

Weissman & Mintz LLC

Steven P. Weissman, Esq. (024581978)
Annmarie Pinarski, Esq. (038212000)
Charlette Matts, Esq. (160272016)
One Executive Drive, Suite 200
Somerset, NJ 08873

Connell Foley LLC

Marianne C. Tolomeo, Esq. (007001987)
Attorneys for Plaintiffs

THE AMERICAN ASSOCIATION OF
UNIVERSITY PROFESSORS – AMERICAN
FEDERATION OF TEACHERS; DR. NANCY
WOLFF; DR. JUDITH STORCH; DR.
HAYDEE HERRERA-GUZMAN; PROF. LISA
ZEIDNER; and DR. DEEPA KUMAR

Plaintiffs

vs.

RUTGERS, THE STATE UNIVERSITY OF
NEW JERSEY

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX COUNTY

Docket No.:

CIVIL ACTION

COMPLAINT

INTRODUCTION

1. Plaintiffs are faculty member employees of Defendant Rutgers, the State University of New Jersey (“Rutgers”). Joined by their Union, the American Association of University Professors – American Federation of Teachers (“AAUP-AFT”), they seek relief in this Complaint from violations of the Diane B. Allen Equal Pay Act (“NJEPA”), N.J.S.A. 10:5-12(f).

PARTIES

2. Defendant Rutgers is a public university organized under the laws of the State of New Jersey with campuses located in Camden, New Jersey (“Rutgers Camden”), Newark, New Jersey (“Rutgers Newark”), and New Brunswick, New Jersey (“Rutgers New Brunswick”). Rutgers is an employer within the meaning of the Diane B. Allen Equal Pay Act and is legally

obligated to pay plaintiffs, who are members of protected classes, a rate of compensation that is equal to the rate of compensation paid to employees who are not members of the protected classes, for substantially similar work.

3. Plaintiff AAUP-AFT is the certified exclusive majority representative of a negotiations unit that includes all full-time faculty and all teaching assistants and graduate assistants employed by Rutgers. The AAUP-AFT's principal place of business is 11 Stone Street, New Brunswick, New Jersey 08901. The individually named plaintiffs are represented by the AAUP-AFT and are covered by the collective negotiations agreement in effect between Rutgers and the AAUP-AFT.

4. Plaintiff Nancy Wolff is a New Jersey resident. She is employed by Rutgers as a Distinguished Professor in the Edward J. Bloustein School of Planning and Public Policy ("the Bloustein School") at Rutgers New Brunswick.

5. Plaintiff Judith Storch is a New Jersey resident. She is employed by Rutgers as a Distinguished Professor in the Department of Nutritional Sciences at Rutgers New Brunswick.

6. Plaintiff Haydee Herrera-Guzman is a Maryland resident. She is employed by Rutgers as an Associate Professor in the Department of Mathematical Sciences at Rutgers Camden.

7. Plaintiff Lisa Zeidner is a New Jersey resident. She is employed by Rutgers as a Full Professor in the Department of English and Communications at Rutgers Camden.

8. Plaintiff Deepa Kumar is a New Jersey resident. She is employed by Rutgers as a Full Professor in the Department of Journalism and Media Studies at Rutgers New Brunswick.

JURISDICTION AND VENUE

9. The Superior Court has jurisdiction over this matter pursuant to N.J.S.A. 10:5-13.

10. Venue is proper in Middlesex County under R. 4:3-2(a)(2) as the county in which facts pertinent to this litigation occurred.

BACKGROUND

I. The Diane B. Allen Equal Pay Act (“NJEP A”)

11. On July 1, 2018, the Diane B. Allen Equal Pay Act (“NJEP A”) was enacted into law in New Jersey. Fulfilling Governor Murphy’s commitment to fight gender inequity and support equal pay for women, this amendment to the New Jersey Law Against Discrimination (“LAD”) provides the broadest equal pay protection in the United States.

12. The NJEP A makes it an unlawful employment practice “[f]or an employer to pay any of its employees who is a member of a protected class at a rate of compensation, including benefits, which is less than the rate paid by the employer to employees who are not members of the protected class for substantially similar work, when viewed as a composite of skill, effort and responsibility.” N.J.S.A. 10:5-12(t).

13. The NJEP A applies to all groups protected by the LAD. For the purposes of the NJEP A, “‘member of a protected class’ means an employee who has one or more characteristics, including but not limited to race, creed, color, national origin, nationality, ancestry [or] sex...”. N.J.S.A. 10:5-12(t).

14. The NJEP A mandates that “comparisons of wage rates shall be based on wage rates in all of an employer’s operations or facilities.” N.J.S.A. 10:5-12(t).

15. The NJEP A mandates that where compensation inequities exist in violation of the statute, the violation may not be cured by decreasing the compensation of the higher-paid employee, but rather, by increasing the compensation of the underpaid employee performing substantially similar work. N.J.S.A. 10:5-12(t).

II. The Professor Track at Rutgers

16. Rutgers faculty members are classified as tenure track or non-tenured track.

17. Each Plaintiff is a tenured professor at Rutgers.

Criteria for Appointments and Promotion

18. Appointments, reappointments and promotions of tenure-track faculty at Rutgers are made in recognition of accomplishments in teaching, scholarship and service. For appointments in the creative or performing arts, accomplishments in teaching, scholarship and/or the arts, and service are considered.

19. The standards for appointments, reappointments and promotions of tenure-track faculty apply uniformly to faculty at Rutgers Camden, Rutgers Newark, and Rutgers New Brunswick. These standards also apply to all Schools and units of the University, including the Bloustein School of Planning and Public Policy, the School of Environmental and Biological Sciences, the School of Arts and Sciences, and the School of Communications and Information.

20. **Teaching** includes, *inter alia*, classroom, online, and field instruction; supervision of research, student internships, thesis and doctoral dissertations; academic advising; the improvement of course offerings and other instructional activities; participation in interdisciplinary courses and honors courses; and the writing of textbooks and other instructional materials.

21. **Scholarship**, including basic and applied research, means in-depth study and learning in a specific field, and inquiry and experimentation designed to make direct contributions to knowledge in that field. Scholarship, as measured by peer recognition of its originality, impact on, and importance to the development of the field, is demonstrated most typically by refereed publications, such as journal articles. Scholarship and research

accomplishments also include, *inter alia*, applied research in the laboratory or in the field; the presentation of papers at organized scholarly meetings; the attraction of external support or competitive fellowships and awards appropriate to the field of study; editing and translation; publication in other academic or professional journals; and lecturing in professional and other public forums. For creative writers, scholarship is demonstrated by the publication of books and articles with respected publishers and journals.

22. *Service* includes the contribution a faculty member makes to the academic profession, to Rutgers University, and to society at large. Contributions to the advancement of the academic profession are most typically demonstrated by active participation in professional and scholarly associations; by service on editorial boards and as a reviewer of scholarly works and proposals; and by participation on expert committees such as NIH (National Institute of Health) research study sections, and grant selection panels. Contribution to the effective operation of Rutgers are most typically demonstrated by significant academic and professional service to the department, the discipline, the faculty, the undergraduate colleges, the graduate programs, the campus or Rutgers as a whole.

Professorial Ranks at Rutgers

23. Rutgers has four ranks of professors: Assistant Professors, Associate Professors, Full Professors, and Distinguished Professors. Continued growth and continued contribution are required for all ranks. Advancement to a higher rank is not automatic.

24. Tenure-track Assistant Professors are ordinarily appointed for three year terms which are probationary.

25. Promotion from Assistant Professor to Associate Professor usually involves the grant of academic tenure. Excellence in scholarship is necessary to the achievement of tenure.

For general teaching/research faculty, scholarship (including research accomplishment) is the primary criterion for advancement to Associate Professor. Effective teaching is also normally a condition for the grant of tenure. Significant service accomplishments strengthen candidacy for tenure.

26. Promotion to the rank of Full Professor requires substantial progress and further distinction beyond that required at the Associate Professor level. Rigorous standards are applied for the assessment of scholarship (or artistic accomplishment if in the creative or performing arts). For an Associate Professor who has remained in that rank for 10 years after tenure, increased consideration may be given to excellent and significant contributions to teaching and to service.

27. Scholarship is the most significant criterion for promotion to Distinguished Professor rank. Only faculty who have demonstrated outstanding achievement by earning significant recognition inside and outside Rutgers are eligible for promotion to Distinguished Professor. Distinguished Professors are exemplary members of the Rutgers Faculty who have consistently demonstrated a high standard of achievement in all professorial roles.

III. Pay Inequity Within Rutgers University Professorial Ranks

28. In April 2019, the AAUP and Rutgers announced that they had reached agreement on a historic contract which includes a commitment to pay equity. Under the pay equity program, Rutgers may increase the salary of AAUP-AFT members to make equity adjustments based on factors such as external market salary benchmarks within relevant markets, the faculty member's individual benchmarking information, including but not limited to, teaching, service, and research achievements, and other relevant accomplishments, compared to relevant peers and

with the recognition that Rutgers University prohibits discrimination based on any legally protected classifications, including but not limited to, gender and race.

29. Since finalizing a collective negotiations agreement containing a pay equity adjustment procedure, the AAUP-AFT has vigorously sought to enforce that negotiated procedure. The University has failed to process pay equity adjustment applications in accordance with the procedure negotiated with the AAUP-AFT.

30. The AAUP-AFT is committed to ensuring that Rutgers complies with its obligations under the NJEPA not to pay faculty less for substantially similar work, when viewed as a composite of skill, effort and responsibility, based on their gender, race, ethnicity or any other protected status.

Plaintiff Nancy Wolff

31. Wolff is a white female and was awarded a Ph.D. in Economics from Iowa State University in 1984. After serving as an Assistant Research Scientist and Assistant Professor at the University of Wisconsin-Madison from 1987 to 1992, Wolff was hired by Rutgers in 1992 as an Assistant Professor in the Bloustein School of Planning and Public Policy and the Rutgers Institute for Health, Health Care Policy and Aging Research.

32. Since 2015, Wolff's appointment has been entirely in the Bloustein School.

33. Wolff's area of specialization is Health Economics, Public Finance and Public Policy.

34. Wolff was promoted to Associate Professor in 1998, to Full Professor in 2004, and to Distinguished Professor in 2016.

35. From 2002 to 2014, Wolff served as the Director of the Center for Behavioral Health and Criminal Justice Research ("Center") and director of the post-doctoral training

program. During Wolff's tenure at the Center, she was awarded \$14 million in grant funding from the National Institute of Mental Health ("NIMH"), the National Institute of Justice ("NIJ"), private foundations and New Jersey state agencies. In addition, researchers funded by the Center were awarded over \$10 million in funding from the National Institute of Drug Abuse ("NIDA"), NIMH, NIJ and private foundations.

36. Wolff is currently the Director of the Bloustein Center for Survey Research ("BCSR"), which has 18 full-time staff, 24 part-time staff, 25 survey projects and an annual budget of \$5.6 million.

37. The BCSR has, under Wolff's direction, been a top-funded center in the Bloustein School, and the single largest contributor to the Bloustein School's F&A budget.

38. During the majority of her career at Rutgers, Wolff has funded nearly 50% or more of her annual salary through externally awarded grants and contests. Currently, Wolff is the sole Principal Investigator (PI) on all grant contracts she has been awarded for research projects. These contracts total \$5.6 million.

39. Wolff has published two books, more than one hundred peer-reviewed articles, two special journal issues, thirteen book chapters and twenty-six reports.

40. Wolff was an Editorial Board Member for the *American Journal of Orthopsychiatry, Mental Health & Social Justice*, and also previously served as its Associate Editor. She is a Contributing Editor for *Psychological Inquiry and Law*, and formerly served as Editor of the *Journal of Offender Rehabilitation*, and Associate Editor of the *Justice Quarterly*.

41. Wolff is a Reviewer for the NIMH and NIDA Special Emphasis Panels, the National Center for Responsible Gaming, the Swiss National Science Foundation, the Hogg Foundation for Mental Health, The Langeloth Foundation, and the Israel Science Foundation.

She also serves as a reviewer for more than thirty-five scholarly journals, primarily in the fields of criminal justice and mental health.

42. Wolff's record of service to Rutgers University is outstanding. Wolff was selected to serve on the University Promotion and Review Committee beginning in 2018. She was also selected as one of eleven distinguished Professors to serve on the Presidential Search Committee in 2019-20. Wolff additionally serves as an elected Member of the Executive Counsel for the School of Graduate Studies.

43. In recognition of her outstanding service record, Wolff has been awarded the Russ Berrie Award for Making a Difference (2008), and the Rutgers College Class of 1962 Presidential Public Service Award (2016). Wolff was also selected as a semi-finalist for the American Federation of Teachers "Everyday Hero" Award in 2012.

44. Rutgers pays Wolff a lower salary than male Distinguished Professors who perform substantially similar work to Wolff.

45. Comparator 1 is a Distinguished Professor in the Bloustein School who performs substantially similar work to Wolff. He is a white male. For the 2020-2021 academic year, Rutgers pays Wolff a salary that is **\$40,352 less** than the salary paid to Comparator 1.

46. Comparator 2 is a Distinguished Professor in the Bloustein School who performs substantially similar work to Wolff. He is a white male. For the 2020-2021 academic year, Rutgers pays Wolff a salary that is **\$65,405 less** than the salary paid to Comparator 2.

47. Wolff's salary is 23-38% lower than her counterparts in the Bloustein School with similar rank and Center directorship responsibilities.

48. Male Professors in the Bloustein School who have not achieved the rank of Distinguished Professor are also paid an equivalent salary to Wolff, despite the fact that they are

of lower rank and have less seniority than Wolff. For example, Comparator 3 is a Professor in the Bloustein School, who was hired by Rutgers in 1997, five years after Wolff. He is a white male. For the 2019-2020 calendar year, Comparator 3's salary was just \$1,000 less than Wolff's calendar year salary notwithstanding Wolff's higher rank and five additional years of service.

49. As a woman, Wolff is a member of a protected class under the NJEPA.

50. Since on or before September 30, 2014, Rutgers has paid Wolff less than male Professors of the same rank who perform substantially similar work, when viewed as a composite of skill, effort, and responsibility, and equivalent to Professors with lower rank and less seniority than Wolff. These Professors include, but are not limited to, the Comparators named herein.

51. The pay differential between Wolff and males performing substantially similar work is not based on a seniority system, a merit system or any other legitimate bona fide factors (such as training, education or experience) that: (a) are not based upon and do not perpetuate a differential based upon characteristics of females; (b) are applied reasonably; (c) account for the entire differential; and (d) are job related and based upon a legitimate business necessity.

52. In September 2019, Wolff submitted a formal request for an increase in salary due to demonstrated pay inequity. Although the Dean of the Bloustein School has endorsed her request, Rutgers has failed to grant Wolff a salary increase.

Plaintiff Judith Storch

53. Storch is a white female and was awarded a Ph.D. in Physiology and Biophysics from Columbia University in 1983. She completed her post-doctoral fellowship in biophysics at Harvard Medical School in 1986. She thereafter served as an Assistant Professor and Associate Professor of Nutrition at the Harvard School of Public Health from 1986 to 1992.

54. Storch was hired by Rutgers as a tenured Associate Professor of Nutritional Service at Rutgers New Brunswick in 1992. She was promoted to Full Professor in 1997 and to Distinguished Professor in 2011.

55. Storch's field of scholarship includes intracellular fatty acid and cholesterol trafficking and lipid binding proteins, as well as intestinal lipid absorption, metabolism and transport.

56. Storch has consistently and continuously received substantial grants from the NIH (\$11 million in funding as the sole Principal Investigator), the American Heart Association, and the Ara Parseghian Medical Research Foundation.

57. Storch frequently lectures both nationally and internationally, and has presented over 150 invited research seminars throughout the world. In 2019 alone, she gave invited research presentations at the University of Edmonton in Alberta, Canada, the University of New South Wales in Sydney, Australia and the Albert Einstein College of Medicine in New York City.

58. Storch has authored over 90 peer-reviewed journal articles, as well as twelve peer reviewed book chapters.

59. Storch serves on the Editorial Board of *Physiological Reviews*, and previously served on the Editorial Boards for the *Journal of Biological Chemistry*, *Biochimica et Biophysica Acta-Molecular and Cellular Biology of Lipids*, and the *Journal of Nutrition*. She also served as an invited reviewer for over 25 journals.

60. Storch additionally serves as an Executive Editor of *Biochimica et Biophysica Acta-Molecular and Cellular Biology of Lipids* (2015-present), and previously served as an

Associate Editors of *Frontiers in Fatty Acid and Lipid Physiology* (2011-2016) and the *Journal of Nutrition* (1996-2003).

61. Storch served for four years as a standing member of an NIH study section and has been an ad hoc member of multiple study sections, including basic science study sections, training grant panels, and program project review panels. She also served for three years on an American Heart Association grant review panel (including service as the Chair for one year).

62. Storch served a one-year term as President of the New York Lipid and Vascular Biology Club, and has chaired prestigious national and international conferences in her discipline.

63. Storch has received many awards during her tenure at Rutgers. She received the Rutgers Faculty Academic Service Award nine separate times (1994-95, 1998-2001, 2004-07), the Barbara M. Goff Teacher of the Year Award in the School of Environmental and Biological Sciences (“SEBS”) in 2017, and the Sustained Research Excellency Award from SEBS in 2007. Beyond the University, Storch received the Osborne and Mendel Award for basic science research from the American Society for Nutrition in 2010, was named the University of Alberta Distinguished Scholar in 2019. Storch was also recently elected as a Class of 2020 Fellow of the American Society for Nutrition, the highest honor bestowed by the Society.

64. Storch has consistently provided exemplary service to Rutgers University. While serving as a Distinguished Professor in the Department of Nutritional Science, Storch also served as the Co-Director of the Graduate Programs in Nutritional Sciences from 2014 to 2018 and the Campus Dean for the School of Environmental and Biological Services from 2014 to 2019. She also previously served as the Interim Department Chair for several years and Chair of the SEBS (then Cook College) Appointments and Promotions Committee.

65. In addition to these leadership roles, Storch has been a member or Chair of search committees for the Department of Nutritional Sciences and the Institute of Food Nutrition and Health, including those for Department Chair and IFNH Director. She has also served on faculty committees in the Nutritional Sciences Department and the Nutritional Sciences Graduate Program, including the Admissions Committee, Space Committee and Curriculum Committee.

66. Rutgers pays Storch less than male Distinguished Professors in the SEBS who perform substantially similar work to Storch.

67. Comparator 4 is a Distinguished Professor in the Animal Science Department who performs substantially similar work to Storch. He is male. For the 2020-2021 academic year, Rutgers pays Storch a salary that is **\$40,669 less** than the salary paid to Comparator 4.

68. Comparator 5 is a Distinguished Professor in the Biochemistry and Microbiology Department who performs substantially similar work to Storch. He is a white male. For the 2020-2021 academic year, Rutgers pays Storch a salary that is **\$34,390 less** than the salary paid to Comparator 5.

69. Male Distinguished Professors in the Rutgers School of Arts and Sciences (“SAS”) also perform substantially similar work to Storch, yet are paid significantly higher salaries.

70. Comparator 6 is a Distinguished Professor in the Cell Biology and Neuroscience Department (SAS) who performs substantially similar work to Storch. He is a white male. For the 2020-2021 calendar year, Rutgers pays Storch a salary that is **\$75, 555 less** than the salary paid to Comparator 6.

71. Comparator 7 is a Distinguished Professor in the Kinesiology and Health Department (SAS) who performs substantially similar work to Storch. He is a white male. For

the 2020-2021 calendar year, Rutgers pays Storch a salary that is **\$99, 505 less** than the salary paid to Comparator 7.

72. As a woman, Storch is a member of a protected class under the NJEPA.

73. Since on or before September 30, 2014, Rutgers has paid Storch a lower salary than male Distinguished Professors performing substantially similar work, when viewed as a composite of skill, effort and responsibility. These Distinguished Professors include, but are not limited to, the Comparators named herein.

74. The pay differential between Storch and males performing substantially similar work is not based on a seniority system, a merit system or any other legitimate bona fide factors (such as training, education or experience) that: (a) are not based upon and do not perpetuate a differential based upon characteristics of females; (b) are applied reasonably; (c) account for the entire differential; and (d) are job related and based upon a legitimate business necessity.

75. In November 2019, Storch submitted a formal request for an increase in salary due to the demonstrated pay inequity. Although the Executive Dean of the School of Environmental and Biological Science has endorsed her request, Rutgers has failed to grant Storch a salary increase.

Plaintiff Haydee Herrera-Guzman

76. Plaintiff Herrera-Guzman is a Hispanic woman and was awarded a Ph.D. in Mathematics from the State University of New York at Stony Brook in 1999. From 1999 to 2002, she was an Assistant Professor of Mathematics at Tufts University.

77. In 2002, Herrera-Guzman was hired by Rutgers as an Assistant Professor in the Department of Mathematical Sciences at Rutgers Camden. Herrera-Guzman was promoted to Associate Professor in 2008.

78. Herrera-Guzman's field of scholarship is Differential Geometry and Topology. Differential Geometry is the discipline that uses differential calculus to study the intrinsic properties of geometric objects such as their curvature, torsion, etc. Topology is the study of the shape of geometric objects. Herrera-Guzman's research involved the classification of certain 6-dimensional symplectic manifolds (the study of such objects originates in classical mechanics). She also works on the classification of Quaternion-Kähler manifolds of dimension 12 (and higher) and the study of the elliptic genus on non-spin manifolds. These topics have applications in string theory and quantum physics.

79. Herrera-Guzman is the only Hispanic faculty member in the Mathematics Departments at the Rutgers Camden, Rutgers Newark, and Rutgers New Brunswick campuses.

80. Herrera-Guzman has published at least sixteen research papers in peer-reviewed journals, including the prestigious *Journal of Differential Geometry*. She has also edited a book, *Geometrical Themes Inspired By The N-Body Problem*, published by Springer Verlag.

81. Herrera-Guzman has served as a panelist and reviewer for the National Science Foundation Graduate Research Fellowship Program, as a reviewer for the NSF publication "Mathreviews," and as a referee for the scholarly journal *Algebraic and Geometric Topology*.

82. Herrera-Guzman is currently the Graduate Director for the Rutgers Camden Mathematics Department. She also serves on the Grievance Committee for the Graduate School.

83. In the past, Herrera-Guzman has served the Rutgers community in a variety of positions, including as interim Chair of the Mathematics Department, as a Rutgers University and Rutgers Camden Faculty of Arts and Sciences Senator, as a member of Search Committees for multiple faculty positions in the Mathematics Department, and as a member of the Diversity and Equity Committee.

84. Professor Herrera-Guzman is the only female faculty member in the Rutgers Camden Mathematics Department and has the lowest salary of the Associate Professors in that Department.

85. Rutgers pays Herrera-Guzman less than male Associate Professors who perform substantially similar work.

86. Comparator 8 is an Associate Professor in the Department of Mathematical Sciences in Rutgers Newark who performs substantially similar work to Herrera-Guzman. He is a white male. For the 2020-2021 academic year, Rutgers pays Herrera-Guzman a salary that is **\$24,903 less** than the salary paid to Comparator 8.

87. Comparator 9 is an Associate Professor in the Department of Mathematical Sciences in Rutgers Newark who performs substantially similar work to Herrera-Guzman. He is a white male. For the 2020-2021 academic year, Rutgers pays Herrera-Guzman a salary that is **\$33,212 less** than the salary paid to Comparator 9.

88. Comparator 10 is an Associate Professor in the Department of Mathematical Sciences in Rutgers New Brunswick who performs substantially similar work to Herrera-Guzman. He is a white male. For the 2020-2021 academic year, Rutgers pays Herrera-Guzman a salary that is **\$27,109 less** than the salary paid to Comparator 10.

89. Rutgers also pays Herrera-Guzman less, on average, than faculty of lower rank in the Mathematics Department. Specifically, for the 2019-2020 academic year, the average salary for male Assistant Professors in the Department of Mathematical Sciences at Rutgers New Brunswick was 10% higher than Herrera-Guzman's salary.

90. Rutgers even pays Herrera-Guzman less than several non-tenured professors. For example, Comparator 11 is a non-tenured Teaching Professor in the Department of Mathematical

Science at Rutgers New Brunswick. He is a white male. For the 2020-2021 academic year, Rutgers pays Herrera-Guzman a salary that is **\$42,547 less** than the salary paid to Comparator 11.

91. As a Hispanic woman, Herrera-Guzman is a member of protected classes under the NJEPA.

92. Herrera-Guzman performs substantially similar work as higher earning non-Hispanic male Associate Professors in the Mathematics Departments at Rutgers Camden, Rutgers Newark, and Rutgers New Brunswick. The average salary of male Associate Professors in New Brunswick is more than 35% higher than Herrera-Guzman's salary, and the average salary of male Associate Professors in Newark is more than 25% higher than Herrera-Guzman's salary.

93. Since on or before September 30, 2014, Herrera-Guzman has been paid less than male Professors performing substantially similar work, when viewed as a composite of skill, effort and responsibility. These Professors include, but are not limited to, the Comparators named herein.

94. The pay differential between Herrera-Guzman and non-Hispanic males performing substantially similar work is not based on a seniority system, a merit system or any other legitimate bona fide factors (such as training, education or experience) that: (a) are not based upon and do not perpetuate a differential based upon characteristics of females; (b) are applied reasonably; (c) account for the entire differential; and (d) are job related and based upon a legitimate business necessity.

95. In January 2020, Herrera-Guzman submitted a formal request for an increase in salary due to the demonstrated pay inequity. To date, Rutgers has failed to grant Herrera-Guzman a salary increase.

Plaintiff Lisa Zeidner

96. Plaintiff Zeidner is a white female and received a M.A. in Creative Writing (a terminal degree for creative writers) from John Hopkins University in 1979. She was hired by Rutgers as an Assistant Professor in the English Department at Rutgers Camden in 1979. She was promoted to Associate Professor in 1982, and to Full Professor in 1994.

97. Zeidner is a creative writer who has published novels and collections of poetry, as well as nonfiction and critical studies on issues of literary craft. Her fiction has been translated and reviewed widely. Zeidner's many articles, stories, and reviews have appeared in major publications such as *The New York Times*, *The Guardian*, and *American Scholar*.

98. Zeidner has published five fiction books. At least two of her novels have been translated into foreign editions. She is also the author of two non-fiction books, two poetry books (one of which won the Brittingham Prize in Poetry), two commissioned screen plays for major Hollywood studios, and multiple works of short fiction and poetry.

99. Zeidner's novels have been widely reviewed and praised in publications such as the *New York Times* and the *New Yorker*.

100. Zeidner has written over 500 book reviews for the *New York Times*, *Washington Post*, and other publications.

101. Zeidner has made consistent and valuable contributions to Rutgers Camden. From 1999 to 2002, Zeidner served as the Director of the Graduate Program in English at Rutgers Camden. Beyond her contribution to established programs, Zeidner founded, and from

2008 to 2012 served as the Director of, the MFA Program in Creative Writing at Rutgers Camden. Finally, from 2016 to 2019, Zeidner served as the Chair of the Department of English and Communications at Rutgers Camden.

102. In addition to her past leadership roles in the English Department, Zeidner currently serves as the Director of the Interdisciplinary Major in Film, which she helped to devise. Zeidner also previously ran the Summer Writer's Conference and Spring Writer's Conference (with funding from the National Endowment for the Arts, the New Jersey Arts Council and the Rutgers Research Council) at Rutgers Camden.

103. Zeidner has won multiple teaching awards including the Warren I. Susman Award for Excellence in Teaching (1993), the Provost's Award for Teaching Excellence (2005), and the Lindback Foundation Award for Distinguished Teaching (2016). She has also been selected for residency at artist colonies: the Yaddo Artist Colony in 2007, the Virginia Center for the Arts in 2008, and the MacDowell Artists Colony in 2013.

104. Zeidner is a member of the Authors' Guild, the National Book Critics' Circle, PEN and the Writers' Guild.

105. Rutgers pays Zeidner less than it pays male Professors who perform substantially similar work to Zeidner.

106. Comparator 12 is a Full Professor in the English Department at Rutgers New Brunswick who performs substantially similar work to Zeidner. He is a white male. For the 2020-2021 academic year, Rutgers pays Zeidner a salary that is **\$29,114 less** than the salary paid to Comparator 12, even though he was hired fourteen years after Zeidner

107. During the 2019-2020 academic year, Comparator 13 was Full Professor in the English Department at Rutgers Newark who performed substantially similar work to Zeidner.

He is a male. For the 2019-2020 academic year, Rutgers paid Zeidner a salary that was **\$25,468 less** than the salary paid to Comparator 13, even though he was hired twenty-nine years after Zeidner.

108. As a woman, Zeidner is a member of a protected class under the NJEPA.

109. Since on or before September 30, 2014, Zeidner has been paid less than male Professors who perform substantially similar work, when viewed as a composite of skill, effort and responsibility. These Professors include, but are not limited to, the Comparators named herein.

110. The pay differential between Zeidner and males performing substantially similar work is not based on a seniority system, a merit system or any other legitimate bona fide factors (such as training, education or experience) that: (a) are not based upon and do not perpetuate a differential based upon characteristics of females; (b) are applied reasonably; (c) account for the entire differential; and (d) are job related and based upon a legitimate business necessity.

111. In Fall 2019, Zeidner submitted a formal request for an increase in salary due to the demonstrated pay inequity. Although the Dean of the Rutgers Camden College of Arts and Sciences has endorsed the request, Rutgers has failed to grant Zeidner a salary increase.

Plaintiff Deepa Kumar

112. Kumar is a woman of color of Asian origin and received a Ph.D. in Communications from the University of Pittsburgh in 2001. After teaching for four years at Wake Forest University, she was hired by Rutgers in 2004 as an Assistant Professor in the School of Communications and Information, Department of Journalism and Media, at Rutgers New Brunswick.

113. Kumar was promoted to Associate Professor in 2010, and to Full Professor in 2020. Kumar was the first person of color to be promoted to Full Professor at the School of Communication and Information in its history.

114. Kumar's field of scholarship is Media Studies. She is a world-renowned scholar of Islamophobia and race, as well as a public intellectual.

115. Kumar has published two books. Her book on Islamophobia has been translated into five languages, with a second edition scheduled to be published in 2021. She is the author of at least eighteen journal articles and eleven book chapters. Kumar has also published at least 42 articles in mainstream media such as the *New York Times* and independent media such as *The Nation*.

116. Kumar has given at least 20 keynote and/or plenary addresses at conferences in the United States and Europe, six distinguished/named lectures, 51 invited lectures at universities in the United States and around the world, and 200 media interviews.

117. Kumar has served on the Editorial Board of five scholarly journals in the field of journalism and communications. She has also served as a guest reviewer for sixteen journals, and reviewed book proposals for nine publishing houses, including Oxford, Harvard, and the University of Illinois Press.

118. Kumar has received multiple awards, including the Dallas Smythe Award from the Union of Democratic Communication for her engaged scholarship (2016), the Marilyn Sternberg Award for commitment to human rights (2020), the Georgina Smith Award for her work on race and gender equity (2016), the Journalism and Media Studies Service Award (2014), and the "Challenging Islamophobia Award" from the Council on American Islamic Relations (2013). Previously, Kumar was awarded the top paper award from the International

Communication Association and the Young Scholar Leader Award from the National Communication Association.

119. Kumar's contributions to Rutgers include serving as a member of the New Brunswick Faculty Council from 2010 to 2017. She has also held leadership positions in the Rutgers AAUP-AFT, including President, Vice President, Secretary and as a member of the Executive Council.

120. Kumar is currently the Co-chair of the Rutgers University Committee on Diversity, Race and Gender. The Rutgers Senior Vice President for Academic Affairs co-chairs this university-wide committee with her.

121. Kumar has developed several courses that are required in the Department of Communications and Information, including the "Critical Research Methods" course for Ph.D. students. Kumar has also developed three new undergraduate courses, including "Foundations of Media Analysis," a required course for the major.

122. Rutgers pays Kumar less than white and male Professors who perform substantially similar work to Kumar.

123. Comparator 14 was hired by Rutgers the same year as Kumar (2004) and is a Full Professor in the School of Communications and Information who performs substantially similar work to Kumar. He is a white male. Despite similar accomplishments, he was promoted to Associate Professor and Full Professor more rapidly than Kumar. The delay in promoting Kumar resulted in depressed compensation and a substantial pay disparity. The School of Communication and Information currently has 42 tenured and tenure-track faculty, but only two tenured faculty of color.

124. For the 2019-2020 academic year, Rutgers paid Kumar a salary that was approximately **\$26,500 less** than the salary paid to Comparator 14.

125. For the 2020-2021 academic year, Rutgers pays Kumar a salary that was **\$8,388 less** than the salary paid to Comparator 14.

126. Male professors and white professors in the Department of Communications and Information have received larger out-of-cycle salary retention increases than Kumar. In 2008, Comparator 14 received a \$22,160 retention increase from Rutgers when he rejected an offer at a Boston college. This increase contributed to the continuing, substantial pay disparity with Kumar. In 2019, Kumar received an offer for an Endowed Chair at a Midwestern university. The retention increase provided by Rutgers to Kumar at such time was \$6,000, less than one-third the retention increase provided to Comparator 14 more than ten years earlier.

127. Since 2016, three other white professors in the Department of Journalism and Media Studies have each received retention offers of at least \$14,500. These increases were not in response to offers for endowed chair positions, yet were substantially higher than Kumar's \$6,000 retention increase.

128. When Kumar was promoted to Full Professor as of July 1, 2020, her salary was increased, but was still **\$25,474 less** than the average salary for Full Professors in Kumar's Department (Journalism and Media Studies).

129. As a woman of color, Kumar is a member of protected classes under the NJEPA.

130. Since on or before September 30, 2014, Kumar has been paid less than a white male Professors performing substantially similar work, when viewed as a composite of skill, effort and responsibility. These Professors include, but are not limited to, the Comparator named herein.

131. The pay differential between Kumar and the male professor performing substantially similar work is not based on a seniority system, a merit system or any other legitimate bona fide factors (such as training, education or experience) that: (a) are not based upon and do not perpetuate a differential based upon characteristics of females; (b) are applied reasonably; (c) account for the entire differential; and (d) are job related and based upon a legitimate business necessity.

132. In June 2020, Kumar requested an increase in salary due to the demonstrated pay inequity. Although the Dean of the School of Communications and Information has indicated that her application may merit consideration, Rutgers has failed to grant Kumar a salary increase.

COUNT I
(Violation of Diane B. Allen Equal Pay Act)

133. Plaintiffs repeat and reassert all the allegations set forth in the foregoing paragraphs as if set forth herein at length.

134. Rutgers has violated and continues to violate the Diane B. Allen Equal Pay Act by paying Plaintiff female employees less than male employees for substantially similar work when viewed as a composite of skill, effort and responsibility.

135. Rutgers has violated and continues to violate the Diane B. Allen Equal Pay Act by paying Plaintiff employees who are Hispanic and/or of color less than white employees who perform substantially similar work, when viewed as a composite of skill, effort and responsibility.

136. The pay differentials between Plaintiffs and Rutgers employees who are male and/or white are not based on a seniority system, a merit system or any other legitimate bona fide factors (such as training, education or experience) that: (a) are not based upon and do not perpetuate a differential based upon characteristics of females; (b) are applied reasonably; (c)

account for the entire differential; and (d) are job related and based upon a legitimate business necessity.

137. As a direct result of Rutgers' unlawful actions, Plaintiffs have suffered a loss of compensation, earnings and benefits and will continue to suffer a loss of compensation, earnings and benefits because they are being paid in violation of the Equal Pay Act.

138. As a result of Rutgers' failure to pay Plaintiffs equal pay for substantially similar work, Plaintiffs have suffered emotional distress, pain and suffering, and damage to professional reputation and career path losses.

139. The Diane B. Allen Equal Pay Act provides for treble damages of back pay not to exceed six years. See N.J.S.A. 10:5-12(a); N.J.S.A. 10:5-13.

WHEREFORE Plaintiffs demand judgment as follows:

- a. A judgment that Rutgers paid Plaintiffs compensation in violation of the Diane B. Allen Equal Pay Act and ordering Rutgers to increase Plaintiffs' compensation so that Plaintiffs are paid equally for substantially similar work as required the Equal Pay Act;
- b. Treble damages for back pay and benefits;
- c. Damages for emotional distress, pain and suffering, and damage to professional reputation and career path losses;
- d. Attorneys' fees pursuant to N.J.S.A. 10:5-27.1 and other applicable law;
- e. Costs and disbursements of this action, together with such other legal or equitable relief as this Court may deem just and proper; and
- f. A finding that the Court shall retain jurisdiction over this matter.

CONNELL FOLEY LLC
Attorneys for Plaintiffs

By: Marianne C. Tolomeo
Marianne C. Tolomeo, Esq.

Date: October 14, 2020

JURY DEMAND

Plaintiffs demand trial by jury with respect to all issues that are so triable.

CONNELL FOLEY LLC
Attorneys for Plaintiffs

By: Marianne C. Tolomeo
Marianne C. Tolomeo, Esq.

DESIGNATION OF TRIAL COUNSEL

Pursuant to the provisions of R. 4:25-4 and R. 4:4-1(c), Steven P. Weissman, Esq. and Marianne C. Tolomeo are hereby designated as trial counsel on behalf of Plaintiffs in the within matter.

CONNELL FOLEY LLC
Attorneys for Plaintiffs

By: Marianne C. Tolomeo
Marianne C. Tolomeo, Esq.

Date: October 14, 2020

CERTIFICATION

We certify, pursuant to *R. 4:5-1(b)(2)*, that to our knowledge and based upon the information available to us at this time, the matter in controversy is not the subject of any other action pending in any court or of pending arbitration proceedings, nor is any other court or arbitration proceeding contemplated. We hereby certify that to our knowledge and based upon the information available to us at this time, no additional parties should be joined in the action.

We further certify, pursuant to *R. 4:5-1(b)(3)*, that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *R. 1:38-7(b)*.

CONNELL FOLEY LLC
Attorney for Plaintiffs

BY: *Marianne C. Tolomeo*
Marianne C. Tolomeo, Esq.

Dated: October 14, 2020