

PREPARED BY THE COURT

<p>DARIA WASILEWSKI,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>ACCU REFERENCE MEDICAL LAB, LLC; GUIDO POLEVICK; NICHOLAS GANTET; ABC CORPORATIONS 1-5 (fictitious names describing presently unidentified business entities); and JOHN DOES 1-5 (fictitious names describing presenting unidentified individuals),</p> <p style="text-align: center;">Defendants.</p>
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SUPERIOR COURT OF NEW JERSEY

LAW DIVISION – CIVIL PART
UNION COUNTY

DOCKET NO. UNN-L-3247-20

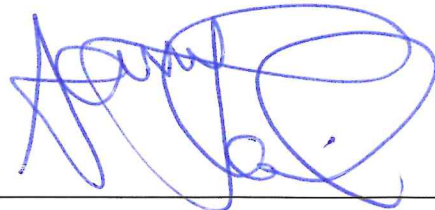
ORDER GRANTING SUMMARY JUDGMENT

THIS MATTER coming before the court and Defendants having advised the Court of their requests for summary judgment pursuant to Court Rule 4:46 dismissing Plaintiff’s First Amended Complaint, and the Court having reviewed the written submissions of the parties and having heard oral argument during a Zoom hearing that took place on March 3, 2023, and for the reasons set forth in the attached Statement of Reasons and good cause appearing:

IT IS ON THIS 18th DAY OF April, 2023:

ORDERED, that Defendants’ Motion for Summary Judgment is GRANTED, and Plaintiff’s First Amended Complaint is DISMISSED.

This Order shall be considered served upon all parties upon being uploaded to eCourts.



HON. ALAN G. LESNEWICH, J.S.C.

STATEMENT OF REASONS

Wasilewski v. Accu Reference Medical Lab, *et als.*
Docket No.: UNN-L-3247-20

Presently before the Court is Defendants' Motion for Summary Judgment. To summarize, Defendants contend that there are no genuine issues of material fact to be submitted to a jury and, therefore, their motion should be granted in its entirety.

BACKGROUND AND PROCEDURAL HISTORY

The matter arises from an action brought by Plaintiff, Daria Wasilewski ("Plaintiff" or "Ms. Wasilewski"), against Defendants, Accu Reference Medical Lab, LLC ("ARML"), Guido Polevick ("Polevick") and Nicholas Gantet ("Gantet"), (collectively "Defendants"), by way of a Complaint filed on October 2, 2020, alleging: (1) hostile work environment and discrimination based on her gender and pregnancy; (2) retaliatory termination based upon her pregnancy, and (3) interference with her request for leave under the New Jersey Family Leave Act ("NJFLA").

Defendants filed an Answer on December 11, 2020. The parties were provided with six hundred days to complete discovery. Following significant intervening motion practice relating to discovery, Plaintiff was granted leave to file an Amended Complaint solely to "correct any typographical errors or administrative details" in this Court's August 1, 2022 Order. In addition, the August 1, 2022 Order granted a brief extension to both parties to complete discovery.

On August 24, 2022, Plaintiff filed a second Motion for Leave to File an Amended Complaint. This motion was denied by this Court in its Order dated October 24, 2022.

Plaintiff filed a Motion for Reconsideration of the October 24, 2022 Order. That Motion was ultimately denied by Order dated December 5, 2022.

Defendants' Motion for Summary Judgment was filed on December 23, 2022. The Court reviewed in detail the written submissions of the parties. The Court heard the lengthy oral argument of counsel on March 3, 2023.

Supplemental letter briefs were filed on March 9 and 10, 2023.

ARGUMENTS

A. Defendants' Motion for Summary Judgment

Defendants contend that summary judgment is warranted for the following reasons: (1) Ms. Wasilewski failed to establish a *prima facie* case for any of her claims; (2) Plaintiff failed to set forth facts demonstrating that ARML's reasons for terminating her employment were pretextual; (3) Plaintiff was neither eligible for, nor did she request leave pursuant to the New Jersey Family Leave Act ("NJFLA"); (4) ARML granted Ms. Wasilewski's request to leave at 4:00 p.m. to care for her child; (5) Plaintiff's claims for retaliation for both "excessive workload" and her termination are devoid of evidentiary support; and (5) Defendants had a legitimate, non-discriminatory reason for terminating Ms. Wasilewski.

Defendants argue that the uncontroverted facts show that no ARML supervisor or manager knew that Ms. Wasilewski was pregnant, and, therefore, could not have discriminated against her due to her pregnancy, could not have retaliated against her due to her pregnancy or fired her on such grounds. Specifically, ARML first points out that Ms. Wasilewski did not advise her employer that she was pregnant until after she was notified of her termination. Second, ARML points to the depositions of various ARML employees who stated that the workload of all employees was greatly increased during the time leading up to Ms. Wasilewski's termination because of the COVID-19 pandemic. Third, Defendants argue that Ms. Wasilewski's NJFLA claim fails as a matter of law because: (1) she was not entitled to the statutory benefits of the NJFLA;

(2) she never requested leave under the NJFLA; (3) she was never denied NJFLA leave by ARML; and (4) there is no evidence of retaliation against Plaintiff for leaving at 4:00 pm, as requested by her, as the workload of all lab employees greatly increased due to the COVID pandemic.

B. Plaintiff's Opposition to the Motion

In her opposition brief, Plaintiff announced that she was withdrawing her claims of pregnancy discrimination and NJLAD retaliation based upon the evidence discovered by the parties. Despite some original confusion, she has also represented that "there is no gender-based retaliation claim."¹ However, Plaintiff contends her claims of gender-based hostile work environment claim and NJFLA retaliation/interference claim should survive summary judgment.

Plaintiff's key contention is that summary judgment is inappropriate because genuine disputes of material fact still exist which may lead a jury to conclude that she was in fact subjected to the disparate and/or retaliatory treatment alleged in her Amended Complaint. In support of this contention, Plaintiff argues that she always maintained "the very highest level of job performance," which is supported by her promotion to supervisor. In addition, Plaintiff contends that she was subjected to this disparate treatment and a hostile work environment because she was a working mother who had to leave at 4:00 p.m. to care for her young child. Specifically, Plaintiff argues that her workload significantly increased after she requested to leave work each day at 4:00 p.m., thus constituting retaliation.

Furthermore, Plaintiff argues that both the NJFLA and NJLAD must be liberally construed, and that there is, at minimum, a *prima facie* showing that she was terminated under circumstances that would give rise to an inference of discrimination.² Therefore, Plaintiff contends that despite

¹ See Plaintiff's counsel's letter dated March 10, 2023.

² Citing N.J. Model Civil Jury Charge § 2.21(B)(5) (App'd June 2010).

Defendants' arguments and the facts elicited during discovery, it remains reasonably likely that a jury could find such an inference and thus find in her favor.

C. Defendants' Reply

Defendants argue that to salvage Counts One and Two of her Amended Complaint after discovery was completed, Plaintiff is attempting to convert her withdrawn pregnancy discrimination and NJLAD retaliation claims into a new claim that she was discriminated against because she had a young child at home for whom she needed to leave by 4:00 p.m.

Defendants argue that Plaintiff's Amended Complaint, clearly and unambiguously states that "[Ms. Wasilewski] was unlawfully terminated because she got pregnant" and "Defendants took retaliatory action against Plaintiff by increasing her workload to unsustainable levels and then terminating her once they learned that she was pregnant." Based upon the language of Plaintiff's Amended Complaint, Defendants argue that Counts One and Two cannot stand as Ms. Wasilewski has explicitly withdrawn her claims arising out of an alleged pregnancy discrimination which was completely unsupported by the evidence elicited during years of discovery.

Finally, Defendants reiterate the arguments raised in their moving brief, arguing that Plaintiff has failed to make a *prima facie* case for any of her claims under either the NJFLA or NJLAD.

ANALYSIS

A. Summary Judgment Standard

As established in Brill v. Guardian Life Ins. Co. of America, 142 N.J. 520 (1995), when deciding summary judgment motions, the trial court is required to engage in the same type of evaluation analysis and sifting of evidential material as required by Rule 4:37-2(b). A determination must be made as to whether there exists a "genuine issue" of material fact that

precludes summary judgment. This requires a motion judge to consider whether the competent evidential material presented when viewed most favorably to the non-moving party is sufficient to permit a rational fact finder to resolve the alleged disputed issue in favor of the non-moving party.³

The summary judgment procedure "...is designed to cut through sham and frivolity in an answer and lay the case before the trial no genuine triable issues of fact, the relief should be granted." Monmouth Lumber Co. v. Indemnity Co. of North Jersey, 21 N.J. 439, 448 (1956). The judicial process in New Jersey protects the right of "every litigant who has a bona fide cause of action or defense the opportunity to fully expose the case." Robbins v. Jersey City, 23 N.J. 193, 195 (1961). However, adverse parties and the court must be protected against groundless claims and frivolous defenses. The court must seek to conserve judicial manpower for use in cases which meritoriously command attention, while sparing litigants the expense of unnecessary trials of those actions in which there is no genuine issue of material fact existing. Robbins, 23 N.J. at 241.

The opponent of the motion is not without his/her own burden, for once the movant has demonstrated the absence of a genuine issue of material fact, the opponent must produce controverting facts by competent evidence, not merely unsupported representations. To withstand summary judgment, the opponent must establish a genuine issue of material fact, and his failure to do so will entitle the movant to the relief sought. James Talcott, Inc. v. Schulman, 82 N.J. Super. 438, 443 (App. Div. 1964). See also U.S. Pipe and Foundry Co. v. American Arb. Assoc., 67 N.J. Super. 384, 399-400 (App. Div. 1961) ("bare conclusions in the pleadings without factual support tendered affidavits, will not defeat a meritorious application for summary judgment.") and Triffin

³ The Court has carefully reviewed the comprehensive briefs and identified case law, including the many unpublished cases that were submitted. However, again the Court must emphasize that is mindful of and cannot ignore the provisions of Court Rule 1:36-3 which provide that [n]o unpublished opinion shall constitute precedent or be binding upon any court" and that absent circumstances not present here, "no unpublished opinion shall be cited by any court."

v. American Intern. Grp., Inc., 372 N.J. Super. 517, 523-24 (App. Div. 2004). A motion for summary judgment may be made as early as twenty days from the service of the complaint, Rule 4:46-1, but in general, "summary judgment is inappropriate prior to the completion of discovery." Wellington v. Estate of Wellington, 359 N.J. Super. 484, 496, (App. Div. 2003), certif. denied, 177 N.J. 493, (2003). Here, one thing that cannot be disputed is that the current motion record is as complete as possible. The parties had the opportunity to engage in significant discovery. Each party is represented by competent counsel who have performed their roles zealously. The Court has carefully sifted through the current motion record to identify the wheat and discard the chafe in terms of facts supported in the record by competent evidence. Oral argument took place and counsel were given the opportunity to make every possible argument and identify for the record all the material facts that supported their clients' respective positions.

B. Analysis of Plaintiff's Claims within McDonnell Douglas Framework

The McDonnell Douglas framework, adopted by New Jersey courts and applied to NJLAD and NJFLA claims, is well established:

[A] plaintiff must first prove a prima facie case of discrimination. To do so, a plaintiff must show that he or she (1) belongs to a protected class; (2) applied for or held a position for which he or she was objectively qualified; (3) was not hired or was terminated from that position; and that (4) the employer sought to, or did fill the position with a similarly-qualified person. The establishment of a prima facie case gives rise to a presumption of discrimination.

Viscik v. Fowler Equip. Co., 173 N.J. 1, 14 (2002) (citing McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973) (internal citations omitted).

To sustain a claim of discrimination, New Jersey Courts, have set forth a three-part analysis to be followed:

(1) the plaintiff must come forward with sufficient evidence to constitute a prima facie case of discrimination; (2) the defendant

then must show a legitimate non-discriminatory reason for its decision; and (3) the plaintiff must then be given the opportunity to show that defendant's stated reason was merely a pretext or discriminatory in its application.

El-Sioufi v. St. Peter's Univ. Hosp., 382 N.J. Super. 145, 166 (App. Div. 2005) (citing Dixon v. Rutgers, The State Univ. of N.J., 110 N.J. 432, 442 (1988) (citing Peper v. Princeton Univ. Bd. Of Trustees, 77 N.J. 55, 82-83 (1978); McDonnell Douglas, 411 U.S. at 807)).

Therefore, within this framework, the Plaintiff shoulders the primary evidentiary burden of proving a *prima facie* case "that discrimination could be a reason for the employer's action." Zive v. Stanley Roberts, Inc., 182 N.J. 436, 447 (2005). If the Plaintiff meets this standard, the analysis moves to the second prong of McDonnell Douglas, when the burden of production shifts to the employer to merely "articulate a legitimate, nondiscriminatory reason for the employer's action." Zive, 182 N.J. at 449 (citing Clowes v. Terminix Int'l, Inc., 109 N.J. 575, 597 (1988)). Then, if the employer meets this secondary burden, the burden shifts back to the employee "to prove by a preponderance of the evidence that the reason articulated by the employer [for termination] was merely a pretext for discrimination and not the true reason for [termination]. *Id.* Finally, it must be noted that at no point does the burden of proof of discrimination shift to the employer. It remains with the employee at all times." *Id.* at 450 (emphasis added).

1. Initial Burden on Plaintiff and Secondary Burden on Defendant

Here, viewing the evidence in the light most favorable to Plaintiff, as this Court must, it has concluded that Plaintiff has met her initial burden under the McDonnell Douglas framework: (1) She is a member of a protected class as a woman and mother; (2) She held a position for which she was objectively qualified; (3) She was ultimately terminated from that position; and (4) ARML filled the position with a similarly qualified person months after her termination.

The burden then shifted to Defendants to merely articulate a legitimate, nondiscriminatory reason for the adverse employment action against Plaintiff. It is equally clear that Defendants have met their burden of production as well. ARML has articulated several legitimate, non-discriminatory reasons for Wasilewski's termination. First, with respect to Plaintiff's now withdrawn claims that she was discriminated against due to being pregnant, there is no disputed issue of fact that the evidence establishes that ARML was not aware Plaintiff was pregnant at the time her employment with ARML was terminated. Indeed, it remains uncontroverted that it was only **after** Defendant notified Ms. Wasilewski that her employment was being terminated, that she told ARML management that she may be pregnant. Logically, there can be no discriminatory termination based on a fact that was not known to the employer at the time that the adverse employment action was taken.

Second, even viewing the evidence in the light most favorable to Plaintiff, there is an absence of any substantial facts demonstrating that Ms. Wasilewski's status as a mother, negatively affected her performance evaluations or was a factor in the determination to terminate her employment. Rather, Defendants present evidence that Ms. Wasilewski's termination was based on facts including, but not limited to her: (1) inadequately performing her supervisory duties concerning the laboratory and her staff; (2) failing to get "off the bench" despite requests from her superiors; (3) being insubordinate by refusing to comply with the orders of her supervisor, Dr. Polevick; (4) throwing a crumpled piece of paper, that set forth and contained goals Plaintiff was told she needed to achieve by her supervisor; and (5) performing substandard work during a crucial period for ARML due to the increased workload caused by the COVID-19 pandemic. Defendants have articulated several legitimate nondiscriminatory reasons for terminating Plaintiff's employment that would meet ARML's low burden of production as the employer. As a result, the

burden shifts back to Plaintiff to set forth sufficient facts demonstrating that each of the reasons proffered were merely a pretext for her employer's discriminatory intent.

2. The Third and Final Burden on the Plaintiff - Proving Pretext.

It is well settled that where a defendant articulates a legitimate, nondiscriminatory reason for terminating a plaintiff's employment, the plaintiff must then raise a genuine issue of material fact that the employer's proffered explanation is pretextual. Klein v. University of Medicine and Dentistry of New Jersey, 377 N.J. Super. 28, 39 (App. Div. 2005), citing Kolb v. Burns, 320 N.J. Super. 467, 479 (App. Div. 1999). To prove pretext, "the plaintiff must point to some evidence, direct or circumstantial, from which a factfinder could reasonably either (1) disbelieve the employer's articulated legitimate reasons; or (2) believe that an invidious discriminatory reason was more likely than not a motivating or determinative cause of the employer's action." Burton v. Teleflex Inc., 707 F.3d 417, 427 (3d Cir. 2013). Ultimately, a plaintiff must present sufficient evidence that would allow a factfinder to discredit the employer's proffered justification. *Id.* In Klein v. University of Medicine and Dentistry of New Jersey, the trial court found that the Plaintiff was unable to raise a genuine issue of material fact to show the proffered reason was pretextual and therefore, summary judgment was upheld by the Appellate Division. This Court must now make the same determination.

Plaintiff alleges that her termination was retaliatory, but Defendants have proffered several legitimate nondiscriminatory reasons for terminating Plaintiff's employment. Although Plaintiff summarily contends that the proffered reasons were pretextual and that her employment was terminated due to "mom bias," she failed to raise a genuine issue of material fact demonstrating that Defendants' articulated reasons are unworthy of belief or that some "invidious discriminatory reason" was the true motivating factor leading to the termination of her employment. As a result,

Defendants' motion for summary judgment with respect to Plaintiff's claims of gender discrimination must be granted.

a. Counts One and Two – Disparate Treatment, Hostile Work Environment

In Plaintiff's brief in opposition to the summary judgment motion, Plaintiff withdraws her claims of pregnancy discrimination and LAD retaliation, but states in a footnote, that her claims of disparate treatment, hostile work environment and NJFLA retaliation raise a genuine issue of material fact and therefore, should survive summary judgment. In her March 10, 2023 letter brief, she has confirmed that "there is no gender-based retaliation claim". As such, the first two Counts of Plaintiff's First Amended Complaint allege disparate treatment, hostile work environment, discrimination, retaliation, and unlawful termination under the NJLAD. This claim was based upon alleged discriminatory conduct by Defendants because of Plaintiff's status as a pregnant woman. Again, Plaintiff has now withdrawn her claims alleging pregnancy discrimination, as the uncontested facts elicited during discovery unequivocally establish that Defendants were not notified, and had no knowledge, that Plaintiff was pregnant until after her employment with ARML had been terminated. With respect to Count Two, the only allegations contained in that Count relate to pregnancy discrimination. As a result, Count Two of the Complaint must be dismissed. With respect to Count One, the only other factual allegations relating to gender discrimination, are that Plaintiff's workload was increased and that her manager Dr. Polevick treated her "coldly" shortly after she requested permission to leave by 4:00 p.m. each day to care for her child.

Plaintiff contends that she was subjected to a hostile work environment based upon her gender. To prove a gender-based hostile work environment claim, a plaintiff must "demonstrate that 'the complained-of conduct (1) would not have occurred but for the employee's gender; and it was (2) severe or pervasive enough to make a (3) reasonable woman believe that (4) the conditions

of employment are altered and the working environment is hostile or abusive." Griffin v. City of E. Orange, 225 N.J. 400, 413-14 (2016), quoting Lehmann v. Toys R Us, 132 N.J. 587, 603-04 (1993).

The requirement that a plaintiff demonstrate that the harassment would not have occurred but for her gender is the "defining element" of a hostile work environment claim. Herman v. Coastal Corp., 348 N.J. Super. 1, 20 (App. Div. 2002). "Common sense dictates that there is no LAD violation if the [employer's] conduct would have occurred regardless of the plaintiff's [protected status]." Lehmann, 132 N.J. at 604. As a result, to establish the first prong of the test, a plaintiff raising a claim of hostile work environment must show that "it is more likely than not" that the employer's complained-of conduct occurred because of the plaintiff's protected status. Id. at 605.

In addition, a "plaintiff is also compelled to prove that the harassing conduct, 'not its effect on the plaintiff or on the work environment,' was 'severe or pervasive.'" Griffin v. City of E. Orange, 225 N.J. at 414 (citing Lehmann, 132 N.J. at 606). To satisfy the third and fourth factors, a plaintiff must show "that her working conditions were affected by the harassment to the point at which a reasonable woman would consider the working environment hostile." Id. (citing Lehmann, 132 N.J. at 610.) Significantly, "[p]ersonality conflicts... do not equate to hostile work environment claims simply because the conflict is between a male and female employee." Herman v. Coastal Corp., 348 N.J. Super. 1, 20–21 (App. Div. 2002). While an employee is entitled to a work environment that is free of hostility, an employee "is not entitled to a perfect workplace, free of annoyances and colleagues [the employee] finds disagreeable." Id. at 23.

Viewing the evidence in the light most favorable to Plaintiff, the evidence fails to demonstrate that she was subject to a "severe and pervasive" hostile work environment. Plaintiff

contends that shortly after she requested to leave by 4:00 p.m. to care for her child, her workload was significantly increased, and that Defendants expected her to work around the clock. However, the deposition testimony established that all lab employees were expected to work additional hours and that their workloads significantly increased due to the escalation in testing demands due to COVID-19. Moreover, Plaintiff's allegations that Dr. Polevick spoke to Ms. Wasilewski "coldly," do not rise to the level necessary to establish a hostile work environment. Nor does it evidence a discriminatory animus on the part of either Dr. Polevick or ARML. In fact, during her deposition, Plaintiff testified that she never informed anyone at ARML that she felt she was being discriminated against or otherwise treated in a hostile manner. The Court finds that based upon the record before it, there is an absence of genuine issues of material fact demonstrating that Plaintiff was suddenly subject to a hostile work environment due to her status as a member of a protected class, i.e., her status as a female.

In addition, viewing the evidence in the light most favorable to Plaintiff, she has failed to establish a genuine issue of material fact demonstrating that she was subject to disparate treatment that ultimately led to her termination. The evidence within the record points to the fact that workloads were increased across the board for ARML laboratory employees as a result of the pandemic. The evidence fails to demonstrate that Ms. Wasilewski was subjected to disparate treatment when compared to other ARML employees, or that Plaintiff's gender was a factor in making decisions related to her employment.

Ultimately, there is no "factual scenario compatible with discriminatory intent" that would refute the legitimate reasons articulated for Ms. Wasilewski's increased workload and ultimate termination. See Zive, 182 N.J. at 447. In other words, the Court finds that Plaintiff has failed to sustain her burden of demonstrating that Defendant's reasons for terminating Plaintiff's

employment were pretextual, or that she was subjected to disparate treatment or a hostile work environment due to her gender. Therefore, summary judgment with respect to Counts One and Two of the Amended Complaint must be granted.

b. Count Three – Violation, Interference, and Retaliation Under the NJFLA

Count Three of the Amended Complaint alleges that she was entitled to family leave under the NJFLA and that her request was improperly denied by ARML in violation of the Act. To succeed on a NJFLA claim, a plaintiff must demonstrate that: (1) they were entitled to leave under the NJFLA (2) they invoked their right to NJFLA leave; (3) the leave request was denied and/or an adverse employment action was suffered; and (4) the adverse action was causally related to the exercise of their rights. See DePalma v. Building Inspectors Underwriters, 350 N.J. Super. 195, 214 (App. Div. 2002) (discussing the elements of an NJFLA claim in the context of a father taking leave to care for his injured son).

Viewing the evidence in the light most favorable to Plaintiff as it must, the Court has concluded that Plaintiff has failed to present sufficient evidence necessary to establish a *prima facie* case under the NJFLA. While in the Amended Complaint Ms. Wasilewski alleges that she requested leave, she admitted that she never actually requested leave from ARML. Rather, Plaintiff requested permission to leave at 4:00 p.m. each day to take care of her child and that request was granted. However, even if the Court assumes that she requested leave under the NJFLA, Plaintiff has failed to establish the third and fourth prongs of a NJFLA claim. With respect to the third prong, Plaintiff admits that her request to leave at 4:00 p.m. was granted. As a result, the third prong must be established by some showing of an adverse action suffered by Plaintiff. That is not present in this record. Battaglia v. United Parcel Service Inc., 214 N.J. 518, 547 (2013). "[T]he mere fact that [an] adverse employment action occurs after [the protected activity] will ordinarily

be insufficient to satisfy the plaintiff's burden of demonstrating a causal link between the two." Young v. Hobart West Group, 385 N.J. Super. 448, 467 (App. Div. 2005), quoting Krouse v. Amer. Sterilizer Co., 126 F.3d 494, 503 (3d Cir. 1997). Plaintiff has not presented the Court with evidence to establish that Defendants unfairly increased her workload and terminated her employment in retaliation for her request to leave at 4:00 p.m. to care for her child. During her deposition, Plaintiff admitted that Dr. Polevick had multiple meetings with her about her goals and that he was not happy with her performance. She also testified that the sales representatives and the doctors were not happy, as they complained that the tests were not being completed on time, and that she needed to be more organized.

In addition, Plaintiff contends that she requested the leave once her husband was required to return to work in approximately April of 2020. However, MaryAnne Amato testified that there was a problem with Plaintiff's performance as soon as COVID-19 began either in late February or early March of 2020, before Plaintiff requested to leave early to care for her child. As a result, viewed in the light most favorable to Plaintiff, the Court has concluded that the record evidence fails to establish a causal link between Plaintiff's request to leave early and her ultimate termination, where Defendants provided multiple legitimate nondiscriminatory reasons for terminating Plaintiff's employment. Viewing the evidence in the light most favorable to her, Plaintiff has failed to raise a genuine issue of material fact establishing that she was wrongfully terminated in retaliation for her requesting leave under the NJFLA. As a result, summary judgment with respect to Count Three of the Amended Complaint must be granted.

CONCLUSION

After thoroughly canvassing the motion record in support of, and in opposition to, Defendants' Motion for Summary Judgment, and hearing the arguments of both counsel during

oral argument, the Court finds that Plaintiff has failed to establish any genuine issues of material fact to be submitted to a jury. For the reasons set forth above, Defendants' Motion for Summary Judgment dismissing Plaintiff's Amended Complaint is GRANTED.