

SMITH EIBELER, LLC  
Kathryn K. McClure, Esq. ID# 037462004  
Christopher J. Eibeler, Esq. ID# 031772004  
Robert W. Smith, Esq. ID# 044341987  
Meghan Chrisner-Keefe Esq. ID#21052011  
101 Crawfords Corner Road  
Holmdel, NJ 07733  
(732) 935-7246  
Attorneys for Plaintiff Katherine Brennan

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KATHERINE BRENNAN,	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION: MERCER COUNTY
Plaintiff,	:	DOCKET NO.:
	:	
	:	Civil Action
v.	:	
	:	
ALBERT J. ALVAREZ, STATE OF NEW JERSEY,	:	
MURPHY FOR GOVERNOR, INC.,	:	COMPLAINT AND JURY DEMAND
ABC COMPANIES (1-10) (fictitious names of	:	
unknown entities) and JOHN DOES (1-10)	:	
(fictitious names of unknown persons),	:	
	:	
Defendants.	:	
	:	
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Plaintiff, Katherine Brennan, having an address in Hudson County, New Jersey (hereinafter "Plaintiff"), by way of Complaint against Defendants, Albert J. Alvarez, State of New Jersey, Murphy for Governor, Inc., and ABC Companies (1-10) (fictitious names of unknown entities) and John Does (1-10) (fictitious names of unknown persons), says as follows:

**FACTS COMMON TO ALL COUNT**

**A. Parties and Relevant Individuals**

1. Defendant, State of New Jersey (the "State") is a state within the United States of America that makes and enforces laws via its local government which includes but is not limited

to the Transition Office for Governor-Elect Philip D. Murphy and Lieutenant-Governor-Elect Sheila Oliver ("Transition Office") and the Office of the Attorney General of New Jersey.

2. Pursuant to New Jersey Senate Concurrent Resolution No. 148 creating the New Jersey Legislative Select Oversight Committee, "Gubernatorial [T]ransition [O]ffice employees are, in fact, employees of the State of New Jersey . . . ."

3. Defendant Murphy for Governor, Inc. ("Murphy Campaign") is a non-profit corporation which planned and executed Philip D. Murphy's campaign for the 2017 gubernatorial election with its headquarters located at One Gateway Center, Suite 511, Newark, New Jersey.

4. Pursuant to the State Policy Prohibiting Discrimination in the Workplace and state law, persons who worked for the Murphy Campaign constitute "prospective employees" of the State.

5. Defendant Albert J. Alvarez ("Alvarez"), at times relevant herein, is an individual who was affiliated with, worked with and/or was employed by Defendant Murphy Campaign as the director of Latino/Muslim outreach from in or about 2016 through November 2017, Deputy Director of Personnel for the Transition Office from in or about November 2017 through in or about January 2018, and Chief of Staff of the New Jersey Schools Development Authority for the State of New Jersey from in or about January 2018 through on or about October 2, 2018.

6. Philip D. Murphy ("Murphy"), at times relevant herein, is the current Governor of the State of New Jersey. Prior to winning the 2017 New Jersey gubernatorial election, Murphy organized and incorporated Defendant Murphy Campaign in anticipation of and in fact running for the position of Governor of New Jersey.

7. Justin Braz ("Braz"), at times relevant herein, is an individual who, in or about mid-

2017 joined the Democratic State Committee staff as Labor Director. Beginning in or about November 2017, Braz became employed by the State, first as an aide in the Transition Office, until in or about January 2018, at which time Braz became Governor Murphy's Deputy Chief of Staff for Legislative Affairs, responsible for liaising with the Legislature on behalf of Governor Murphy's office, a position he continues to hold through the present.

8. Peter Cammarano ("Cammarano"), at times relevant herein, is an individual, who, in or about November 2017, became affiliated with, worked with and/or was employed by the State in the Transition Office, and in or about January 2018, became Governor Murphy's Chief of Staff, a position he continues to hold through the present. Cammarano reports directly to Governor Murphy and has been Braz's direct supervisor at times relevant herein.

9. Matt Platkin ("Platkin"), at times relevant herein, is an individual who was affiliated with, worked with and/or was employed by Defendant Murphy Campaign in the position of Policy Director from in or about 2016 through 2017 and employed by the State as Governor Murphy's Chief Counsel from in or about January 2018 to the present.

10. Parimal Garg ("Garg"), at times relevant herein, is an individual who was affiliated with, worked with and/or was employed by Defendant Murphy Campaign as a senior policy advisor from in or about 2016 or 2017 and employed by the State as Governor Murphy's Deputy Chief Counsel from in our about January 2018 to the present.

11. Heather Taylor, Esq., ("Taylor") at times relevant herein, is an individual who is employed by the State as Chief Ethics Officer for the Office of the Governor.

12. Charles McKenna ("McKenna"), is the former CEO of the New Jersey Schools Development Authority and was Defendant Alvarez's direct supervisor during Alvarez's

employment as Chief of Staff of the New Jersey Schools Development Authority.

13. Rajiv D. Parikh, Esq., (“Parikh”) is an attorney with the law office of Genova Burns, LLC, who represented Defendant Murphy Campaign and/or the State at times relevant herein.

14. Jonathan Berkon, Esq., (“Berkon”) is an attorney at Perkins Coie, LLP, who represented Defendant Murphy Campaign and/or the State at times relevant herein.

15. Jose Lozano (“Lonzano”), at times relevant herein, is an individual who was affiliated with, worked with and/or was employed as the Transition Director for Defendant State and/or Defendant Murphy Campaign.

16. Defendants ABC Companies (1-10) are fictitious sole proprietorships, companies, limited liability companies, partnerships, and/or other companies/entities which are not specifically named Defendants, who are unknown to Plaintiff at this time but which may be identified during discovery in this matter and which are responsible to Plaintiff for the claims set forth herein and/or which companies are responsible to Plaintiff as an employer and/or an aider and/or abettor for claims set forth herein.

17. Defendant John Does 1-10 are and/or were employees at the entity Defendant(s) at times relevant in this action. John Does (1 through 10), represent fictitious names for defendants whose names are presently unknown who were employees who worked for the entity Defendant(s) during Plaintiff’s employment. Upon information and belief, these defendants live in the State of New Jersey. These individual defendants engaged in illegal and tortious conduct against Plaintiff and/or engaged in and/or created a hostile work environment for Plaintiff, and/or conspired to engage in and/or create such conduct and/or environment.

**B. New Jersey “State Policy” Prohibiting Discrimination in the Workplace**

18. According to its website (<https://www.state.nj.us/csc/about/divisions/eeo/>):

The Division of Equal Employment Opportunity/Affirmative Action ("EEO/AA") was created by law to ensure equal employment opportunities for all New Jersey state employees and prospective employees. The Division also serves to prevent State employees, prospective State employees, and persons doing business with the State, from being subjected to discrimination and/or harassment.

The Division of EEO/AA is charged with ensuring that all employees and applicants for employment with the State of New Jersey work in an environment free from all forms of employment discrimination in accordance with the State of New Jersey's Policy Prohibiting Discrimination in the Workplace. The Division of EEO/AA is also charged with insuring that all State Departments and Agencies comply with the applicable law, policies and procedures.

19. The EEO/AA website contains a webpage entitled "Complaints" (<https://www.state.nj.us/csc/about/divisions/eeo/complaints.html>). On this webpage, the EEO/AA refers to the Strict Confidentiality Directive contained in N.J.A.C. 4A:7-3.1(j) that the State implements in connection with EEO/AA harassment and discrimination investigations. By reference, the webpage states that "[t]he provisions of the New Jersey State Policy Prohibiting Discrimination, Harassment or Hostile Work Environment in the Workplace require that all complaints and related investigations be confidential. *Each individual involved in the investigation is obligated to maintain confidential.*" (emphasis added). A copy of the "Complaints" webpage is annexed hereto as **Exhibit A**.

20. The State of New Jersey maintains a "Policy Prohibiting Discrimination in the Workplace" (hereafter the "State Policy"). The stated purpose of the State Policy is to provide "every *State employee and prospective State employee* with a work environment free from prohibited discrimination or harassment." (emphasis added).

21. Under the State Policy, "forms of employment discrimination or harassment based

upon the following protected categories are prohibited and will not be tolerated: race, creed, color, national origin, nationality, ancestry, age, sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, or disability.”

22. The State Policy further states that in order “[t]o achieve the goal of maintaining a work environment free from discrimination and harassment, the State of New Jersey strictly prohibits the conduct that is described in this policy. This is a zero tolerance policy. This means that the state and its agencies reserve the right to take either disciplinary action, if appropriate, or other corrective action, to address any unacceptable conduct that violates this policy, regardless of whether the conduct satisfies the legal definition of discrimination or harassment.”

23. The “Applicability” provision of the State Policy reads:

Prohibited discrimination/harassment undermines the integrity of the employment relationship, compromises equal employment opportunity, debilitates morale and interferes with work productivity. Thus, this policy applies to all employees and applicants for employment in State departments, commissions, State colleges or universities, agencies, and authorities (hereafter referred to in this section as “State agencies” or “State agency”). The State of New Jersey will not tolerate harassment or discrimination by anyone in the workplace including supervisors, co-workers, or persons doing business with the State. This policy also applies to both conduct that occurs in the workplace and conduct that occurs at any location which can be reasonably regarded as an extension of the workplace (any field location, any off-site business-related social function, or any facility where State business is being conducted and discussed).

This policy also applies to third party harassment. Third party harassment is unwelcome behavior involving any of the protected categories referred to in (a) above that is not directed at an individual but exists in the workplace and interferes with an individual’s ability to do his or her job. Third party harassment based upon any of the aforementioned protected categories is prohibited by this policy.

24. The "Prohibited Conduct" provision of the State Policy states:

It is a violation of this policy to engage in any employment practice or procedure that treats an individual less favorably based upon any of the protected categories referred to in (a) above. This policy pertains to all employment practices such as recruitment, selection, hiring, training, promotion, transfer, assignment, layoff, return from layoff, termination, demotion, discipline, compensation, fringe benefits, working conditions and career development.

25. The "Sexual Harassment" provision of the State Policy states:

It is a violation of this policy to engage in sexual (or gender-based) harassment of any kind, including hostile work environment harassment, quid pro quo harassment, or same-sex harassment. For the purposes of this policy, sexual harassment is defined, as in the Equal Employment Opportunity Commission Guidelines, as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature . . . .

26. The "Employee Responsibilities" provision of the State Policy states:

Any employee who believes that she or he has been subjected to any form of prohibited discrimination/harassment, or who witnesses others being subjected to such discrimination/harassment is encouraged to promptly report the incident(s) to a supervisor or directly to the State agency's Equal Employment Opportunity/Affirmative Action Officer or to any other persons designated by the State agency to receive workplace discrimination complaints.

All employees are expected to cooperate with investigations undertaken pursuant to VI below. Failure to cooperate in an investigation may result in administrative and/or disciplinary action, up to and including termination of employment.

27. The "Supervisor Responsibilities" provision of the State Policy states:

Supervisors shall make every effort to maintain a work environment that is free from any form of prohibited discrimination/harassment. Supervisors shall immediately refer allegations of prohibited discrimination/harassment to the State agency's Equal Employment Opportunity/Affirmative Action Officer, or any other individual designated by the State agency to receive complaints of workplace discrimination/harassment. A supervisor's failure to comply with these requirements may result in administrative and/or disciplinary action, up to and including termination of employment. For purposes of this section and in the

State of New Jersey Model Procedures for Processing Internal Complaints Alleging Discrimination in the Workplace (Model Procedures), a supervisor is defined broadly to include any manager or other individual who has authority to control the work environment of any other staff member (for example, a project leader).

28. The "Complaint Process" provision of the State Policy reads:

Each State agency shall follow the Model Procedures with regard to reporting, investigating, and where appropriate, remediating claims of discrimination/harassment. See N.J.A.C. 4A:7-3.2. Each State agency is responsible for designating an individual or individuals to receive complaints of discrimination/harassment, investigating such complaints, and recommending appropriate remediation of such complaints. In addition to the Equal Employment Opportunity/Affirmative Action Officer, each State agency shall designate an alternate person to receive claims of discrimination/harassment.

All investigations of discrimination/harassment claims shall be conducted in a way that respects, to the extent possible, the privacy of all the persons involved. The investigations shall be conducted in a prompt, thorough and impartial manner. The results of the investigation shall be forwarded to the respective State agency head to make a final decision as to whether a violation of the policy has been substantiated.

Where a violation of this policy is found to have occurred, the State agency shall take prompt and appropriate remedial action to stop the behavior and deter its reoccurrence. The State agency shall also have the authority to take prompt and appropriate remedial action, such as moving two employees apart, before a final determination has been made regarding whether a violation of this policy has occurred.

The remedial action taken may include counseling, training, intervention, mediation, and/or the initiation of disciplinary action up to and including termination of employment.

Each State agency shall maintain a written record of the discrimination/harassment complaints received. Written records shall be maintained as confidential records to the extent practicable and appropriate.

29. The "Confidentiality" provision of the State Policy relating to the obligations of the State, under N.J.A.C. 4A:7-3.1(j), states:



All complaints and investigations shall be handled, to the extent possible, in a manner that will protect the privacy interests of those involved. To the extent practical and appropriate under the circumstances, confidentiality shall be maintained throughout the investigatory process. In the course of an investigation, it may be necessary to discuss the claims with the person(s) against whom the complaint was filed and other persons who may have relevant knowledge or who have a legitimate need to know about the matter.

30. The "Confidentiality" provision of the State Policy relating to the obligations of all witnesses or persons with knowledge of any harassment or discrimination claim, who are interviewed in connection with an investigation undertaken pursuant to N.J.A.C. 4A:7-3.1(j), states:

***All persons interviewed, including witnesses, shall be directed not to discuss any aspect of the investigation with others in light of the important privacy interests of all concerned. Failure to comply with this confidentiality directive may result in administrative and/or disciplinary action, up to and including termination of employment.*** (emphasis added).

(the "Strict Confidentiality Directive").

31. N.J.A.C. 4A:7-3.2 sets forth the "Model Procedures for Internal Complaints Alleging Discrimination in the Workplace" as follows:

Each State department, commission, State college or university, agency, and authority (hereafter referred to in this section as "State agency") is responsible for implementing this model procedure, completing it to reflect the structure of the organization, and filing a copy of the completed procedure with the [Civil Service Commission,] Division of EEO/AA.

(a) All employees and applicants for employment have the right and are encouraged to immediately report suspected violations of the State Policy Prohibiting Discrimination in the Workplace, N.J.A.C 4A:7-3.1.

(b) Complaints of prohibited discrimination/harassment can be reported to either (name of Officer), the EEO/AA Officer, or to any supervisory employee of the State agency. Complaints may also be reported to (Authorized Designee).

(c) Every effort should be made to report complaints promptly. Delays in

reporting may not only hinder a proper investigation but may also unnecessarily subject the victim to continued prohibited conduct.

(d) Supervisory employees shall immediately report all alleged violations of the State of New Jersey Policy Prohibiting Discrimination in the Workplace to (Name of Officer), EEO/AA Officer. Such a report shall include both alleged violations reported to a supervisor, and those alleged violations directly observed by the supervisor.

(e) If reporting a complaint to any of the persons set forth in subsections (a) through (d) above presents a conflict of interest, the complaint may be filed directly with the [Civil Service Commission,] Division of EEO/AA, PO Box 315, Trenton, NJ 08625. An example of such a conflict would be where the individual against whom the complaint is made is involved in the intake, investigative or decision making process.

(f) In order to facilitate a prompt, thorough, and impartial investigation, all complainants are encouraged to submit a Discrimination Complaint Processing Form (DPF-481). An investigation may be conducted whether or not the form is completed.

(g) Each State agency shall maintain a written record of the discrimination/harassment complaints received. Written records shall be maintained as confidential records to the extent practicable and appropriate. A copy of all complaints (regardless of the format in which submitted) must be submitted to the [Civil Service Commission,] Division of EEO/AA, by the State agency's EEO/AA Officer, along with a copy of the acknowledgement letter(s) sent to the person(s) who filed the complaint and, if applicable, the complaint notification letter sent to the person(s) against whom the complaint has been filed. If a written complaint has not been filed, the EEO/AA Officer must submit to the Division of EEO/AA a brief summary of the allegations that have been made. Copies of complaints filed with the New Jersey Division on Civil Rights, the U.S. Equal Employment Opportunity Commission, or in court also must be submitted to the Division of EEO/AA.

(h) During the initial intake of a complaint, the EEO/AA Officer or authorized designee will obtain information regarding the complaint, and determine if interim corrective measures are necessary to prevent continued violations of the State's Policy Prohibiting Discrimination in the Workplace.

(i) At the EEO/AA Officer's discretion, a prompt, thorough, and impartial investigation into the alleged harassment or discrimination will take place.

(j) An investigative report will be prepared by the EEO/AA Officer or his or her

designee when the investigation is completed. The report will include, at a minimum:

1. A summary of the complaint;
2. A summary of the parties' positions;
3. A summary of the facts developed through the investigation; and
4. An analysis of the allegations and the facts. The investigative report

will be submitted to (State agency head) who will issue a final letter of determination to the parties.

(k) The (State agency head or designee) will review the investigative report issued by the EEO/AA Officer or authorized designee, and make a determination as to whether the allegation of a violation of the State's Policy Prohibiting Discrimination in the Workplace has been substantiated. If a violation has occurred, the (State agency head or designee) will determine the appropriate corrective measures necessary to immediately remedy the violation.

(l) The (State agency head or designee) will issue a final letter of determination to both the complainant(s) and the person(s) against whom the complaint was filed, setting forth the results of the investigation and the right of appeal to the Civil Service Commission as set forth in subsections (m) and (n) below. To the extent possible, the privacy of all parties involved in the process shall be maintained in the final letter of determination. The Division of EEO/AA[, Civil Service Commission,] shall be furnished with a copy of the final letter of determination.

1. The letter shall include, at a minimum:

- i. A brief summary of the parties' positions;
- ii. A brief summary of the facts developed during the investigation;  
and
- iii. An explanation of the determination, which shall include whether:

(1) The allegations were either substantiated or not substantiated; and

(2) A violation of the Policy Prohibiting Discrimination in the Workplace did or did not occur.

2. The investigation of a complaint shall be completed and a final letter of determination shall be issued no later than 120 days after the initial intake of the complaint referred to in (h) above is

completed.

3. The time for completion of the investigation and issuance of the final letter of determination may be extended by the State agency head for up to 60 additional days in cases involving exceptional circumstances. The State agency head shall provide the Division of EEO/AA and all parties with written notice of any extension and shall include in the notice an explanation of the exceptional circumstances supporting the extension. (m) A complainant who is in the career, unclassified, or senior executive service, or who is an applicant for employment, who disagrees with the determination of the (State agency head or designee), may submit a written appeal, within [twenty] 20 days of the receipt of the final letter of determination from the (State agency head or designee), to the Civil Service Commission, PO Box 312, Trenton, NJ 08625. The appeal shall be in writing and include all materials presented by the complainant at the State agency level, the final letter of determination, the reason for the appeal, and the specific relief requested.

1. Employees filing appeals which raise issues for which there is another specific appeal procedure must utilize those procedures. The Commission may require any appeal, which raises issues of alleged discrimination and other issues, such as examination appeals, to be processed using the procedures set forth in this section or a combination of procedures as the Commission deems appropriate. See N.J.A.C. 4A:2-1.7.

2. If an appeal under this chapter raises issues concerning the employee not receiving an advancement appointment, the Commission shall decide those issues in the course of its determination.

3. The Civil Service Commission shall decide the appeal on a review of the written record or such other proceeding as it deems appropriate. See N.J.A.C. 4A:2-1.1(d).

4. The appellant shall have the burden of proof in all discrimination appeals brought before the Civil Service Commission.

(n) In a case where a violation has been substantiated, and no disciplinary action recommended, the party(ies) against whom the complaint was filed may appeal the determination to the Civil

Service Commission at the address indicated in (m) above within 20 days of receipt of the final letter of determination by the State agency head or designee. 1. The burden of proof shall be on the appellant. 2. The appeal shall be in writing and include the final letter of determination, the reason for the appeal, and the specific relief requested. 3. If disciplinary action has been recommended in the final letter of determination, the party(ies) charged may appeal using the procedures set forth in N.J.A.C. 4A:2-2 and 3.

(o) The Director of the Division of EEO/AA shall be placed on notice of, and given the opportunity to submit comment on, appeals filed with the Civil Service Commission of decisions on discrimination complaints, regardless of whether or not the complaint was initially filed directly with the Director of EEO/AA.

(p) Any employee or applicant for employment can file a complaint directly with external agencies that investigate discrimination/harassment charges in addition to utilizing this internal procedure. The time frames for filing complaints with external agencies indicated below are provided for informational purposes only. An individual should contact the specific agency to obtain exact time frames for filing a complaint. The deadlines run from the date of the last incident of alleged discrimination/harassment, not from the date that the final letter of determination is issued by the State agency head or designee.

1. Complaints may be filed with the following external agencies:

i. Division on Civil Rights N.J. Department of Law & Public Safety (Within 180 days of the discriminatory act)

ii. US Equal Employment Opportunity Commission (EEOC) (Within 300 days of the discriminatory act).

32. In January 2018, the trial of the matter Jennifer L. Schiavone v. the New Jersey Department of Corrections was held in the Superior Court of New Jersey, Law Division, Mercer County, Docket No.: MER-L-00657-15.

33. During the trial, Leila Lawrence, Esq., the Director of the Equal Employment Division ("EED") of the New Jersey Department of Corrections, provided sworn testimony

concerning the State Policy, including more specifically, the Strict Confidentiality Directive imposed on complainants and witnesses in State harassment investigations.

34. The EED Director's job duties include overseeing investigations of harassment and discrimination complaints made pursuant to the State Policy within the Department of Corrections.

35. According to the EED Director, "[t]he EED Department is responsible for reviewing any allegations of discrimination or harassment. If the allegations implicate or touch the policy, we – we're the department that handles any allegations under the policy prohibiting discrimination in the workplace. If the allegations implicate or touch the policy, we open it up for investigation. At the conclusion of the investigation we make a finding and we determine whether or not discipline should be issued or not. We also handle training for staff under the policy. We're responsible for disseminating the policy. We also handle any position statements or other matters that need to be addressed or answered with regard to claims filed with the United States Equal Employment Opportunity Commission, as well as the New Jersey Division of Civil Rights. And we also handle any appeals after the conclusion of our internal investigation. Complainants if they are not satisfied with the outcome have the ability to claim to the New Jersey Civil Service Commission, and we handle those; we respond on behalf of the department to those appeals as well."

36. During her testimony, the EED Director was questioned concerning the confidentiality obligations of complainants and other witnesses in connection with their participation in investigations into discrimination complaints undertaken pursuant to the State Policy.

37. In response to this questioning, EED Director testified that, "The complaints are confidential in that the only people who are aware of them are my office and the – whoever the complaint was reported to."

38. The EED Director further testified:

It should not be discussed. When witnesses are interviewed as part of an investigation, they have to sign a statement that they're aware that the – everything discussed in the investigation is confidential, and if they are found to have violated that policy that they – you know, that they signed, they could be subject to discipline for discussing the EED investigation.

39. The EED Director was then asked whether this confidentiality directive also applied to the person who makes the complaint, whether that person also would be subject to discipline if they discussed their complaint with somebody else.

40. The EED Director responded, "Other – outside of the realm of the reporting process, yes."

41. The EED Director then confirmed that the complainant is also required "to sign a confidentiality form."

42. The "confidentiality form" reads, in relevant part, that "all persons who are interviewed or otherwise advised of a complaint are directed not to discuss any aspect of the investigation with others. Failure to comply with this confidentiality directive may result in disciplinary action, up to and including removal."

43. A copy of the "confidentiality form" that complainants, accused and all other witnesses are required to sign in connection with their obligation to participate in State harassment investigations is attached hereto as **Exhibit B**.

44. The EED Director was then questioned as follows: "Okay. So just bear with me

because I want to make sure we get it all clear. So, if I'm the complainant and I go complain, say, to the assistant superintendent, who then passes it on to the EED, I'm not to tell anybody else about the fact that I made that complaint. Is that correct?"

45. The EED Director responded to this question as follows:

When I – at that point they haven't signed the form, but I wouldn't – when you say tell anyone else, do you mean just running around, just going around the facility talking about it? If that's the case, they're not expected – it would depend on – it would really depend on the context. If you're saying that this is someone who's a confidant who they're talking to, that's different, but if you're saying the person is around the facility saying, I filed an EED complaint, I filed an EED complaint, no, they should not be doing that. Even if – and, hopefully, they're aware, but even if they aren't aware, once they speak with the investigator and sign that confidentiality form, then they are definitely aware that they should not be discussing the investigation.

46. The questioning continued as follows:

Q. Okay, so let's go ahead to that point in the process. So, if EED starts investigating, part of the investigation would be interviewing people.

A. Yes.

Q. Okay. And so, obviously, you'd interview the person who made the complaint.

A. Correct.

Q. And you'd interview the person who was accused of doing something wrong.

A. Correct.

Q. And if there were names of other witnesses who came up, you'd interview those folks, too.

A. Yes.

Q. Okay. And you're saying for all those people who get interviewed there's some form they have to sign.



A. Yes.

Q. Which says what as far as confidentiality goes?

A. That they are not to discuss the allegations and what was discussed during their interview, and that if the EED finds that they did and substantiates that they did, they could be subject to punishment.

Q. Like even being suspended or fired?

A. Would not fire someone for discussing an EED complaint, but depending on the circumstances, yes, suspension, possibly.

Q. Okay. So, they could get some real punishment if they breach confidentiality.

A. Yes.

47. The EED Director was also questioned concerning the ramifications a State employee might face if they were asked to participate as a witness in an EEO/AA investigation, conducted pursuant to the State Policy, and refused to sign the Strict Confidentiality Directive Form.

48. In response to this line of questioning, the EED Director testified that she had never had that happen yet, that “[e]veryone thus far has signed it” and that she “[doesn’t] know what would happen, because it has not happened.”

49. The EED Director was further questioned on the State Policy concerning confidentiality of investigation records.

50. In response to this line of questioning, the EED Director testified that all investigation records, including witness statements and investigation reports, are kept in the EED office and are “completely confidential from the general public.”

51. The EED Director further admitted that all records produced in connection with

investigations into internal complaints of harassment, whether the complaints “are found to be valid or not to be found valid, how many they are, what types they are, what punishments were imposed or not imposed, are all kept confidential from the public.”

52. Based upon this policy and practice, all records concerning prior complaints made against Alvarez that implicated the State Policy and were investigated by the EEO/AA would be kept “confidential” and would not be discoverable by any “special” background check allegedly conducted by the Transition into Defendant Alvarez.

**C. Plaintiff’s Time Working for the Murphy Campaign**

53. Plaintiff is a trained city and regional planner who has worked in the field of affordable housing both in the public and not-for-profit sectors. Serving as the Program Director of Housing for the County of Hudson, Plaintiff led the County’s various housing related efforts.

54. In order to make a broader impact and set housing policy for New Jersey, Plaintiff aspired to serve in a State position. Plaintiff believed that the New Jersey Housing and Mortgage Finance Agency offered a unique opportunity for her to serve the people of New Jersey, particularly low- and moderate-income residents.

55. In or about December 2016, Plaintiff had a conversation with Platkin about working for Defendant Murphy Campaign and applying for a position in the Murphy administration should Murphy be elected, which was highly probable at the time based upon Murphy’s strong polling numbers.

56. Plaintiff and Platkin had known each other as a result of serving as fellows on the New Leaders Council, “a non-profit organization that works to recruit, train and promote young progressive leaders,” according to the organization’s website.

57. At this time, Platkin was the Policy Director for Defendant Murphy Campaign.

58. During this conversation, Platkin asked Plaintiff whether she would be willing to leave her current job and serve in the administration should Murphy win the gubernatorial election.

59. Plaintiff responded that she would be interested in working for Defendant Murphy Campaign and Murphy administration should he win the election.

60. Plaintiff believed Murphy's progressive values aligned with her own and that there would be opportunity to impact policies to create homes that people can afford. Plaintiff believed serving in the administration would be a valuable next step for her career.

61. Platkin requested that Plaintiff send him her resume and policy memo proposing a housing and healthcare program.

62. In or about February 2017, Plaintiff began working for Defendant Murphy Campaign.

63. From the outset of Plaintiff's time working for Defendant Murphy Campaign, Plaintiff's duties and responsibilities included millennial outreach for the campaign, which consisted of assisting in the launch of the Millennials for Murphy Facebook page, inviting people to events, conducting outreach and performing other duties and responsibilities associated with Defendant Murphy Campaign.

64. In order to further formalize Plaintiff working for Defendant Murphy Campaign, Plaintiff was required to execute a Non-Disclosure Agreement ("NDA").

65. Plaintiff executed the NDA on April 6, 2017.

66. The NDA prohibited Plaintiff from disclosing certain information she learned while

working, or as a result of working, on Defendant Murphy Campaign.

67. As a campaign organization with the express mission of electing Governor Murphy as Governor of New Jersey, Defendant Murphy Campaign was required to adhere to the State Policy concerning sexual misconduct, discrimination and harassment.

68. Both as a limited liability corporation and as a place of public accommodation, Defendant Murphy Campaign was also legally required to have in place effective anti-discrimination, anti-harassment, and/or employment policies against sexual misconduct.

69. All volunteers, workers and employees of Defendant Murphy Campaign were considered "employees" and/or "prospective employees" under the State Policy and state law, including the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, et seq. ("LAD").

70. At no time did anyone from Defendant Murphy Campaign inform Plaintiff of any anti-discrimination or anti-harassment policy, including the State Policy.

71. Defendant Murphy Campaign did not maintain any anti-harassment or anti-discrimination policy.

72. Defendant Murphy Campaign did not provide any anti-harassment or anti-discrimination training to any of its employees, workers and/or volunteers.

73. Defendant Murphy Campaign also did not provide any anti-harassment or anti-discrimination training to any of its supervisors or managerial employees, workers and/or volunteers.

74. Defendant Murphy Campaign further did not maintain or publicize any unequivocal statement or commitment from Murphy or Defendant Murphy Campaign leadership to its employees, workers or volunteers that discrimination, harassment or assault would not be

tolerated by the corporation.

75. Plaintiff sent an email to Platkin enclosing her resume on March 27, 2017.

76. In the email, Plaintiff wrote to Platkin:

Matt:

Hope you are well. It has been too long! Perhaps there is a way we can bring you in to meet our 2017 fellows and I'll get to say hello.

I am writing today, quite delinquent, to provide my write-up of housing as healthcare and my resume. When we met I discussed the role of hospitals using community benefit funds (how they stay exempt) to provide affordable housing for the frequent user homeless population. Other hospitals across the country have done this to great effect and, in the process, saved millions of dollars. With the future of Medicaid uncertain, COAH requirements coming back, and hospital tax exemption in question the time is right in New Jersey for creative best practices. I have attached a basic write-up and would be happy to expound upon it should you like.

I also wanted to say that I saw Murphy's plan to clean up foreclosures and provide affordable housing. Great idea! I think it pairs very well with a foreclosure registry initiative that a few NJ counties, including we here in Hudson, have recently implemented. Basically, local towns pass ordinances that require banks to register properties in any phase of foreclosure and pay a fine. Municipal housing offices can use the list for foreclosure prevention and intervention and housing code/safety departments can use it to hold banks responsible for blight and violations. The local towns receive most of the funds and Hudson County receives a small portion. We are the only town or county where these funds are going straight back into foreclosure prevention and affordable housing. Everywhere else is using it for the general fund. Either way, there is a good strategy with Murphy's plan!

If you ever want to talk housing and community development, I would be happy to help. Hope you are taking care.

77. Prior to Plaintiff working for Defendant Murphy Campaign, female workers, volunteers and/or employees had complained about the existence of a toxic work environment

and workplace violence that existed within Defendant Murphy Campaign.

78. For example, Julia Fahl, the in-state Finance Director for Defendant Murphy Campaign, had lodged at least three (3) complaints concerning the work environment between October 2016 and February 2017.

79. By in or about Spring 2017, Fahl decided to leave Defendant Murphy Campaign.

80. After leaving Defendant Murphy Campaign, Fahl publicly stated that, based upon what she witnessed while she worked for the campaign, she believed the work environment within Defendant Murphy Campaign was “toxic.”

81. On the evening of Friday, April 7, 2017, members of Defendant Murphy Campaign gathered to celebrate Fahl’s departure from Defendant Murphy Campaign at Porta Restaurant in Jersey City.

82. At the end of the event, Defendant Alvarez, who was at the time the director of Latino/Muslim outreach for Defendant Murphy Campaign, advised Plaintiff that he was driving and offered to drive her to her apartment.

83. When they arrived at Plaintiff’s home, Defendant Alvarez asked to use Plaintiff’s bathroom and have a drink of water before continuing the drive to his own home.

84. Once inside Plaintiff’s apartment, Defendant Alvarez pushed Plaintiff onto a couch and forced himself on top of her.

85. Defendant Alvarez then pulled down Plaintiff’s white V-neck T-shirt in order to put his mouth on her breasts before reaching behind her and shoving his hand down her pants and putting his fingers inside her vagina.

86. Plaintiff said, “Stop, why are you doing this?”

87. Plaintiff further made clear that Defendant Alvarez's conduct was rejected, including by stating to him, "This is not consensual."

88. Defendant Alvarez then pulled off Plaintiff's pants and underwear and took off some of his clothing before thrusting onto Plaintiff in a way that made her believe he was trying to force sexual intercourse.

89. Plaintiff was able to kick Defendant Alvarez off her and run across the apartment and lock herself in the bathroom.

90. Defendant Alvarez then left the apartment while Plaintiff locked herself in the bathroom.

91. Plaintiff immediately contacted her husband, Travis Miles, who was in Sweden on a three-month Fulbright Scholarship.

92. After telling her husband that Defendant Alvarez had sexually assaulted her, Plaintiff called and told her good friend, Katy Baldwin, that she had been sexually assaulted.

93. Baldwin traveled from Queens, New York, arrived in the early morning hours of Saturday, April 8, 2017, and stayed with Plaintiff for several days.

94. On Saturday, April 8, 2017, Defendant Alvarez called Plaintiff. Plaintiff, suspecting the call was from Defendant Alvarez, did not answer. Defendant Alvarez did not leave a message.

95. Shortly thereafter, also on Saturday, April 8, 2017, Defendant Alvarez sent Plaintiff a text message asking how she was and whether they could talk.

96. Plaintiff did not respond to Defendant Alvarez's text message.

97. On Saturday, April 8, 2017, Plaintiff contacted Braz who, upon information and belief, was also becoming involved with, volunteering for, and/or working for Defendant Murphy

Campaign, and asked him to come over to her apartment so that she could tell him in person about something important.

98. Braz arrived at Plaintiff's apartment on the evening of Sunday, April 9, 2017, and Plaintiff told Braz that Defendant Alvarez had raped her the previous day.

99. Plaintiff further explained to Braz that she would inevitably cross paths with Defendant Alvarez again while working for Defendant Murphy Campaign and in the administration, should Murphy win the gubernatorial election, and, therefore, she needed to inform someone involved in Defendant Murphy Campaign of the rape.

100. Braz never informed anyone working with or employed by Defendant Murphy Campaign that Plaintiff had been sexually assaulted by Defendant Alvarez.

101. Defendant Murphy Campaign took no action to investigate Plaintiff's report of being raped.

102. On the evening of Sunday, April 9, 2017, Plaintiff reported the sexual assault to the Jersey City Police Department.

103. Several Jersey City police officers arrived at Plaintiff's apartment to take down her statement for an official police report.

104. On Monday, April 10, 2017, at approximately 10:56 a.m., Plaintiff received a voicemail from Sergeant Maria Dargan, who identified herself as a member of the Special Victims Unit ("SVU") with the Hudson County Prosecutor's Office ("HCPO"). The voicemail stated that the HCPO received a police report from Jersey City Police Department concerning Plaintiff's report of sexual assault and they wished to speak with her.

105. Plaintiff reported to work that day, Monday, April 10, 2017, at her job with the



Hudson County Division of Housing & Community Development, but was unable to function and had to leave work in the late morning.

106. Immediately after leaving work, Plaintiff called a rape crisis hotline to seek advice and referrals for appropriate healthcare.

107. Plaintiff called a therapist's office asking to become a client immediately.

108. Plaintiff then went to the Jersey City Medical Center ("JCMC") Emergency Department and submitted to a physical evaluation for sexual assault, also known as a "rape kit."

109. A JCMC nurse told Plaintiff that JCMC would inform the Special Victims Unit at the HCPO of the situation and Plaintiff could expect to receive contact from HCPO SVU.

110. On April 17, 2017, Plaintiff sent a letter to Defendant Alvarez via Federal Express to Defendant Murphy Campaign's headquarters at One Gateway Center in Newark, which read:

The event that occurred during the early morning of Saturday, April 8, 2017 was sexual assault. I ask that you please refrain from contacting me ever again.

111. After sending the letter to Defendant Alvarez, Plaintiff contacted the HCPO to move forward with formal sexual criminal conduct charges against Defendant Alvarez.

112. The HCPO took Plaintiff's sworn testimony concerning Defendant Alvarez's sexual assault of her on multiple occasions.

113. After reporting the sexual assault to law enforcement, Plaintiff was frightened that she would have to be in Defendant Alvarez's presence at a campaign event for Defendant Murphy Campaign and/or in further prospective State employment should they both be offered positions after a successful gubernatorial election, including for the Transition Office.

114. However, as a victim of sexual assault, Plaintiff believed that she should not be

forced to give up her career goals in favor of the career goals of her rapist

115. In or about May 2017, approximately one month after the sexual assault, Plaintiff saw Defendant Alvarez at Defendant Murphy Campaign's office at One Gateway Center in Newark, New Jersey, the same location where she had directed her April 17, 2017, letter to Defendant Alvarez.

116. In or about August 2017, Plaintiff was invited to work for Defendant Murphy Campaign in a more formal role as a policy advisor on the Economy, Jobs and Anti-Poverty Working Group.

117. Defendant Alvarez continued to work for Defendant Murphy Campaign as the director of Latino/Muslim outreach.

118. Plaintiff constantly feared encountering Defendant Alvarez at Defendant Murphy Campaign events and did see him at these events.

119. In or about October 2017, Plaintiff encountered Defendant Alvarez at a gubernatorial debate at William Paterson University.

120. Braz, whom Plaintiff had told about the sexual assault on April 9, 2017, the day after it happened, was present at the debate.

121. Upon information and belief, Braz was working for the New Jersey Democratic State Committee in support of Defendant Murphy Campaign in the paid staff position of Labor Director. Plaintiff observed Braz actively engage Defendant Alvarez in conversation to allow her to walk past Defendant Alvarez without having to speak with him.

122. On October 19, 2017, Plaintiff again encountered Defendant Alvarez in Newark, New Jersey, at President Obama's event to support Defendant Murphy Campaign.

123. Plaintiff also encountered Defendant Alvarez at a volunteer 'get out the vote' event at Rutgers University.

**D. The Transition**

124. In early November 2017, following the election, Defendant Alvarez was appointed Deputy Director of Personnel for the Transition Office, reporting directly to the Director of Personnel, Lynn Haynes.

125. As Deputy Director of Personnel for the Transition Office, Defendant Alvarez was responsible for making personnel, hiring, and other employment decisions on behalf of Governor-Elect Murphy and the State.

126. By letter dated December 1, 2017, Governor Murphy wrote to Plaintiff:

Please accept my sincerest thanks for the work you put in throughout the campaign to ensure that the policy ideas we talked about were not only rooted in fact, but also responsive to the challenges facing New Jersey. As we now move from campaigning to governing, your work will never have mattered more. Regardless of the issue, I know we have strong and practical solutions for many of our state's vexing problems.

Being elected to serve as New Jersey's 56th Governor is an honor beyond I could imagine. As an integral part of our policy team, you share in this success, and in the future successes as we move New Jersey forward.

Again, thank you.

127. Murphy appointed Plaintiff to Defendant State's Transition Office in the role of Deputy Policy Director for the Housing Committee.

128. Between November 2017 and January 2018, several individuals employed by Defendant State in the Transition Office, including Amit Jani and Stephanie Brown, asked Plaintiff if she had yet spoken to and/or interviewed with Defendant Alvarez in connection with her

application for employment as Chief of Staff at the New Jersey Housing and Mortgage Finance Agency.

129. As Deputy Director of Personnel for the Transition Office, Defendant Alvarez's responsibilities included hiring for the position Plaintiff sought, Chief of Staff at the New Jersey Housing and Mortgage Finance Agency.

130. As a result, on or about January 3, 2018, Plaintiff's then-attorney sent a letter to Defendant Alvarez requesting he recuse himself from any decisions relating to Defendant State's decision to hire Plaintiff.

131. Defendant Alvarez did not respond to Plaintiff's counsel's letter.

132. In late November 2017, the HCPO informed Plaintiff that a decision would soon be made regarding whether they would be criminally prosecuting Defendant Alvarez. Believing that Defendant Alvarez's arrest was imminent, Plaintiff asked Braz what action he thought should be taken in view of the negative public impact Defendant Alvarez's arrest could have on the then-Governor-Elect Murphy's administration.

133. Braz suggested to Plaintiff that she authorize him to notify counsel for the Transition Office, Rajiv D. Parikh, Esq., to which Plaintiff agreed.

134. Plaintiff's initial April 9, 2017 disclosure and/or subsequent late November 2017 disclosure to Braz while both worked in the Transition Office, of Defendant Alvarez's sexual assault of her and pending criminal investigation regarding her claim constitute reports of discrimination and harassment under the State Policy and state law.

135. According to his December 18, 2018, testimony before the New Jersey Legislative Select Oversight Committee, in or about November 2017, Braz notified Transition Counsel, Rajiv

D. Parikh, Esq., that a woman working for the Transition Office had reported to him that Defendant Alvarez raped her during the campaign, that a criminal investigation was pending, and that the victim believed Defendant Alvarez could be arrested imminently.

136. According to Braz's testimony, Parikh instructed Braz to inform Chief of Staff Peter Cammarano that Defendant Alvarez had been accused of raping a woman during the campaign, that she was working for the Transition Office, and that the victim believed Defendant Alvarez could be arrested imminently.

137. As instructed, Braz informed Cammarano of his conversation with Parikh and that a woman working for the Transition Office told him that Defendant Alvarez had raped her during the campaign and that Defendant Alvarez could be arrested imminently.

138. Braz told Cammarano that Parikh had instructed him to tell Cammarano.

139. The State Policy required Braz, as a State employee and/or supervisor, to refer Plaintiff's report of the rape and potential criminal charges to the Transition Office's EEO/AA Officer, or other individual designated by the State to receive complaints of sexual misconduct, workplace discrimination, or harassment.

140. Parikh was an outside legal counsel who, upon information and belief, was hired to provide legal services to the Transition Office.

141. Parikh was not an EEO/AA Officer, or an individual designated by the State agency to receive complaints of workplace discrimination or harassment.

142. Parikh had no responsibilities or obligations under the State Policy, was never trained on the State Policy, nor did he have any understanding of the State Policy or the obligations of any state employee under the State Policy.

143. Braz's disclosures to Parikh and Cammarano of Plaintiff's reports of the rape and potential resulting criminal charges, rather than to an appropriate EEO/AA officer or other individual designated by the State, is in violation of the State Policy.

144. Upon information and belief, the State has taken no disciplinary action against anyone for the aforesaid violations of the State Policy.

145. Upon learning from Braz of the report of rape and the potential criminal charges that could follow, the State Policy required Cammarano, as a State employee and/or supervisor, to refer Plaintiff's reports to the Transition Office's EEO/AA Officer, or other individual designated by the State to receive complaints of sexual misconduct, workplace discrimination, or harassment.

146. Cammarano's failure to advise an appropriate EEO/AA officer or other individual designated by the State agency of Plaintiff's report that she was raped by Defendant Alvarez is a violation of the State Policy.

147. Upon information and belief, the State has taken no disciplinary action against Cammarano for the aforesaid violation of the State Policy.

148. Braz and Cammarano were not properly trained by the State concerning their obligations under the State Policy and/or state law on how to respond upon receiving complaints of sexual misconduct, harassment or discrimination.

149. Braz and Cammarano failed to inform the Ethics Liaison, the EEO/AA officer or other individual designated by the State agency about Plaintiff's report of rape and that criminal charges could potentially be filed against another State employee.

150. No one asked or instructed Braz to speak to Plaintiff to inform her that her report

of rape required the State to conduct an investigation pursuant to the State Policy and state law.

151. No one asked or instructed Braz to speak to Plaintiff to request that she fill out a complaint form or otherwise place her disclosures in writing.

152. The State did not conduct any investigation into Plaintiff's report to Braz that she was raped.

153. No one instructed or asked Plaintiff to participate in any investigation into her report of rape to Braz.

154. On the same day that Plaintiff informed Braz that she believed Defendant Alvarez's arrest was imminent, the HCPO notified Plaintiff that it was declining to prosecute her criminal case against Defendant Alvarez.

155. On or about December 1, 2017, after learning that the HCPO would not pursue charges, Plaintiff again called Braz and advised him that the HCPO was not going to pursue charges.

156. On or about December 1, 2017, Braz informed Parikh and Cammarano that the HCPO would not pursue charges against Defendant Alvarez.

157. Braz's disclosure to Parikh and Cammarano of the fact that the HCPO was not going to pursue charges against Alvarez is a violation of the State Policy, including the Strict Confidentiality Directive.

158. Upon information and belief, the State has taken no disciplinary action against anyone for the aforesaid violation of the State Policy.

159. During the December 18, 2018, New Jersey Legislative Select Oversight Committee hearing, it was revealed that Parikh advised the State, "So there are the options; one

is discussing the situation privately with A --which would be Mr. Alvarez, obviously -- and advising him that he must recuse himself from any matters involving *her*. The other is keeping *him* in the dark, but monitoring...monitoring the hiring process closely for Departments in which *she* applies for a job; or remove those from his plate. And finally, we could do nothing and let everything play out and simply prepare for reactionary issues.”

160. During the December 18, 2018, New Jersey Legislative Select Oversight Committee hearing, Cammarano testified that, based upon the information provided by Braz, certain persons within and/or associated with the Transition Office made the decision to strip Defendant Alvarez of any hiring duties or responsibilities in connection with his position as Deputy Director of Personnel for the Transition Office.

161. This included allegedly instituting a blanket policy that Defendant Alvarez was not permitted to reject any applicants and had no involvement in the hiring for any positions.

162. Despite the foregoing, Defendant Alvarez was included on the “green-light” list for persons to be offered a job within the Murphy Administration and Defendant State.

163. Instead of reporting the complaint of rape against Defendant Alvarez by an unidentified Transition Office staffer to the EEO/AA and conducting an investigation, Defendant State and Transition Office allegedly conducted a “special” background check into Defendant Alvarez.

164. The Transition Office’s decision to take action in response to the reporting of the rape by conducting a “special” background check into Defendant Alvarez, rather than forwarding the allegation to the appropriate EEO/AA officer or other person designated by the State, is a violation of the State Policy.



165. Upon information and belief, Defendant State has taken no disciplinary action against anyone for the aforesaid violation of the State Policy.

166. According to Defendant State, the background check showed no pending charges and no past convictions.

167. Upon information and belief, Defendant State did not contact Defendant Alvarez's educational institutions, including Rutgers Law School, in connection with its "special" background check.

168. Upon information and belief, Defendant State did not contact the New Jersey Board of Bar Examiners Committee on Character in connection with its "special" background check.

169. Upon information and belief, Defendant State did not obtain any records held by the EEO/AA concerning any other EEO/AA investigations undertaken by the EEO/AA in connection with Defendant Alvarez during any of his previous or current employment with the Defendant State.

170. According to Defendant State, its "special" background check of Defendant Alvarez concluded that he had a clean record.

171. Moreover, consistent with the State Policy, any EEO/AA investigation into prior allegations of sexual misconduct, harassment or discrimination lodged against Alvarez would have been "confidential." Likewise, any records produced by such an investigation would have been kept "confidential" by the Division of EEO/AA and would not have appeared in Alvarez's personnel file or in any other place accessible to the "special" background check.

172. As such, upon information and belief, the "special" background check could not

have included any review of any EEO/AA file concerning Defendant Alvarez, any complaints lodged against him and/or other issues of improper or unlawful behavior during his employment with the State.

173. Defendant Alvarez was offered and accepted the position of Chief of Staff for the New Jersey Schools Development Authority in the Murphy Administration, effective January 2018.

174. Defendant Alvarez was compensated with a salary of \$140,000 in his position of Chief of Staff for the New Jersey Schools Development Authority.

175. Prior to this position, Defendant Alvarez had no direct experience with school construction.

176. No one from the Transition Office or anyone else affiliated with the Defendant Murphy Campaign, Defendant State, or the Murphy Administration contacted Plaintiff to speak to her in connection with any background check performed on Defendant Alvarez.

177. Braz became Governor Murphy's Chief of Staff for Legislative Affairs.

178. On December 5, 2017, Plaintiff came into close physical proximity of Defendant Alvarez in a doorway on her way to attend a Transition Committee Meeting.

179. On December 12, 2017, Governor Murphy selected Gurbir Grewal, Esq., to be Attorney General.

180. On January 16, 2018, Plaintiff was again in close physical proximity of Defendant Alvarez at the Governor's Inaugural Ball.

181. Plaintiff spent the entirety of the evening at the Governor's Inaugural Ball knowing Defendant Alvarez was present and fearing his immediate presence.

E. **Plaintiff's Employment as Chief of Staff of the New Jersey Housing and Mortgage Finance Agency**

182. In or about January 2018, Platkin informed Plaintiff that she would be receiving a call from Charles Richman, Executive Director of the New Jersey Housing and Mortgage Finance Agency, who will advise her that she had been chosen as the Chief of Staff of the New Jersey Housing and Mortgage Finance Agency.

183. Soon thereafter, Plaintiff received a call from Charles Richman who offered her the position of Chief of Staff of the New Jersey Housing and Mortgage Finance Agency.

184. Plaintiff began her employment with the Murphy Administration and Defendant State as Chief of Staff of the New Jersey Housing and Mortgage Finance Agency on February 20, 2018.

185. The Murphy Administration and Defendant State hired Defendant Alvarez in the position of Chief of Staff of the New Jersey Schools Development Authority.

186. Throughout her association with Defendant Murphy Campaign, the Transition Office and her employment with Defendant State, Plaintiff lived under the constant threat of seeing and interacting with her rapist, Defendant Alvarez, including at joint meetings of the Administration's Chiefs of Staff or in or around Trenton.

187. On March 20, 2018, Plaintiff met Platkin in Jersey City and informed him that Defendant Alvarez had raped her.

188. Plaintiff's March 20, 2018 communication to Platkin that she had been raped by a State employee coworker constitutes a report of discrimination and harassment under the State Policy and state law.

189. The State Policy required that Platkin, a State employee and/or supervisor, refer

Plaintiff's report of rape to the Office of the Governor's EEO/AA Officer, or other individual designated by the state to receive complaints of sexual misconduct, workplace discrimination, or harassment immediately upon receiving the report of rape from Plaintiff.

190. The State Policy also required that Platkin keep Plaintiff's complaint of rape confidential to the extent possible in order for the State to initiate and conduct an EEO/AA or other appropriate investigation.

191. Platkin was not properly trained by the State concerning his obligations under the State Policy or state law in connection with receiving complaints of sexual misconduct, discrimination or harassment.

192. In relating her complaint, Plaintiff described to Platkin the rape and expressed what a difficult period the hiring process was for her. Plaintiff further advised Platkin that she has lived and continues to live in constant fear of retaliation from Defendant Alvarez or others in the State.

193. Plaintiff further stated to Platkin that she feared that she would not receive a position in the Administration if Defendant Alvarez had influence or if she came forward to the transition team or the Governor-Elect.

194. Platkin informed Plaintiff that he would contact the Attorney General's office right away to inform them of her disclosure and complaint and for them to take appropriate action.

195. On March 22, 2018, at a meeting in Princeton, Plaintiff informed Garg, that Defendant Alvarez had raped her.

196. Plaintiff described the rape to Garg and informed him that she had alerted Platkin.

197. Plaintiff's reporting of the rape to Garg constitutes a report of discrimination and

harassment under the State Policy and state law.

198. Garg was not properly trained by the State concerning his obligations under the State Policy or state law in connection with receiving complaints of sexual misconduct, discrimination or harassment.

199. The State Policy required Platkin and Garg, as supervisors, to refer Plaintiff's report of rape to the Office of the Governor's EEO/AA Officer, or other individual designated by the State agency to receive complaints of workplace discrimination/harassment.

200. Plaintiff's report of rape was conveyed to Heather Taylor.

201. Pursuant to the State Policy, Taylor was obligated to forward the report to the EEO/AA Officer to conduct an investigation.

202. Taylor failed to initiate or conduct any investigation into Plaintiff's report of rape, a violation of the State Policy.

203. Neither Taylor, nor anyone else, provided Plaintiff with a copy of the Discrimination Complaint Processing Form as required by N.J.A.C. 4A:7-3.2(f).

204. Neither Taylor, nor anyone else, instructed Plaintiff to submit any Discrimination Complaint Processing Form as required by N.J.A.C. 4A:7-3.2(f).

205. Neither Taylor, nor anyone else, maintained any written record of Plaintiff's reports of the rape as required by N.J.A.C. 4A:7-3.2(g).

206. Neither Taylor, nor anyone else, submitted a brief summary of Plaintiff's report of rape as required by N.J.A.C. 4A:7-3.2(g).

207. No investigation report was prepared in connection with Plaintiff's report of rape.

208. No final letter of determination was prepared in connection with Plaintiff's report

of rape.

209. Plaintiff was never provided notice of any appeal rights she may have had in connection with any determination reached by an investigation into Plaintiff's report of rape.

210. No one from Defendant State interviewed Plaintiff concerning her report of rape to Platkin and/or Garg, as required under the State Policy and state law.

211. Defendant State did not conduct any investigation into Plaintiff's report of rape to Platkin or Garg.

212. No one instructed or asked Plaintiff to participate in any investigation into her report of rape.

213. Platkin notified Cammarano of Plaintiff's report of rape on or about March 22, 2018.

214. Cammarano was not an EEO/AA officer nor did he have any investigative duties or responsibilities in connection with Plaintiff's complaint of rape or other complaints of sexual misconduct, workplace discrimination, or harassment.

215. As such, there was no legitimate reason for Platkin to inform Cammarano of Plaintiff's complaints of rape; the State Policy did not allow Platkin to make such a disclosure.

216. Platkin's act of reporting Plaintiff's complaint to Cammarano is a violation of the State Policy, including his "confidentiality" obligations set forth in N.J.A.C. 4A:7-3.1(j).

217. Platkin's action of informing Cammarano of the reporting of the rape is a violation of the State Policy, including his "confidentiality" obligations set forth in N.J.A.C. 4A:7-3.1(j).

218. Upon information and belief, Defendant State has taken no disciplinary action against Platkin for the aforesaid violations of the State Policy.

219. In response to learning of Plaintiff's complaint of the rape by Defendant Alvarez, Cammarano met with Defendant Alvarez and advised him that Defendant State had received a complaint he raped Plaintiff.

220. During this communication, Cammarano advised Defendant Alvarez that he needed to start looking for a job outside the administration and Defendant State because of Plaintiff's complaint that he raped her.

221. Cammarano's actions in informing Defendant Alvarez of rape complaint lodged against him is a flagrant violation of the State Policy, including Cammarano's "confidentiality" obligations set forth in N.J.A.C. 4A:7-3.1(j).

222. Upon information and belief, Defendant State has taken no disciplinary action against Cammarano for the aforesaid violation of the State Policy.

223. Instead of conducting any investigation into Plaintiff's complaint of rape, Defendant State and Cammarano informed Defendant Alvarez that he should make arrangements to leave state government.

224. Cammarano testified that he did not inform Governor Murphy because he was informed that the rape was confidential and that he was not permitted to disclose the reporting of the allegation to anyone.

225. Specifically, Cammarano testified that he made it "clear" to Defendant Alvarez that he needed to leave the administration as a result of the report of rape.

226. Cammarano testified, "It's not very common for a chief of staff in a department or an authority to get called into governor's chief of staff office."

227. Cammarano further stated, "I think it was pretty clear, and I believe Mr. Alvarez

understood exactly what I was telling him.”

228. Defendant Alvarez ignored what Cammarano was telling him and decided to continue his employment with Defendant State.

229. Defendant State allowed Defendant Alvarez to remain employed.

230. Defendant State and Cammarano’s decision to take action in response to Plaintiff’s complaint by informing Defendant Alvarez that he should make arrangements to leave state government is a violation of the State Policy.

231. Upon information and belief, Defendant State has taken no disciplinary action against Cammarano for the aforesaid violation of the State Policy.

232. Cammarano testified that he did not inform Governor Murphy because Cammarano had been instructed that the rape complaint was confidential and that he was not permitted to disclose the reported allegation to anyone.

233. Plaintiff never heard back from anyone concerning her report of the rape to Platkin or Garg.

234. As a result, Plaintiff sent Platkin a text message on April 24, 2018 at 8:31 a.m., which reads: “Good morning! FYI, in regard to our previous conversation in JC no one has reached out to me as of yet.”

235. Later that day on April 24, 2018, Plaintiff received a phone call from Heather Taylor, Esq., Chief Ethics Officer for Defendant State.

236. During the telephone call, Taylor informed Plaintiff that Defendant State would not take any action because Defendant Alvarez and Plaintiff were not employees of Defendant State at the time of the alleged sexual assault.



237. As such, Defendant State did not initiate or conduct an investigation into Plaintiff's reporting of the rape, in violation of the State Policy.

238. Neither Defendant State nor Taylor conducted any interview of Plaintiff concerning her report of rape or any other related complaints.

239. Neither Defendant State nor Taylor asked Plaintiff any questions about her report of rape or any other related complaints.

240. Neither Defendant State nor Taylor provided Plaintiff with any information, written or oral, on any State policy relating to her report of rape or any other related complaints.

241. Neither Defendant State nor Taylor informed Plaintiff of any appeal rights she may have had in response to the State's decision to not conduct any investigation into her report of rape or any other related complaints.

242. Plaintiff's action in reporting the rape was a complaint of a violation of the State Policy.

243. Plaintiff's report of rape should have triggered Defendant State's obligation to conduct an investigation under the State Policy.

244. No one reported the alleged violation to the EEO/AA.

245. No one provided Plaintiff with a copy of the Discrimination Complaint Processing Form as required by N.J.A.C. 4A:7-3.2(f).

246. No one instructed Plaintiff to submit any Discrimination Complaint Processing Form as required by N.J.A.C. 4A:7-3.2(f).

247. No one from Defendant State maintained any written record of Plaintiff's reports of rape as required by N.J.A.C. 4A:7-3.2(g).

248. No one from the Division of EEO/AA or Defendant State submitted a brief summary of Plaintiff's report of rape as required by N.J.A.C. 4A:7-3.2(g).

249. No investigation report was prepared in connection with Plaintiff's report of rape.

250. No final letter of determination was prepared in connection with Plaintiff's report of rape.

251. No one was provided notice of any appeal rights they may have had in connection with any investigation into Plaintiff's report of rape.

**F. The Denial of Plaintiff's Request for a Meeting with the Governor**

252. On the evening of Friday, June 1, 2018, Plaintiff emailed Governor Murphy and First Lady Tammy Murphy. Plaintiff asked to have a meeting with one or both of them about a "sensitive matter" that occurred during the campaign.

253. Plaintiff did not indicate that this "sensitive matter" involved Defendant Alvarez.

254. Within the hour, Defendant Murphy responded, in relevant part, "We know you well....Hang in. We are on it."

255. The meeting with Plaintiff and Governor Murphy and/or First Lady Murphy was never scheduled.

256. Upon information and belief, no one forwarded or provided a copy of Plaintiff's email to the Governor or the First Lady to the Division of EEO/AA.

257. Instead, Jonathan Berkon, an attorney from Perkins Coie, LLP, who served as counsel to Defendant Murphy Campaign, contacted Plaintiff and advised her that Defendant Alvarez would be leaving the Administration and State employment.

258. The State Policy required all persons who Governor Murphy informed of Plaintiff's

email and understood that Plaintiff was referring to her complaints of rape, to refer this further report to the Office of the Governor's EEO/AA Officer, or other individual designated by the State agency to receive complaints of sexual misconduct workplace discrimination or harassment.

259. Berkon was an outside legal counsel and was not employed by the State.

260. Berkon was not an EEO/AA Officer or an individual designated by the State agency to receive complaints of workplace discrimination or harassment.

261. Berkon had no responsibilities or obligations under the State Policy, was never trained on the State Policy, nor did he have any understanding of the State Policy or obligations under the State Policy.

262. The disclosure to Berkon concerning Plaintiff's disclosure of the rape is a further violation of the State Policy.

263. The failure of all persons who Governor Murphy informed of Plaintiff's email and knew that Plaintiff was referring to her complaints of rape to advise an appropriate EEO/AA Officer or other individual designated by the State agency of Plaintiff's disclosure that she was raped by Defendant Alvarez is a violation of the State Policy.

264. Governor Murphy was not properly trained by Defendant State concerning his obligations under the State Policy or state law in connection with receiving complaints of sexual misconduct, harassment or discrimination.

265. In response to Plaintiff's email requesting a meeting with Murphy to inform him of the rape, Berkon misrepresented to Plaintiff that Defendant Alvarez would be leaving State employment.

266. In a subsequent conversation, Plaintiff asked Berkon to explain the impetus for

Defendant Alvarez's departure.

267. Berkon responded that he could not disclose any further information because it was an HR matter.

268. Berkon advised that he would seek additional information for Plaintiff but never again communicated with Plaintiff or provided her with any further information.

269. Based upon Berkon's representation, Plaintiff believed that the Administration and Defendant State had taken action against Defendant Alvarez and that she would no longer have to work in fear of being in the presence of Defendant Alvarez while at work.

270. In response to Plaintiff's email to Governor Murphy requesting a meeting with him and his wife to discuss the rape, Platkin instructed Defendant Alvarez's boss, Charles McKenna, to inform Defendant Alvarez that he needed to look for a new job.

271. According to McKenna's testimony, Platkin called McKenna into his office and informed him that the administration had received a complaint concerning Defendant Alvarez and, as a result, Defendant Alvarez needed to start looking for a new job outside the administration.

272. Platkin's conduct, including his disclosure of a "complaint" to McKenna and his instruction that Defendant Alvarez start looking for a new job outside the administration, are in violation of the State Policy, including his "confidentiality" obligations set forth in N.J.A.C. 4A:7-3.1(j):

273. Platkin was not an investigator and did not have any investigatory duties or responsibilities in connection with an EEO/AA investigation.

274. As such, Platkin had no authority to make any determinations in connection with

any issues relevant to Plaintiff's report of rape.

275. Platkin's decision to instruct McKenna to speak to Defendant Alvarez and advise him to start looking for a job outside the administration is a violation of the State Policy, including his "confidentiality" obligations set forth in N.J.A.C. 4A:7-3.1(j).

276. In accordance with Platkin's instructions, McKenna communicated to Defendant Alvarez that he had been told by the Governor's office that Defendant Alvarez should leave the administration and that if he didn't leave, it could become "ugly" or "embarrassing" for the Governor.

277. McKenna further informed Defendant Alvarez that he could speak to Platkin if he had any questions or comments.

278. Defendant Alvarez ignored McKenna's instruction to leave the administration and instead remained employed by Defendant State.

279. Upon information and belief, Defendant Alvarez was provided a \$30,000 raise by Defendant State in or about the Fall 2018.

280. Contrary to all the foregoing violations of the State Policy, Governor Murphy has publicly stated he has "no reason to believe that folks operated in any way other than out of respect for their obligations both ethically, legally to confidentiality. There is no evidence that they did otherwise."

**G. Plaintiff's Decision to Go Public**

281. In early September 2018, Plaintiff learned that Defendant Alvarez was still employed with Defendant State.

282. Learning that Defendant Alvarez was still employed by Defendant State confirmed

that Defendant State was not going to take any action in response to Plaintiff's report of rape and, believing that she had exhausted all other avenues, Plaintiff determined that all she had left was her voice.

283. As such, Plaintiff decided she would have to going public with her story in order to obtain justice.

284. On October 14, 2018, the Wall Street Journal published Plaintiff's complaints of rape and Defendant State's failure to investigate.

285. In response to Plaintiff's story, in a joint statement provided to the Wall Street Journal, Governor Murphy and Ms. Murphy stated, "We are confident that this allegation was handled appropriately by the administration and policies and procedures were properly and promptly followed. However, it is clear the process during the transition was inconsistent with our values, and the hire should not have happened. We must now ask: How can we hold ourselves to a higher standard moving forward?"

286. Governor Murphy further stated that "[t]hese processes, within government at least, are confidential and treated confidentially. And that's for a reason, to make sure that there's a fairness associated with it. That you're not, even inadvertently, putting your hand on the scale. I believe in this case it obviously was followed because we did not hear about it until October 2."

287. In late October 2018, shortly after Kate King's article concerning Plaintiff was published in the Wall Street Journal, the New Jersey Legislature announced the formation of the New Jersey Legislative Select Oversight Committee.

288. The New Jersey Legislative Select Oversight Committee is tasked with examining

public sector hiring practices and to review the procedures the government follows in response to allegations of sexual assault, abuse and harassment, both generally with regard to Defendant State and specifically with regard to the hiring practices of Defendant Murphy Campaign and/or the Transition Office.

289. On or about November 8, 2018, the New Jersey Legislative Select Oversight Committee held a meeting at which time it was determined Plaintiff would be invited to testify before the Committee.

290. During the public hearing of the New Jersey Legislative Select Oversight Committee on December 4, 2018, Plaintiff testified for approximately five (5) hours concerning the disclosures and complaints she made to the State concerning her rape and the State's failure to conduct any investigation into those disclosures and complaints.

291. Plaintiff did not testify concerning any aspect of the criminal case because the Middlesex County Prosecutor Office's review of the Hudson County Prosecutor's actions with regard to her complaint against Defendant Alvarez is ongoing.

**H. The State's EEO/AA "Limited" Investigation of Plaintiff's Work Environment Since October 2018**

292. By letter dated December 12, 2018, the State informed Plaintiff that the State had determined that her testimony that she has "'felt ostracized and things have not been the same since October 2018,' after going public with a complaint of sexual assault against a former State employee" may implicate the State Policy.

293. As a result, Defendant State has instructed the Division of EEO/AA to review Plaintiff's allegation of feeling "ostracized" since October 2018.

294. The letter further states that the review is for "administrative reasons for further

action as deemed necessary pursuant to the State Policy.”

295. The letter further advised Plaintiff that the “EEO takes all allegations of discrimination/retaliation seriously and would therefore, like to discuss these issues with you further.”

296. The letter further directs Plaintiff that she should be prepared to provide “relevant information including documentation and the names of individuals who you believe have specific knowledge regarding your concerns of being ‘ostracized.’”

297. The letter further states that the “Division of EEO/AA will make every attempt to conclude the investigation and issue a determination letter responding to the complaint within 120 days from the date of [Plaintiff’s] interview. If necessary, that time may be extended for an additional 60 days, of which you will be notified.”

298. The letter further instructs Plaintiff as follows: “The provisions of the State Policy require all related complaints and investigations to be handled on a confidential basis, to the extent possible. Consequently, you should not discuss this matter with anyone who does not have a legitimate reason to have knowledge of it.”

299. The State Policy is ineffective as a matter of law, including through its failure to promptly, fairly, thoroughly and effectively investigate complaints of discrimination, harassment and assault such as Plaintiff’s, enforcement of the Strict Confidentiality Directive, reservation of up to 180 days to conduct an investigation and other provisions.

300. Pursuant to the State Policy set forth in N.J.A.C. 4A:7-3.1(j), Plaintiff and all other witnesses of the investigation have and/or will be threatened with discipline, up to and including termination, if they breach the Strict Confidentiality Directive by disclosing their knowledge of



relevant facts relating to this matter.

301. Moreover, Plaintiff and all other witnesses of the investigation will also be required and/or will require other individuals to execute confidentiality agreements threatening their employment if they disclose any aspect of the investigation.

302. As a result of the foregoing, Plaintiff has suffered emotional distress and continues to experience ongoing severe emotional distress and economic damages.

### FIRST COUNT

#### **DECLARATORY JUDGMENT**

303. Plaintiff repeats and realleges each and every prior allegation of the Complaint as if set forth at length herein.

304. Plaintiff seeks relief under the New Jersey Declaratory Judgment Act, N.J.S.A. 2A:16-50 et seq. which allows parties to sue for a judicial declaration in order to declare and settle the rights and obligations of the parties.

305. Plaintiff made numerous disclosures and/or complaints to the State concerning the rape.

306. The disclosures and complaints constitute the reporting of an event that implicates the State Policy and the State's obligations under applicable state law to conduct a thorough, complete and prompt investigation.

307. The State failed to conduct any investigation into Plaintiff's reports of rape.

308. As a result of Defendant State's refusal to investigate and other violations of its obligations under the State Policy, Plaintiff was compelled to go public with her complaints of rape to the Wall Street Journal.

309. The publication of Plaintiff's complaints prompted the New Jersey Legislative Select Oversight Committee to invite Plaintiff to testify regarding her complaints.

310. On December 4, 2018, Plaintiff publicly testified before the New Jersey Legislative Select Oversight Committee.

311. Plaintiff was questioned for approximately five (5) hours concerning the disclosures and complaints she made to Defendant State concerning the rape and Defendant State's failure to conduct any investigation into them.

312. In response to a question during the hearing, Plaintiff stated that she had "felt ostracized and things have not been the same since October 2018."

313. In response to Plaintiff's testimony, Defendant State has now launched an investigation into Plaintiff's allegation of feeling "ostracized" since October 2018.

314. As an employee of Defendant State, Plaintiff is required under N.J.A.C. 4A:7-3.1(d) to cooperate in the investigation, which includes being interviewed by an EEO/AA investigator.

315. As set forth in N.J.A.C. 4A:7-3.1(d), Plaintiff's "failure to cooperate in an investigation may result in administrative and/or disciplinary action, up to and including termination of employment."

316. Defendant State has specifically "limited" its current EEO/AA investigation into Plaintiff's feeling of being ostracized since October 2018.

317. To date, Defendant State has continued to refuse to conduct any investigation into Plaintiff's underlying claims concerning the rape and Defendant State's refusal to investigate same.

318. Defendant State has advised Plaintiff that the EEO/AA will make every attempt to conclude its "limited" investigation and issue a determination letter from 120 days of the date of [Plaintiff's] interview.

319. Defendant State has further reserved itself an additional 60 days, in its own discretion, for a total of a potential 180 days, to complete an investigation and issue a determination.

320. As an employee of Defendant State, and complainant to be interviewed, Plaintiff has been "directed not to discuss any aspect of the investigation with others in light of the important privacy interests of all concerned" as set forth N.J.A.C. 4A:7-3.1(j).

321. Defendant State's State Policy specifically threatens Plaintiff that "[f]ailure to comply with this confidentiality directive may result in disciplinary action, up to and including removal." N.J.A.C. 4A:7-3.1(j).

322. Consistent with Defendant State's practice concerning implementing N.J.A.C. 4A:7-3.1(j), Plaintiff will be required to execute Defendant State's "Strict Confidentiality Directive" form.

323. Plaintiff seeks a declaration that Defendant State is restrained and enjoined from forcing Plaintiff and any other witnesses to keep any aspect of the rape, Defendant State's failure to investigate and/or any other term, condition or issue of employment confidential.

324. Plaintiff further seeks a declaration that Defendants may not attempt to preclude, deter, discourage or discipline any witness from discussing this matter with anyone at any time by reasons of the provisions of N.J.A.C. 4A:7-3.1(j) or the Strict Confidentiality Directive used in EEO/AA investigations.

325. Plaintiff further seeks a declaration that Defendant State's confidentiality provisions, policies and practices in connection with investigations, as set forth in N.J.A.C. 4A:7-3.1(j), are in violation of Plaintiff's and other state employee's First Amendment rights, the LAD, and public policy and therefore must be deemed null and void.

326. The First Amendment of the New Jersey State Constitution § 6 states, in relevant part:

Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech or of the press.

327. In enacting the LAD, the Legislature found and declared that practices of discrimination against any of its inhabitants, because of race, creed, color, national origin, ancestry, age, sex, gender identity or expression, affectional or sexual orientation, marital status, familial status, liability for service in the Armed Forces of the United States, disability or nationality, are matters of concern to the government of the State.

328. The Legislature intends that damages resulting from LAD violations be available to all persons protected by this act and that this act shall be liberally construed in combination with other protections available under the laws of this State.

329. Defendant State's Strict Confidentiality Directive threatening employees with adverse employment action for discussing any aspect of any investigation, as set forth in N.J.A.C. 4A:7-3.1(j), is contrary to the law, including the First Amendment, LAD, and public policy and therefore must be deemed null and void.

330. Plaintiff is a person protected by the LAD.

331. Plaintiff is alleging violations of the LAD.

332. In order for Plaintiff's LAD claims to be prosecuted and advanced, it is necessary to declare the Strict Confidentiality Directive contained in N.J.A.C. 4A:7-3.1(j) null and void.

333. Plaintiff's rights under the LAD are being and will continue to be violated by the Defendants' adherence to and enforcement of N.J.A.C. 4A:7-3.1(j).

334. The regulations set forth in N.J.A.C. 4A:7-3.1(j) regarding the Strict Confidentiality Directive, including the threat of termination, interferes with Plaintiff's and other similarly situated State employees' rights protected and/or afforded by the LAD.

335. Plaintiff therefore seeks a declaratory judgment that the Strict Confidentiality Directive contained in N.J.S.A. 4A:7-3.1(j) is null and void as violative of the LAD.

**WHEREFORE**, Plaintiff respectfully requests that the Court enter judgment in their favor and against Defendants as follows:

- A. Declaring that the Strict Confidentiality Directive contained in N.J.A.C. 4A:7-3.1(j) violates state law, including the First Amendment and the LAD as applied to Plaintiff and similarly situated employees of the State of New Jersey;
- B. Requiring the State to notify any State employees who have executed Strict Confidentiality Directive Forms that they are null and void by so informing by means of:
  - a) Oral notification;
  - b) Written notification; and
  - c) Publicly posted notification.
- C. Attorney's fees and costs; and

D. Awarding any and all such other relief as deemed just and warranted.

**SECOND COUNT**

**NEW JERSEY LAW AGAINST DISCRIMINATION (“LAD”)  
N.J.S.A. 10:5-1, et seq. – HOSTILE “PUBLIC ACCOMMODATION” ENVIRONMENT**

336. Plaintiff repeats and realleges each of the prior allegations of the within Complaint as if set forth at length herein.

337. Defendant Murphy Campaign is an entity that qualifies as a public accommodation under the LAD.

338. Defendant Murphy Campaign engaged in broad public solicitation for campaign volunteers, workers and employees and for the votes of New Jersey registered voters.

339. Defendant Murphy Campaign maintained a close relationship with the government and other public accommodations.

340. Defendant Murphy Campaign is similar to enumerated or other previously recognized public accommodations recognized under the LAD.

341. The LAD prohibits unlawful discrimination and harassment at the workplace and in places of public accommodation.

342. Defendant Alvarez’s sexual assault of Plaintiff was unwelcomed and would not have occurred but for Plaintiff’s sex.

343. The complained of conduct was severe or pervasive enough to make a reasonable woman believe that the conditions of the public accommodation were altered and the public accommodation was hostile or abusive.

344. The harassing conduct was caused, in part, by the conduct of supervisors, managers, owners and/or alter ego’s of Defendant Murphy Campaign.

345. Defendant Murphy Campaign knew of the rape and failed to undertake appropriate remedial action and was otherwise negligent in allowing the harassing atmosphere and hostile public accommodation environment to exist.

346. Defendant Murphy Campaign is vicariously, strictly, and/or directly liable to Plaintiff pursuant to the LAD, et seq., in that the affirmative acts of harassment, discrimination and sexual assault committed by Defendant Alvarez which occurred within the scope of the public accommodation; the creation of the hostile public accommodation environment was aided by Defendant Murphy Campaign in delegating power to the Defendants to control the day-to-day working environment; Defendant Murphy Campaign was deliberately indifferent, reckless, negligent and/or tacitly approved the hostile work environment; and/or Defendant Murphy Campaign failed to create and/or have in place well-publicized and enforced anti-harassment policies, effective formal and informal complaint structures, training, monitoring mechanisms for same despite the foreseeability of sexual harassment and discrimination in the place of public accommodation; and/or by having actual knowledge of the harassment and/or hostile public accommodation environment and failing to promptly and effectively act to stop it.

347. The authority delegated by Defendants to Defendant Alvarez, aided him in sexually harassing, assaulting and injuring Plaintiff.

348. The authority was delegated to Defendants to investigate Plaintiff's complaints and it failed to do so.

349. Defendants' acts or omissions were the cause of Plaintiff's harm, and Defendants' acts or omissions were actuated by actual malice or accompanied by a wanton and willful disregard of persons who foreseeably might be harmed by those acts or omissions.

350. As a result of Defendants' conduct, Plaintiff has suffered, and continues to suffer, emotional distress, economic loss and other damages recoverable under the LAD.

**WHEREFORE**, Plaintiff demands judgment against Defendants for harm suffered due to the aforesaid violations of the LAD as follows:

- A. Compensatory damages;
- B. Consequential damages;
- C. Punitive damages;
- D. Pre-judgment interest and enhancements to off-set negative tax consequences;
- E. Any and all attorneys' fees, expenses and/or costs, including, but not limited to, court costs, expert fees and all attorneys' fees incurred by Plaintiff in the prosecution of this suit (including enhancements thereof required to off-set negative tax consequences and/or enhancements otherwise permitted under law);
- F. Declaring that Defendants have violated the LAD and requiring Defendants to take appropriate corrective action to end discrimination in the workplace;
- G. Ordering Defendants to take appropriate corrective action to stop and prevent discrimination at the workplace;
- H. Ordering Defendants to take appropriate corrective action to stop and prevent retaliation at the workplace;



- I. Ordering Defendants to take appropriate corrective action to stop and prevent harassment at the workplace;
- J. Ordering Defendants to undergo anti-discrimination training;
- K. Ordering Defendants to undergo anti-retaliation training;
- L. Ordering Defendants to undergo anti-harassment training;
- M. Ordering Defendants to undergo workplace civility training;
- N. Ordering Defendants to undergo bystander intervention training;
- O. Ordering Defendants to engage a research organization to assess the effectiveness of their anti-discrimination training;
- P. Ordering Defendants to engage a research organization to assess the effectiveness of their anti-retaliation training;
- Q. Ordering Defendants to engage a research organization to assess the effectiveness of their anti-harassment training;
- R. Ordering Defendants to engage a research organization to assess the effectiveness of their workplace civility training;
- S. Ordering Defendants to engage a research organization to assess the effectiveness of their bystander intervention training;
- T. Ordering Defendants to identify an appropriate professional to investigate any future complaints of discrimination;
- U. Ordering Defendants to identify an appropriate professional to investigate any future complaints of harassment;

- V. Ordering Defendants to identify an appropriate professional to investigate any future complaints of retaliation; and
- W. Such other relief as may be available and which the Court deems just and equitable.

**THIRD COUNT**

**LAD -- HOSTILE WORK ENVIRONMENT**

351. Plaintiff repeats and realleges each of the prior allegations of the within Complaint as if set forth at length herein.

352. Defendants Murphy Campaign and the State are employers under the LAD.

353. Plaintiff was an "employee" and a "person" under the LAD as an applicant, volunteer, prospective employee and/or employee of Defendants the State and the Murphy Campaign.

354. Plaintiff was also a "State employee" and/or a "prospective State employee" under N.J.A.C. 4A:7-3.1(a).

355. The sexual assault, harassment and other discrimination directed toward Plaintiff was unwelcome and based upon her sex.

356. The complained of conduct would not have occurred but for Plaintiff's sex.

357. The complained of conduct was severe or pervasive enough to make a reasonable woman believe that the conditions of her employment and/or prospective employment were altered and the working environment was hostile or abusive.

358. The harassing conduct included living in constant fear that Defendant Alvarez would confront, approach, or come into contact with her at her place of employment.

359. The harassing and other unlawful conduct described herein was caused, in part, by the conduct of supervisors and/or managers of Defendants.

360. Defendants Murphy Campaign and the State knew of the harassment and failed to undertake appropriate remedial action and/or were otherwise negligent in allowing the harassing atmosphere and hostile work environment to exist and perpetuate.

361. As set forth herein, Defendant State repeatedly violated the State Policy in responding to the reporting of Plaintiff's allegations of the rape.

362. As the employer of Plaintiff, Defendants Murphy Campaign and the State are vicariously, strictly, and/or directly liable to Plaintiff pursuant to the New Jersey Law Against Discrimination ("LAD"), N.J.S.A. 10:5-1, et seq., in that the affirmative acts of sexual harassment and discrimination committed by Defendant Alvarez occurred within the scope of their employment; the creation of the hostile work environment was aided by Defendants Murphy Campaign and the State in delegating power to the Defendants to control the day-to-day working environment; Defendants Murphy Campaign and the State were deliberately indifferent, reckless, negligent and/or tacitly approved the hostile work environment; and/or Defendants Murphy Campaign and the State failed to create and/or have in place well-publicized and enforced anti-harassment policies, effective formal and informal complaint structures, training, monitoring mechanisms for same despite the foreseeability of sexual harassment and discrimination in the workplace; and/or by having actual knowledge of the harassment and/or hostile work environment and failing to promptly and effectively act to stop it.

363. As a result of Defendants' conduct, Plaintiff has suffered, and continues to suffer, emotional distress, economic loss and other damages recoverable under the LAD.

**WHEREFORE**, Plaintiff demands judgment against Defendants for harm suffered due to the aforesaid violations of the LAD as follows:

- A. Compensatory damages;
- B. Consequential damages;
- C. Punitive damages;
- D. Pre-judgment interest and enhancements to off-set negative tax consequences;
- E. Any and all attorneys' fees, expenses and/or costs, including, but not limited to, court costs, expert fees and all attorneys' fees incurred by Plaintiff in the prosecution of this suit (including enhancements thereof required to off-set negative tax consequences and/or enhancements otherwise permitted under law);
- F. Declaring that Defendants have violated the LAD and requiring Defendants to take appropriate corrective action to end discrimination in the workplace;
- G. Ordering Defendants to take appropriate corrective action to stop and prevent discrimination at the workplace;
- H. Ordering Defendants to take appropriate corrective action to stop and prevent retaliation at the workplace;
- I. Ordering Defendants to take appropriate corrective action to stop and prevent harassment at the workplace;
- J. Ordering Defendants to undergo anti-discrimination training;

- K. Ordering Defendants to undergo anti-retaliation training;
- L. Ordering Defendants to undergo anti-harassment training;
- M. Ordering Defendants to undergo workplace civility training;
- N. Ordering Defendants to undergo bystander intervention training;
- O. Ordering Defendants to engage a research organization to assess the effectiveness of their anti-discrimination training;
- P. Ordering Defendants to engage a research organization to assess the effectiveness of their anti-retaliation training;
- Q. Ordering Defendants to engage a research organization to assess the effectiveness of their anti-harassment training;
- R. Ordering Defendants to engage a research organization to assess the effectiveness of their workplace civility training;
- S. Ordering Defendants to engage a research organization to assess the effectiveness of their bystander intervention training;
- T. Ordering Defendants to identify an appropriate professional to investigate any future complaints of discrimination;
- U. Ordering Defendants to identify an appropriate professional to investigate any future complaints of harassment;
- V. Ordering Defendants to identify an appropriate professional to investigate any future complaints of retaliation; and
- W. Such other relief as may be available and which the Court deems just and equitable.

FOURTH COUNT

**ASSAULT**

364. Plaintiff repeats and realleges each and every prior allegation of the Complaint as if set forth at length herein.

365. Plaintiff was subject to the intentional tort of assault by Defendant Alvarez.

366. Defendant Alvarez intentionally touched Plaintiff without Plaintiff's consent at times during her employment.

367. Defendant Alvarez's actions were committed with actual malice or accompanied by a wanton and willful disregard of Plaintiff, who foreseeably might be harmed by those acts.

368. Defendant Alvarez's actions and conduct constitute assault under New Jersey common law and Defendant is liable in tort to Plaintiff.

369. Defendant Alvarez acted with the intent to cause a harmful and offensive physical contact with Plaintiff.

370. Plaintiff was put in immediate apprehension and fear of harmful and offensive physical contact with Defendant Alvarez as a result of his actions.

371. Defendant Alvarez is liable in damages to Plaintiff for all injuries proximately caused by his actions which put Plaintiff in immediate apprehension and fear of harmful and offensive physical contact.

372. As a result of Defendant Alvarez's conduct, Plaintiff has suffered and/or continues to suffer bodily injury, emotional distress, economic loss, and other damages.

**WHEREFORE**, Plaintiff demands judgment against Defendant Alvarez for harm suffered due to the aforesaid conduct as follows:

- A. Compensatory damages;
- B. Consequential damages;
- C. Punitive damages;
- D. Pre-judgment interest and enhancements to off-set negative tax consequences;
- E. Any and all attorneys' fees, expenses and/or costs, including, but not limited to, court costs, expert fees and all attorneys' fees incurred by Plaintiff in the prosecution of this suit (including enhancements thereof required to off-set negative tax consequences and/or enhancements otherwise permitted under law); and
- F. Such other relief as may be available and which the Court deems just and equitable.

**FIFTH COUNT**

**BATTERY**

373. Plaintiff repeats and realleges each and every prior allegation of the Complaint as if set forth at length herein.

374. Plaintiff was subject to the intentional tort of battery by Defendant Alvarez.

375. Defendant Alvarez intentionally touched Plaintiff without Plaintiff's consent and over Plaintiff's objections.

376. Defendant Alvarez's actions were committed with actual malice or accompanied by a wanton and willful disregard of Plaintiff, who foreseeably might be harmed by those acts.

377. Defendant Alvarez's actions and conduct constitute battery under New Jersey

common law and Defendant is liable in tort to Plaintiff.

378. Defendant Alvarez acted with the intent to cause a harmful and offensive physical contact and touching of Plaintiff.

379. Defendant Alvarez's conduct caused harmful physical contact with Plaintiff, who suffered physical pain and impairment to her body as a result of Defendant Alvarez's actions.

380. Defendant Alvarez's conduct caused offensive physical contact with Plaintiff, who suffered an affront to her personal dignity as a result of Defendant Alvarez's actions.

381. Defendant Alvarez is liable in damages to Plaintiff for all injuries proximately caused by his nonconsensual touching of Plaintiff.

382. As a result of Defendant Alvarez's conduct, Plaintiff has suffered and/or continues to suffer bodily injury, emotional distress, economic loss, and other damages.

**WHEREFORE**, Plaintiff demands judgment against Defendant Alvarez for harm suffered due to the aforesaid conduct as follows:

- A. Compensatory damages;
- B. Consequential damages;
- C. Punitive damages;
- D. Pre-judgment interest and enhancements to off-set negative tax consequences;
- E. Any and all attorneys' fees, expenses and/or costs, including, but not limited to, court costs, expert fees and all attorneys' fees incurred by Plaintiff in the prosecution of this suit (including enhancements thereof



required to off-set negative tax consequences and/or enhancements otherwise permitted under law); and

- F. Such other relief as may be available and which the Court deems just and equitable.

**SMITH EIBELER, LLC**

By:   
Kathryn K. McClure  
Attorneys for Plaintiff

Dated: January 7, 2019

**CERTIFICATION**

Pursuant to Rule 4:5-1, it is hereby stated to the best of my knowledge and belief that the matter in controversy is not the subject of any other action pending or contemplated in any other court or of a pending arbitration proceeding. Further, Plaintiff is unaware of any non-party who should be joined in the 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 further 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). Subject to the foregoing, Plaintiff served a Tort Claim Notice upon the Defendant State dated December 28, 2018.

**SMITH EIBELER, LLC**

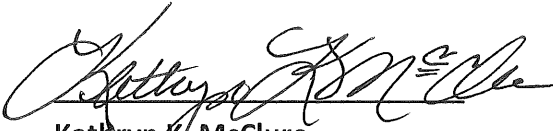
By:   
Kathryn K. McClure  
Attorneys for Plaintiff

DATED: January 7, 2019

**JURY DEMAND**

Plaintiff hereby demands trial by jury on all issues so triable.

**SMITH EIBELER, LLC**

By:   
Kathryn K. McClure  
Attorneys for Plaintiff

Dated: January 7, 2019

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to Rule 4:25-4, Kathryn K. McClure, Esq. is designated as trial counsel for the above-captioned matter.

**SMITH EIBELER, LLC**

By:   
Kathryn K. McClure  
Attorneys for Plaintiff

Dated: January 7, 2019

# **EXHIBIT A**

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## Complaints

### The New Jersey State Policy

The *New Jersey State Policy Prohibiting Discrimination in the Workplace* (Policy) prohibits discrimination and harassment against State employees, prospective State employees, and persons doing business with the State of New Jersey on the basis of race, creed, color, national origin, ancestry, age, sex (including pregnancy), marital/civil union status, familial status, religion, affectional or sexual orientation, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, or disability (including mental disability, and perceived disability). To view policy, please [click here](#).

- ▶ [Overview](#)
- ▶ [Laws Prohibiting Employment Discrimination](#)
- ▶ [Complaints](#)
- ▶ [Resource Links](#)
- ▶ [Policies and procedures](#)

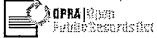
### Confidentiality and Retaliation

The provisions of the New Jersey State Policy Prohibiting Discrimination, Harassment or Hostile Environments in the Workplace require that all complaints and related investigations be confidential. Every individual involved in the investigation process is obligated to maintain confidentiality. This Policy also prohibits retaliation against anyone who files a complaint or participates in a complaint investigation.

### Who can file

Any employee, job applicant, or other individual doing business with a New Jersey State department, agency, commission or college may file a complaint of discrimination or harassment with the EEO/AA Officer of the state entity in which the alleged discrimination/harassment occurred.

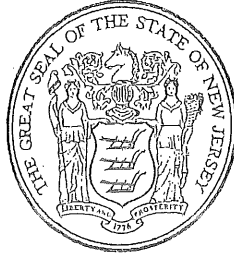
If there is a conflict of interest, the complaint may be filed with the Division of EEO/AA. In addition to filing an internal complaint, individuals have the right to file complaints simultaneously with the U.S. Equal Employment Opportunity Commission (EEOC) and/or the New Jersey Division on Civil Rights (DCR). Please be advised that both agencies have time limits for filing complaints. For more information, please visit their websites: [www.eeoc.gov](http://www.eeoc.gov) and [www.state.nj.us/ps/dcr/index.html](http://www.state.nj.us/ps/dcr/index.html).

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# **EXHIBIT B**



## New Jersey State Policy Prohibiting Discrimination in the Workplace

The provisions of the *New Jersey State Policy Prohibiting Discrimination in the Workplace* require all related complaints and investigations to be handled on a confidential basis. In addition, there is a prohibition of retaliation against anyone who files a complaint, participates in a complaint investigation, or opposes a discriminatory practice.

### Confidentiality

All complaints and investigations shall be handled, to the extent possible, in a manner that will protect the privacy interests of those involved. To the extent practical and appropriate under the circumstances, confidentiality will be maintained throughout the investigatory process. During the course of an investigation, it may be necessary to discuss the claims with the person(s) against whom a complaint has been made and other persons who may have relevant knowledge. It may also be necessary to disclose information to persons with a legitimate need to know about the matter. All persons who are interviewed or otherwise advised of a complaint are directed not to discuss any aspect of the investigation with others. Failure to comply with this confidentiality directive may result in disciplinary action, up to and including removal.

### Prohibition Against Retaliation

Retaliation against any person who either alleges that she or he was the victim of discrimination/harassment, provides information in the course of an investigation into claims of discrimination/harassment in the workplace, or opposes a discriminatory practice, is prohibited by the Policy. Any employee bringing a complaint, providing information for an investigation, or testifying in any proceeding under the Policy will not be subjected to adverse employment consequences based upon such involvement or be the subject of other retaliation.

- 
1. I have been advised of and/or read the provisions of Confidentiality and Prohibition Against Retaliation; and
  2. I understand this complaint investigation must be confidential and I may not take retaliation against anyone who has filed a complaint, participated in a complaint investigation or opposes a discriminatory practice.

Name and Title: \_\_\_\_\_ (Print)

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_

# Civil Case Information Statement

**Case Details: MERCER | Civil Part Docket# L-000034-19**

**Case Caption:** BRENNAN KATHERINE VS ALVAREZ ALBERT

**Case Initiation Date:** 01/07/2019

**Attorney Name:** KATHRYN KRISTINE MC CLURE

**Firm Name:** SMITH EIBELER LLC

**Address:** 101 CRAWFORDS CORNER RD STE 1-105R  
HOLMDEL NJ 07733

**Phone:**

**Name of Party:** PLAINTIFF : BRENNAN, KATHERINE

**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

**Hurricane Sandy related?** NO

**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

**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:**

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)*

01/07/2019  
Dated

/s/ KATHRYN KRISTINE MC CLURE  
Signed