

1.

COMMONWEALTH OF MASSACHUSETTS

Bristol, ss.

Superior Court Department  
Civil Action No. 2373CV00023A

MELISSA FITZGERALD,  
Plaintiff

BRISTOL, SS SUPERIOR COURT  
FILED

vs.

JAN 12 2023 COMPLAINT

DARTMOUTH PUBLIC SCHOOLS,  
ROSS THIBAUT, and RICHARD  
GILL,  
Defendants

JENNIFER A. SULLIVAN, ESQ.  
CLERK / MAGISTRATE

**INTRODUCTION**

This is an action for damages and other relief arising out of the employment of the Plaintiff, Melissa Fitzgerald, by the Defendants, Dartmouth Public Schools, Ross Thibault, and Richard Gill, for unlawful discrimination on the basis of Plaintiff's sex and retaliation.

**JURISDICTION**

1. The Superior Court has jurisdiction over this matter pursuant to M.G.L. c. 151B §9, for violations of M.G.L. c. 151B §4. The Plaintiff filed a timely complaint with the Massachusetts Commission Against Discrimination on or about September 23, 2021. The requirement for filing with the Massachusetts Commission Against Discrimination having been fulfilled, the Plaintiff is seeking redress in the Superior Court.

**PARTIES**

2. The Plaintiff, Ms. Fitzgerald (hereafter "Ms. Fitzgerald") is an individual residing in Westport, Bristol County, Massachusetts.

3. The Defendant, Dartmouth Public Schools, is a public-school system with a principal office at 8 Bush Street, Dartmouth, Bristol County, Massachusetts.
4. The Defendant, Ross Thibault (hereafter “Mr. Thibault”), is the Principal of Dartmouth High School and is one of Ms. Fitzgerald’s supervisors.
5. The Defendant, Richard Gill (hereafter “Mr. Gill”), was the Assistant Principal of Dartmouth High School, and was one of Ms. Fitzgerald’s supervisors.

### **FACTS**

6. Ms. Fitzgerald began working as a Guidance Counselor at Dartmouth Public Schools in August 2014.
7. As a Guidance Counselor, Ms. Fitzgerald was responsible for ensuring that students take the correct sequence of courses for their high school graduation and post-secondary school requirements.
8. Mr. Thibault is the Principal of Dartmouth High School, where Ms. Fitzgerald was assigned to work.
9. Mr. Gill was the Assistant Principal at Dartmouth High School.
10. Ms. Fitzgerald’s work performance has always been satisfactory, as evidenced by her past performance evaluations.
11. In May 2019, Ms. Fitzgerald was in the Dartmouth High School office speaking with secretary, Donna Flor, about an upcoming fundraiser with the Portuguese Kids. Mr. Gill approached and introduced himself to Ms. Fitzgerald, extending his hand. As Ms. Fitzgerald and Mr. Gill shook hands, Mr. Gill inappropriately kept hold of Ms. Fitzgerald’s hand and said that he had been divorced twice and that both of his ex-wives were Italian.

12. Mr. Gill then stated he did not see a ring on Ms. Fitzgerald's finger. Mr. Gill then suggested that Ms. Fitzgerald help him learn more about Portuguese culture and show him around the area.
13. Ms. Fitzgerald pulled her hand free, told Mr. Gill that her last name was Fitzgerald, which is Irish, and that she was not interested.
14. Ms. Fitzgerald asked Mr. Gill to not put his hands on her again.
15. Ms. Fitzgerald later reported the interaction to her director, Bridgit DaSilva (hereafter "Ms. DaSilva"), as well as the Union President, Renee Vieira (hereafter "Ms. Vieira").
16. Throughout the school closure from March 13, 2020, through June 2020, Mr. Gill repeatedly emailed Ms. Fitzgerald and told her that she was to attend Zoom meetings with him. The meetings lasted upwards of two to three hours and monopolized a great deal of Ms. Fitzgerald's time.
17. Mr. Gill also asked for Ms. Fitzgerald's personal phone number. Ms. Fitzgerald refused to give Mr. Gill her phone number, stating that Mr. Gill could use the Google Voice phone number issued to Ms. Fitzgerald by the school department.
18. Ms. Fitzgerald reported the excessively long and frequent Zoom meetings to Ms. DaSilva and Ms. Vieira.
19. A co-worker, Dan McGrath, informed Ms. Fitzgerald that Mr. Gill was repeatedly pressuring her for her cell phone number. Ms. Fitzgerald told Mr. McGrath that he did not have permission to give Mr. Gill her cell phone number.
20. Throughout Ms. Fitzgerald's employment with Dartmouth Public Schools, Mr. Gill would regularly enter her office and interrupt her work with students. These interruptions

were so frequent, inappropriate and negative that students began requesting that her door be closed during their appointments with her. Examples of these interactions include:

- a. Several times he asked Ms. Fitzgerald to tell the students that she liked him and that he was a nice guy who could be trusted. Ms. Fitzgerald refused to do so.
- b. Mr. Gill made inappropriate comments, such as, on September 23, 2020, he said “Why does your office always smell like an armpit?”
- c. Mr. Gill made disclosures about his personal life to students when discussing their future plans, such as telling a female student who was having difficulties with her father that his ex-wife had lied to his daughter about him. As a result of his comments, the female student became upset, and Ms. Fitzgerald had to call the Student Adjustment Counselor for support.

21. On September 29, 2020, after Ms. Fitzgerald had a meeting with a full-time virtual learning student, Mr. Gill called her office phone and repeatedly stated that he had just seen her. Ms. Fitzgerald told him that was impossible as she was working in her office and ended the call. Mr. Gill called back and stated that he had seen her speaking with the virtual learning student on Google Meet, and that he had the ability to be invisible and look into people’s screens without being noticed. Ms. Fitzgerald stated that his behavior was inappropriate, illegal, and violation of privacy. Ms. Fitzgerald immediately reported this incident to Ms. DaSilva, Ms. Vieira, and Kristianna Fontes Callahan, who worked with the student in question.

22. Throughout his employment with Dartmouth Public Schools, Mr. Gill would make inappropriate comments and questions during Student Support Team meetings. Examples include:

- a. Mr. Gill would refer to himself as “fat” or “fatty” and asked if Ms. Fitzgerald liked his shirt. Ms. Fitzgerald responded by saying that comments about people’s physical appearance and attire made her uncomfortable.
  - b. Mr. Gill would make comments about his personal family dynamics.
  - c. Mr. Gill would ask personal questions of staff such as, “What are you doing this weekend?” Ms. Fitzgerald refused to answer these questions and repeatedly stated that she found them inappropriate and invasive.
  - d. At one meeting, Mr. Gill read an email from a student out loud in a mocking voice. Both Ms. Callahan and Ms. Fitzgerald told him to stop.
23. On December 13, 2020, Mr. Gill entered Ms. Fitzgerald’s office and asked her to witness Ms. DaSilva’s search of a female student. Ms. Fitzgerald explained that she was not an administrator and that, due to the student’s trauma history, she was not to be searched without a parent present. Mr. Gill responded with, “Who is the angry girl in the mirror? Where is the smiley, beautiful Ms. Fitzgerald that I know?” Ms. Fitzgerald told him that his repeated and unwanted comments about her appearance made her uncomfortable. Mr. Gill apologized and left her office.
24. Later, the sister of the student who was to be searched came into Ms. Fitzgerald’s office visibly upset and said that her sister had been left alone in Mr. Gill’s office. Ms. Fitzgerald went to Mr. Gill’s office and the student there reported feeling uncomfortable being left alone with Mr. Gill and Mr. Martin. Ms. Fitzgerald asked a Student Adjustment Counselor to stay with the student, which she did until the parents arrived.
25. Also on December 13, 2020, Ms. Fitzgerald met with Ms. Vieira and school psychologist, Kristin Fortin. Ms. Fitzgerald requested a meeting with Superintendent, Bonny Gifford,

or Business Manager, James Kiely, to report the sexual harassment and hostile work environment at Dartmouth High School, but this meeting was not scheduled.

26. On January 29, 2021, Mr. Gill attempted to insert himself into a lunchtime going away celebration Ms. Fitzgerald was having with a coworker. Mr. Gill asked why he was not invited and stated that he wished he had a magnet like the one Ms. Fitzgerald made for her coworker who was leaving.
27. At all times relevant to this matter, Mr. Thibault was aware that Ms. Fitzgerald and several other female employees had been subjected to unwanted conduct of a sexual nature by Mr. Gill.
28. Mr. Thibault took no action regarding the hostile work environment created by Mr. Gill.
29. On February 18, 2021, through a letter by Ms. Fitzgerald's attorney to Dartmouth Public Schools, Ms. Fitzgerald requested that an investigation be made into Mr. Gill's conduct of sexual harassment and the administration's knowledge of his conduct.
30. The investigation concluded that sexual harassment was likely to have occurred.
31. Shortly after Ms. Fitzgerald filed her MCAD complaint in late September 2021, Ms. Fitzgerald began experiencing a hostile work environment and retaliatory actions by her employer, Dartmouth Public Schools.
32. Ms. Fitzgerald was falsely and bizarrely accused of things such as, in October 2021, sending a male student to the Guidance Office for a muffin, where he was allegedly disrespectful. Ms. Fitzgerald was informed that an investigation had been opened into this false allegation.
33. Important information about students assigned to Ms. Fitzgerald was withheld, such as whether one student had been seeing a counselor. Ms. Fitzgerald was not notified when

- three of her assigned students had been hit by another student. Ms. Fitzgerald was also left out of Student Support Team communication chains as well.
34. On October 8, 2021, Ms. Fitzgerald's director/administrator, Ms. DaSilva, denied her request to attend a local professional development training in New Bedford but another staff member, Tech Coach Jen Thomas, was approved for a professional development training in Florida.
  35. Ms. Fitzgerald was also repeatedly interrupted during meetings with students by Ms. DaSilva, and others, despite sharing her calendar so they would know when she was occupied in meetings.
  36. On November 9, 2021, Ms. Fitzgerald met with Ms. Vieira and Business Manager, James Kiely, to report that she thought she was being retaliated against.
  37. On December 1, 2021, Ms. DaSilva again interrupted Ms. Fitzgerald's meeting with a student in order to verbally reprimand her for responding to a parent email regarding another student's access to PSAT testing accommodations.
  38. On December 2, 2021, Ms. DaSilva refused to approve Ms. Fitzgerald's proposed assemblies for PSAT PASE presentations, falsely claiming that she did not have access to updates to the PowerPoint presentation and that the assembly was not presented at the department meeting. Several days later Ms. DaSilva stated that assemblies should be held in January instead of December.
  39. On December 27, 2021, Mr. Kiely informed Ms. Fitzgerald that the incidents she had reported were "supervisory" and not retaliatory.
  40. On January 25, 2022, Ms. Fitzgerald learned that two students from her caseload had been suspended earlier, and that she had not been invited to their reentry meetings.

41. In February 2022, Ms. DaSilva refused to promote a student assigned to Ms. Fitzgerald to grade 12, despite approval from the principal, thereby preventing the student from applying to colleges in the fall. Another student with fewer credits, under a different counselor, was promoted to senior from the beginning of the year. When Ms. Fitzgerald's student met with Mr. Thibault and Associate Principal Rachel Chavier, they downplayed Ms. DaSilva's actions and instructed the student to write down what role Ms. Fitzgerald played in her filing a complaint.
42. Shortly before August 11, 2022, Ms. Fitzgerald learned that she would be assigned the highest caseload of all guidance counselors at Dartmouth High School for the upcoming school year. This was a caseload of 251 students, including 4 students out of her alphabetical split; the guidance counselor with the lowest caseload was assigned only 233 students. Ms. Fitzgerald repeatedly brought this to her employer's attention.
43. On or about August 23, 2022, Ms. Fitzgerald was informed that a student would actually be added to her caseload, bringing the total to 252 students. Several days later, the caseloads were finally balanced more equitably between the guidance counselors.
44. Ms. Fitzgerald believes these actions were motivated by retaliation with the intention of creating a hostile work environment because she had previously filed an MCAD complaint.
45. As a result of this hostile work environment, Ms. Fitzgerald suffered and continues to suffer from severe emotional distress.

**COUNT I — VIOLATION OF M.G.L. C. 151B §4 (SEX DISCRIMINATION)**

46. The Plaintiff, Ms. Fitzgerald, hereby incorporates by reference Paragraphs 1 through 45 above herein.



47. Massachusetts law provides that, pursuant to M.G.L. c. 151B §4, it is unlawful for an employer, personally or through its agents, to dismiss from employment, refuse to hire or rehire, or otherwise discriminate against a person because of their sex.
48. Dartmouth Public Schools, Ross Thibault, and Richard Gill discriminated against Ms. Fitzgerald because of her sex in violation of M.G.L. c. 151B through the actions described above and otherwise discriminating against her on the basis of sex.
49. The Defendants' actions in this matter were outrageous and egregious.
50. As a direct and proximate result thereof, Ms. Fitzgerald suffered and continues to suffer from emotional distress and mental suffering.

WHEREFORE, the Plaintiff, Ms. Fitzgerald, demands judgment in her favor and against the Defendants, Dartmouth Public Schools, Ross Thibault, and Richard Gill for full and substantial damages, including compensatory and punitive damages, plus attorney fees, interest, and costs.

**COUNT II — VIOLATION OF M.G.L. C. 151B §4 (RETALIATION)**


51. The Plaintiff, Ms. Fitzgerald, hereby incorporates by reference Paragraphs 1 through 50 above herein.
52. Massachusetts law provides that, pursuant to M.G.L. c. 151B §4(4), it is unlawful for an employer, personally or through its agents, to retaliate against an employee for exercising her rights under Chapter 151B.
53. Dartmouth Public Schools, Ross Thibault, and Richard Gill retaliated against Ms. Fitzgerald through the actions described above.
54. The Defendants' actions in this matter were outrageous or egregious.

55. As a direct and proximate result thereof, Ms. Fitzgerald suffered and continues to suffer from emotional distress and mental suffering.

WHEREFORE, the Plaintiff, Ms. Fitzgerald, demands judgment in her favor and against the Defendants, Dartmouth Public Schools, Ross Thibault, and Richard Gill, for full and substantial damages, including compensatory and punitive damages, plus attorney fees, interest, and costs.

**THE PLAINTIFF REQUESTS A JURY TRIAL ON ALL ISSUES.**

MELISA FITZGERALD,  
By her Attorneys,



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