complained, disclosed, objected to, and/or ultimately refused to further participate in conduct, activities, policies and/or behaviors by Defendants which Plaintiff reasonably believed were "incompatible with a clear mandate of public policy concerning the public health, safety or welfare" under CEPA's subsection

(c)(3). N.J.S.A. 34:19-3(c)(3).

77. Defendants' conduct poses "a threat of public harm, not merely private harm or harm only to the aggrieved employee." *Mehlman v. Mobil Oil Corp.*, 707 A.2d 1000, 1013 (N.J. 1998).

78. Defendants had knowledge of Plaintiff's reports, complaints, objections, protests, and ultimate refusal to participate further in Defendants' unlawful activities and practices.

79. As a direct result of Plaintiff raising complaints, objections, and/or her refusal to further participate in Defendants' unlawful activities and practices, Defendants took retaliatory action against Plaintiff by terminating and/or constructively discharging her employment.

80. Defendants are vicariously, strictly, and/or directly liable to Plaintiff for an unlawful retaliatory discharge in violation of CEPA, pursuant to N.J.S.A. 34:19-1 et seq.

81. 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 CEPA, punitive damages, pre-and post-judgment interest, attorney's fees and costs of suit, and for such other relief that the Court deems equitable and just. More specifically, Plaintiff demands judgment against Defendants for harm suffered in violation of the CEPA as follows:

- A. Back pay and benefits;
- B. Front pay and benefits;
- C. Compensatory damages;
- D. Consequential damages;
- E. Punitive damages;
- F. Equitable relief;
- G. Pre-judgment interest and enhancements to off-set negative tax consequences;
- H. 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);
- I. Declaring that Defendant has violated the CEPA and requiring Defendant to take appropriate corrective action to end unlawful retaliation in the workplace; and
 - J. Such other relief as may be available pursuant to the CEPA and which the Court deems just and equitable.

COUNT TWO

WRONGFUL DISCHARGE IN VIOLATION OF PUBLIC POLICY

82. Plaintiff incorporates each and every allegation set forth above as if repeated fully herein at length.

83. As set forth herein, Plaintiff objected to, reported, and/or complained about Defendants' regular activities, policies, and practices, as alleged herein, which were in violation of law, rules, regulations, or public policy.

84. Defendants had knowledge of Plaintiff's objections and/or complaints and terminated Plaintiff as a result thereof.

85. Defendants' conduct constitutes a wrongful discharge in violation of public policy by which Plaintiff has been damaged and will continue to suffer 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, attorneys' fees and costs of suit, and for such other relief that the Court deems equitable and just.

COUNT THREE

NJLAD – DISPARATE TREATMENT & DISCRIMINATION DUE TO DISABILITY

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

87. The conduct of Defendants as detailed above constitutes disability discrimination,

specifically disparate treatment, the failure to reasonably accommodate disabled persons, and/or the failure to engage in the interactive process required by New Jersey law.

88. “Disability” as defined by the statute, means a “physical disability, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect, or illness... or from any mental, psychological or developmental disability resulting from anatomical, psychological or neurological conditions which prevents the normal exercise of any bodily or mental functions...” N.J.S.A. 10:5-5(g).

89. During the course of Plaintiff’s employment and at the time of her discharge, Plaintiff was disabled or handicapped under the law.

90. During her employment with Defendant, Plaintiff demonstrated she was qualified and performed the essential functions of her job.

91. Plaintiff’s disability was not temporary in nature, impacted her normal exercise of bodily or mental functions, and substantially limited one or more of her major life activities.

92. Plaintiff’s disability never caused an undue hardship on Defendants, and Plaintiff was never a direct threat to the health or safety of other individuals in the workplace.

93. Defendants were well aware of Plaintiff’s disability and Plaintiff’s requests for accommodation and/or assistance.

94. Plaintiff was subjected to discrimination and disparate treatment on account of her disability.

95. Defendants did not subject non-disabled employees to such treatment.

96. Defendants took adverse employment actions against Plaintiff by terminating her employment on account of her disability and/or her requests for disability related

accommodations/leave.

97. The above-described conduct would not have occurred but for Plaintiff's disability.

98. Plaintiff was terminated under circumstances that would give rise to an inference of discrimination.

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

100. Defendants did not maintain useful formal and information complaint structures for victims of discrimination, harassment, or retaliation.

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

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

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

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

105. As the employer and/or supervisor of the Plaintiff, Corporate Defendant is vicariously, strictly, and/or directly liable to the Plaintiff pursuant to the NJLAD, N.J.S.A. 10:5-1, et seq., in that the affirmative acts of discrimination committed by Defendants occurred within the scope of their employment; allowing Defendants to control the day-to-day working environment; and/or Corporate Defendant was deliberately indifferent, reckless, negligent and/or tacitly approved the hostile work environment; and/or Corporate Defendant failed to create and/or have

in place well-publicized and enforced anti-discrimination policies, effective formal and informal complaint structures, training, and/or monitoring mechanisms for same despite the foreseeability of discrimination in the workplace; and/or by having actual knowledge of the discrimination of Plaintiff and failing to promptly and effectively act to stop it.

106. Individual Defendant had the authority to hire, fire, discipline, control employees' wages or control Plaintiff's schedule.

107. Individual Defendant aided, abetted, incited, compelled and/or coerced, and/or attempted to aid, abet, incite, compel and/or coerce each other and/or Corporate Defendant to commit acts and omissions that were in violation of the NJLAD by committing affirmatively discriminatory, harassing, and/or retaliatory acts toward Plaintiff, which are in violation of their duties to halt or prevent discrimination/harassment, rendering Corporate Defendant and themselves individually and collectively liable to Plaintiff pursuant to N.J.S.A. 10:5-12(e).

108. Individual Defendant had direct involvement in Plaintiff's discrimination and retaliation. Individual Defendant aided in conduct that caused injury to Plaintiff, Individual Defendant was generally aware of their role in the unlawful conduct, and Individual Defendant knowingly and substantially assisted in the unlawful conduct.

109. Individual Defendant was unresponsive to Plaintiff's requests, failed to adequately investigate Plaintiff's complaints, and failed take proper medial action of Plaintiff's complaints. Such conduct is substantial assistance, deliberate indifference, and/or affirmatively harassing acts that violate Individual Defendants' "duty to act against harassment." *Hurley v. Atl. City Police Dep't*, 174 F.3d 95, 126 (3d Cir. 1999); *see also E.E.O.C. v. Foodcrafters Distrib. Co.*, No. 03-2796, 2006 U.S. Dist. LEXIS 11426, 2006 WL 489718, at *7 (D.N.J. Feb. 24, 2006).

110. As Plaintiff's supervisor, Individual Defendant's unlawful conduct imposes

liability on themselves and Corporate Defendant under the NJLAD. *See Hurley v. Atl. City Police Dep't*, 174 F.3d 95, 126 (3d Cir. 1999) (When a supervisor engages in “affirmatively harassing acts”, he “flouts [his] duty” and “subjects himself and his employer to liability.”); *see also Rowan v. Hartford Plaza Ltd, LP*, 2013 N.J. Super. Unpub. LEXIS 766, at *18-19 (Super. Ct. App. Div. Apr. 5, 2013); *Yobe v. Renaissance Elec., Inc.*, Civil Action No. 15-3121, 2016 U.S. Dist. LEXIS 18227, at *12 (D.N.J. Feb. 16, 2016); *Fasano v. Fed. Reserve Bank of N.Y.*, 457 F.3d 274, 289 (3d Cir. 2006); *Dickerson v. N.J. Inst. of Tech.*, No. 19-8344, 2022 U.S. Dist. LEXIS 5074 (D.N.J. Jan. 10, 2022).

111. Individual Defendant’s unlawful conduct, irrespective of their supervisory role, imposes liability on themselves and Corporate Defendant under the NJLAD. *See N.J.S.A. 10:5-12(e)* (unlawful for “[f]or any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this act, or to attempt to do so.”); *Cicchetti v. Morris County Sheriff’s Office*, 194 N.J. 563, 568 (2008) (holding that individual liability is limited to “acts that constitute aiding or abetting,” without requiring that the individual also qualify as a supervisor); *Raber v. Express Scripts Hold. Co.*, No. 18-cv-8639, 2019 U.S. Dist. LEXIS 34444 (D.N.J. Mar. 5, 2019); *Stouch & Bodnar v. Dep’t of Child Protection and Permanency, et al.*, Docket No. BUR-L-151-19 (N.J. Super. Ct. Law Div. May 12, 2020).

112. 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 NJLAD, punitive damages, pre-and post-judgment interest, attorneys’ fees and costs of suit, and for such other relief that the Court deems equitable and just. 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 NJLAD 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 FOUR

NJLAD – RETALIATION/IMPROPER REPRISAL

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

114. Defendants took retaliatory action against Plaintiff by subjecting her to disparate treatment and/or by terminating her from employment.

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

116. 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.

DEMAND FOR DISCOVERY OF INSURANCE COVERAGE

Pursuant to *Rule* 4:10-2(b), demand is made that Defendants disclose to Plaintiff's attorney whether or not there are any insurance agreements or policies under which any person or firm carrying on an insurance business may be liable to satisfy part or all the judgment which may be entered in this action or indemnify or reimburse for payments made to satisfy the judgment and provide Plaintiff's attorney with true copies of those insurance agreements or policies, including, but not limited to, any and all declaration sheets. This demand shall include and cover not only primary insurance coverage, but also any excess, catastrophe, and umbrella policies.

DEMAND FOR TRIAL BY JURY

Plaintiff demands a trial by jury on all issues.

McOMBER McOMBER & LUBER, P.C.
Attorneys for Plaintiff, Melissa Pomphrey

By: /s/ Matthew A. Luber
MATTHEW A. LUBER, ESQ.

Dated: August 22, 2025

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 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 & LUBER, P.C.
Attorneys for Plaintiff, Melissa Pomphrey

By: /s/ Matthew A. Luber
MATTHEW A. LUBER, ESQ.

Dated: August 22, 2025

Civil Case Information Statement

Case Details: OCEAN | Civil Part Docket# L-002298-25

Case Caption: POMPHREY MELISSA VS PINELANDS REGIONAL S CHOOOL D

Case Initiation Date: 08/22/2025

Attorney Name: MATTHEW ALLEN LUBER

Firm Name: MCOMBER MCOMBER & LUBER, PC

Address: 54 SHREWSBURY AVE
RED BANK NJ 07701

Phone: 7328426500

Name of Party: PLAINTIFF : Pomphrey, Melissa

Name of Defendant's Primary Insurance Company
(if known): Unknown

Case Type: WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA)

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

Does this case involve claims related to COVID-19? NO

Are sexual abuse claims alleged by: Melissa Pomphrey? 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 Medical Debt Claim? 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)

08/22/2025
Dated

/s/ MATTHEW ALLEN LUBER
Signed

