

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

-----X	:	
IRENE LAURORA,	:	
	:	
Plaintiff,	:	Index No.:
	:	
v.	:	<u>COMPLAINT</u>
	:	
BAYER CORPORATION, and JOHN	:	
O’MULLANE, in his individual and professional	:	<u>Jury Trial Demanded</u>
capacities;	:	
	:	
Defendants.	:	
-----X	:	

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff Dr. Irene Laurora (“Plaintiff”), by and through her undersigned counsel, Wigdor LLP, as and for the Complaint in this action against Defendant Bayer Corporation (“Bayer” or the “Company”) and John O’Mullane (“O’Mullane”) (together with Bayer, the “Defendants”) hereby states and alleges as follows:

PRELIMINARY STATEMENT

1. This action seeks declaratory, injunctive and equitable relief, as well as monetary damages, to redress Defendants’ unlawful employment practices, including unlawful retaliation against Plaintiff in violation of federal and state law, including, but not limited to, the Family Medical Leave Act, 29 U.S.C. §§ 2601 *et seq.* (“FMLA”) and the New Jersey Law Against Discrimination (“NJLAD”).

2. Despite being a Company that boasts publicly about its desire to be “innovative” and “finding solutions to some of the major problems of our time,” it is disappointing that Bayer has continually refused to address the discriminatory corporate attitude it has demonstrated towards women, and especially working mothers.

3. In fact, despite being sued five years ago by five female employees for gender and pregnancy discrimination, Bayer continues to perpetrate the same kind of discriminatory conduct towards its pregnant employees to this day, reflecting a troubling refusal to “innovate” against this problem that is unfortunately endemic to corporate America.

4. Dr. Laurora learned this lesson first-hand when she stood up for the rights of a pregnant colleague. Instead of earning the praise and thanks from a Company that claims to pride itself on “addressing our social and ethical responsibilities as a corporate citizen,” Dr. Laurora faced increasing retaliation for her brave decision, culminating with the termination of her employment.

5. A distinguished and experienced professional with over twenty years of experience in the pharmaceutical industry, Dr. Laurora’s status as a top performer at Bayer was beyond question. In fact, it was clear that Bayer regarded Dr. Laurora as a valuable executive with a bright future at the Company, nominating her for several leadership awards, including for a position in its Management Excellence Program.

6. Sadly, it is an unfortunate fact that women, and especially working mothers, face repeated challenges that men in similar situations do not experience at large corporations such as Bayer. As a doctor and a woman in this position herself, Dr. Laurora demonstrated an unparalleled passion and dedication to the plight of working mothers, attempting to ease the burdens that they faced. Dr. Laurora was an impassioned advocate behind Bayer’s Women’s Leadership initiative and worked for the New Jersey Statewide Parent Advocacy Network, assisting families with children who have special needs and require extra support. As a result of her commitment to helping women, and especially working mothers, Bayer even named Dr. Laurora the Working Mother of the Year.

7. However, this dedication to the rights of female employees boomeranged back against Dr. Laurora when she made the courageous decision to stand up for the rights of her pregnant colleague.

8. More specifically, Dr. Laurora felt that she had no choice but to object when Defendants made it clear that they were going to continue the pattern of discrimination against pregnant women that has sadly become a hallmark of the corporate workplace where they often find themselves “mommy tracked” due to outdated concepts questioning the ability and dedication of expectant mothers.

9. She did so by writing to her direct supervisor, O’Mullane, who had made the decision to remove Dr. Laurora’s colleague from a leadership position on a high-profile project solely because she intended to take her legally protected maternity leave, and by telling him explicitly that his decision to discriminate against a pregnant woman was “inappropriate” and “disrespectful.”

10. Defendants’ treatment of Plaintiff markedly deteriorated almost immediately after she objected to O’Mullane’s attempts to discriminate against her co-worker for making the decision to take federally protected leave while pregnant, as she was immediately treated differently than other employees by, *inter alia*, issuing her baseless performance critiques, including in her annual performance review, having her position eliminated as part of a non-existent “reorganization,” and refusing to consider her for comparable positions within the Company.

11. Perhaps more troubling than all is that the conduct experienced by Dr. Laurora is by no means unique to her employment. Instead, it is merely the continuation of a long history of discriminatory and retaliatory behavior that the Company has perpetrated against its female employees.

12. Specifically, in 2011, the Company was sued by five other female executives, in this very Court, in *Barghout et al. v. Bayer Healthcare Pharmaceuticals et. al.*, 2:11-cv-01576. In *Barghout*, the plaintiffs alleged that they faced a series of discriminatory and retaliatory acts nearly identical to those at issue here, including managers making repeated comments about not wanting to work with women who were, or were about to become, mothers, the Company retaliating about complaints about this unlawful behavior by issuing them negative performance reviews without explaining or justifying its decision, eliminating the position of any female employee who complained as part of a supposed “reorganization” and subsequently refusing to consider these same employees for alternative positions within the Company for which they were qualified, despite repeated complaints to Human Resources.

13. That the Company would engage in virtually identical behavior with another senior and highly valued female employee, solely because she objected to its unlawful decision to discriminate against a female employee for her pregnancy and need for protected leave, and despite the presence of another lawsuit forcefully demonstrates that Bayer was both aware of its legal obligations and ignored them.

14. Plaintiff has brought this action to challenge Defendants’ unlawful and discriminatory employment practices against her and to finally attempt to hold the Company liable for its wanton and malicious refusal to treat pregnant women with the respect they deserve.

JURISDICTION

15. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1343 as this action involves federal questions regarding the deprivation of Plaintiff's rights under the FMLA. The Court has supplemental jurisdiction over Plaintiff's related claims arising under state law pursuant to 28 U.S.C. § 1367(a).

16. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because Bayer is a domestic business corporation doing business in the State of New Jersey and a substantial part of the events or omissions giving rise to this action, including the unlawful employment practices alleged herein, occurred in this district.

ADMINISTRATIVE REQUIREMENTS

17. Plaintiff intends to file a charge of discrimination on behalf of herself with the Equal Employment Opportunity Commission, alleging violations of Title VII. The charge will arise from the same facts alleged herein.

18. Following her receipt of a Notice of Right to Sue, Plaintiff will seek leave to file an Amended Complaint to include claims under Title VII.

19. Any and all other prerequisites to the filing of these claims have been met.

PARTIES

20. Plaintiff is a former female Vice President of Bayer Corporation. At all relevant times, Plaintiff worked for Bayer, and meets the definition of "person" and "employee" under all applicable statutes.

21. Defendant Bayer Corporation is a global pharmaceutical corporation with a principal place of business located at 100 Bayer Blvd, Whippany, NJ 07981. Bayer is one of the largest chemical and pharmaceutical companies in the world. At all relevant times, Bayer met the definition of "employer" within the meaning of all applicable statutes.

22. Defendant John O'Mullane is the Global Head, SVP, Innovation & Development, Consumer Care at Bayer. At all relevant times, Defendant O'Mullane had the authority to discipline and fire Plaintiff, direct her work activities, assign her job responsibilities and monitor her performance. Accordingly, at all relevant times, Defendant O'Mullane was an "employer" within the meaning of all applicable statutes.

FACTUAL ALLEGATIONS

Dr. Laurora Is Hired and Performs Exceptionally

23. Dr. Laurora began her employment with Bayer as a Vice President, Analgesics, Cough, Cold & New Products in October 2007.

24. Dr. Laurora joined Bayer following a distinguished 14-year career with another one of the world's largest pharmaceutical companies, Pfizer, Inc.

25. Throughout her tenure at the Company, Dr. Laurora was given outstanding performance reviews, routinely receiving ratings of "Exceeds Expectations," one of the highest possible scores at Bayer and a rating reserved for its top performers.

26. Due to her unimpeachable track record, in January 2015, Dr. Laurora was named the Vice President, Category Leader, Analgesics, Cough, Cold & Foot Care, a position in which Plaintiff was responsible for the largest category in Bayer's Innovation and Development ("I&D") Division, including worldwide responsibility for the full research and development pipeline for some of Bayer's largest brands, specifically Aleve and Aspirin.

27. As a result of this outstanding performance, it is unsurprising that Dr. Laurora was considered an invaluable employee with outstanding leadership potential and prospects.

28. By way of example only, in 2012, Dr. Laurora was given entry into Bayer's prestigious Management Excellence program, a nomination-only program designed to develop executives that were viewed as having a bright future with the Company.

29. That same year, Dr. Laurora was named by Bayer as the recipient of its Working Mother of the Year award based on the substantial work that she did on behalf of the Women's Leadership Initiative and her tireless advocating for parents of special needs children.

Dr. Laurora's Complaints of Unlawful Discrimination

30. It was this passion for the needs of the Company's female employees, and especially those of expecting mothers, that compelled Dr. Laurora to object when she saw Defendants discriminating against one of her co-workers.

31. Specifically, in early 2015, Dr. Laurora assigned a prestigious role heading up the responsibility for a long-term project to a pregnant woman who reported directly to Dr. Laurora.

32. However, in May 2015, Defendant O'Mullane made the unilateral decision to reassign the role of project leader to a male colleague. When Dr. Laurora's direct report questioned the basis of this decision, O'Mullane explicitly cited to the fact that the female employee intended to take FMLA-protected leave for her pregnancy as ostensibly providing evidence that she would be incapable of fulfilling the requirements of the job.

33. Prior to Defendant O'Mullane's decision, Dr. Laurora's female direct report had spent months working intensively on the project, ensuring that it would develop successfully and establishing important relationships that were integral to the project's future success.

34. Indeed, even though Dr. Laurora's direct report's protected pregnancy leave was only scheduled to last a few weeks out of a likely 2-3 year project, Defendant O'Mullane assigned the project champion role to a male employee on a **permanent** basis.

35. Dr. Laurora felt that she had no choice but to object to this blatantly discriminatory effort to punish a woman who was pregnant and required FMLA-protected leave, and voiced her objections directly to O'Mullane in writing, accurately describing his decision to strip her colleague of a very important position as "inappropriate and disrespectful."

36. In response, O'Mullane made clear that Dr. Laurora should not have objected to his discriminatory behavior, threatening her that "I don't believe this is the way to develop trust and integrity in our relationship."

Defendants Retaliate Against Dr. Laurora

37. Subsequently, O'Mullane gave Dr. Laurora a rating of "Below Expectations" for her "Leadership Goals" category in her annual 2015 performance review and downgraded her overall rating from the "Exceeds Expectations" she had received in previous years to "Meets Expectations."

38. Moreover, when Dr. Laurora challenged this rating, O'Mullane was tellingly unable to provide her any explanation for his decision to issue her a materially lower rating than she had received the previous year.

39. Understandably concerned by her negative performance review, and particularly focused on ways to ostensibly improve her leadership skills in light of the fact that her supervisor had failed to provide her with either an explanation for why he believed her leadership was unsatisfactory or ways to improve in this area, Dr. Laurora met with O'Mullane and proactively presented a list of leadership courses that she wanted to take to bolster her leadership tools in the eyes of her supervisor.

40. Rather than laud Dr. Laurora for her continued commitment to the Company and her career, O'Mullane informed her that he had made the decision to eliminate her position as part of a supposed restructuring.

41. Although understandably shocked by this abrupt attempt to undermine her career, Dr. Laurora quickly identified a newly created role as Head of Therapeutics, for which she was uniquely qualified.

42. For over 20 years, Dr. Laurora had developed outstanding skills in overseeing successful products, managing large teams of people, building relationships with health authorities around the world and working with Bayer's biggest brands.

43. Shockingly, despite her wealth of qualifications for the Head of Therapeutics position, O'Mullane summarily informed Dr. Laurora that he had no intention of even *considering* her for the position.

44. Refusing to believe that Bayer would so blatantly retaliate against her for her earlier objections to the discriminatory conduct a colleague had faced, Dr. Laurora continued to request to both O'Mullane and to Human Resources ("HR") that she be permitted to at least apply for the Head of Therapeutics position, explaining her qualifications and advocating for herself when no one in the Company that she had devoted nearly a decade to would help her.

45. In response to Dr. Laurora's repeated inquiries and faced with her unimpeachable qualifications, O'Mullane demonstrated the clear pretextual nature of his decision by completely changing his explanation and informing Dr. Laurora that he now did not consider her for a leadership position because, **"you don't have it. I can't put my finger on it but you just don't have what I'm looking for."**

46. When Dr. Laurora asked him what she could do to ensure that she would be considered should other leadership positions open up at the Company, O'Mullane quickly dismissed her, telling her he would think about it and get back to her. Tellingly, he never offered her any advice or alternative leadership positions for which she could apply.

47. Dr. Laurora was subsequently shocked to learn that O'Mullane had created another leadership position for which she was again perfectly qualified but had filled it with another employee without telling Dr. Laurora that it existed or even listing it on Bayer's intranet, in violation of the Company's policies.

48. Indeed, HR acknowledged the impropriety of O'Mullane's behavior, when an HR representative apologized to Dr. Laurora for O'Mullane's actions.

49. Despite this fact, HR refused to take any steps to address these issues, instead asking Dr. Laurora to excuse O'Mullane because, incredibly, "he doesn't understand our policies."

50. In a transparent effort to avoid any liability for their actions, Defendants then offered Dr. Laurora a new position that was a material diminution in responsibilities, compensation and room for advancement, knowing full well that she could not accept such a demotion at this stage in her career.

51. When Dr. Laurora subsequently declined the position (as Defendants undoubtedly knew she would), they eliminated her position, thereby terminating her employment.

AS AND FOR A FIRST CAUSE OF ACTION
(Retaliation in Violation of the FMLA)
(Against all Defendants)

52. Plaintiff hereby repeats and re-alleges each and every allegation in all of the preceding paragraphs as if fully set forth herein.

53. At all times relevant herein, Plaintiff was an “eligible employee” within the meaning of the FMLA. At all times relevant herein, Defendants were and are “covered employers” within the meaning of the FMLA.

54. Defendants violated the FMLA by unlawfully retaliating against Plaintiff for exercising rights protected by the FMLA by, *inter alia*, terminating her in retaliation for attempting to protect her co-worker’s exercise of rights under the FMLA and subjecting her to an adverse employment action that would reasonably dissuade a reasonable person from exercising rights protected by the FMLA.

55. As a direct and proximate result of Defendants’ unlawful and retaliatory conduct in violation of the FMLA, Plaintiff has suffered and continues to suffer harm for which she is entitled to an award of damages, to the greatest extent permitted under law, in addition to reasonable attorneys’ fees and expenses.

56. Defendants’ unlawful and retaliatory actions constitute bad faith, malicious, willful and wanton violations of the FMLA for which Plaintiff is entitled to an award of liquidated damages.

AS AND FOR A SECOND CAUSE OF ACTION
(Retaliation under the NJLAD)
(Against Defendant Bayer)

57. Plaintiff hereby repeats and re-alleges each and every allegation in all the preceding paragraphs as if fully set forth herein.

58. Defendant Bayer has retaliated against Plaintiff by, *inter alia*, terminating her employment and denying her other comparable positions for which she was qualified in response to her decision to object to Defendant Bayer’s attempts to discriminate against her pregnant colleague, in violation of the NJLAD.

59. As a direct and proximate result of Defendant Bayer's unlawful and retaliatory conduct, Plaintiff has suffered and continues to suffer harm for which she is entitled to an award of monetary damages and other relief.

60. As a direct and proximate result of Defendant Bayer's unlawful and discriminatory conduct in violation of the NJLAD, Plaintiff has suffered, and continues to suffer, harm for which she is entitled to an award of monetary damages and other relief.

61. Defendant Bayer's unlawful and discriminatory actions constitute malicious, willful and wanton violations of the NJLAD for which Plaintiff is entitled to an award of punitive damages.

AS AND FOR A THIRD CAUSE OF ACTION
(Aiding and Abetting in Violation of the NJLAD)
(Against Defendant O'Mullane)

62. Plaintiff hereby repeats and re-alleges each and every allegation as contained in all of the preceding paragraphs as if fully set forth herein.

63. Defendant O'Mullane directly participated in the retaliatory conduct perpetrated against Plaintiff, including, but not limited to, subjecting her to disparate terms and conditions of employment than those of the Company's male employees, terminating her employment and refusing to consider her for other comparable positions.

64. At all relevant times, Defendant O'Mullane had the ability to control the terms and conditions of Plaintiff's employment, including, but not limited to, the power to terminate Plaintiff's employment.

65. Defendant O'Mullane knowingly or recklessly aided and abetted the unlawful retaliation against Plaintiff in violation of the NJLAD, including, but not limited to, subjecting

her to disparate terms and conditions of employment than those of the Firm's male employees, terminating her employment and refusing to her consider her for other comparable positions.

66. As a direct and proximate result of Defendant O'Mullane's misconduct, Plaintiff has suffered, and continues to suffer, monetary and/or economic damages, including, but not limited to, loss of past and future income for which she is entitled to an award of damages.

67. As a direct and proximate result of Defendant O'Mullane's misconduct, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress, including, but not limited to, depression, humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-confidence and emotional pain and suffering for which she is entitled to an award of damages.

68. Defendant O'Mullane's unlawful retaliatory actions constitute malicious, willful and wanton violations of the NJLAD for which Dr. Laurora is entitled to an award of punitive damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court enter judgment in her favor and against Defendants, containing the following relief:

A. A declaratory judgment that the actions, conduct and practices of Defendants complained of herein violate the laws of the United States and the State of New Jersey;

B. An injunction and order permanently restraining Defendants and their partners, officers, owners, agents, successors, employees and/or representatives and any and all persons acting in concert with them, from engaging in any such further unlawful conduct, including the policies and practices complained of herein;

C. An order directing Defendants to place Plaintiff in the position she would have occupied but for Defendants' retaliatory treatment and otherwise unlawful conduct (including

reinstatement), and to take such affirmative action as is necessary to ensure that the effects of these unlawful employment practices are eliminated and do not continue to affect the life of Plaintiff;

D. An award of damages against Defendants, or any jointly or severally liable entity or person, in an amount to be determined at trial, plus prejudgment interest, to compensate Plaintiff for all monetary and/or economic damages, including, but not limited to, loss of past and future income, wages, compensation, seniority, and other benefits of employment;

E. An award of damages against Defendants, or any jointly or severally liable entity or person, in an amount to be determined at trial, plus prejudgment interest, to compensate Plaintiff for all non-monetary and/or compensatory damages including, but not limited to, compensation for her mental anguish, humiliation, embarrassment, stress and anxiety, emotional pain and suffering, physical injuries and/or symptoms and emotional distress;

F. An award of damages for any and all other monetary and/or non-monetary losses suffered by Plaintiff, including, but not limited to, loss of income, earned bonus pay, reputational harm and harm to professional reputation, in an amount to be determined at trial, plus prejudgment interest;

G. An award of punitive damages and any applicable penalties and/or liquidated damages in an amount to be determined at trial;

H. Prejudgment interest on all amounts due;

I. An award of costs that Plaintiff has incurred in this action, including, but not limited to, expert witness fees, as well Plaintiff's reasonable attorneys' fees and costs to the fullest extent permitted by law; and

J. Such other and further relief as the Court may deem just and proper.

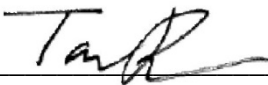
JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues of fact and damages stated herein.

Dated: December 7, 2016
New York, New York

Respectfully submitted,

WIGDOR LLP

By: 

Tanvir H. Rahman
Douglas H. Wigdor
(to be admitted *pro hac vice*)
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