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Attorneys for Plaintiff, Caitlin McLarnon

CAITLIN McLARNON,	x	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION: ESSEX COUNTY
Plaintiff,	:	DOCKET NO.: _____
	:	
	:	<i>Civil Action</i>
v.	:	
	:	
TULA LIFE, INC., SAVANNAH SACHS,	:	
ZACK ABBELL and MAUREEN	:	
GRIFFITH,	:	<u>COMPLAINT AND JURY DEMAND</u>
	:	
Defendants.	:	
	:	
	x	

Plaintiff, Caitlin McLarnon (“Ms. McLarnon” or “Plaintiff”), by way of Complaint against Defendants TULA Life, Inc. (“TULA”); Savannah Sachs (“Sachs”), Zack Abbell (“Abbell”) and Maureen Griffith (“Griffith”) (collectively herein referred to as “Defendants”), says:

NATURE OF THIS ACTION

1. Plaintiff brings this action to remedy disability discrimination and retaliation in violation of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, et seq. (the “LAD”).

PARTIES

2. During all times relevant to this Complaint, Plaintiff McLarnon was a resident of New Jersey, residing at 55 Renner Avenue, in the Township of Bloomfield, County of Essex and State of New Jersey.

3. Defendant TULA Life, Inc. (“TULA”) was at all times relevant hereto a private company with its principal place of business in New York, New York.

4. Defendant TULA is located in the United States and does extensive business in Essex County, New Jersey.

5. Defendant Savannah Sachs (“Sachs”) was at all times relevant hereto the CEO of TULA, residing in Brooklyn, New York.

6. Defendant Zack Abbell (“Abbell”) was at all times relevant hereto the Vice President of E-Commerce of TULA, residing in Queens, New York.

7. Defendant Maureen Griffith (“Griffith”) was at all times relevant hereto Director, People, residing in Jersey City, New Jersey.

8. At all times relevant hereto, each and every defendant was the agent, servant or employee of Defendant TULA, acting in their official and individual capacities.

JURISDICTION AND VENUE

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

10. Defendant is headquartered in New York, New York, and does business in Essex County, New Jersey.

11. At all times relevant to this action, Plaintiff was a resident of Essex County, New Jersey and, at all times relevant hereto, Plaintiff worked for Defendant in Essex County, New Jersey.

12. Accordingly, jurisdiction in this court and venue in Essex County is appropriate.

13. Pursuant to Rule 4:3-2(b), venue is proper in Essex County because Defendant actually conducts business in Essex County and because Plaintiff performed her job duties in Essex County.

COUNT I

(Discrimination Due to Plaintiff's Disability and/or Perceived Disability in Violation of the New Jersey Law Against Discrimination)

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

15. Plaintiff was hired in January of 2020 as Director of Influencer Marketing & Partnerships. In that role, Ms. McLarnon reported directly to Defendant, CEO Sachs for a year and a half.

16. In that time, Plaintiff increased her team's revenue from \$11 million to \$23 million. Her team grew from four to eight members.

17. Plaintiff consistently received positive feedback, met her goals, and was given excellent performance reviews. Plaintiff's 2021 360 review, in which she received 3 "exceeds expectations" and 2 "meets expectations" ratings, Defendant Sachs, the CEO, included the following comments:

- She's clearly one of TULA's secret weapons as we continue to scale aggressively & efficiently in 2021;
- Caitlin is incredibly proactive when it comes to cross functional initiatives - she is very often the person who is scheduling the check in or starting the slack thread that helps us work through a cross functional task;
- Really great partner. Caitlin is approachable & makes herself available whenever I want to talk out an idea that involves our channels or partner together on an initiative;
- Caitlin is a really sharp and experienced leader and it shows in all the projects she's able to participate in and the insight she brings to our entire team. It's clear that she's worked on a variety of projects, with a wide range of partners, and brings a really unique, well-rounded perspective to the table;
- She is strategic in her recommendations & is willing to hear out your ideas/open to process changes. The partnerships we have worked on in 2020 (Courtney, Shawn, Celebrity Pitches) she has been extremely instrumental in seeing them over the finish line;
- Caitlin has been an incredible asset to the team since she joined. The influencer team, which was already one of our strongest assets, has only gotten stronger since she came on board. She is super data-driven, but also understands all the nuances that go into what is, quite frankly, a beast of a channel to manage;
- Caitlin is a really trusting manager and allows our team members the space they need to work at their pace, and set their own processes. She does not micro-manage and allows us the flexibility to manage our schedules/workload how we'd like to;
- I think one of Caitlin's strengths is her ability to instill trust in people. For me, I feel as if Caitlin fully trusts me to complete my work/projects on my time without her constantly checking in to make sure I am doing it. For me, that is very important in a manager. With that, I also know that should a question or road block come up in my day to day she would be there to help or answer any questions;
- Caitlin is really good at giving feedback. When your doing something right she makes it known, when you could do something a bit better she makes it known as well and I appreciate that. She makes me feel valued and that she will always advocate for me. She always takes the time to answer my

questions and make sure I have a better understanding of something while also pushing me to be independent and confident in myself;

- She is also fiercely protective of our team and we can always count on her to "go to bat" for us in terms of protecting our time and energy and managing expectations of other teams. She is always available to help jump in on projects when asked, or to trouble-shoot when things get complicated or messy;
- Additionally, I think Caitlin does a good job at outlining our teams goals and sticking to our weekly check in's both 1:1 and as a team. Since I have joined, there has not been one meeting cancelled because she was too busy with other things or prioritized other meetings over ours. Yes she has a lot going on but I do feel as if she always makes time for us and when we are in our meetings she is focused and not working on other things which is always appreciated!

18. As a result of Plaintiff's extraordinary performance in 2021, she received a raise and her full 15% bonus.

19. Plaintiff began to report to Defendant Zack Abbell in or about July, 2021, although she had much more experience in Influencer Marketing.

20. In or about August, 2021, after reporting to Defendant Abbell for only two months, Plaintiff received the following positive feedback:

- Great progress on building out the team, hiring 4 new team members in H1 and onboarding them all to contribute almost immediately. Caitlin and the team built a very strong partnership with Tyler & Celina that has helped better understand the performance of each segment in H1. With the partnership, there is now a deeper level of analysis into each program and will lead us down a stronger strategic path in H2 and beyond;
- Predictability is core to building a successful channel. Unfortunately, there are many factors you can't predict, but if you build a detailed plan, measurements and understand variance, you position yourself to be successful. Caitlin's partnership with Tyler and Celina helped us rebuild the forecasting model with influencer more well-integrated in the model so we can measure and adapt our approach based on performance in the market;

- Like all expansion plans, no matter how much detail you plan, the results can be unpredictable. Caitlin did a good job of working with the analytics team to assess performance and adjusting her strategy based on the results. When we dug into results of test partners, she provided thoughtful strategic approaches we could take to limit our risk while still continuing testing on both IG and YouTube. With YT in particular, with performance waning, she shifted budget away from the channel even though she had seen such strong success in prior roles. The flexibility to move away from things that aren't working after trying several different approaches is key to adaptation and ultimately, growth;
- H1 showed that Caitlin has a strong growth mindset of how to improve her channels and continue to elevate the business. In a growth role, part of success is failure. If you're not pushing yourself into uncomfortable areas, taking risks and failing, you're not growing. Caitlin pushed the expansion of the influencer programs into YT and broadening influencer partnerships through an aggressive scaling approach. While neither has proven to be at the ROAS we're accustomed to seeing from the influencer program, both approaches were key to understanding our expansion opportunities; and
- Hired up the team and did well to transition the book of business across the OG and New LTP to appropriately manage the business in order to scale for the future. Serious improvements to the content strategy, helping drive a succinct and thoughtful approach to posts, measurement and overall goal setting. The framework should lend itself well to a more frequent and engaged communication strategy with these key partners moving forward.

21. From July 2021 to January 2022, Plaintiff had three surgeries due to a chronic medical condition.

22. For each surgery, Plaintiff took only a few days off, and even communicated about work issues while recovering.

23. Defendants Sachs, Abbell, and Griffith were aware of Plaintiff's surgeries for a chronic medical condition.

24. Plaintiff was summarily terminated with no notice on Wednesday, February 23, 2022.

25. Only 6 weeks after Plaintiff had a third surgery, she was fired and denied the bonus she earned during 2021. Particularly cruel, the company immediately terminated Plaintiff's medical coverage - knowing she has a chronic medical condition – despite Defendant Griffith stating during the termination meeting: “We’re also gonna cover your medical, dental and vision benefits through the end of March as well.”

26. The reasons given for Plaintiff's termination are demonstrably false. Defendants created pretexts to cover up their discrimination.

27. For example, Defendant Griffith claimed in the termination meeting that Plaintiff had “no planned team activities or morale boosting moments” when Plaintiff had several team bonding events in 2021, including a team-building in-person dinner which took place in November, 2021.

28. Defendant Griffith also made the false statement that there was “no 2022 strategic planning.” Plaintiff submitted her 2022 strategic priorities and objectives to Defendant Abbell in late 2021 and presented them to Defendant Sachs weeks before her termination. Both Defendants Sachs and Abbell agreed with Plaintiff's strategic plan.

29. Defendant Griffith also claimed that the culture survey six months earlier, in August, 2021, was a reason for termination in February, 2022. In fact, the culture survey showed throughout TULA overall unhappiness by overworked employees who were being asked to work harder as the company grew faster than the team. The company acknowledged that everyone was stretched thin and at capacity in handling the workload. When Plaintiff was permitted to hire 3 more people for her team, the team's morale improved.

30. Non-disabled employees were not terminated based on the August 2021 culture survey.

31. Similarly, during the termination meeting, Defendant Abbell claimed to have discussed performance deficiencies with Plaintiff. Defendant Griffith repeated the claim. In fact, after Plaintiff's second surgery, Defendant Abbell repeatedly cancelled the "SL" meetings with Plaintiff in which the skip levels were to be discussed.

32. Defendant Abbell provided no coaching or mentoring for these newly-concocted terminable offenses. The record reflects no such meetings.

33. Defendant Abbell never advised Plaintiff in any standard weekly one-on-one meeting that there were deficiencies in her performance. In fact, on January 14, 2022, Defendant Abbell told Plaintiff that the company's "suitors were very interested and excited in the success of the influencer program."

34. The complaints given to Plaintiff are Defendants' attempt at creating a pretext for an illegal termination.

35. The made-up criticisms used to excuse Plaintiff's illegal termination contradict Defendant Sachs' own recent statements regarding the influencer program run by Plaintiff. Defendant Sachs' quotes in AdWeek, Retail Touch Points, CreatorIQ (Tribe), and Glossy indicate that the influencer program (run by Plaintiff) was a great success.

36. In fact, Defendants Sachs and Abbell both stated that the recent purchaser of TULA, Proctor and Gamble, was impressed by the program run by Plaintiff, stating: "P&G was especially excited about TULA's influencer program" and that "It was not just P&G, but

all the suitors in the acquisition process were very impressed by the success of the influencer program.”

37. When the company announced the P&G acquisition, Defendant Sachs stated that “everyone’s job is safe.... this will not impact anyone’s job.” Similarly, TULA frequently publicly touts its “values as a company with a diverse group of women who embody confidence.” Nevertheless, TULA has been engaged in reducing overhead in the past few months in order to get the best price for its investors and key executives at the expense of the employees who built the Company. Illegally firing an employee with a disability and/or perceived disability fit in with the greedy plan.

38. Plaintiff was chosen for termination despite her excellent performance because she needed three surgeries in the past year.

39. Plaintiff discussed her first and last surgeries with Defendant Sachs. Both Defendants Abbell and Griffith were aware of her surgeries.

40. Plaintiff was terminated less than six weeks after her third surgery, in a meeting that took place days before she was scheduled to receive her bonus and performance review.

41. As discussed above, the allegedly terminable performance deficiencies stated by Defendants Abbell and Griffith during the termination meeting are contradicted by the objective evidence of Plaintiff’s performance, the fact that such alleged deficiencies were never brought to Plaintiff’s attention, and false statements about the culture survey which directly contradict the statements of the consultant who led the survey.

42. Defendants Sachs, Abbell and Griffith were authorized to act on behalf of TULA.

43. By and through these actions, Defendant TULA has violated the New Jersey Law Against Discrimination, which prohibits discrimination against employees with disabilities or perceived disabilities, *N.J.S.A. 10:5-12, et seq.*

44. As a direct and proximate result of Defendant TULA's wrongful conduct, Plaintiff has suffered, and continues to suffer, damages including lost pay and benefits, severe mental, physical and emotional distress, pain and suffering, anxiety, stress, humiliation, and personal physical injury and physical sickness.

COUNT II

(Aiding and Abetting Discrimination in Violation of the LAD)

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

46. Defendants Sachs, Abbell and Griffith, individually and in concert, aided and abetted TULA in discriminating against Plaintiff due to her disability and/or perceived disability.

47. By and through these actions, Defendants Sachs, Abbell and Griffith have violated the New Jersey Law Against Discrimination, which prohibits discrimination against employees with disabilities or perceived disabilities, *N.J.S.A. 10:5-12, et seq.*

48. As a direct and proximate result of Defendants Sachs', Abbell's and Griffith's wrongful conduct, Plaintiff has suffered, and continues to suffer, damages including lost pay

and benefits, severe mental, physical and emotional distress, pain and suffering, anxiety, stress, humiliation, and personal physical injury and physical sickness.

WHEREFORE, cause having been shown, Plaintiff, Caitlin McLarnon, demands judgment in her favor and against all Defendants, and the following relief:

(a) Economic damages for all back and future lost wages, compensation, lost income, fringe benefits, retirement and pension losses;

(b) Compensatory damages for pain, suffering, stress, humiliation, mental anguish, emotional harm and personal physical injury and physical sickness, medical expenses, as well as damage to her reputation and loss of income stemming therefrom;

(c) All statutory fines, penalties and sanctions;

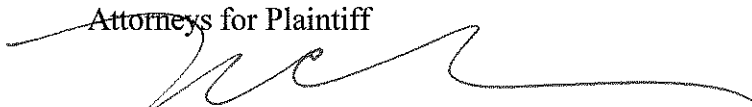
(d) Punitive damages;

(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.

SMITH MULLIN, P.C.

Attorneys for Plaintiff


NANCY ERIKA SMITH, ESQUIRE


Dated: March 25, 2022

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: March 25, 2022

DESIGNATION OF TRIAL COUNSEL

Plaintiff 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: March 25, 2022

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: March 25, 2022

Civil Case Information Statement

Case Details: ESSEX | Civil Part Docket# L-001925-22

Case Caption: MCLARNON CAITLIN VS TULA LIFE, INC.

Case Initiation Date: 03/25/2022

Attorney Name: NANCY E SMITH

Firm Name: SMITH MULLIN, PC

Address: 240 CLAREMONT AVENUE

MONTCLAIR NJ 07042

Phone: 9737837607

Name of Party: PLAINTIFF : McLarnon, Caitlin

Name of Defendant's Primary Insurance Company

(if known): Unknown

Case Type: LAW AGAINST DISCRIMINATION (LAD) CASES

Document Type: Complaint with Jury Demand

Jury Demand: YES - 6 JURORS

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

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

Are sexual abuse claims alleged by: Caitlin McLarnon? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? YES

If yes, is that relationship: Employer/Employee

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

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

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

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

03/25/2022

Dated

/s/ NANCY E SMITH

Signed