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**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA**

NICOLE ZANE,

Plaintiff,

v.

THE CHILDREN'S HOSPITAL OF
PHILADELPHIA *and* ATHENA ZUPPA,

Defendants.

Civil Action No. _____

**COMPLAINT FOR DECLARATORY
JUDGMENT, INJUNCTIVE RELIEF *and*
DAMAGES**

JURY TRIAL DEMANDED

Nature of the Action

1. This is an action for relief from employment discrimination, harassment and retaliation pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq. ("Title VII") and the Pregnancy Discrimination Act of 1978 ("PDA"). Plaintiff's claims under the Pennsylvania Human Relations Act, 43 P.S. §§ 951-963 ("PHRA") and the Philadelphia Fair Practices Ordinance, Philadelphia Code §§ 9-1100 et seq. ("PFPO") are still pending investigation before the Pennsylvania Human Relations Commission ("PHRC") because less than one year has elapsed since PHRC assumed jurisdiction over Plaintiff's charge. Plaintiff will seek leave to amend her Complaint when her PHRA and PFPO claims become ripe after one year has elapsed from the date of filing with PHRC.

2. Ms. Zane also seeks relief pursuant to the Family and Medical Leave Act, 29 U.S.C. §§ 2601 et seq. (“FMLA”) because Defendants retaliated against and harassed her for exercising her rights under the FMLA.
3. Plaintiff seeks actual damages, compensatory damages, punitive damages, statutory penalties, reinstatement, pre- and post-judgment interest, reasonable attorneys’ fees and costs of suit to redress injuries suffered as a result of being sexually harassed and discharged from employment.

Parties

4. Plaintiff Nicole Zane is an adult individual resident of Bucks County and a citizen of the Commonwealth of Pennsylvania.
5. Defendant The Children’s Hospital of Philadelphia (“CHOP”) is a domestic non-profit organized and existing under the laws of the Commonwealth of Pennsylvania located at 3401 Civic Center Blvd., Philadelphia, PA 19104. At all relevant times, Defendant acted or failed to act through its agents, servants and employees, each of whom were acting within the course and scope of their employment. Defendant was Plaintiff’s “employer” and Plaintiff was Defendant’s “employee” within the meaning of the applicable law.
6. Defendant Athena Zuppa is an adult individual who resides at 26 High Point Drive, Medford, New Jersey, 08055. At all relevant times, Defendant Zuppa was an officer, manager, supervisor, employee and/or agent of CHOP acting within the course and scope of her employment with CHOP and had actual or ostensible authority to bind CHOP to her actions and omissions. At all relevant times, Defendant Zuppa retained supervisory, hiring and firing powers over her employees, including Ms. Zane. At all relevant times, Defendant Zuppa acted directly or indirectly in the interest of CHOP with respect to

CHOP's employees, including Ms. Zane. At all relevant times, Defendant Zuppa was Plaintiff's "employer" as defined under the FMLA. When Ms. Zane's PHRA and PFPO claims become ripe, Ms. Zane will seek leave to amend this Complaint to add claims against Defendant Zuppa for retaliation and aiding and abetting.

7. Defendants systematically and willfully violates workers' rights under Title VII, the FMLA, the PDA, the PHRA, and the PFPO.

Exhaustion of Administrative Remedies

8. Ms. Zane timely files charges of discrimination with the U.S. Equal Employment Opportunity Commission ("EEOC") and the PHRC alleging violations of Title VII, the PDA, the PHRA and the PFPO alleging continuing acts of employment discrimination, harassment and retaliation based on Plaintiff's sex, gender and pregnancy.
9. EEOC issued Plaintiff a notice of right to sue within 90 days.
10. Plaintiff's PHRA and PFPO claims are still pending before PHRC because less than one year has elapsed since PHRA assumed jurisdiction over her charge. After one year has elapsed since the date of filing, Plaintiff will seek leave to amend this Complaint to assert her PHRA and PFPO claims. See Fed. R. Civ. P. 15(a) (Courts "freely give leave to amend when justice so requires"), 15(c) (Amendments "relate back" to the date of the original pleading), and 15(d) (Plaintiffs may "serve a supplemental pleading setting out any transaction, occurrence, or event that happened after the date of the pleading to be supplemented").
11. Ms. Zane has timely filed this action and has complied with all administrative prerequisites to bring this lawsuit.

Jurisdiction and Venue

12. This Court has jurisdiction over this lawsuit pursuant to 28 U.S.C. § 1331 because it involves questions of federal law under the Title VII, the FMLA, and the PDA.
13. This Court will have supplemental jurisdiction over Plaintiff's PHRA and PFPO claims pursuant to 28 U.S.C. § 1367 because they arise from the same nucleus of operative facts as Plaintiff's Title VII, FMLA and PDA claims.
14. Venue in this judicial district is proper pursuant to 28 U.S.C. § 1391(b) and 42 U.S.C. § 2000e-5(f)(3) because the acts and omissions giving rise to Plaintiff's claims occurred here and Defendant is subject to personal jurisdiction here.

Facts

15. Ms. Zane is an adult female who worked for CHOP as a Research Scientist.
16. Ms. Zane's direct supervisor was Defendant Athena Zuppa.
17. In 2017 and 2018, Ms. Zane suffered two miscarriages.
18. After Ms. Zane suffered a miscarriage in 2018, Defendant Zuppa responded, "it's called birth control."
19. Defendant Zuppa asked Ms. Zane on a number of occasions whether she was planning on having a child, and if so, "if she would quit and be a stay-at-home mom after having the baby." Defendant Zuppa also asked Ms. Zane "not to be a stay-at-home mom." Defendant Zuppa acknowledged that her statements to Ms. Zane regarding her pregnancy were unlawful but made them anyway because she was "asking as a friend."
20. In September 2019, Defendant Zuppa brought up Ms. Zane's miscarriages in an angry tone and said that Plaintiff's "personal life was impacting her professional life."
21. In 2019, just after Ms. Zane's dog died from being hit by a car (in addition to losing her other dog), Defendant Zuppa (who was aware that the dogs had passed), said to Ms.

Zane, “if you can’t handle having a dog, how are you supposed to be a mother?”

22. In September 2019 (a few days after Defendant Zuppa’s statement “if you can’t handle having a dog, how are you supposed to be a mother?”) Ms. Zane complained to CHOP’s Human Resources Department (“HR”) about Defendant Zuppa’s harassing pregnancy related comments.
23. HR failed to meet with Ms. Zane regarding her complaint until October 2019.
24. Ms. Zane initially met with Leon Jones in HR, who told Ms. Zane that if she made a formal complaint against Defendant Zuppa that the hostile work environment would “get worse.”
25. On or about November 6, 2019, Ms. Zane made a formal complaint against Defendant Zuppa because the harassment had gotten worse.
26. When Defendant Zuppa became aware of Plaintiff’s complaint, she took resources away from Ms. Zane that she needed in order to perform her job.
27. Additionally, after Ms. Zane’s complaint to HR, Defendant Zuppa made it difficult for Ms. Zane to continue working on her clinical trial.
28. Additionally, after Ms. Zane’s complaint to HR, Defendant Zuppa refused to speak to Ms. Zane about work related matters. Meanwhile, Defendant Zuppa continued speaking to other similarly situated employees who did not have miscarriages and/or who were not trying to get pregnant.
29. Additionally, after Ms. Zane’s complaint to HR, Defendant Zuppa shunned Ms. Zane in the workplace.
30. Additionally, after Ms. Zane’s complaint to HR, Defendant Zuppa refused to credit Ms. Zane for her work in a published research article.

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