IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-01367

THE ESTATE OF SARAH STAEBELL, BY AND THROUGH SARAH PROCHASKA, THE PERSONAL REPRESENTATIVE FOR THE ESTATE;

and

ELIZABETH RENDALL,

Plaintiffs,

v.

DOUGLAS COUNTY SCHOOL DISTRICT RE-1,

Defendant.

COMPLAINT AND JURY DEMAND

The Estate of Sarah Staebell and Elizabeth Rendall, through their attorneys, Paula Greisen, Meredith A. Munro, and Laura E. Schwartz, with the firm of King & Greisen, LLP, submit this Complaint and Jury Demand against Defendant Douglas County School District RE-1 (the "District"), and allege as follows:

I. INTRODUCTION

1. This is a systemic employment disability discrimination and retaliation suit brought by two former District employees. Ms. Staebell was a fifth grade teacher who was diagnosed with colon cancer in December 2012. Ms. Rendall was a special education teacher who developed a breathing problem, requiring the use of the portable oxygen tank. Although both women had ongoing disabilities and/or perceived disabilities, each was able to perform the

essential functions of her position with reasonable accommodations. Nonetheless, the District wrongfully terminated both women. Upon information and belief, the District engages in a pattern and practice of discrimination based on disabilities and retaliates for the assertion of federal statutory rights under the ADA Amendments Act of 2008, 42 U.S.C. §§ 12101–12117 ("ADAAA") and Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 ("Section 504").

2. Ms. Staebell was terminated when she requested intermittent leave under the Family Medical Leave Act of 1993 ("FMLA"), 29 U.S.C. §§ 2601-2654, for her second round of chemotherapy. The District also refused to provide additional leave under the ADAAA, forcing Ms. Staebell to take disability retirement under the Public Employees' Retirement Association ("PERA").

3. Ms. Rendall suffered the same fate when the District refused to allow her to return from her FMLA leave because of her portable oxygen tank. As with Ms. Staebell, the District forced Ms. Rendall to take disability retirement under PERA. Plaintiffs are aware of at least one other employee who was forced onto PERA disability retirement under similar circumstances.

4. On information and belief, the District targets employees for termination when it appears those employees' disabilities and accommodations will result in higher costs to the District. Also on information and belief, if an employee is unable to immediately return from FMLA, the District terminates his or her employment shortly thereafter.

5. Ms. Staebell brings claims against the District pursuant to the ADAAA, FMLA, and Section 504.

6. Ms. Rendall brings claims against the District pursuant to Section 504.

II. JURISDICTION AND VENUE

7. This action arises under the Constitution and laws of the United States.

8. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331 and 1343.

9. Venue lies in this judicial district under 28 U.S.C. § 1391(b) as all of the unlawful employment practices alleged herein occurred in the State of Colorado.

10. Ms. Staebell has satisfied all procedural prerequisites for filing suit. Ms. Staebell timely filed a Charge of Discrimination with the Equal Employment Opportunity Commission ("EEOC") alleging discrimination and retaliation in violation of the ADAAA. Ms. Staebell subsequently received her Notice of Right to Sue. This Complaint and Jury Demand is being filed within 90 days of Ms. Staebell's receiving the Notice. Thus, under 42 U.S.C. § 12117(a), which incorporates by reference 42 U.S.C. § 2000e-5(f)(1), as well as under 29 U.S.C. § 626(d), she has satisfied all procedural prerequisites for filing suit.

11. Because Ms. Rendall is filing under Section 504 of the Rehabilitation Act, not the ADAAA, no procedural requirements were required to be satisfied.

III. PARTIES

– PLAINTIFF SARAH STAEBELL –

12. The Estate of the Plaintiff Sarah Staebell brings its claim through Sarah Prochaska, who is the Personal Representative of the Estate. Because Ms. Staebell only recently passed away, the probate proceedings are still in process.

13. At all relevant times, Ms. Staebell's colon cancer substantially limited her major bodily functions, including the functions of her immune system, digestive system, and normal cell growth. For intermittent periods during her chemotherapy treatment and recovery from that

treatment, Ms. Staebell was also substantially limited in her major life activities, including her ability to perform manual tasks, eat, sleep, and stand. Ms. Staebell was thus a "qualified individual with a disability," or alternatively was regarded as such, as defined by the ADAAA and the Rehabilitation Act. Ms. Staebell also had a history of disability.

14. At all relevant times, Ms. Staebell was a United States citizen, residing in Douglas County, Colorado, and was employed by the District. She was, therefore, an "employee" under the ADAAA.

15. At all relevant times, Ms. Staebell was protected by the Rehabilitation Act of 1973, as amended, by virtue of her employment with the District, a recipient of federal funding.

16. At all relevant times, Ms. Staebell suffered from Stage IV colon cancer and therefore had a serious health condition, as defined by the FMLA. She was also an "eligible employee" as defined by the FMLA because she had been employed by the District for at least 12 months and worked at least 1,250 hours during the twelve months preceding the termination of her employment.

– PLAINTIFF ELIZABETH RENDALL –

17. At all relevant times, Elizabeth Rendall was a United States citizen, who is and was, an individual residing in Jefferson County, Colorado, and was employed by the District.

18. Ms. Rendall has a breathing disability that affected her major life activity of breathing, requiring the use of a portable machine that provides her with oxygen. At all relevant times, by virtue of her breathing disorder, Ms. Rendall was a "qualified individual with a disability" or was alternatively regarded as such pursuant to the ADAAA and the Rehabilitation Act. Ms. Rendall also had a history of disability.

19. At all relevant times, Ms. Rendall was protected by the Rehabilitation Act of 1973, as amended, by virtue of her employment with the District, a recipient of federal funding.

20. At all relevant times, Ms. Rendall was an "employee" of the District as defined by the ADA and was a non-probationary special education teacher at the time of her termination.

– DEFENDANT THE DISTRICT–

21. Defendant District is a body corporate and subdivision of the State of Colorado exercising independent powers exclusively delegated to school districts by Article IX, section 15 of the Colorado Constitution. Defendant District was formed in 1958 through the consolidation of seventeen smaller school districts. At all relevant times, Defendant District was located in Colorado.

22. At all relevant times, the District was engaged in an industry affecting commerce that employed fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year. The District is therefore an "employer" under the ADAAA.

23. The District receives federal funds in excess of $10,000. Therefore, its employees are protected under the Rehabilitation Act of 1973, as amended.

24. At all relevant times, the District was a "local education agency" and therefore, an "employer" under the FMLA.

IV. FACTUAL ALLEGATIONS

– SARAH STAEBELL –

25. Ms. Staebell had been continuously employed by Defendant District since 1999.

26. Ms. Staebell began working for the District as a full-time classroom teacher in 1999. Until July 30, 2014, Ms. Staebell was a fifth grade teacher at Northeast Elementary School in the District. Ms. Staebell was designated several times by the District as an "outstanding teacher," and was loved and respected by her students and colleagues at Northeast Elementary School.

27. In 2012, Ms. Staebell was diagnosed with Stage IV colon cancer.

28. Ms. Staebell's treatment plan required her to take FMLA leave from approximately December 2013 to September 2013, during which time one substitute teacher covered her class during her absence.

29. Ms. Staebell came back to work full-time in September 2013.

30. Ms. Staebell worked without incident until she learned that her cancer had returned in January 2014.

31. In February 2014, Ms. Staebell was approved for an experimental treatment protocol that included chemotherapy. She took intermittent FMLA leave from February 2014 to the end of the 2014 school year during which she was out of the classroom for three consecutive days every two weeks for chemotherapy treatment and recovery.

32. The same substitute teacher who had covered Ms. Staebell's leave in 2013 also covered her intermittent leave in 2014.

33. Ms. Staebell's supervisor, Principal Jeannie Tynecki, and others in the District made it clear to Ms. Staebell that they were unhappy with Ms. Staebell's use of the FMLA leave and pressured her to quit.

34. For example, during one of a series of meetings between Ms. Staebell and the District during the spring of 2014, Principal Tynecki told Ms. Staebell that she "cannot do this again" and suggested that Ms. Staebell quit teaching. Principal Tynecki affirmed that Ms. Staebell was an excellent teacher. Principal Tynecki nonetheless opined–without any factual support–that Ms. Staebell's medical leave was "not good for kids" because the kids "must worry about her."

35. On information and belief, Ms. Staebell's need for and use of intermittent leave did not cause any undue hardship on the District.

36. In a meeting on or around March 20, 2014, the District presented Ms. Staebell with a document titled, "Settlement Agreement, Waiver, and Release" (the "Proposed Settlement Agreement") which it claimed was in her "best interest." The Proposed Settlement Agreement obligated Ms. Staebell to release any and all legal claims against the District and resign from her position as a full-time classroom teacher in exchange for a transfer to a substitute teacher position for the 2014-2015 school year.

37. At this meeting, the District told Ms. Staebell that it would not approve intermittent FMLA leave once the 2013-2014 school year ended. If Ms. Staebell needed additional FMLA leave, the District would force her to take her remaining FMLA leave time as block leave. As the school was made aware, Ms. Staebell's current course of treatment was probably going to extend into August 2014. Thus it was likely that Ms. Staebell would need to continue intermittent leave during that month. As the District was aware, by forcing her to take the entire month of August as a block time instead of intermittent leave, Ms. Staebell would quickly exhaust her FMLA leave.

38. The District told Ms. Staebell at this March 20, 2014 meeting that when she did exhaust her leave, the District would place her on inactive status with no pay or benefits, including health insurance. The District knew or should have known that Ms. Staebell was then a single mother with two young children, had substantial medical bills as a result of her cancer, and thus needed her medical insurance. Again, the District refused to consider time off as an accommodation under the ADAAA. The District thus presented Ms. Staebell with a Hobson's choice: she could accept the Agreement or lose her medical insurance.

39. Ms. Staebell sought legal counsel to assert her rights against unlawful discrimination by the District. Ms. Staebell and her counsel complained to the District that Ms. Staebell was being treated unfairly because of her disability and continued to assert Ms. Staebell's rights under FMLA and the ADAAA.

40. In retaliation, Principal Tynecki began to increasingly micro-manage Ms. Staebell's performance and to criticize her for things other teachers did without consequence. For example, Principal Tynecki reprimanded Ms. Staebell for having her own children present in the school building for thirty minutes on a staff development day and for having her teammate cover the administration of a state-mandated test with the approval of the testing coordinator.

41. Ms. Tynecki also began asking Ms. Staebell's colleagues personal questions about Ms. Staebell's employment status and career intentions given her health.

42. Despite her cancer and need for intermittent FMLA leave, Ms. Staebell received a rating of "effective" on her evaluation for the 2013-14 school year.

43. On or around the last day of school, on June 5, 2014, Ms. Staebell confirmed with the District that she intended to return to school for the 2014-2015 school year. She again

requested intermittent FMLA leave for the month of August or, alternatively, intermittent leave as an accommodation under the ADAAA. She provided the District with a medical certification in which her doctor explained she would need intermittent leave for the month of August consisting of three consecutive days off every two weeks for chemotherapy treatment (the same leave she had requested and received for the spring of 2014).

44. The District responded that it would not provide Ms. Staebell with intermittent leave or otherwise accommodate her disability by providing her with the requested intermittent time off and would force Ms. Staebell to take block leave, eventually leading to her termination of employment.

45. On July 16, 2014, Ms. Staebell's counsel made an offer on her behalf to the District. Generally, the offer was that Ms. Staebell be assigned an alternative teaching position for a home bound student who could not return to school until January 2015 and that she also be placed on the substitute teacher list.

46. The District rejected Ms. Staebell's offer on July 18, 2014, and told her that the Proposed Settlement Agreement was no longer being offered to her. Instead, the District offered Ms. Staebell a nominal dollar amount in exchange for her acceptance of Colorado PERA disability retirement benefits and her release of all legal claims against the District. The District made this offer on a Friday and said it was conditioned on her acceptance of the offer by 5:00 p.m. the following Monday, July 21, 2014.

47. Having little choice, Ms. Staebell accepted the District's offer in writing before 5:00 p.m. on July 21, 2014.

48. In reliance on the agreement between the parties, Ms. Staebell notified PERA of her acceptance of disability retirement and submitted to the District on July 30, 2014 (through her counsel), a notice terminating her service with the District so that she could begin to receive her PERA disability retirement benefits.

49. On or about July 22, 2014, the District sent Ms. Staebell a written agreement which had several material terms that were never previously agreed to by the parties, including a no-rehire provision and a release of claims, as well as other material changes.

50. On or about July 25, 2014, Ms. Staebell notified the District that the new material terms were not a part of the agreement and that the District needed to honor the contract to which the parties had entered into on July 21, 2015.

51. On July 31, 2014, Ms. Staebell's counsel requested confirmation of the District's receipt of her termination of service, explaining the necessity for finalizing all paperwork that day so that there would be no significant delay in her receipt of disability retirement benefits, in accordance with the contact reached between Ms. Staebell and the District.

52. On September 11, 2014, Ms. Staebell sent the District an executed settlement agreement pursuant to terms reached between the parties on July 21, 2014.

53. In response, on September 12, 2014, the District stated that it had "reached a resolution with Sarah," mischaracterizing her notice of termination (made in compliance with the July 21, 2014 Agreement) as a unilateral decision to retire.

54. When Ms. Staebell's counsel informed the District that Ms. Staebell expected the District to abide by the contract the parties reached on July 21, 2014, the District then sent another version of the contract to her counsel that again contained new material terms, including

a non-disparagement clause. The District informed Ms. Staebell that it would not abide by the original terms of the July 21, 2014 Agreement.

– ELIZABETH RENDALL –

55. Ms. Rendall has been a special education teacher since 1994. She began working for the School District in January 2005 as an SSN teacher (Significant Support Needs), a position she held until July 2011, when she became an SED teacher (Serious Emotional Disability).

56. Ms. Rendall continued as an SED teacher until she was forced out of work. She is passionate about serving this sector of students and loves her work and its challenges.

57. On April 9, 2014, Ms. Rendall was diagnosed with pneumonia. Two weeks later she and her physician completed paperwork so that she could be on medical leave with FMLA protection. The leave was granted. The initial leave was for 30 days. At the end of the 30 days, Ms. Rendall still had pneumonia and her leave extended to the end of the school year in May 2014.

58. On the students' last day of school, she went to the school to say good-bye to her 6th graders and some staff members not returning the next school year. Ms. Rendall was using her oxygen tank. That same day, the Assistant Principal, Robin Fender, came to see her. There was a discussion about the difficulties for SED students in having substitute teachers. During the conversation, Fender said, "Beth why don't you just quit? That would make this easier for all of US."

59. Ms. Rendall refused to resign.

60. Ms. Rendall now wears a lightweight oxygen concentrator, and no longer carries oxygen tanks. An oxygen concentrator pulls oxygen from the surrounding air. It lasts between eight and nine hours before the battery needs to be replaced. Ms. Rendall always carries at least one extra battery. Ms. Rendall is able to change out the battery in approximately one minute. The use of oxygen concentrators is widespread.

61. On June 26, 2014, an x-ray showed that she no longer had pneumonia. Ms. Rendall's pulmonologist, Dr. Catherine Wittman, released her back to work with one accommodation—that she use a backpack oxygen tank.

62. Accordingly, Ms. Rendall went to her school the week before school started to begin preparing for the school year. She worked for two full days.

63. During that time, she spoke with both Fender and the Principal, Phillip Ranford.

64. On the third morning, she took her Return to Work form to the Principal for his signature. But, the Principal told her, "I don't think I can sign this."

65. During this discussion Fender once again urged her to "just quit." Ms. Rendall refused.

66. In approximately an hour, Phillip Ranford, under the direction of Cathy Franklin (Employee Relations Manager), ordered Ms. Rendall to go home and stay there until she heard from someone. Ms. Rendall left and, as of this Complaint, was never allowed to return to work despite being medically released to do so and was ultimately terminated.

67. In July 2014, Donna Trujillo, the Director of Personalized Learning, Special Education, told Fender to draft an SED job description specific to Sand Creek where Ms.

Rendall taught. *The new job description identified Sand Creek by name,* and contained the following additions:

- Walk 100 yards up/down ramps and stairs several times a day.
- Consistently be able to respond quickly to a location inside or outside the building that may be up to 500 yards away to supervise and maintain student safety during behavioral outbursts.
- Be able to pursue students who are in flight to ensure the safety and well-being of the student and other staff members at an accelerated pace.
- Frequently restrain students (alone or with assistance) weighing over 50 pounds to maintain student safety and the safety of other students and staff in the building, for unknown lengths of time.
- Occasionally duck/react quickly to objects thrown by student during outbursts such as chairs, desks, 'bookcases, and other educational equipment.
- Frequently crouch, bend over, be low to ground and kneel, reach overhead, balance self and student.
- Continually stand for up to 30 minutes or more at a time.
- Occasionally prepare room by relocating various tables, chairs or other related equipment.

68. On or about August 4, 2014, Deb Nowotny, from Standard Insurance, which is the School District's disability insurance company, called Ms. Rendall. Her job is to assist

employees who need accommodations to return to work. Ms. Rendall and Nowotny met on or about August 5, 2014.

69. Nowotny provided Ms. Rendall with the new job description, and using this new job description, told her the oxygen tank and tubing were an unacceptable safety risk in the SED environment.

70. Upon information and belief, Nowotny decided—without undertaking any research or investigation—that the oxygen tank was a potential weapon and, therefore, Ms. Rendall was a direct threat to her students and herself.

71. Yet, Ms. Rendall's classroom was already filled with potential weapons, including: a microwave oven, an iHome docking station, and a CD player, all with electrical cords. The classroom also had several iPads and computers with cords for charging. Teachers and assistants also wear their DCSD badges on lanyards around their necks, as well as earrings, necklaces, and scarves.

72. If the District treated students who required an oxygen tank to provide supplemental oxygen, they would be in violation of the ADAAA and the Rehabilitation Act. Under the District's policies those students would also present an unacceptable risk of danger to themselves and others. Their tubes could also be removed or used against them by another student.

73. Nowotny also told Ms. Rendall she had a meeting the next day with the Benefits team (apparently to make a "final" decision) and someone from the District would let her know the outcome.

74. Franklin called to tell Ms. Rendall she would no longer be working for the District.

75. On October 27, 2014, Cathy Franklin, the School District's Employee Relations Manager, spoke with Ms. Rendall by telephone and told her that she had exhausted her FMLA, and her leave would not be extended. The two options presented by Franklin to Ms. Rendall were either resign or be terminated by a no-fault dismissal.

76. On November 7, 2014, Franklin wrote to Ms. Rendall, documenting the October 27, 2014, conversation and saying she, Franklin, would resign for Ms. Rendall if she did not receive a decision by November 11, 2014. Ms. Rendall left a voice mail and emailed that she was not resigning.

77. The District then back-tracked and said she could return in January 2015 *provided she was no longer on oxygen.*

78. In November and December 2014, Ms. Rendall was notified that because she had not returned to work when her FMLA leave ended, she had to repay, in full, her health insurance premium for November and December 2014. When Ms. Rendall asked for documentation of the policy requiring her to repay health insurance premium, the District did not produce any relevant information.

79. In approximately December 2014, Franklin told Ms. Rendall that she would be placed in one of several Mild/Moderate, Learning Specialist, positions coming available in the spring.

80. On or about December 15, 2014, Donna Trujillo, the Director of Personalized Learning, Special Education, offered Ms. Rendall a special education SSN position for the

Spring Semester at Buffalo Ridge, which Ms. Rendall accepted. However, once Trujillo realized that Ms. Rendall still required oxygen, she revoked the offer.

81. In doing so, Trujillo told Ms. Rendall that the School District was only obligated to "offer what you had." Trujillo informed Ms. Rendall that Franklin had been wrong to state that she would be placed in other positions because the School District was only required to offer her a job that was the same as her last position, either an SED or SSN teacher position.

82. On or about January 6, 2015, Katie Van Horne, the School District's ADA Manager, who works in Risk Management, emailed Ms. Rendall and said she had three questions she needed answered before she could decide on an accommodation. The three questions concerned Ms. Rendall's use of oxygen.

83. Ms. Rendall never heard from Van Horne again.

84. Other than the December 2014 offer that the District would reassign Ms. Rendall, an offer subsequently revoked, the District made no attempt to find Ms. Rendall a comparable position, despite her also being licensed to teach in "general" classrooms.

85. When Ms. Rendall asked how she was going to be paid if the District would not let her work, the District told her to apply for short-term disability benefits and then disability retirement benefits. Without any income, Ms. Rendall was forced to do just that.

86. On January 27, 2015, the School District terminated Ms. Rendall's health benefits with just four days' warning, despite knowing she required continuing medical treatment.

87. Ms. Rendall and at least one other staff member were nearly always in the classroom.

88. Special Education professionals have extensive training and in-place plans for addressing students who become agitated, including but not limited to early intervention, using special techniques to calm a child and obtaining additional staff members.

V. LEGAL CLAIMS

FIRST CLAIM FOR RELIEF
Violation of Title I of the ADAAA–Plaintiff Staebell

89. Plaintiffs incorporate by reference all paragraphs of this Complaint as if fully set forth herein.

90. Upon information and belief, the District has a pattern and practice of discriminating against employees who have disabilities or perceived disabilities under the ADAAA. As alleged above, the District has discriminated against Ms. Staebell, Ms. Rendall, and others.

91. Upon information and belief, the District has a pattern and practice of discriminating against employees who have a record of a disability; or have a physical or mental impairment that substantially limits one or more major life activities or major bodily functions; or are regarded as having such an impairment.

92. Ms. Staebell had a record of having colon cancer, which is a disability. That disease resulted in a physical impairment that substantially limited one or more major life activities or major bodily functions, including but not limited to bowel function, eating, and sleeping. The District also regarded Ms. Staebell as having a physical impairment, namely colon cancer.

93. During all relevant time periods, Ms. Staebell was a qualified individual with a disability within the meaning of the ADAAA as a result of her Stage IV colon cancer. Despite

this, Ms. Staebell was able to perform the essential functions of her position with a reasonable accommodation by way of intermittent time off to undergo and recuperate from her chemotherapy treatments.

94. During all relevant time periods, the District discriminated against Ms. Staebell because of her disability in a number of ways, including without limitation, by:

a. failing to engage in the interactive process in good faith;

b. failing to provide Ms. Staebell with a reasonable accommodation for her disability notwithstanding her requests for a reasonable accommodation, including, but not limited to intermittent time to undergo and recuperate from her chemotherapy treatments; and

c. refusing to honor the Settlement Agreement the parties reached on July 21, 2014, and ultimately forcing Ms. Staebell to retire from her full-time teaching position.

95. The District engaged in a pattern and practice of discrimination based on the ADAAA.

96. The District's actions were engaged in intentionally and willfully, with malice or in reckless disregard for the federally protected rights of Plaintiff Staebell and other persons with disabilities.

97. As a direct and proximate cause of the District's acts, omissions, and violations alleged above, Ms. Staebell suffered considerable damages, injuries, and losses.

SECOND CLAIM FOR RELIEF
Retaliation in Violation of the ADAAA–Plaintiff Staebell

98. Plaintiffs incorporate by reference all paragraphs of this Complaint as if fully set forth herein.

99. Upon information and belief, the District has a pattern and practice of retaliating against employees who have asserted their rights under the ADAAA. As alleged above, the District has retaliated against Ms. Staebell, Ms. Rendall, and others.

100. Ms. Staebell engaged in protected activity within the meaning of the ADAAA when she requested a reasonable accommodation for her disability by way of her requests for intermittent time off to undergo and recuperate from chemotherapy treatments.

101. The District engaged in a campaign of retaliation and took a series of materially adverse actions against Ms. Staebell in retaliation for her having engaged in such protected activity, including but not limited to:

a. subjecting her to increased scrutiny and criticism for her work-place performance;

b. refusing to provide intermittent leave after Plaintiff asserted her rights under the ADAAA;

c. withdrawing the Settlement Agreement it offered Ms. Staebell on March 20, 2014;

d. refusing to recognize the parties' Agreement dated July 21, 2014, and requiring Ms. Staebell to retire from her full-time teaching position at the District.

102. The District's actions were engaged in intentionally and willfully, with malice or in reckless disregard for Plaintiff Staebell's federally protected rights.

103. As a direct and proximate cause of the District's acts, omissions, and violations alleged above, Plaintiff Staebell suffered considerable damages, injuries and losses.

THIRD CLAIM FOR RELIEF
Violation of the Rehabilitation Act–Both Plaintiffs

104. Plaintiffs incorporate by reference all paragraphs of this Complaint as if fully set forth herein.

105. Upon information and belief, the District has a pattern and practice of discriminating against employees who have a record of a disability; or have a physical or mental impairment that substantially limits one or more major life activities or major bodily functions; or are regarded as having such an impairment.

106. Ms. Staebell had a record of having colon cancer, which is a disability. That disease resulted in a physical impairment that substantially limited one or more major life activities or major bodily functions, including but not limited to bowel function, eating, and sleeping. The District also regarded Ms. Staebell as having a physical impairment, namely colon cancer.

107. During all relevant time periods, Ms. Staebell was a qualified individual with a disability within the meaning of the Rehabilitation Act as a result of her Stage IV colon cancer. Despite this, Ms. Staebell was able to perform the essential functions of her position with a reasonable accommodation by way of intermittent time off to undergo and recuperate from her chemotherapy treatments.

108. Because of damage to her pulmonary system and resulting need for supplemental oxygen, the District regards Ms. Rendall as having a record of disability. Ms. Rendall also has a physical impairment that substantially limits her major life activities and/or major bodily functions including but not limited to, breathing, and the functioning of her pulmonary system.

109. During the relevant time periods, Ms. Rendall was a qualified individual with a disability within the meaning of the Rehabilitation Act as a result of her pulmonary problems resulting in her need for supplemental oxygen. Ms. Rendall was able to perform the essential functions of her position with a reasonable accommodation by wearing a backpack with an oxygen tank.

110. During all relevant time periods, Plaintiffs were qualified for their and other positions at the District.

111. During all relevant time periods, the District discriminated against Ms. Staebell because of her disability in a number of ways, including without limitation, by:

a. failing to engage in the interactive process in good faith;

b. failing to provide Ms. Staebell with a reasonable accommodation for her disability notwithstanding her requests for a reasonable accommodation, including, but not limited to intermittent time to undergo and recuperate from her chemotherapy treatments;

c. requiring Ms. Staebell to retire from her full-time teaching position.

112. During all relevant time periods, the District discriminated against Ms. Rendall because of her disability in a number of ways, including without limitation, by:

a. failing to engage in the interactive process in good faith;

b. failing to provide Ms. Rendall with a reasonable accommodation for her disability notwithstanding her requests for a reasonable accommodation, including, but not limited to allowing her to work while wearing a backpack to carry her oxygen tank;

c. terminating Ms. Rendall's employment.

113. The District's actions were engaged in intentionally and willfully, with malice or in reckless disregard for Plaintiffs' federally protected rights.

114. As a direct and proximate cause of the District's acts, omissions, and violations alleged above, Plaintiffs have suffered considerable damages, injuries and losses.

FOURTH CLAIM FOR RELIEF
Retaliation in Violation of the Rehabilitation Act–Plaintiff Staebell

115. Plaintiffs incorporate by reference all paragraphs of this Complaint as if fully set forth herein.

116. Ms. Staebell engaged in protected activity within the meaning of the Rehabilitation Act when she requested a reasonable accommodation for her disability by way of her requests for intermittent time off to undergo and recuperate from chemotherapy treatments.

117. The District engaged in a campaign of retaliation and took a series of materially adverse actions against Ms. Staebell in retaliation for her having engaged in such protected activity, including but not limited to:

a. subjecting her to increased scrutiny and criticism for her work-place performance;

b. refusing to provide her with intermittent leave;

c. refusing to recognize the parties' Agreement dated July 21, 2014, and requiring her to retire from her full-time teaching position at the District.

118. The District's actions were engaged in intentionally and willfully, with malice or in reckless disregard for Ms. Staebell's federally protected rights.

119. As a direct and proximate cause of the District's acts, omissions, and violations alleged above, Plaintiffs have suffered considerable damages, injuries, and losses.

FIFTH CLAIM FOR RELIEF
Retaliation in Violation of the FMLA–Plaintiff Staebell

120. Plaintiffs incorporate by reference all paragraphs of this Complaint as if fully set forth herein.

121. Ms. Staebell engaged in protected activity within the meaning of the FMLA when she requested intermittent leave pursuant to the FMLA to undergo and recover from her chemotherapy treatment.

122. The District engaged in a campaign of retaliation and took a series of materially adverse actions against Ms. Staebell in retaliation for her having engaged in such protected activity, including but not limited to:

a. subjecting her to increased scrutiny and criticism for her work-place performance;

b. refusing to provide her with intermittent leave;

c. withdrawing the Settlement Agreement it offered Ms. Staebell on March 20, 2014;

d. refusing to recognize the parties' Agreement dated July 21, 2014, and requiring her to retire from her full-time teaching position at the District.

123. The District's adverse actions against Plaintiff Staebell were willful and taken in retaliation for her exercise of her rights under the FMLA.

124. The District's unlawful acts toward Plaintiff Staebell caused her significant damages, injuries, and losses.

SIXTH CLAIM FOR RELIEF
Interference with FMLA Rights–Plaintiff Staebell

125. Plaintiffs incorporate by reference all paragraphs of this Complaint as if fully set forth herein.

126. Ms. Staebell engaged in protected activity within the meaning of the FMLA when she requested intermittent leave for the 2014-2015 school year. The District interfered with Ms. Staebell's right to take FMLA leave by requiring her to take the leave in block time, as opposed to intermittently.

127. The District's adverse actions against Ms. Staebell were willful and taken in retaliation for her exercise of her rights under the FMLA.

128. The District's actions toward Plaintiff Staebell were engaged in intentionally and willfully, with malice or in reckless disregard for her federally protected rights.

129. The District's unlawful acts toward Plaintiff Staebell caused her significant damages, injuries, and losses.

RELIEF REQUESTED

WHEREFORE, Plaintiffs respectfully request that the Court enter judgment in their favor and against Defendant, and award the following relief as allowed by law:

a. Back pay, in amounts to be determined at trial;

b. Front pay, in lieu of reinstatement;

c. Compensatory and consequential damages;

d. Liquidated damages;

e. Injunctive and/or declaratory relief;

f. Punitive damages;

g Pre-judgment and post-judgment interest at the highest lawful rate;

h. Attorneys' fees and costs of this action, including expert witness fees, as appropriate, and a gross up of any award as an allowance for taxing consequences; and

i. Any such further relief as the law or justice allows.

PLAINTIFFS DEMAND A JURY TRIAL ON ALL ISSUES SO TRIABLE.

Dated this 7th day of June 2016.

Respectfully submitted,

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