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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
KING COUNTY

STACY TRUSSLER, an individual,

Plaintiff,

vs.

STATE OF WASHINGTON,

Defendant.

Case No.: 16-2-30183-5 SEA

COMPLAINT FOR DAMAGES

I. PARTIES

1.1 The Plaintiff, Stacy Trussler (“Ms. Trussler or “Plaintiff”), is a citizen of the United States residing in King County who was employed by the State of Washington’s Department of Transportation (WSDOT) from 1995 until her termination.

1.2 The Defendant, the State of Washington (“Washington State” or “Defendant”), employed Plaintiff at the time of her termination as Director of the Urban Planning Office of the WSDOT. WSDOT is the steward of the State of Washington’s multimodal transportation system, and the Urban Planning Office was created by the Washington State legislature in 1992 to coordinate and lead transportation planning in the Central Puget Sound, including Snohomish, King, Pierce and Kitsap counties.

1 **II. JURISDICTION and VENUE**

2 2.1 This Court has jurisdiction over this matter pursuant to RCW 2.08.010
3 and RCW 4.28.020.

4 2.2 Venue is proper pursuant to RCW 4.12.020.

5 **III. FACTS**

6
7 3.1 Ms. Trussler earned a Bachelor's degree in Science Civil Engineering
8 in 1991 and a Master's degree in Science in Environmental Engineering in 1993 from
9 Washington State University. A licensed Professional Civil Engineer in Washington
10 State, Ms. Trussler worked for the federal Environmental Protection Agency (EPA)
11 and as a consultant for CH2MHILL and Black & Veatch before becoming a
12 Washington State employee in 1995. By 2010, she held a senior level position as
13 Director of the Urban Planning Office (UPO). Washington State Department of
14 Transportation (WSDOT), Washington Management Service Band 4 (WMS4)
15 manager.

16 3.2 The UPO is responsible for representing the Transportation Secretary at
17 regional boards and county-wide forums, and as the Director of UPO, Ms. Trussler
18 represented the Secretary and led three technical teams: travel demand modeling,
19 corridor planning studies, and transportation systems analysis.

20 3.3 On Saturday, October 13, 2012, Ms. Trussler was in a motorcycle
21 accident.

22 3.4 On Monday, October 15, 2012, Ms. Trussler notified the State of the
23 accident.

24 3.5 Following the accident, Ms. Trussler took some days off using sick
25 leave, but upon returning to **work experienced symptoms including full-body pain,**

1 dizziness, headaches, extreme fatigue, and brain fogginess. She forgot words, slurred
2 her speech, saw double images, suffered imbalance and falls, and had general
3 difficulty functioning.

4 3.6 On December 17, 2012, Ms. Trussler was diagnosed with a traumatic
5 brain injury (TBI). Her doctor completed and signed the FMLA paperwork, which
6 indicated the duration of her condition could be six to twelve months. He indicated
7 that in addition to suffering excessive fatigue, she could not perform the high-
8 demanding job functions such as running meetings or spearheading special projects.

9 3.7 Ms. Trussler reported to Brian Smith. Mr. Smith reported to Assistant
10 Secretary Amy Arnis. After her accident, Ms. Trussler had regular one-on-one
11 meetings with Mr. Smith in which they candidly and openly discussed her condition.
12 Mr. Smith approved and implemented accommodations for her TBI.

13 3.8 In late 2013, WSDOT Secretary Peterson announced that Mr. Smith's
14 entire Division would no longer be reporting to Ms. Arnis, and would instead report to
15 a newly created Assistant Secretary for Economy and Community. The Secretary
16 hired an acquaintance, Amy Scarton, from outside of WSDOT to fill this role. While
17 Ms. Scarton began employment for WSDOT in late 2013, she did not physically come
18 to WSDOT until early 2014.

19 3.9 On February 11, 2014, Mr. Smith informed Ms. Trussler that he was
20 retiring and that he discussed a succession plan with Ms. Scarton. He told Ms. Trussler
21 that he informed Ms. Scarton about Ms. Trussler's accident, the accommodations that
22 he had provided, and that Ms. Trussler was performing her job. Mr. Smith shared with
23 Ms. Trussler that he had explained to Ms. Scarton that while he felt that Ms. Trussler
24 was the most qualified person to take his position in an acting capacity during a
25 recruitment to fill his vacancy, he did not recommend her because he felt that Ms.

1 Trussler should focus on her health over taking on new work responsibilities. Mr.
2 Smith recommended Mark Finch to fill the interim role while a national search was
3 conducted.

4 3.10 Mr. Smith's last day at work was February 14, 2014, and on February
5 18, per Mr. Smith's recommendation, Ms. Scarton announced that Mr. Finch would
6 serve as the Acting Multi-Modal Planning Division Director. A recruitment process
7 was announced, and Ms. Trussler chose not to apply for the position to focus on her
8 health.

9 3.11 In March 2014, Ms. Trussler submitted state forms requesting
10 reasonable accommodation for her injury, which included requests for a flexible
11 schedule and telecommuting. WSDOT policy allows for telework, noting that it
12 promotes compliance with the Americans with Disabilities Act and is more likely to
13 be granted as a reasonable accommodation for medical reasons.

14 3.12 On April 4, 2014, Ms. Trussler gave Ms. Scarton an update on her
15 accommodation request. In response, Ms. Scarton yelled at Ms. Trussler about her
16 request for reasonable accommodation, specifically her request for a flexible schedule
17 and telecommuting. Ms. Scarton demanded to know how Ms. Trussler could perform
18 her job with these accommodations. She continued yelling and accused Ms. Trussler
19 of "not being a leader" in the context of seeking reasonable accommodation of her
20 TBI. Ms. Trussler said nothing in response.

21 3.13 In June 2014, Ms. Scarton yelled at Ms. Trussler over the telephone
22 again accusing her of "not being a leader" after being told by Ms. Trussler that another
23 employee under Ms. Trussler's supervision was seeking an update for
24 accommodations already in place for another employee who suffered from
25 Fibromyalgia. Ms. Scarton questioned whether both the employee and Ms. Trussler

1 could perform their jobs requiring collaboration while telecommuting. Ms. Trussler
2 advocated on behalf of the employee and opposed efforts to deny the employee
3 accommodation by the State. Ms. Trussler also opposed actions by the State to deny
4 Ms. Trussler's own accommodation.

5 3.14 In June 2014, Ms. Trussler's telework accommodations were approved.

6 3.15 Beginning in June 2014, Ms. Scarton began taking away Ms. Trussler's
7 staff and job responsibilities, began to exclude her from important meetings, and
8 began avoiding communication with Ms. Trussler. In addition, the Human Resources
9 staff falsely accused Ms. Trussler of violating the terms of her reasonable
10 accommodation and telework approval, and began to challenge Ms. Trussler's
11 accommodation requests.

12 3.16 In October 2014, Ms. Trussler contacted an executive in the WSDOT
13 authorized to receive whistleblower complaints. Ms. Trussler orally relayed concerns
14 that WSDOT management was retaliating against her for opposing unlawful
15 discrimination and violations of the Americans with Disabilities Act (ADA) against
16 one of Ms. Trussler's employees as well as suffering harassment and reprisal for
17 seeking her own reasonable accommodation under the ADA. She did not receive any
18 follow up response to her disclosure.

19 3.17 In April 2015, Ms. Trussler filed a whistleblower complaint with the
20 State Auditor's office detailing her claims of suffering reprisal and harassment for
21 raising concerns about WSDOT management's discriminatory and deliberate
22 violations of the Americans with Disabilities Act in failing to follow state policies
23 regarding determinations for reasonable accommodation. The State was aware that
24 Ms. Trussler filed a whistleblower complaint.

1 3.18 The State responded to Ms. Trussler’s internal and external complaints
2 about its failure to comply with department policy and the ADA through retaliatory
3 review, amendment and/or denial of her reasonable accommodation and telework
4 requests; creating a hostile work environment; reprisal; and implementing a plan to
5 remove Ms. Trussler from her position. Over time, WSDOT management and Human
6 Resources implemented reprimands, verbal criticisms, written criticisms of
7 performance, and a Letter of Concern that alleged she engaged in the misconduct of
8 insubordination, which resulted in an investigation. Specifically, Defendant engaged
9 in the following acts of discrimination, failure to accommodate, retaliation, and hostile
10 work environment:

- 11 3.18.1.1 Accused Plaintiff of noncompliance with existing telework and
12 reasonable accommodation agreements;
- 13 3.18.1.2 Failed to engage in the interactive process to determine the
14 nature and extent of her injury and illness.
- 15 3.18.1.3 Failed to cooperate with Ms. Trussler’s accommodation
16 specialist, who is an outside expert in the area;
- 17 3.18.1.4 Removed reasonable accommodation and telework approval in
18 place and failed to process new reasonable accommodation
19 request;
- 20 3.18.1.5 Failed to assist Ms. Trussler in filling other positions with the
21 State as an accommodation;
- 22 3.18.1.6 Denied Ms. Trussler adequate staff to perform her duties;
- 23 3.18.1.7 Made frequent and undesirable staffing changes;
- 24 3.18.1.8 Refused to assign Ms. Trussler meaningful work;
- 25 3.18.1.9 Implemented a demotion;

- 1 3.18.1.10 Issued a reduction in pay;
- 2 3.18.1.11 Denied her promotion;
- 3 3.18.1.12 Placed Ms. Trussler on administrative leave;
- 4 3.18.1.13 Suspended her from work;
- 5 3.18.1.14 Issued a disciplinary memo and initiated an investigation;
- 6 3.18.1.15 Encouraged other staff to create a hostile work environment;
- 7 3.18.1.16 Termination.

8 3.19 Prior to filing this lawsuit, Ms. Trussler timely filed two administrative
9 claims with the Office of Financial Management and waited the required time before
10 filing in King County Superior Court. She also perfected her statutory whistleblower
11 complaint under RCW 42.40.

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13 3.20 Ms. Trussler has suffered emotional harm proximately caused by the
14 State’s wrongful conduct, including emotional distress, personal indignity,
15 embarrassment, fear, anxiety, loss of enjoyment of life, mental anguish, injury to
16 reputation, and humiliation experienced to date and with reasonable probability to be
17 experienced by the Plaintiff in the future.

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19 3.21 Ms. Trussler has suffered lost wages in the form of front and back pay,
20 lost retirement benefits, other lost benefits, and emotional harm proximately caused by
21 the acts of the defendant and its agents.

22 3.22 Defendant is liable for the actions of its agents under the doctrine of
23 respondeat superior.

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1 **IV. CAUSES OF ACTION**

2 4.1 Plaintiff realleges the facts set forth in paragraphs 3.1 – 3.22 above and
3 incorporates same by reference.

4 4.2 The facts set forth a claim for discrimination including the failure to
5 accommodate Plaintiff’s disability and disparate treatment in violation of the
6 Washington Law Against Discrimination, RCW 49.60 *et. al.*

7 4.3 The facts set forth above state a claim against Washington State for
8 disability harassment (hostile work environment) in violation of the Washington Law
9 Against Discrimination, RCW 49.60 *et. al.*

10 4.4 The facts set forth above state a claim against Washington State for
11 retaliation in violation of the Washington Law Against Discrimination, RCW
12 49.60.210.

13 4.5 The facts set forth a claim for statutory retaliation in violation of RCW
14 42.40.

15 4.6 The facts set forth a claim for wrongful discharge in violation of public
16 policy.

17 **V. PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff prays for relief as follows:

19 5.1 Damages for back pay, front pay, lost benefits, and medical expenses in
20 an amount to be proved at trial;

21 5.2 Damages for emotional harm;

22 5.3 Prejudgment interest in an amount to be proved at trial;

23 5.4 Reasonable attorney's fees and costs;

24 5.5 A permanent injunction for Plaintiff;

25 5.6 Reinstatement to Plaintiff’s prior position with accommodation;

