

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION**

**MARTHA VON MERING,**

**Plaintiff,**

**vs.**

**CASE NO.:**

**THE SCHOOL BOARD OF  
FLAGLER COUNTY, FL**

**Defendant.** \_\_\_\_\_/

**COMPLAINT & DEMAND FOR JURY TRIAL**

Plaintiff, MARTHA VON MERING (“Plaintiff”), through undersigned counsel, files this Complaint against Defendant, THE SCHOOL BOARD OF FLAGLER COUNTY, FL (“FLAGLER” or “Defendant”), and states as follows:

**INTRODUCTION**

1. This is an action brought pursuant to the Family and Medical Leave Act, as amended, 29 U.S.C. § 2601, et seq. (“the FMLA”) to recover front pay, back pay, an equal amount as liquidated damages, reinstatement, lost benefits, compensatory damages, emotional distress damages, pain and suffering, injunctive relief, reasonable attorneys’ fees and costs and any other relief to which the Plaintiff is entitled including but not limited to equitable relief.<sup>1</sup>

2. Plaintiff brings a claim for discrimination and retaliation against Defendant, who subjected Plaintiff to workplace discrimination and retaliation because of

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<sup>1</sup> Plaintiff has requested a right to sue letter from the EEOC in order to exhaust her administrative remedies for claims of disability discrimination and retaliation under the Americans with Disabilities Act and Florida Civil Rights Act. Plaintiff will seek to amend this Complaint to add such claims promptly once she is able to do so.

her medical condition.

3. Plaintiff was wrongfully terminated as the culmination of discrimination and retaliation against her.

**JURISDICTION AND VENUE**

4. The Court has jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. §1331 with federal questions involving the FMLA and 28 U.S.C. §1337 and the authority to grant declaratory relief under the FMLA, pursuant to 28 U.S.C. § 2201 et seq., because at all times material to this Complaint, Plaintiff worked for Defendant in Flagler County, Florida.

5. The illegal conduct complained of, and the resultant injury, occurred within the judicial district in and for Flagler County, Florida.

**PARTIES**

6. Plaintiff is an adult individual who resides in Flagler County, Florida.

7. From approximately July 1, 2020 until her termination on June 30, 2022, Plaintiff was employed by Defendant as Flagler County School District's Exceptional Student Director.

8. Defendant is and was, at all relevant times, operating in Flagler County, Florida, and is within the jurisdiction of this Court. Therefore, venue is proper in this Court.

9. At all times material to this action, is the governing body of the Flager County School District and is required, *inter alia*, to follow the statutes of the State of Florida and the rules of the DOE in administering the affairs of the school district.

10. Defendant was an employer as defined by the laws under which this action is

brought and employs greater than 15 employees.

11. At all times material to this action, Plaintiff was an “employee” of Defendant within the meaning of the FMLA.

12. At all times material to this action, Defendant was, and continues to be, an “employer” within the meaning of the FMLA.

13. Defendant is an employer under the FMLA because it was engaged in commerce or in an industry affecting commerce and employed 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year.

14. At all times relevant hereto, Plaintiff worked at a location where Defendant employed 50 or more employees within a 75 mile radius.

15. At all times relevant hereto, Plaintiff was an employee entitled to leave under the FMLA, based on the fact that she was employed by Defendants for at least 12 months and worked at least 1,250 hours during the relevant 12-month period prior to her taking leave which would be protected pursuant to the FMLA.

#### **GENERAL ALLEGATIONS**

16. At all times material, Defendant acted with malice and with reckless disregard for Plaintiff’s federally protected rights.

17. Plaintiff retained the law firm of MORGAN & MORGAN, P.A. to represent Plaintiff in the litigation and has agreed to pay the firm a reasonable fee for its services.

18. Plaintiff was employed with Defendant from July 1, 2020, until her unlawful termination on June 30, 2022.

19. At the time of Plaintiff's termination, she was employed as Flagler County School District's Exceptional Student Director.

20. During her tenure, Plaintiff was a stellar employee who did not receive a single write up or verbal warning.

21. In December 2021, Plaintiff informed her supervisor, Robert Bossardet, that she would be donating her liver to her brother-in-law, who was in desperate need of a new liver.

22. Plaintiff also informed Mr. Bossardet that she would need to take FMLA leave in order to undergo the surgery and recover. As such, Plaintiff began her application for FMLA leave.

23. On March 30, 2022, Plaintiff was informed that her surgery date was set for April 29, 2022.

24. Plaintiff immediately provided Mr. Bossardet her FMLA paperwork which requested continuous leave from April 25, 2022 through June 30, 2022, which was approved.

25. Plaintiff was then scheduled to meet with Mr. Bossardet again in order to discuss coverage while she was out on leave.

26. On April 1, 2022, Plaintiff met with Mr. Bossardet where she expected to discuss the materials that needed to be covered while she was out.

27. However, Mr. Bossardet informed Plaintiff that their meeting was going to be focused around working out her "exit plan."

28. Plaintiff was shocked by Mr. Bossardet's abrupt decision and asked why.

Mr. Bossardet's reasoning was that he had "decided to go in a different direction with her employment."

29. Plaintiff explained that she had no intention of resigning as she loved her job.

30. On April 21, 2022, Plaintiff again met with Mr. Bossardet.

31. The meeting was short and focused solely on ensuring Plaintiff had met with the employee covering her position while she would be out on leave.

32. At the time, Plaintiff believed that meant Mr. Bossardet had changed his mind regarding terminating Plaintiff's employment.

33. Nonetheless, shortly thereafter Plaintiff was terminated.

34. On April 25, 2022, Plaintiff went out on her approved FMLA leave.

35. On April 29, 2022, Plaintiff underwent her surgery, which was successful.

36. On May 6, 2022, while Plaintiff was still out on FMLA approved leave, Defendant posted Plaintiff's position.

37. The job posting stated that the start date was July 1, 2022, which coincided with the date that Plaintiff was set to return to work following her FMLA leave.

38. Plaintiff has suffered damages as a result of Defendant's unlawful conduct.

39. Plaintiff seeks all available remedies including but not limited to a declaration from this Court that Defendant has violated the FMLA and ADAA; an order awarding lost wages, benefits and other compensation; an order awarding all actual monetary losses suffered as a result of Defendant's conduct, as well as liquidated damages, per se, post judgment interest, and her attorneys' fees and costs.

**COUNT I - FMLA INTERFERENCE**

40. Plaintiff re-alleges and adopts the allegations stated in Paragraphs 1-39.

41. Plaintiff was an employee entitled to the protection of the FMLA.

42. Defendant was Plaintiff's employer as defined by the FMLA.

43. Defendant's actions interfered with Plaintiff's lawful exercise of her rights under the FMLA.

44. At all times relevant to this action, Defendant failed to comply with 29 U.S.C. § 2601, et seq., because Defendant interfered with Plaintiff's right to take FMLA leave by terminating her whilst she was on FMLA protected leave.

45. Defendant's actions constitute violations of the FMLA.

46. Defendant's violations of the FMLA were willful.

47. As a result of Defendant's unlawful actions, Plaintiff has suffered damages for which she is entitled to compensation, including, but not limited to lost wages and benefits, future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life and other non-pecuniary losses.

48. Plaintiff is entitled to recover her attorneys' fees and costs.

**WHEREFORE**, Plaintiff prays for a trial by jury and all legal and equitable relief allowed by law including:

- a. Back pay and benefits;
- b. Interest on back pay and benefits;
- c. Front pay and benefits;
- d. Compensatory damages for emotional pain and suffering;

- e. Injunctive relief;
- f. Prejudgment interest;
- g. Attorneys' fees and costs; and
- h. Such other relief as the Court may deem just and proper.

### **COUNT II - FMLA RETALIATION**

49. Plaintiff re-alleges and adopts the allegations stated in Paragraphs 1-39.
50. Plaintiff was an employee entitled to the protection of the FMLA.
51. Defendant was Plaintiff's employer as defined by the FMLA.
52. Defendant discriminated and/or retaliated against Plaintiff for asserting her rights under the FMLA.
53. Defendant had actual or constructive knowledge of the discriminatory and/or retaliatory conduct of Plaintiff's supervisor.
54. Defendant's actions constitute violations of the FMLA.
55. Defendant's acts and omissions negatively affected one or more terms, conditions and/or privileges of Plaintiff's employment.
56. Defendant's discriminatory acts and omissions occurred, at least in part, because of Plaintiff's request for FMLA covered leave.
57. Defendant's conduct violated Plaintiff's right to be free from discrimination/retaliation as guaranteed by the FMLA.
58. As a result of Defendant's actions, Plaintiff has suffered damages for which she is entitled to compensation, including, but not limited to lost wages and benefits, future pecuniary losses, emotional pain, suffering, inconvenience, mental

anguish, loss of enjoyment of life and other non-pecuniary losses.

59. Defendant's violations of the FMLA were willful.

60. Plaintiff is entitled to recover her attorneys' fees and costs.

**WHEREFORE**, Plaintiff prays for a trial by jury and all legal and equitable relief allowed by law including:

- a. Back pay and benefits;
- b. Interest on back pay and benefits;
- c. Front pay and benefits;
- d. Compensatory damages for emotional pain and suffering;
- e. Injunctive relief;
- f. Prejudgment interest;
- g. Attorneys' fees and costs; and
- h. Such other relief as the Court may deem just and proper.

**JURY DEMAND**

The Plaintiff requests a trial by jury on all issues so triable.

Respectfully submitted on this 28<sup>th</sup> day of June, 2024.

**/s/ Gregory R. Schmitz**

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