

Hearing Date: March 3, 2009

STATE OF RHODE ISLAND  
PROVIDENCE, S.C.

SUPERIOR COURT  
P.C.C.A. No. 06-5997

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DEBRA M. D'AMICO,  
Plaintiff

v.

CRANSTON SCHOOL COMMITTEE, and  
RICHARD SCHERZA, in his capacity  
as Superintendent of Schools, Cranston  
Public Schools,  
Defendants

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PLAINTIFF'S MOTION FOR  
SUMMARY JUDGMENT  
PURSUANT TO  
R.I. R. SUP. CT. CIV. PRO. 56

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Pursuant to R.I. Sup. Ct. R. Civ. P. 56, Plaintiff Debra M. D'Amico respectfully moves this Court to enter summary judgment against Defendants for denying her an employment benefit – namely, family leave to care for her same-sex partner – due to her sexual orientation, in violation of R.I. Gen. Laws § 28-5-7. In support of this Motion, Ms. D'Amico submits herewith a supporting Memorandum of Points and Authorities and Affidavit.

Defendants' decision to grant only to married employees family leave to care for their spouses discriminates against gay and lesbian employees, who are unable to marry in Rhode Island. Such discrimination constitutes disparate treatment based upon sexual orientation, where the ability to marry is a perfect proxy for sexual orientation. Alternatively, such discrimination also has a disparate impact on gay and lesbian employees, who are 100% percent precluded from marrying, as opposed to their heterosexual counterparts who have the option of marrying in order to qualify for the family leave benefit. Under either theory, by denying Ms. D'Amico's request for family

leave benefits to care for her same-sex partner, Defendants have committed impermissible sexual orientation discrimination in violation of R.I. Gen. Laws § 28-5-7.

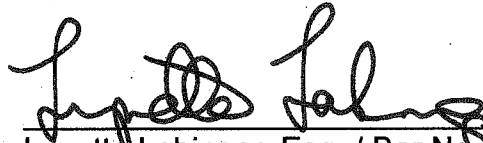
Ms. D'Amico further asks that this Court grant the relief requested in her complaint:

- (1) Find that Defendants have violated G.L. § 28-5-7 by conditioning family leave benefits on marriage;
- (2) Order the Defendants to cease and desist from the unlawful employment practices, namely the conditioning of family leave benefits on marriage;
- (3) Award compensatory damages in the amount of \$336.21 for lost pay plus interest, pursuant to R.I. Gen. Laws § 28-5-24;
- (4) Award reasonable costs and attorney's fees pursuant to R.I. Gen. Laws § 28-5-24; and
- (5) Grant such other relief as is just and appropriate.

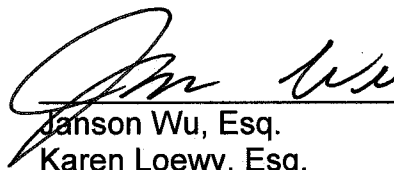
DATED: *October 24, 2008*

Respectfully submitted,

PLAINTIFF DEBRA M. D'AMICO  
By her attorneys,



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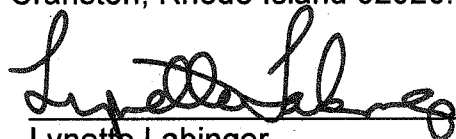


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Admitted Pro Hac Vice

CERTIFICATE OF SERVICE

I, Lynette Labinger, local counsel of record for Plaintiff Debra D'Amico affirm that on October 24, 2008 I sent a true copy of this Motion for Summary Judgment, along with the Memorandum of Points of Authorities and Affidavit of Debra D'Amico in support thereof, by regular mail, first class to the Defendants' attorney, Gregory P. Piccirilli, Esq., Sciacca & Piccirilli, 121 Phenix Avenue, Cranston, Rhode Island 02920.

  
Lynette Labinger