

NO. 18 CI _____

JEFFERSON CIRCUIT COURT

DIVISION _____

KIMBERLY MAFFET

PLAINTIFF

VS.

COMPLAINT

UNIVERSITY OF LOUISVILLE
2100 SOUTH FLOYD STREET
LOUISVILLE, KENTUCKY 40292

DEFENDANT

SERVE: LESLIE C. STROHM
UNIVERSITY OF LOUISVILLE
2301 S. THIRD STREET
LOUISVILLE, KENTUCKY 40292

ELECTRONICALLY FILED

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Comes Kimberly Maffet (“Maffet”), by and through counsel, and for her Complaint against the Defendant hereby states as follows:

PARTIES/JURISDICTION

1. Plaintiff, Kimberly Maffet, is an adult, female resident of Louisville, Jefferson County, Kentucky and a former employee of Defendant, University of Louisville, for approximately ten years. She last held the title of Associate Athletic Director for Human Resources until her termination by the University of Louisville Board of Trustees on February 15, 2018.

2. Defendant, The University of Louisville, is a public university in the Commonwealth of Kentucky and headquartered in Louisville, Jefferson County, Kentucky.

3. All events that are the subject of Maffet’s claims arose in Louisville, Jefferson County, Kentucky.

4. The amount of Maffet's damages exceeds the minimum amount need to vest jurisdiction in Jefferson Circuit Court.

FACTS

A. MAFFET'S MEDICAL HISTORY/DISABILILTY DISCRIMINATION

5. Maffet has suffered from multiple and chronic health issues, including gastrointestinal and gynecological conditions, for decades. These diagnosed conditions include Barret's Esophagus, H. pylori, history of gynecological cancer, and terrible permanent erosion from severe gastric reflux. She can become deathly ill in a matter of a few hours.

6. Maffet's conditions substantially and adversely affect one or more major life activities and require frequent and regular visits for scopes, labs and doctor appointments.

7. Despite these medical conditions, Maffet historically excelled at her positions at the University of Louisville, with reasonable accommodations, and worked after hours and at home to ensure that her work was done well. She regularly worked in excess of 50 hours per week and as late as 8:00 p.m. on weeknights.

8. Maffet informed Vince Tyra, her direct supervisor, soon after his appointment as Interim Athletic Director of her medical conditions, at which time he showed unhappiness and inflexibility because of "many moving parts and so much going on." Maffet assured him that she would get her work done as she had done throughout the years.

9. Maffet continued to perform her job well and to assist with Tyra's transition into the Department.

10. On Saturday, October 15, 2017, at approximately 3:00 a.m., Maffet awakened feeling very ill. She spent the following Sunday in the Emergency Room at Norton Brownsboro Hospital where she was admitted for several days and was unable to go to her office for two

weeks. Maffet developed sepsis during this time period. Nonetheless, Maffet was very committed to her career and worked everyday from home, including responding to e-mails, working on projects, and doing conference calls.

11. Tyra asked when she would return to work and stated that he needed her there as soon as possible.

12. Tyra expressed strong displeasure concerning Maffet's hospitalization, medical absences and need for doctor visits and showed a total lack of compassion and anger about Maffet's disability.

13. Following her hospitalization, Tyra often made snide comments to Maffet and expressed his increasing irritation and annoyance at her needed accommodations to her schedule, including exhaling deeply when informed of a medical visit, constantly reminding her when she was out of the office, and stating "do what you can do." Tyra further would often ask if Maffet "expected to get worse" from time to time "because we have a lot going on and I need you here." Tyra further began scrutinizing Maffet's schedule.

14. During the holidays, Maffet travelled to Florida with her family for the University of Louisville Bowl Game after which she traveled to the Tampa area to consult with a physician for chronic medical ailments during a week in which the office was closed part of the week. While out of the office, Maffet provided work updates to Tyra.

15. When Maffet returned to the office, Maffet told Tyra that the doctor said that her treatment is a "long process" and that the doctors must "keep a close eye" on her.

16. Tyra exhaled a lengthy sigh of unhappiness over the phone and then asked, "what does that mean?" He further said, "you know to keep me posted as to where you are and when you go out for a doctor appointment and you get back."

17. On another occasion, Maffet spoke with Tyra about a personnel matter and he said, “it doesn’t help, you being out.”

18. Tyra has shown a disregard of the Americans with Disabilities Act and the Kentucky Civil Rights act, including a refusal to make reasonable accommodations as required by law for at least one other Athletic Department employee.

19. For months, Maffet attempted to obtain consent from Tyra to grant accommodations and a temporary placement for a certain disabled employee, having followed up approximately 20 times with Tyra to no avail.

20. On February 1, 2018, Maffet finally confronted Tyra about the other disabled employee, at which time he asked yet again, “now what is his problem?” He told Maffet that “we have accommodated him enough” and “I feel we have done more than should be expected...this is ridiculous.”

B. THE TERMINATION MEETING

21. On or about February 2, 2018, Tyra and University employee, Mary Elizabeth Miles, who holds the title of Director of Employment Relations and Talent Management, met with Maffet and asked her to resign her position immediately.

22. Blindsided by the unscheduled meeting and disturbed by the request for an immediate decision about a matter important to her family and career, Maffet said that she would need to talk with her husband about how to proceed.

23. After obtaining permission to make a brief telephone call, Maffet returned to the meeting room and said that she would not resign.

24. Noticeably nervous, Tyra then told her that he would ask the Board to formally terminate her employment and then asked her to leave the building. At no time did he tell her that this was a Reduction in Force termination.

25. Tyra refused her request to remove personal belongings or to say goodbye to co-workers. He arranged for someone to escort her from the premises with a demand that she have no further contact with the University.

26. Tyra emphasized that his decision to end Maffet's employment was not performance based.

27. Maffet surrendered her telephone as requested even though it was her personal telephone.

28. Maffet informed Miles that she is aware that her name was placed in the University "firing jar," which is described below.

29. For the following five days, Maffet attempted to arrange to retrieve her personal belongings. Despite already having received basketball season tickets as a condition of employment, their tickets were deactivated and unusable, which constitutes a wrongful deprivation of a vested employment benefit.

30. After almost a week after her termination meeting, a truck arrived at her residence with a truckload of personal things that had been held unavailable to her since her termination.

31. All of her belongings were not included with this shipment.

32. The unauthorized control of and denial of her personal belongings for the extended period constitutes conversion and trespass to chattels.

C. THE FIRING JAR

33. For more than two years, Mary Elizabeth Miles has forced her direct reports to have weekly meetings during which they must enter the name of a University employee that they would like to see terminated.

34. One of her direct reports told Miles that she was uncomfortable with this practice and that she would like to be excused.

35. Miles told her that if she didn't do it, her name would be placed in the jar as the next to be fired.

36. Miles has a history of engaging in bullying behavior inside and outside of the Human Resources Department.

37. At least one former employee who was subject to Miles' abusive behavior pursued claims against the University.

38. More recently, another employee filed an unfair practices grievance regarding Miles and prevailed.

39. Upon information and belief, Maffet's name was included in the firing jar and became an illegal target of reprisal for one or more of the illegal reasons described in this Complaint, including her disability and reports of wrongful conduct and compliance with applicable laws and University policies and procedures.

D. VARIOUS PERSONNEL MATTERS

40. Maffet's position required her to address Human Resources and other personnel issues.

41. During her time as an Athletic Department employee, Maffet became aware of noncompliance with the University's sexual harassment policy, including that a University head

coach, Coach 3, was having an affair with a co-employee. Her efforts to follow policy were rebuffed and co-employees attempted to hide this information from her.

42. While employed in the University Athletic Department, Maffet observed a culture of misogyny, sexism, lying, cover-up, and bullying in the Athletic Department. Tyra expressly told Maffet that he wanted to hire a man for an open Human Resources position in the Department; therefore, Maffet did not apply for the position because it would have been an exercise in futility.

43. One staff member bullied and intimidated employees, including Maffet. These employees regularly paraded into Maffet's office to complain about impropriety but Maffet was forbidden to perform her job to address these personnel issues.

44. This same staff member would give raises to his favorites, white men and a handful of women that he favored. Others would receive nothing.

45. The University of Louisville promulgated a nepotism policy in the fall of 2017. The policy was not followed, including policy as it relates to new hires for the football team who were not qualified.

46. The University had a history of failing to follow the Open Records Act and lack of transparency about which she voiced disapproval.

47. After much concern about the hiring of Jordan Fair, including his continued refusal to produce a drivers license for months in violation of University policy even though he was responsible for driving University recruits, Maffet turned the matter over to Kevin Miller, another University employee, because she refused to engage in policy violations.

48. Maffet voiced concern about the manner in which a University head coach, Coach 4, verbally abused employees and concerning a coach's unused University office reserved for his private Foundation.

49. Maffet's reports of misconduct along with her disability caused her to become a target of reprisal and termination.

COUNT I
DISABILITY DISCRIMINATION PURSUANT TO KRS 344 ET.SEQ.

50. Maffet realleges, reaffirms, and incorporates by reference all prior allegations

51. Maffet is a qualified person with a disability.

52. The University is an employer subject to the Kentucky Civil Rights Act contained in KRS 344 et.seq., including the prohibition against disability discrimination and failure to make reasonable accommodations.

53. Defendant unlawfully discriminated against and discharged Maffet from employment because of her disability in violation of KRS 344 et.seq.

54. Such acts and omissions were a contributing and substantial factor in her termination, which has resulted in damages, including but not limited to lost wages, health insurance, damage to her career, and reputation and the opportunity for other employment.

55. Defendant's conduct was willful, wanton, reckless, and/or grossly negligent.

56. Maffet is entitled to damages, including lost wages, statutory damages and attorney fees.

COUNT II
VIOLATION OF WHISTLEBLOWER ACT (KRS 61 ET.SEQ.)

57. Maffet realleges, reaffirms, and incorporates by reference all prior allegations.

58. During her employment at the University of Louisville, Maffet became aware of illegal and inappropriate conduct, including the following:

- a. Failure to follow Americans with Disabilities Act and Kentucky Civil Rights Act requirements with respect to employees;
- b. Discrimination based upon sex;
- c. Sexual harassment;
- d. Violation of the University's nepotism policy;
- e. Violation of Kentucky's Open Records Act;
- f. Violation of University policy regarding employment contracts, including the employment contract of Jordan Fair that she refused to complete.

59. On several occasions, Mrs. Maffet reported wrongful conduct to her supervisors, co-workers, and administration officials within the University of Louisville. She also voiced her complaints and displeasure about such conduct in a school setting to the perpetrators of misconduct.

60. The University failed to investigate and address Maffet's multiple complaints.

61. After Maffet reported misconduct in good faith, she became a target and subject of reprisal.

62. Maffet's reporting of misconduct and impropriety was a substantial and contributing factor in her termination.

63. Defendants have violated Kentucky's Whistleblower Act contained in Chapter 61 of the Kentucky Revised Statutes.

64. As a proximate and substantial result of the Defendant's violation of said Act, Maffet has suffered lost income, health insurance, damages to her career and reputation and the opportunity for other employment.

65. Maffet is entitled to recover for her harms and losses, including compensatory and punitive damages and a reasonable attorney fee.

COUNT III

WRONGFUL DISCHARGE/RETALIATION

66. Maffet realleges, reaffirms and incorporates by reference all allegations above.

67. Defendant, by their acts and omissions, have wrongfully discharged Maffet, a public employee, from employment in violation of public policy, thus depriving her of future income, retirement benefits, health insurance, and other benefits of employment.

68. Defendant's wrongful discharge was intentional and done in bad faith.

69. Defendant retaliated against Maffet because of her disability, because she exercised her rights, and because she objected to and refused to act in violation of law and University policy.

70. As a substantial and proximate result of Defendant's acts and omissions, Maffet is entitled to compensatory and punitive damages.

WHEREFORE, Maffet respectfully demands the following relief:

1. Judgment against Defendant as determined by the evidence in an amount sufficient to compensate her for her harms and losses;
2. Punitive damages;
3. Statutory damages;
4. Attorney fees;

5. Her court costs herein expended;
6. Trial by jury;
7. Pre-judgment and post-judgment interest;
8. Leave to amend her pleadings;
9. Any and all other relief to which she may appear properly entitled in law and in equity.

RESPECTFULLY SUBMITTED,

/s/ T. Scott Abell
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