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ALEXANDRA SWANDER

Plaintiff,

v.

RAMAPO COLLEGE OF NEW JERSEY;
KATHLEEN M. BURKE; JOHN DOES 1-
10 (Said Names Being Fictitious),

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY
DOCKET NO: BER-L-

CIVIL ACTION

COMPLAINT WITH JURY DEMAND

1. This action seeks redress for Defendants' willful and flagrant contempt for the civil rights of Plaintiff in violation of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 to -49 ("NJLAD").
2. In its simplest form, NJLAD protects a student who asserts a sincerely held religious belief in opposition to a school's vaccination requirement.
3. As applied to colleges in New Jersey, they are required to provide students with the opportunity to submit a request for a religious exemption from any vaccination requirement.
4. Defendant Ramapo College of New Jersey is fully aware of this requirement because it granted Plaintiff Alexandra Swander's request for a religious exemption on July 19, 2021.
5. This should have resolved this issue and obviated the need for this complaint. Unfortunately, shortly thereafter, Defendant Kathleen M. Burke, Assistant Dean in Charge of Nursing at Ramapo created a false pretense for discriminating against Alexandra based on her religious beliefs by:
 - a. Granting Alexandra's exemption;

- b. Then reversing course and flatly stating that Alexandra could not attend clinicals;
 - c. Then refusing to identify the clinical locations;
 - d. Then when the clinical locations stated they would comply with controlling law and accommodate Alexandra;
 - e. Threatening the physical removal of Alexandra from campus; and
 - f. Ending Alexandra's nursing career before it could start.
6. By Doing so, Defendants are knowingly and willfully disregarding their legal obligations to discriminate against those students who seek religious exemptions.
7. This is open and willful disparate treatment and discrimination in violation of NJLAD.

PARTIES AND JURISDICTION

8. Plaintiff Alexandra Swander is a resident of West Milford, New Jersey in the County of Passaic.
9. Defendant Ramapo is a public college with its principal place of business located at 505 Ramapo Valley Road, Mahwah, New Jersey in the County of Bergen.
10. Defendant Kathleen M. Burke, Assistant Dean in Charge of Nursing at Ramapo has her principal place of business in Bergen County.
11. Defendants John Does 1-10 (said names being fictitious) are currently unknown individuals who were responsible for the creation, promulgation, interpretation, and implementation of the discriminatory policies and procedures at issue here.
12. Alexandra was a student enrolled at Ramapo.
13. The discrimination alleged in this Complaint occurred at the Ramapo campus located in Bergen County, and at and through Defendant Burke, who worked in the County of Bergen.
14. Inasmuch as Defendants are residents or have principal places of business in Bergen

County, and the discrimination at issue occurred in the County of Bergen, this Court has jurisdiction over the parties here and this complaint is properly venued in this County.

FACTS COMMON TO ALL COUNTS

15. Alexandra took her nursing prerequisite classes from January 2018 – June 2020.
16. She transferred into the Ramapo Nursing program in September 2020, starting her Junior year, the 1st professional year of the Ramapo BSN program.
17. She paid full tuition to Ramapo, of approximately \$22,000 plus books/transportation.
18. She finished her Junior year in May of 2021.
19. In late May, the incoming college President sent an email announcement that the students would be required to have the Covid vaccine for 2021-2022 attendance.

Plaintiff Seeks a Religious Exemption as Provided by Law

20. On or about July 15, 2021, Alexandra submitted a request for a religious exemption from the Ramapo COVID-19 vaccine requirement.
21. As set forth in her submission, requiring Alexandra to receive the COVID-19 vaccine would violate her sincerely held religious beliefs. As she set forth in her submission in support of her request:
 - a. I hereby assert that mandatory vaccination, including requiring me to receive the COVID vaccine, would violate my sincerely held religious beliefs.
 - b. I respectfully request that Ramapo grant me a religious exemption to vaccination that would violate my sincerely held religious beliefs.
 - c. While my attorney has advised me of the legal standard that limits the extent to which Ramapo is permitted to “put to the proof” my “religious doctrines or beliefs” (United States v. Seeger, 380 U.S. 163, 184 (1965)), my faith and beliefs

are truly sincere and some explanation will assist with your review.

- d. I am a 47-year-old Christian woman with a biblically based Christian worldview, created in God's image. I respect my God's intelligent design of the human body and am committed to maintaining the purity of my corporal vessel. God created me in his image, and as God is by default, perfect, God has provided me with a perfect body and has bestowed me, His creation and child, with the responsibility for maintaining and protecting its sanctity and integrity, which includes avoiding contaminants like alcohol and known toxins.
- e. This also means that I do not seek to "improve" on the mechanisms that God has provided for maintaining my body, as it is disrespectful to my creator to suggest that His work is anything less than perfect. I live and work for the Glory of my God, and vaccines and injections, with their adjuvants, toxins, additives and mechanisms for altering my body, do not glorify God, rather they demonstrate contempt for the Him.
- f. I have been a Christian with this worldview since my born-again baptism 19 years ago. From 2002 to 2020 I did not vaccinate as part of my faith. I also know that the adverse events I experienced as a result of prior vaccinations were expressions of God's disapproval of my poorly informed decisions that did not consider my spiritual well-being.
- g. The recent mandate of the COVID-19 inoculation by the Ramapo administration is reaffirmation that my religious beliefs should guide how I manage integrity of my body. As a Christian, it's very clear to me what direction the vaccine industry is headed in, and that this is the first, not the last, vaccine that will be made with

technology-based mechanisms that seek to alter genetic expression. I cannot be part of a medical experiment that is an affront to our Creator. In my faith, we respect life, but I do not see life being respected when injections with new technologies and no long-term testing are forced upon young people who may not have a full understanding of the spiritual, ethical and medical problems associated with rushed development and release.

- h. These are my sincerely held beliefs and consistent with my Christian faith and I request exemption from mandatory vaccination that will violate my beliefs. If you wish to discuss my faith, or accommodations, please contact my attorney copied below.

Ramapo Grants Alexandra’s Request for Exemption

22. On July 19, 2021, Debra Lukacsko, Associate Director/Nurse Practitioner Health Services for Ramapo wrote to Alexandra granting her request for exemption, stating:

Dear Alexandra:

Your request for a religious exemption to the COVID-19 vaccine has been approved and processed.

Please be advised that a student with a religious exemption from receiving immunizing agents may be temporarily excluded from on campus and from participating in institution-sponsored activities during a vaccine-preventable disease outbreak or threatened outbreak. This exclusion will continue until the outbreak is over.

Thank you.

23. This was great news because it appeared that Ramapo would be complying with its legal obligations under the NJLAD. This was short lived.

24. Despite receiving the notification that her exemption was “granted,” Ramapo refused to update her status in their computer system, CastleBranch, which tracked students’ requirements.

25. On July 27, 2021, item 22 on Alexandra’s CastleBranch “To-Do List” was “COVID-19

Vaccination” and the status remained listed as “overdue.”

26. On July 28, 2021, counsel for Alexandra wrote to the same Debra Lukacsko who informed Alexandra that her request was “granted” to indicate that the CastleBranch status needed to be updated.

27. Counsel for Alexandra contacted Defendant Burke to discuss the contradiction between Defendant Burke’s statement that Ramapo could discriminate against Alexandra by falsely stating that its clinical sites were refusing, when they were explicitly allowing exempted nursing students, like Alexandra to attend.

28. Defendant Burke first responded that “our affiliating hospital are granting NO exemptions the vaccine for all students and faculty.”

29. When counsel asked Defendant Burke to let him know what facilities she would be placing Alexandra with so that he could contact the hospitals to discuss.

30. She refused, stating on July 28, 2021, “I will not share that information.”

31. On August 5, 2021, Alexandra received a notice from Joan Richards, Director of Nursing Simulation Laboratory at Ramapo. Joan Richards stated that “students **CANNOT** attend any off site clinicals without being vaccinated with the Covid vaccine. This is a hospital requirement and they do not accept ANY exemptions.”

32. On August 18, 2021 Ahsa Mehta, Academic Advisor, Ramapo College wrote to Alexandra to say that her “records show that you have no documentation of the COVID vaccine ,[sic]on your Castle Branch account. Please send your records to Castle Branch. Clinical experiences cannot be guaranteed without the vaccination.”

33. On August 24, 2021, Alexandra was notified by her clinical profession about her clinical site assignments. She was assigned to a first rotation at the New Bridge Medical Center in

Paramus in September and October of 2021; a second rotation at Ascend Home Health; and a third rotation at St. Joseph's in Wayne in October and November.

34. On August 30, 2021, Alexandra received notice that she was required to perform COVID PCR entry testing five days prior to her arrival on campus, as an accommodation in response to her request for a religious exemption from the COVID vaccine.

35. On August 31, 2021, Defendant Kathleen M. Burke, Assistant Dean in Charge of Nursing at Ramapo emailed Alexandra to state that "You cannot attend nursing classes until you have satisfied all castleBranch [sic] requirements. Faculty have been notified that you are not fully compliant."

36. When Alexandra emails back with information about the exemption being granted, Defendant Burke responded "Our clinical facilities require the Covid vaccine with no exemptions."

37. However, despite Defendant Burke refusing to identify Alexandra's clinical rotations, the school actually assigned her rotations.

38. The Clinical Site requirements provided by Ramapo told a different story—these clinical facilities, unlike Ramapo, complied with controlling state and federal law about exemptions.

39. For example, Alexandra's first rotation was at New Bridge. According to the clinical requirements provided by Ramapo, New Bridge required a "COVID Test within 3 days of start of rotation; Online orientation modules; and Mask/Faceshield."

40. Similarly, Alexandra's second rotation was at Ascend, and its Ramapo requirements stated "Orientation; Mask/faceshield."

41. Finally, Alexandra's third rotation was at St. Joseph's and its Ramapo requirement stated, "COVID acknowledgement form; HIPAA form; code of conduct form; Mask."

42. All three clinical rotation sites were contacted and they confirmed that Alexandra’s granted religious exemption could be accommodated with the above.”

43. Despite discussing this contradiction with counsel, on the evening before classes were to start, Defendant Burke emailed Alexandra to state that she could not take any clinicals if she was not vaccinated, and the if she tried to enter the nursing school building the following day “security would be called.”

44. Ramapo and Defendant Burke did so knowing that Alexandra faced a September 15, 2021 deadline to sign and accept her federal student loans, at which point Ramapo would receive the full amount of her tuition.

45. Having been threatened with arrest and physical removal from school buildings, and based on the false pretense that Alexandra’s clinical rotations would not allow her to attend— despite Defendant Burke being explicitly informed that the sites would allow her to attend— Alexandra was forced to withdraw from her senior year at Ramapo under duress, *de facto* losing three years of credits.

COUNT I:

VIOLATION OF NJLAD: RELIGIOUS DISCRIMINATION

(All Defendants)

46. Plaintiff repeats and realleges the allegations contained in the prior sections as if fully set forth herein.

47. NJLAD applies to Defendants inasmuch as Ramapo is an institute of higher learning.

48. NJLAD prescribed requirements that the Defendants were required to follow upon receipt of a request for religious exemption from the COVID-19 vaccination policy.

49. Defendant Ramapo is a place of public accommodation subject to the NJLAD.

50. NJLAD provides for individual liability for individuals acting on behalf of a discriminatory entity.

51. Defendant Burke acted in concert with Ramapo to implement a facially discriminatory policy that provided for disparate treatment for students who sought a religious exemption from COVID-19 vaccination.

52. Specifically, Defendant Burke and Ramapo created their own disparate treatment plan where they threatened physical removal of a student who sought—and received—a religious exemption.

53. The supposed reason for the denial was a pretext—as confirmed by the clinical sites themselves. Defendant Burke’s response after being informed that her pretext had been uncovered was to disenroll Alexander and threaten her physical removal.

54. Plaintiff was subjected to disparate treatment and discrimination due to her sincerely held religious beliefs.

55. NJLAD prohibits Defendants from retaliating against a student who seeks a religious exemption from the COVID-19 vaccination policy.

56. As a result, Plaintiff suffered direct financial losses, loss of prospective earnings, emotional distress, which included suffering embarrassment, humiliation, indignity, and other mental anguish.

57. As a result, the Plaintiff was damaged.

WHEREFORE: Plaintiff demand entry of a judgment awarding:

- a. Compensatory damages;
- b. Punitive damages;
- c. Attorneys’ fees and costs of suit; and

- d. Such other relief as the Court may deem proper and just.

COUNT II:

VIOLATION OF NJLAD: FAILURE TO ACCOMMODATE

(All Defendants)

58. Plaintiff repeats and realleges the allegations contained in the prior sections as if fully set forth herein.

59. NJLAD provides that the Defendants must provide a student with a reasonable accommodation from their mandatory vaccine policy, unless doing so would impose an undue burden on their operations.

60. NJLAD requires Defendants to make a *bona fide* effort to reach accommodation for students who seek religious exemptions.

61. Defendants did not make a *bona fide* effort to reach accommodation for Plaintiff.

62. By refusing to provide accommodations, Defendants violated NJLAD.

63. As a result, Plaintiff suffered direct financial losses, loss of prospective earnings, emotional distress, which included suffering embarrassment, humiliation, indignity, and other mental anguish.

64. As a result, the Plaintiff was damaged.

WHEREFORE: Plaintiff demands entry of a judgment awarding:

- a. Compensatory damages;
- b. Punitive damages;
- c. Attorneys' fees and costs of suit; and
- d. Such other relief as the Court may deem proper and just.

COUNT III:

DECLARATORY JUDGMENT

(All Defendants)

65. Plaintiff repeats and realleges the allegations contained in the prior sections as if fully set forth herein.

66. NJLAD provides injunctive relief to prevent future violations.

67. Plaintiff is legally entitled to a declaratory judgment that Defendants violated the NJLAD and that an injunction should be issued requiring Defendants to comply with the NJLAD regarding religious exemptions and accommodations.

WHEREFORE: Plaintiff demand entry of a judgment awarding:

- a. Injunctive relief as set forth herein;
- b. Attorneys' fees and costs of suit; and
- c. Such other relief as the Court may deem proper and just.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25, Plaintiff hereby designated John D. Coyle, Esq. as trial counsel.-4,
John D. Coyle is hereby designated trial counsel.

JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues so triable.

RULE 4:5-1 CERTIFICATION

I hereby certify that the claims raised herein are not the subject of any other action or arbitration. Plaintiff is not aware of any other party who should be joined to this action pursuant to R. 4:28 or who is subject to joinder pursuant to R. 4:29-1(b) because of potential liability to any party on the basis of the same transactional facts.

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 R. 1:38-7(b).

DEMAND FOR ANSWERS TO INTERROGATORIES

Pursuant to Rule 4:17-1, Plaintiff serves the following requests for answers to interrogatories with this Complaint. Responses are due within the time calculated in Rule 4:17-4(b):

1. Identify all persons involved in the development of the current or any prior iteration of the COVID-19 vaccination policy for Defendants.
2. For each person identified in response to Interrogatory 1, set forth: a) their job title; b) the dates their involvement; c) their responsibilities with respect to the development of the Policy(ies).
3. Identify all Clinical Locations where Alexandra was to be placed in rotations during her education at Ramapo.
4. For each Clinical Location identified in response to Interrogatory 3, identify and set forth:
 - a. Whether the Clinical Location permitted nursing students from Ramapo to attend with an accommodation if granted an exemption from a Covid-19 vaccine mandate;
 - b. Whether the Clinical Location permitted its employees to work at the Clinical Location with an accommodation if granted an exemption from a Covid-19 vaccine

mandate;

- c. Identify any agreements and/or communications between Defendants and the Clinical Location regarding Covid-19 vaccination;
 - d. Identify any agreements and/or communications between Defendants and the Clinical Location regarding your responses to the subparts of Interrogatory 4.
5. Set forth how many people have applied for a religious exemption from Ramapo's Covid-19 vaccination requirement in 2020,
 6. Set forth how many people have applied for a religious exemption from Ramapo's Covid-19 vaccination requirement in 2021.
 7. Set forth how many people have applied for a religious exemption from Ramapo's Covid-19 vaccination requirement in 2022.
 8. Set forth how many people have applied for a religious exemption from Ramapo's Covid-19 vaccination requirement in 2023.
 9. Identify the number of people identified in response to Interrogatories 5, 6, 7, and 8 whose exemption requests were granted.
 10. For the people identified in response to Interrogatory 9, how many of them were granted accommodations and permitted to be educated at Ramapo.
 11. For each of the requests set forth in response to Interrogatories 5-10, identify the majors and the programs at Ramapo for each person seeking a request.
 12. Set forth how many people have applied for a medical exemption from Ramapo's Covid-19 vaccination requirement in 2020.
 13. Set forth how many people have applied for a medical exemption from Ramapo's Covid-19 vaccination requirement in 2021.
 14. Set forth how many people have applied for a medical exemption from Ramapo's Covid-

19 vaccination requirement in 20220.

15. Set forth how many people have applied for a medical exemption from Ramapo's Covid-19 vaccination requirement in 2023.

16. Identify the number of people identified in response to Interrogatories 12, 13, 14, and 15 whose exemption requests were granted.

17. For the people identified in response to Interrogatory 16, how many of them were granted accommodations and permitted to be educated at Ramapo.

18. For each of the requests set forth in response to Interrogatories 12-16, identify the majors and the programs at Ramapo for each person seeking a request.

19. Identify all other attorneys who have contacted Defendants regarding requests for religious exemption.

20. Identify all documents and communications in any form, whether paper or electronic, between Defendants and any individuals identified in response to Interrogatory 19.

DEMAND FOR PRODUCTION OF DOCUMENTS

Pursuant to Rule 4:18-1, Plaintiff serves the following requests for the production of documents with this Complaint. Responses are due within the time calculated in Rule 4:18-1(b)(2):

1. Produce a copy of all documents, including but not limited to paper documents, emails, texts, electronic documents, or messages relating or referring to Plaintiff.

2. Produce a copy of all documents, including but not limited to paper documents, emails, texts, electronic documents, or messages relating or referring to any policies regarding accepting requests for exemption from the COVID-19 vaccine requirements.

3. Produce a copy of all documents identified in your answers to interrogatories.

Dated: July 27, 2023

Attorneys for Plaintiff

By: s/ John D. Coyle

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Civil Case Information Statement

Case Details: BERGEN | Civil Part Docket# L-003950-23

Case Caption: SWANDER ALEXANDRA VS RAMAPO

COLLEGE OF NE W JERS

Case Initiation Date: 07/27/2023

Attorney Name: JOHN D COYLE

Firm Name: COYLE & MORRIS LLP

Address: 201 LITTLETON RD STE 210

MORRIS PLAINS NJ 07950

Phone: 9733700592

Name of Party: PLAINTIFF : Swander, Alexandra

Name of Defendant's Primary Insurance Company

(if known): Unknown

Case Type: CIVIL RIGHTS

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

Does this case involve claims related to COVID-19? NO

Are sexual abuse claims alleged by: Alexandra Swander? 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: Other(explain) Former student

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)

07/27/2023

Dated

/s/ JOHN D COYLE

Signed

