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SUPERIOR COURT OF N.J.  
CIVIL DIVISION  
ESSEX VICINAGE

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FINANCE DIVISION  
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Attorneys for Plaintiff, Elizabeth Bruno

ELIZABETH BRUNO,  
  
Plaintiff

v.

HOLOGIC, INC., and  
VISHAL SHAH,  
  
Defendants

x SUPERIOR COURT OF NEW JERSEY  
: LAW DIVISION: ESSEX COUNTY  
: DOCKET NO.: \_\_\_\_\_

:  
: *Civil Action*

:  
: **COMPLAINT AND JURY DEMAND**

x

Plaintiff, Elizabeth Bruno, ("Ms. Bruno" or "plaintiff"), by her undersigned attorneys,  
says:

**NATURE OF THIS ACTION**

1. Plaintiff brings this action to remedy gender, pregnancy and disability discrimination and retaliation in violation of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, et seq. (hereinafter, the "LAD") and payment of wages unlawfully withheld by defendants in violation of New Jersey's Wage Payment Law, N.J.S.A. 34:11-4.1, et seq. ("Wage Payment").

## PARTIES

2. Plaintiff, Elizabeth Bruno, is a citizen and resident of Mercer County in the State of New Jersey.

3. Plaintiff Bruno was employed as a Diagnostic Sales Specialist II by Defendant, Hologic, Inc., until she was wrongfully and unlawfully terminated on October 4, 2016.

4. Defendant, Hologic, Inc., (hereinafter Defendant or "Hologic") is a corporation which does business in New Jersey. Hologic is in the business of developing, manufacturing, supplying and selling a variety of diagnostics products used primarily to aid in the diagnosis of human diseases, medical imaging systems and surgical products "with an emphasis on women's health."

5. Defendant, Vishal Shah, is a citizen and resident of the State of New Jersey, residing in Jersey City, New Jersey, and is a District Sales Manager for Hologic, working out of a home office in Jersey City, New Jersey. At all relevant times hereto, he was Plaintiff Bruno's immediate supervisor.

## JURISDICTION AND VENUE

6. Plaintiff repeats and incorporates by reference all preceding paragraphs of the Complaint as though they were set forth herein at length.

7. Hologic actually does business in Essex County New Jersey.

8. Defendant Shah resides and works in the State of New Jersey.

9. At all relevant times to this action, Plaintiff worked out of her New Jersey home office as a sales representative for Hologic covering the "Central New Jersey" territory

which included selling directly to customers in Newark, New Jersey (Essex County).

**COUNT ONE**

**(Plaintiff vs. All Defendants- Discrimination & Retaliation in Violation of the LAD)**

10. Plaintiff repeats and incorporates by reference all preceding paragraphs of the Complaint as though they were set forth herein at length.

11. On or about December 1, 2014, Plaintiff Bruno was hired by Hologic as a Diagnostic Sales Specialist II working in the Central New Jersey territory. She performed her job duties exceptionally well for Hologic. During her tenure with Hologic, Ms. Bruno consistently was one of the top sales performers for Hologic, earning recognition and awards, including but not limited to:

a. The “Circle of Excellence Award” in October 2015, for her sales work during fiscal year 2015, which was awarded to the top 10 performers nationwide, earning her a trip to Italy;

b. The “Growing Like Gangbusters” award in September 23, 2016, for ranking in the top 4 out of 100 nationwide participants in a two year sales contest.

c. Being nominating for the “TOAST” award at the General Sales Meetings in 2015 and 2016.

12. Despite these awards and accolades, Ms. Bruno began to experience discrimination and retaliation from her male supervisor, Defendant Shah, the District Sales Manager, after he became aware of her pregnancy.

13. Female employees at Hologic have previously complained about Defendant Shah’s harassment and discrimination against women.

14. Despite prior knowledge of Defendant Shah's discriminatory and hostile treatment of women, upper management at Hologic did nothing to protect Plaintiff Bruno from Defendant Shah.

15. In April 2016, Defendant Shah and Plaintiff were at a business luncheon with prospective customers/clients and others in the medical profession when Defendant Shah learned from a third party that Plaintiff and her husband planned to start a family in the immediate future.

16. Upon learning of her planned pregnancy, Defendant Shah immediately began a campaign of harassment and discrimination. Defendant Shah acknowledged that he heard Ms. Bruno's pregnancy plans and remarked that it was "odd."

17. In or about June 2016, Ms. Bruno's co-workers and Defendant Shah became aware of Plaintiff's pregnancy.

18. Shortly thereafter, on June 30, 2016, despite Plaintiff's excellent performance, and in order to harass and discriminate against her, Defendant Shah, put Plaintiff on a Performance Improvement Plan (PIP). During the meeting, Ms. Bruno complained that the PIP was harassing and discriminatory.

19. Shortly after the meeting on June 30, 2016, Ms. Bruno submitted a written reply to the PIP to Defendant Shah, as well as to his supervisor, Doug Donovan, and to Allison Ericson, a senior vice-president in Hologic's Human Resources Department. Ms. Bruno contacted Human Resources and made a complaint about Defendant Shah's abusive, discriminatory and hostile behavior.

20. In early July 2016, Ms. Bruno complained again to Ms. Ericson in Human

Resources about Defendant Shah's abusive, hostile and discriminatory behavior. Among other things, Plaintiff told Ms. Ericson that Defendant Shah was abusive and hostile to Ms. Bruno, and that his criticisms of Ms. Bruno were not based on her objective job performance. Rather, it was because of her gender and pregnancy.

21. In addition, Ms. Bruno asked Ms. Ericson to participate in her now required weekly calls with Defendant Shah so that she could witness Defendant Shah's verbal abuse; Ms. Ericson refused.

22. Neither Ms. Ericson, nor anyone else on behalf of Hologic, investigated Ms. Bruno's internal complaint about Defendant Shah's discriminatory and retaliatory treatment of Ms. Bruno. Despite Ms. Bruno's protests over Defendant Shah's abusive and discriminatory treatment of her, she was required to continue to report to him.

23. Nonetheless, Ms. Bruno continued to perform well and continued to meet and exceed her sales goals at Hologic.

24. In late August, early September 2016, Ms. Bruno participated in district level meetings held over a three to four day period in Jersey City, with her supervisor, Defendant Shah, as well as his new supervisor, Scott Toman, who had taken over the position previously held by Doug Donovan. By this time, Ms. Bruno was approximately six months pregnant. Her pregnancy was obvious and well known to Hologic's upper management. Mr. Toman even commented on her pregnancy.

25. In September 2016 Plaintiff experienced a health issue unrelated to pregnancy. In early October 2016, Ms. Bruno's physician, prescribed a medical leave of absence/short term disability. Her disability was exacerbated by the discrimination and harassment she

experienced from Defendants. Ms. Bruno again contacted Human Resources at Hologic and obtained the necessary forms for taking a medical leave of absence/short term disability.

26. On October 4, 2016, Ms. Bruno emailed Defendant Shah, as well as Human Resources at Hologic, her completed paperwork for her requested medical leave of absence/short term disability.

27. On the same day that Plaintiff requested a medical leave, Defendants terminated her employment. Defendant Shah, Ms. Ericson and Mr. Toman all participated in terminating Plaintiff immediately, over the telephone, despite her pending request for medical leave/short term disability.

28. Defendants falsely stated that Ms. Bruno had not fulfilled a requirement of the PIP that she have 5 "co-travels" with Defendant Shah (her harasser, and the person about whom she had complained to Human Resources). In fact, Defendant Shah refused to schedule the last 2 of the co-travels, despite many opportunities for him to attend Ms. Bruno's numerous sales meetings during this time period.

29. Ms. Bruno was terminated due to her gender and pregnancy in violation of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq.

30. Ms. Bruno was terminated because of her disability in violation of the LAD.

31. Ms. Bruno was terminated in retaliation for complaining about discrimination in violation of the LAD.

32. Ms. Bruno was terminated in retaliation for seeking a medical leave in violation of the LAD.

33. Defendant Hologic failed to investigate Plaintiff's complaints of gender-based

harassment, discrimination and retaliation. Defendant Hologic did not take prompt and effective remedial action to end Defendant Shah's discriminatory and retaliatory conduct.

34. Despite Plaintiff's complaints, and those of other women, Defendant Hologic continued to place Defendant Shah in a position of power and complete authority over Plaintiff, creating a continuing hostile work environment and enabling discrimination that resulted in Plaintiff's unlawful termination on October 4, 2016 due to her gender, pregnancy and disability as well in retaliation for her earlier complaints about Defendant Shah and her request for medical leave.

35. Defendants were willfully indifferent to the Ms. Bruno's complaints, as detailed herein, by either completely ignoring her complaints, failing to properly investigate her complaints and the complaints by other women about Defendant Shah, allowing Shah to continue to supervisor Ms. Bruno after her complaints about him, and by participating in his unlawful scheme to discriminate against her because of her gender, pregnancy and disability including terminating Plaintiff after she complaining about Defendant Shah.

36. Defendants has negligently, recklessly and/or intentionally:

(a) failed to have in place a well-publicized and enforced anti-discrimination and anti-retaliation policy that is fully compliant with the law of this State;

(b) failed to properly train its employees regarding compliance with anti-discrimination and anti-retaliation policies, including those in New Jersey;

(c) failed to properly supervise its employees to ensure compliance with anti-discrimination and anti-retaliation policies and the law;

(d) failed to make an unequivocal commitment from the top of the organization, at the highest levels, to any anti-discrimination and anti-retaliation policies as not just words, but a commitment backed up by consistent practice, including discipline and removal of those violating the LAD from the workplace;

(e) failed to investigate or properly investigate Plaintiff's complaints and other women's complaints about Defendant Shah;

(f) failed to remove Defendant Shah from Plaintiff's work place;

(g) failed to have an effective, protected environment for its employees, including the Plaintiff, to voice their concerns and complaints about hostile and abusive work environment and discrimination in the workplace; and

(h) failed to protect Plaintiff Bruno from discrimination, harassment and retaliation in the work place.

37. Defendant Hologic acts through Defendant Shah, as well as through its other employees, including but not limited to Allison Ericson, Doug Donovan and Scott Toman, who are all upper managers and for whom Defendant Hologic has *respondeat superior* liability. Each of these supervisors and upper managers knew of the abusive, discriminatory and retaliatory actions and hostile environment directed against Plaintiff Bruno and they failed to correct or remedy it. In fact, they enabled it and participated in it.

38. As a direct and proximate result of Defendants' conduct, Ms. Bruno has suffered, and continues to suffer, damages including severe mental, physical and emotional distress, bodily injury, pain and suffering, anxiety, stress, humiliation, exacerbation of existing medical conditions and personal physical injury and physical sickness.



39. As a direct and proximate result of Defendants' conduct, Ms. Bruno has suffered loss of income and benefits, including back pay and front pay, loss of benefits, including but not limited to health and disability benefits, damage to her reputation, and other pecuniary losses and damages.

WHEREFORE, cause having been shown, Plaintiff, Elizabeth Bruno, demands judgment in her favor and against all of the Defendants and seeks the following relief:

- (a) Compensatory damages for all back and future loss of wages, loss income, benefits, retirement losses, pain, suffering, stress, humiliation, mental anguish, emotional harm and personal physical injury and physical sickness, as well as damage to her reputation and loss of income stemming therefrom;
- (b) Reimbursement for medical expenses;
- (c) Reinstatement to her former position and all back pay and benefits with removal of her harasser, Defendant Vishal Shah, from his position so that he has no power or authority over Plaintiff;
- (d) Punitive damages;
- (e) Attorneys' fees, pre-and post-judgment interest, reimbursement for the negative tax consequences of a judgment and costs of suit; and
- (f) Such other relief as the Court may deem equitable and just.

### **COUNT TWO**

**(Plaintiff vs. Defendants Shah - Aiding and Abetting under LAD)**

1. Plaintiff repeats and re-alleges the allegations contained in all preceding

paragraphs of the Complaint as if set forth herein at length.

2. The LAD prohibits conduct that aids or abets unlawful discrimination, harassment and retaliation.

3. Defendant Shah as the District Sales Manager for Hologic is an upper-level manager, supervisor and decision-maker regarding Ms. Bruno and he is responsible for ensuring a work place free of discrimination and retaliation.

4. Defendant Shah knowingly and substantially assisted Hologic in its violation of the LAD by aiding and abetting discrimination, harassment and retaliation against Plaintiff.

5. Defendant Shah failed in his role as supervisor to prevent his own as well as Hologic's discrimination and retaliation against Plaintiff.

6. At all relevant times hereto, Defendant Shah acted within the scope of his employment with Hologic and, as a result, Defendant Hologic has *respondeat superior* liability.

7. Defendant Shah intentionally and wrongfully aided and abetted Hologic's aforesaid violation and his own violation of the LAD by creating and maintaining a discriminatory, hostile work environment and by engaging in a pattern and practice of unlawful discrimination, harassment, and retaliation against Ms. Bruno based upon her gender, pregnancy and/or disability in violation of the LAD, N.J.S.A. 10:5-1, et seq.

8. As a direct and proximate result of Defendant Shah's conduct, Ms. Bruno has suffered, and continues to suffer, damages including severe mental, physical and emotional distress, bodily injury, pain and suffering, anxiety, stress, humiliation, and personal physical

injury and physical sickness.

9. As a direct and proximate result of Defendant Shah's conduct, Ms. Bruno has suffered loss of income and benefits, including back pay and front pay, loss of benefits, including but not limited to health and disability benefits, damage to her reputation, and other pecuniary losses and damages.

WHEREFORE, cause having been shown, Plaintiff, Elizabeth Bruno, demands judgment in her favor and against Defendant Shah and seeks the following relief:

(a) Compensatory damages for all back and future loss of wages, loss income, benefits, retirement losses, pain, suffering, stress, humiliation, mental anguish, emotional harm and personal physical injury and physical sickness, as well as damage to her reputation and loss of income stemming therefrom;

(b) Reimbursement for medical expenses;

(c) Reinstatement to her former position and all back pay and benefits with removal of her harasser, Defendant Vishal Shah, from his position so that he has no power or authority over Plaintiff;

(d) Punitive damages;

(e) Attorneys' fees, pre-and post-judgment interest, and costs of suit; and

(f) Such other relief as the Court may deem equitable and just.

### COUNT THREE

**(Against All Defendants – Violation of Wage Payment Act, N.J.S.A. 34:11-4.1, et seq.)**

1. Plaintiff repeats and re-alleges the allegations contained in all preceding

paragraphs of the Complaint as if set forth herein at length.

2. Defendant Hologic has failed and refused to pay Ms. Bruno wages earned prior to her unlawful termination.

3. New Jersey's Wage Payment Law, at N.J.S.A. 34:11-4.3, provides in pertinent part:

“[w]henver an employer discharges an employee...or when an employee for any reason is laid off, or...quits, resigns, or leaves employment for any reason, the employer shall pay the employee all wages due not later than the regular payday for the pay period during which the employee's termination...took place, ...or in the case of employees compensated in part or in full by an incentive system, a reasonable approximation of all wages due, until the exact amounts due can be computed....(emphasis added).

5. Plaintiff's compensation consisted of hourly pay and sales commissions. As of the date of her termination on October 4, 2016, Plaintiff had earned a minimum of \$14,670 to \$15,000 in earned, unpaid commissions.

6. By refusing to pay Plaintiff her earned commissions, Defendants have violated New Jersey's Wage Payment Law, N.J.S.A. 34:11-4.2 and N.J.S.A. 34:11.4.3.

7. Defendants are required by law to pay the commissions due without condition and within the time periods set forth in the act. N.J.S.A. 34:11-4.8.

8. Defendants have knowingly and willfully violated New Jersey's Wage Payment Law. To date, despite demand for all sums due on her commissions, Defendants have not paid Plaintiff her earned commissions.

9. Under New Jersey law, both Defendant Hologic and Defendant Shah, as an officer, director and/or manager with supervisory responsibility over Plaintiff, are

individually and jointly and severally liable to Plaintiff under New Jersey's Wage Payment Law.

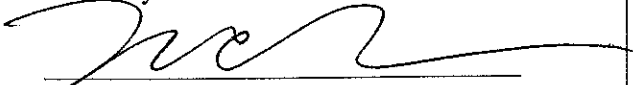
10. Defendants' failure to pay all wages and commissions due to Plaintiff, who they knew was pregnant and suffering from disabling medical conditions and who had legitimate claims of unlawful discrimination and retaliation, was knowingly, willful and egregious, warranting punitive damages.

11. In addition, Defendants are liable to Plaintiff for monetary fines, penalties and sanctions under the Wage Payment Law, N.J.S.A. 34:11-4.10, as well as N.J.S.A. 2C:40A-2.

WHEREFORE, cause having been shown, Plaintiff, Elizabeth Bruno, demands judgment in her favor and against Defendants, Hologic and Shah, individually and jointly and severally for:

- (a) all unpaid wages and commissions due;
- (b) all statutory fines, penalties and sanctions;
- (c) Punitive damages;
- (d) attorneys' fees and costs, and pre-judgment and post-judgment interest;
- (e) such other relief as the Court deems equitable and just.

SMITH MULLIN, P.C.  
Attorneys for Plaintiff

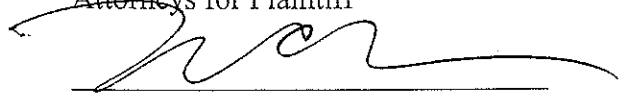
  
NANCY ERIKA SMITH, ESQUIRE

Dated: December 7, 2016

**JURY DEMAND**

Plaintiff demands trial by jury with respect to all issues that are so triable.

SMITH MULLIN, P.C.  
Attorneys for Plaintiff



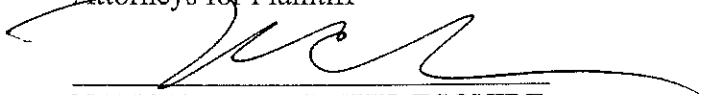
NANCY ERIKA SMITH, ESQUIRE

Dated: December 7, 2016

**DESIGNATION OF TRIAL COUNSEL**

Plaintiff hereby designates Nancy Erika Smith, Esq. as trial counsel of record in this matter.

SMITH MULLIN, P.C.  
Attorneys for Plaintiff



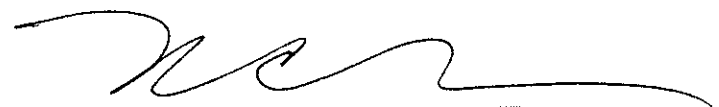
NANCY ERIKA SMITH, ESQUIRE

Dated: December 7, 2016

**CERTIFICATION**

Pursuant to New Jersey Court Rule 4:5-1, I hereby certify that to my knowledge, the matter in controversy is not and will not be the subject of any other litigation or arbitration in any court or before any body nor do I know of any other party who should be joined in this action.

SMITH MULLIN, P.C.  
Attorneys for Plaintiff



NANCY ERIKA SMITH, ESQUIRE

Dated: December 7, 2016