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Attorneys for Plaintiff

SOPHIA PERCARIO,

Plaintiff,

v.

HACKENSACK MERIDIAN HEALTH,

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: UNION COUNTY
DOCKET NO: UNN-L-

CIVIL ACTION

COMPLAINT WITH JURY DEMAND

1. This action seeks redress for the willful, wanton, and intentional violation of the civil rights of a student seeking a nursing education.
2. Plaintiff Sophia Percario (“Ms. Percario” or “Plaintiff”) is a student at Hackensack Meridian’s JFK University Medical Center Muhlenberg, Dorothy Snyder School of Nursing (“Defendant” or the “School”).
3. This action seeks injunctive relief for Ms. Percario under the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 to -49 (“NJLAD”).
4. As discussed in greater detail below, the NJLAD required Defendant to engage in a bona fide interactive process to determine if Ms. Percario could receive her education and participate in clinical classes with an accommodation.
5. The School refused to conduct this good faith investigation in flagrant disregard for the NJLAD.
6. The School has taken the illegal and flagrantly discriminatory position that there are no religious exemptions for vaccines available to students.

7. This Complaint does not seek to challenge the effectiveness of the COVID-19 vaccine. This Complaint also does not seek to challenge the Defendant's right to put vaccination mandates in place, they can. Instead, the action arises because the Defendant has elected to violate the NJLAD with respect to the enforcement of their COVID-19 vaccine mandate.

8. The COVID-19 pandemic has placed great strains on all of us. Most people across this great state stood together, but not the Defendant. The Defendant used the pandemic to coerce students into abandoning their religious beliefs so they could pursue an education in nursing.

9. The Defendant waited until Ms. Percario was admitted to the school, paid tuition, and began attending classes before informing her that they do not accept religious exemptions for vaccines.

10. This Complaint seeks to hold the Defendant accountable.

PARTIES AND JURISDICTION

11. Defendant is a non-profit health care organization network within New Jersey with a principal place of business at 30 Prospect Avenue, Hackensack, NJ.

12. Defendant's network is composed of seventeen (17) hospitals, four (4) academic medical centers, two (2) children's hospitals, nine (9) community hospitals, a behavioral health hospital, multiple physician practices, over one hundred twenty (120) ambulatory care centers, two (2) rehabilitation hospitals, surgery centers, long term care and assisted living centers, air medical transportation facilities, rehabilitation centers, urgent care centers, and after-hours centers.

13. Plaintiff is a student at one of Defendant's academic medical centers known as: Hackensack Meridian JFK University Medical Center, Muhlenberg, Dorothy Snyder School of Nursing.

14. Plaintiff resides at 2 Old Dutch Road, Warren NJ, 07059 in Somerset County.

15. The School is located at 1200 Randolph Road, Plainfield NJ 07060 in Union County.

16. This court therefore has subject matter jurisdiction and this matter is properly venued in Union County.

17. This court therefore also has personal jurisdiction over Defendant.

FACTUAL HISTORY

18. Because Ms. Percario's religious beliefs prevent her from receiving the COVID-19 vaccine, she began a search for a school that accepts religious exemptions from vaccines.

19. Ms. Percario learned that Hackensack Meridian Health System's numerous hospitals and hundreds of affiliated medical facilities accepted religious exemptions from vaccines, including specifically their COVID-19 vaccination requirement, for its nurses, doctors, and other staff.

20. Thus, it appeared that Hackensack Meridian Health ("HMH") complied with its legal obligations under the New Jersey Law Against Discrimination.

21. With this knowledge Ms. Percario looked into the nursing program HMH offers and decided to apply so that she could uphold her religious beliefs and continue to pursue a nursing degree.

22. On or around November 28, 2022, Ms. Percario applied to Defendant's nursing program.

23. On or around December 9, 2022, Ms. Percario was accepted into the Defendant's nursing program.

24. Ms. Percario attended orientation for new nursing students on January 12, 2023.

25. Ms. Percario attempted to be proactive with her education and requested medical forms so that she could apply for a religious exemption from vaccinations. Ms. Percario took these steps prior to attending orientation or the start of classes.

26. On December 22, 2022, in accordance with the instructions she was provided by the School, Ms. Percario emailed Kate Fredricks, RN the Student Health Nurse requesting medical clearance paperwork for a religious exemption.

27. On December 23, 2022, Defendant responded to Ms. Percario informing her that there “were no religious exemptions for vaccines.”

28. Defendant’s statement that there “were no religious exemptions from vaccines” violates the NJLAD.

COUNT I:

VIOLATION OF NJLAD: RELIGIOUS DISCRIMINATION

29. Plaintiff repeats and realleges the allegations contained in the prior sections as if fully set forth herein.

30. The NJLAD prescribed requirements that the Defendant was required to follow upon receipt of a request for religious exemption from the COVID-19 vaccination policy.

31. The NJLAD prohibits schools, such as the Defendant, from discriminating against a student who asserts their protected rights under the NJLAD.

32. The NJLAD protects the rights of persons with sincerely held religious beliefs.

33. The NJLAD prohibits the Defendant from retaliating against a student who seeks a religious exemption from the COVID-19 vaccination policy.

34. Upon receipt of the request for religious exemption from Plaintiff, the Defendant informed Plaintiff that there were no religious exemptions available.

35. By stating that there were no religious exemptions for vaccines, the Defendant discriminated against the Plaintiff in violation of the NJLAD.

36. As a result, Plaintiff suffered emotional distress, including suffering embarrassment, humiliation, indignity, and other mental anguish.

37. As a result, the Plaintiff was damaged.

WHEREFORE: Plaintiff demand entry of a judgment awarding:

- a. Compensatory damages;
- b. Punitive damages;
- c. Attorneys' fees and costs of suit; and
- d. Such other relief as the Court may deem proper and just.

COUNT II:

VIOLATION OF NJLAD: FAILURE TO ACCOMMODATE

38. Plaintiff repeats and realleges the allegations contained in the prior sections as if fully set forth herein.

39. The NJLAD provides that the Defendant must provide a student with a reasonable accommodation from their mandatory vaccine policy that would enable them to access their education, unless doing so would impose an undue burden on their operations.

40. The NJLAD requires the Defendant to make a *bona fide* effort to reach an accommodation for students who seek religious exemptions.

41. The Defendant did not make a *bona fide* effort to reach an accommodation for Plaintiff.

42. The Defendant did not even give the Plaintiff an opportunity to make a request for religious exemption, and simply stated that there were no religious exemptions for vaccines.

43. The NJLAD provides that reasonable accommodations for exemptions from the COVID-19 vaccine could include requiring the employee to undergo regular testing for COVID-19, or otherwise allowing you to work in a manner that would reduce or eliminate the risk of harm to

other employees or to the public. A reasonable accommodation may also include providing you with personal protective equipment that sufficiently mitigates your risk of COVID-19 transmission and exposure.

44. Plaintiff was able to perform and participate in the essential functions of a clinical nursing student without an undue hardship to the Defendant.

45. By refusing to provide accommodations, the Defendant violated the NJLAD.

46. As a result, Plaintiff suffered emotional distress, including suffering embarrassment, humiliation, indignity, and other mental anguish.

47. As a result, the Plaintiff was damaged.

WHEREFORE: Plaintiff demands entry of a judgment awarding:

- a) Compensatory damages;
- b) Punitive damages;
- c) Attorneys' fees and costs of suit; and
- d) Such other relief as the Court may deem proper and just.

COUNT III:

DECLARATORY JUDGMENT

48. Plaintiff repeats and realleges the allegations contained in the prior sections as if fully set forth herein.

49. NJLAD provided injunctive relief to prevent future violations.

50. Plaintiff is legally entitled to a declaratory judgment that the Defendant violated the NJLAD and that an injunction should be issued requiring the Defendant to comply with the NJLAD regarding religious exemptions and accommodations.

WHEREFORE: Plaintiff demand entry of a judgment awarding:

- a. Injunctive relief as set forth herein;
- b. Attorneys' fees and costs of suit; and
- c. Such other relief as the Court may deem proper and just.

DEMAND FOR PRODUCTION OF DOCUMENTS

Pursuant to Rule 4:18-1, Plaintiff serves the following requests for the production of documents with this Complaint. Responses are due within the time calculated in Rule 4:18-1(b)(2), 50 days after service of the summons and complaint:

- 1 Produce a copy of all documents, including but not limited to paper documents, emails, texts, electronic documents, or messages relating or referring to Plaintiff.
- 2 Produce a copy of all documents, including but not limited to paper documents, emails, texts, electronic documents, or messages relating or referring to Defendant's policies regarding COVID-19 vaccine requirements.
- 3 Produce a copy of all documents, including but not limited to paper documents, emails, texts, electronic documents, or messages relating or referring to any policies regarding accepting requests for exemption from the COVID-19 vaccine requirements.
- 4 Produce a copy of all documents identified in your answers to interrogatories.

DEMAND FOR ANSWERS TO INTERROGATORIES

Pursuant to Rule 4:17-1, Plaintiff serves the following requests for answers to interrogatories with this Complaint. Responses are due within the time calculated in Rule 4:17-4(b), 60 days after service of the summons and complaint:

- 1 Identify all persons involved in the development of the current or any prior iteration of the COVID-19 vaccination policy for Defendant.
- 2 For each person identified in response to Interrogatory 1, set forth: a) their job title; b) the dates their involvement; c) their responsibilities with respect to the development of the Policy(ies).
- 3 Identify all persons who participated in the determination that led to the message being delivered to Plaintiff that is set forth in paragraph 28 above.

- 4 For each person identified in response to Interrogatory 3, set forth: a) their job title; b) the dates their involvement; c) their responsibilities with respect to the interactive process.
- 5 Identify the number of requests for religious exemption from the COVID-19 vaccination requirement that were received by Defendant.
- 6 Identify the number of requests for religious exemption from the COVID-19 vaccination requirement that were granted by Defendant.
- 7 Identify the number of requests for medical exemption from the COVID-19 vaccination requirement that were received by Defendant.
- 8 Identify the number of requests for medical exemption from the COVID-19 vaccination requirement that were granted by Defendant.
- 9 Identify all documents, including any drafts or electronic documents, relating in any way to the interactive accommodations process as described in Interrogatories 6 and 8.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, John D. Coyle is hereby designated trial counsel.

JURY DEMAND

Plaintiffs hereby demands a trial by jury of all issues so triable.

RULE 4:5-1 CERTIFICATION

I hereby certify that the claims raised herein are not the subject of any other action or arbitration. Plaintiffs are not aware of any other party who should be joined to this action pursuant to R. 4:28 or who is subject to joinder pursuant to R. 4:29-1(b) because of potential liability to any party on the basis of the same transactional facts.

R. 4:5-1(b)(3) CERTIFICATION

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 R. 1:38-7(b).

JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues so triable.

Dated: January 27, 2023

Attorneys for Plaintiff

By: s/ John D. Coyle

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Civil Case Information Statement

Case Details: UNION | Civil Part Docket# L-000314-23

Case Caption: PERCARIO SOPHIA VS HACKENSACK
MERIDIAN HEALTH

Case Initiation Date: 01/27/2023

Attorney Name: JOHN D COYLE

Firm Name: COYLE & MORRIS LLP

Address: 201 LITTLETON RD STE 210

MORRIS PLAINS NJ 07950

Phone: 9733700592

Name of Party: PLAINTIFF : Percario, Sophia

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

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

Are sexual abuse claims alleged by: Sophia Percario? 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: Other(explain) Student/School

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)*

01/27/2023

Dated

/s/ JOHN D COYLE

Signed

