

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY  
NEWARK DIVISION**

NATALIE JESIONKA,

Plaintiff,

vs.

RUTGERS, THE STATE UNIVERSITY OF  
NEW JERSEY,

Defendant.

Civil Action No. \_\_\_\_\_

**JURY TRIAL DEMANDED**

**COMPLAINT**

Plaintiff Natalie Jesionka (“Plaintiff” or “Ms. Jesionka”), residing at 446 Belgrade St, Philadelphia PA, 19125, brings this complaint, by and through the undersigned attorneys, against Defendant Rutgers, The State University of New Jersey (“Rutgers” or “Defendant”), located at 195 University Ave, Newark, NJ 07102, and alleges as follows upon personal knowledge as to herself and her own acts and experiences and, as to all other matters, upon information and belief based upon, *inter alia*, the investigation conducted by her attorneys.

**NATURE OF THE CASE**

1. This is a pregnancy discrimination and retaliation case on behalf of a decorated and long-time member of Rutgers’ alumni and faculty, whose position was terminated without credible explanation just eight days before the due date of the birth of her child and immediately after she submitted a complaint to Rutgers’ Office of Employment Equity that her supervisor appeared to be penalizing her for taking maternity leave. This civil action seeks to redress willful violations of the New Jersey Law Against Discrimination (“LAD”), the federal Family and Medical Leave Act (“FMLA”) and the New Jersey Family and Medical Leave Act (“NJFMLA”). Ms. Jesionka seeks to recover all lost wages, salary, employment benefits, and

any other compensation denied or lost due to Rutgers' violations of the LAD, FMLA and NJFMLA; pre- and post-judgment interest, compensatory damages, consequential damages, punitive damages, attorneys' fees, costs, and appropriate injunctive and equitable relief.

### **JURISDICTION AND VENUE**

2. This Court has subject matter jurisdiction over the claims in this action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1367.

3. Venue is proper in this judicial district and division pursuant to 28 U.S.C. § 1391 because: (i) Defendant is subject to personal jurisdiction in this District and division, and therefore is deemed to reside in this District and division; and (ii) a substantial part of the events or omissions giving rise to the claim occurred in this District and division.

4. This Court has personal jurisdiction over Defendant because it conducts substantial business in this judicial District and division, and conducted the actions complained of herein within this judicial District and division.

### **PARTIES**

#### **The Plaintiff**

5. Plaintiff, Natalie Jesionka, is a resident of Philadelphia, Pennsylvania.

6. Ms. Jesionka has been a leader and champion of Rutgers since 2004, when she first enrolled as a student at the university. She graduated from Douglas College at Rutgers with a B.A. in journalism in 2007, and obtained an M.Sc. in Global Affairs from Rutgers Newark in 2009.

7. After obtaining her M.Sc., Ms. Jesionka was employed by Rutgers, she was employed as a lecturer in the Sociology and Women's Studies Departments at Rutgers University Newark, and she taught courses on Human Trafficking, Human Rights, International

Development, Social Change, Intro to Sociology, Contemporary Sociology Theory, Classical Sociological Theory, and Gender and Human Rights. She also served as Director of International Programs at universities in Norway and New York City.

8. Ms. Jesionka is the Founder of the PRIZM Project, a human rights education organization for young women. She served as a Fulbright Scholar in Thailand, researching stateless Hill Tribes and examining the origins of human trafficking. Ms. Jesionka has served on the Board of Directors of Amnesty International USA and currently serves on the Board of Giving Way. In 2014, she was awarded the Paul and Daisy Soros Fellowship for New Americans to further her research in counter-trafficking efforts around the world. Ms. Jesionka's work on trafficking has appeared in a variety of media outlets including *Forbes* and *Glamour*.

### **The Defendant**

9. Defendant Rutgers is a state university with campuses located in Newark, New Brunswick and Camden, New Jersey. This action arose out of the Division of Global Affairs located in Newark, New Jersey.

### **FACTUAL ALLEGATIONS**

10. In August 2016, Ms. Jesionka became the Associate Director of the Division of Global Affairs at Rutgers University Newark.

11. In her position as the Associate Director of the Division of Global Affairs, Ms. Jesionka received outstanding performance reviews from her supervisor, Dr. Richard O'Meara. For example he noted that "Ms Jesionka has routinely exhibited a thorough knowledge of [the] skill sets [of her job] and her dedication to enhancing the reputation of the program is without parallel."

12. Dr. O'Meara served as Ms. Jesionka's supervisor from August 2016 until the end

of July 2018, at which time Ms. Jesionka's supervisor became Dr. Gabriella Kütting.

13. In the fall of 2018, Ms. Jesionka informed both the Human Resources Department of Rutgers and Dr. Kütting that she was pregnant and due to have her baby on February 14, 2019. Thereafter, Ms. Jesionka completed the required steps to begin her maternity leave on February 1, 2019.

14. In the weeks following Ms. Jesionka's disclosure to Dr. Kütting about her pregnancy, Dr. Kütting repeatedly raised Ms. Jesionka's pregnancy and upcoming maternity leave in discussions with Ms. Jesionka. These discussions often consisted of unsolicited questions about Ms. Jesionka's pregnancy, and questions about how long she was planning to work. In addition, following Ms. Jesionka's disclosure of her pregnancy, Dr. Kütting began to question Ms. Jesionka's ability to perform her job and her dedication to the job.

15. On December 18, 2018, Ms. Jesionka met with Dr. Kütting to discuss the coming spring semester. At both the beginning and end of this meeting, Dr. Kütting again raised questions, unsolicited, about Ms. Jesionka's pregnancy and the maternity leave she would soon be taking.

16. During that same meeting on December 18, 2018, between the discussions concerning Ms. Jesionka's pregnancy, Dr. Kütting informed Ms. Jesionka that she would be giving Ms. Jesionka a poor performance review in April, while Ms. Jesionka was scheduled to be on maternity leave.

17. On information and belief, notifying an employee of a future performance review five months away was a substantial departure from policy or practice. Additionally, the criticisms were baseless and implausible. For these reasons, it was evident to Ms. Jesionka that the threatened poor performance review was pretextual.

18. Dr. Kütting's repeated enquiries about Ms. Jesionka's pregnancy and the unusual discussion of an unwarranted, poor performance review (which would be wholly inconsistent with all actual performance reviews of Ms. Jesionka, which unequivocally describe her work as exceptional) to take place five months in the future, while she was on maternity leave, prompted Ms. Jesionka to raise concerns of pregnancy discrimination in a complaint with Rutgers' Office of Employment Equity (OEE) on December 20, 2018.

19. On January 8, 2019, after receiving no substantive response from OEE, Ms. Jesionka followed up by email with OEE concerning the status of her complaint and expressed concern that the complaint could lead to retaliation by her supervisor, Dr. Kütting. Later that same day, Ms. Jesionka's fears were realized, when Dr. Kütting came, unscheduled, to Ms. Jesionka's office in Conklin Hall and provided her a termination letter dated January 8, 2019. The letter from Dr. Kütting specifically informed Ms. Jesionka that her position was terminated, effective February 6, 2019—less than a week after the commencement of her scheduled maternity leave and only eight days before her due date.

20. The letter attributed the termination to a reorganization of the Division of Global Affairs that would result in her position being eliminated, yet Ms. Jesionka—despite being the Associate Director of the Division and held in high esteem by her peers and prior supervisors—had never been told of such a reorganization. Indeed, she had previously been told by other faculty members that her job was secure while she was away on maternity leave, and her personnel file reflects a December 28, 2018 review from her past supervisor noting that Ms. Jesionka's "dedication to enhancing the reputation of the program is without parallel" and the Division of Global Affairs "is now a program Rutgers can be proud of, thanks in substantial part to the work of this extremely capable Associate Director."

21. The purported reorganization resulted in the loss of only one position: Ms. Jesionka's. On information and belief, no one else associated with the Division of Global Affairs was pregnant or preparing to take family and medical leave when this action was taken.

22. Although Ms. Jesionka was told that her employment was being terminated because her position was being eliminated, Defendant communicated to staff approximately one week later that advertisements for a replacement for Ms. Jesionka would be issued soon.

### **VIOLATIONS ALLEGED**

#### **COUNT I**

##### **VIOLATION OF THE NEW JERSEY LAW AGAINST DISCRIMINATION (Discrimination on the Basis of Pregnancy)**

23. Ms. Jesionka re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

24. As set forth herein, Ms. Jesionka was at all times relevant to this action an employee, and Defendant an employer, within the meaning of the LAD.

25. At all times relevant to this action Ms. Jesionka was a member of a class protected by the LAD in that she was pregnant.

26. Ms. Jesionka suffered adverse employment actions when her supervisor threatened her with a baseless poor performance review and when Defendant announced that it was terminating her employment.

27. Defendant's purported reasons for the adverse employment actions taken against Ms. Jesionka were untrue, implausible and/or were not taken against non-pregnant employees.

28. Defendant's threats to provide a baseless poor performance review and Defendant's termination of and denial of employment to Ms. Jesionka while she was pregnant and scheduled to begin maternity leave constitutes unlawful discrimination on the basis of sex, in

violation of the LAD, N.J. Stat. § 10:5-12.

29. Through its discriminatory conduct, Defendant deprived Ms. Jesionka of her right to employment on the same terms as enjoyed by employees who are not pregnant, in violation of the LAD.

30. As a direct and proximate result of Defendant's intentional discriminatory employment practices, Ms. Jesionka has suffered and continues to suffer emotional pain, inconvenience, mental anguish, diminished enjoyment of life, humiliation, and/or related damages in an amount that will be determined at trial.

31. As a direct and proximate result of Defendant's unlawful, discriminatory employment practices, Ms. Jesionka will lose wages, benefits, and opportunities for promotion.

## **COUNT II**

### **VIOLATION OF THE NEW JERSEY LAW AGAINST DISCRIMINATION (Retaliation)**

32. Ms. Jesionka re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

33. As set forth herein, Ms. Jesionka was at all times relevant to this action an employee, and Defendant an employer, within the meaning of the LAD.

34. At all times relevant to this action Ms. Jesionka was a member of a class protected by the LAD in that she was pregnant.

35. As set forth herein, Ms. Jesionka exercised her rights under the LAD to file a complaint with Defendant based on her reasonable and good faith belief that she had been discriminated against by her supervisor on the basis of her pregnancy in violation of the LAD.

36. Defendant responded to Ms. Jesionka's complaint by announcing that it was terminating her employment.

37. This adverse employment action was unlawful retaliation under the LAD, which prohibits any person to take reprisals against any person because that person has opposed any practices or acts forbidden under the LAD or because that person has filed a complaint.

38. Defendant's termination of and denial of employment to Ms. Jesionka in response to her protected activity under the LAD constitutes unlawful retaliation in violation of the LAD, N.J. Stat. § 10:5-12.

39. As a direct and proximate result of Defendant's intentional discriminatory employment practices, Ms. Jesionka has suffered and continues to suffer emotional pain, inconvenience, mental anguish, diminished enjoyment of life, humiliation, and/or related damages in an amount that will be determined at trial.

40. As a direct and proximate result of Defendant's unlawful, discriminatory employment practices, Ms. Jesionka will lose wages, benefits, and opportunities for promotion.

### **COUNT III**

#### **VIOLATION OF THE FAMILY AND MEDICAL LEAVE ACT (Interference)**

41. Ms. Jesionka re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

42. As set forth herein, Ms. Jesionka was an employee under the FMLA because she was employed by Rutgers for more than one year and she fulfilled the 1,000 (one thousand) minimum quantity of hours required to have coverage.

43. Defendant was an employer under the FMLA, and the FMLA applied to Rutgers because Rutgers employed more than fifty (50) employees within the year preceding Ms. Jesionka's request for leave. As such, Ms. Jesionka was entitled to twelve (12) workweeks of family leave for the birth of a child.



44. Ms. Jesionka exercised her rights under the FMLA when she applied for maternity leave. Plaintiff was entitled to this leave, and upon her return from such leave entitled to be restored to the position she held when her leave commenced or to an equivalent position.

45. After requesting this leave to which she was entitled, Defendant notified her that her employment would terminate on February 6, 2019.

46. In so doing, Defendant willfully interfered with, restrained, and/or denied Ms. Jesionka's exercise of her FMLA rights, both by failing to restore her to an equivalent position and by interfering with her right to take family leave to which she was entitled in violation of 29 U.S.C. §§ 2612(a), 2614(a) and 2615(a).

47. Defendant's purported reasons for the adverse employment actions taken against Ms. Jesionka were untrue, implausible and/or were not taken against non-pregnant employees.

48. As a direct and proximate result of Defendant's intentional discriminatory employment practices, Ms. Jesionka has suffered and continues to suffer emotional pain, inconvenience, mental anguish, diminished enjoyment of life, humiliation, and/or related damages in an amount that will be determined at trial.

49. As a direct and proximate result of Defendant's unlawful, discriminatory employment practices, Ms. Jesionka will lose wages, benefits, and opportunities for promotion.

#### **COUNT IV**

#### **VIOLATION OF THE FAMILY AND MEDICAL LEAVE ACT (Retaliation)**

50. Ms. Jesionka re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

51. As set forth herein, Ms. Jesionka was an employee under the FMLA because she was employed by Rutgers for more than one year and she fulfilled the 1,000 (one thousand)

minimum quantity of hours required to have coverage.

52. Defendant was an employer under the FMLA, and the FMLA applied to Rutgers because Rutgers employed more than fifty (50) employees within the year preceding Ms. Jesionka's request for leave. As such, Ms. Jesionka was entitled to twelve (12) workweeks of family leave for the birth of a child.

53. Ms. Jesionka exercised her rights under the FMLA when she applied for maternity leave. Plaintiff was entitled to this leave, and upon her return from such leave entitled to be restored to the position she held when her leave commenced or to an equivalent position.

54. Ms. Jesionka further exercised her rights to file a complaint with Defendant based on her reasonable and good faith belief that her supervisor was attempting to interfere with her FMLA protections.

55. After requesting this leave to which she was entitled and after filing a complaint expressing fear of interference with such leave, Defendant notified her that her employment would terminate on February 6, 2019.

56. In so doing, Defendant willfully discharged or discriminated against Ms. Jesionka for exercising her FMLA rights in violation of 29 U.S.C. §§ 2612(a), 2614(a) and 2615(b).

57. As a direct and proximate result of Defendant's intentional discriminatory employment practices, Ms. Jesionka has suffered and continues to suffer emotional pain, inconvenience, mental anguish, diminished enjoyment of life, humiliation, and/or related damages in an amount that will be determined at trial.

58. As a direct and proximate result of Defendant's unlawful, discriminatory employment practices, Ms. Jesionka will lose wages, benefits, and opportunities for promotion.

**COUNT V**

**VIOLATION OF THE NEW JERSEY FAMILY AND MEDICAL LEAVE ACT  
(Interference)**

59. Ms. Jesionka re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

60. As set forth herein, Ms. Jesionka was an employee under the NJFMLA because she was employed by Rutgers for more than one year and she fulfilled the 1,000 (one thousand) minimum quantity of hours required to have coverage.

61. Defendant was an employer under the NJFMLA, and the NJFMLA applied to Rutgers because Rutgers employed more than fifty (50) employees within the year preceding Ms. Jesionka's request for leave. As such, Ms. Jesionka was entitled to twelve (12) workweeks of family leave for the birth of a child.

62. Ms. Jesionka exercised her rights under the NJFMLA when she applied for maternity leave. Plaintiff was entitled to this leave, and upon her return from such leave entitled to be restored to the position she held when her leave commenced or to an equivalent position.

63. After requesting this leave to which she was entitled, Defendant notified her that her employment would terminate on February 6, 2019.

64. In so doing, Defendant willfully interfered with, restrained, and/or denied Ms. Jesionka's exercise of her NJFMLA rights, both by failing to restore her to an equivalent position and by interfering with her right to take family leave to which she was entitled in violation of N.J. Stat. § 34:11B-9.

65. Defendant's purported reasons for the adverse employment actions taken against Ms. Jesionka were untrue, implausible and/or were not taken against non-pregnant employees.

66. As a direct and proximate result of Defendant's intentional discriminatory

employment practices, Ms. Jesionka has suffered and continues to suffer emotional pain, inconvenience, mental anguish, diminished enjoyment of life, humiliation, and/or related damages in an amount that will be determined at trial.

67. As a direct and proximate result of Defendant's unlawful, discriminatory employment practices, Ms. Jesionka will lose wages, benefits, and opportunities for promotion.

### **COUNT VI**

#### **VIOLATION OF THE NEW JERSEY FAMILY AND MEDICAL LEAVE ACT (Retaliation)**

68. Ms. Jesionka re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

69. As set forth herein, Ms. Jesionka was an employee under the NJFMLA because she was employed by Rutgers for more than one year and she fulfilled the 1,000 (one thousand) minimum quantity of hours required to have coverage.

70. Defendant was an employer under the NJFMLA, and the NJFMLA applied to Rutgers because Rutgers employed more than fifty (50) employees within the year preceding Ms. Jesionka's request for leave. As such, Ms. Jesionka was entitled to twelve (12) workweeks of family leave for the birth of a child.

71. Ms. Jesionka exercised her rights under the NJFMLA when she applied for maternity leave. Plaintiff was entitled to this leave, and upon her return from such leave entitled to be restored to the position she held when her leave commenced or to an equivalent position.

72. After requesting this leave to which she was entitled, Defendant notified her that her employment would terminate on February 6, 2019.

73. Ms. Jesionka further exercised her rights to file a complaint with Defendant based on her reasonable and good faith belief that her supervisor was attempting to interfere with her

NJFMLA protections.

74. After requesting this leave to which she was entitled and after filing a complaint expressing fear of interference with such leave, Defendant notified her that her employment would terminate on February 6, 2019.

75. In so doing, Defendant willfully discharged or discriminated against Ms. Jesionka for exercising her FMLA rights in violation of N.J. Stat. § 34:11B-9.

76. As a direct and proximate result of Defendant's intentional discriminatory employment practices, Ms. Jesionka has suffered and continues to suffer emotional pain, inconvenience, mental anguish, diminished enjoyment of life, humiliation, and/or related damages in an amount that will be determined at trial.

77. As a direct and proximate result of Defendant's unlawful, discriminatory employment practices, Ms. Jesionka will lose wages, benefits, and opportunities for promotion.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests the following relief:

- A. Judgment in favor of Ms. Jesionka and against Defendant Rutgers on all counts of the Complaint;
- B. Injunctive relief, including but not limited to an order restraining Defendant from engaging in further discriminatory and retaliatory conduct of the types of which Ms. Jesionka complains herein;
- C. Back pay, in an amount to be determined at trial, which, to the extent such pay is withheld, accounts for the salary and benefits that Ms. Jesionka would have been awarded but for the Defendant's discriminatory conduct;

- D. Front pay;
- E. Compensatory and consequential damages, including for emotional distress, in an amount to be determined at trial;
- F. Punitive damages;
- G. Pre-judgment and post-judgment interest, at the highest rate available under law;
- H. Attorneys' fees and costs incurred in this action; and
- I. Such further relief as the Court deems just and proper.

**JURY DEMAND**

Plaintiff demands a trial by jury on all issues so triable.

Date: February 4, 2019

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**CERTIFICATION PURSUANT TO LOCAL CIVIL RULE 11.2**

Plaintiff, by her attorneys, hereby certifies that to the best of her knowledge, the matter in controversy is not related to any other action other than an administrative charge pending at the U.S. Equal Employment Opportunity Commission concerning investigation of Plaintiff's claims under the Civil Rights Act of 1964, such claims not being included in this complaint until such time as Plaintiff has sufficiently exhausted her administrative remedies. Plaintiff Natalie Jesionka is the claimant and Defendant Rutgers is the respondent in that charge.

I hereby certify that the foregoing statements made by me are true.

Date: February 4, 2019

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