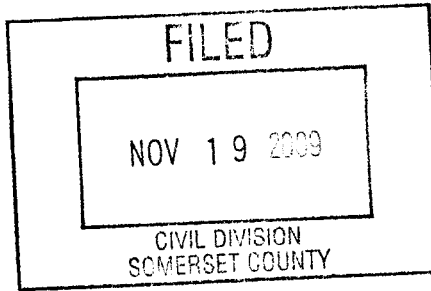


LAW OFFICES OF
GINA MENDOLA LONGARZO, LLC

244 GREEN VILLAGE ROAD
MADISON, NEW JERSEY 07940
973.236.0700

Attorneys for Plaintiff
DEBORAH NELSON
Our File No. 30.01.166



| | |
|--|---|
| <p>DEBORAH NELSON,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>COMMISSIONERS OF FIRE DISTRICT NO. 1 IN FRANKLIN TOWNSHIP, SOMERSET COUNTY, MILLSTONE VALLEY FIRE DEPARTMENT, ROBERT R. SCHEER, JR., JAMES WICKMAN, JOSEPH DANIELSEN, WILLIAM H. CULLEN, III, and JOHN and JANE DOES 1-10, (fictitious names),</p> <p style="text-align: right;">Defendants.</p> | <p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: SOMERSET COUNTY DOCKET NO. <i>L-2127-09</i></p> <p style="text-align: center;">Civil Action</p> <p style="text-align: center;">COMPLAINT AND JURY DEMAND</p> |
|--|---|

Plaintiff, Deborah Nelson, residing in the Township of Franklin, County of Somerset, in the State of New Jersey, by way of Complaint against the Defendants, Commissioners of Fire District No. 1 in Franklin Township, Somerset County, Millstone Valley Fire Department, Robert R. Scheer, Jr., James Wickman, Joseph Danielsen, and William H. Cullen, III say:

THE PARTIES

1. The Plaintiff is a female.
2. Defendant, Commissioners of Fire District No. 1 in Franklin Township, Somerset County [the "District"], is municipal public entity and a body corporate located at 370 Campus Drive, Suite 102, Somerset, New Jersey. The Commissioners of Fire District No. 1 consists of five persons who are duly elected as the Board of the Fire Commissioners. The District statutorily has control and supervision over each of the four fire companies

located within Fire District No. 1. At all relevant times, the District was the employer of the Plaintiff.

3. Defendant, Millstone Valley Fire Department ["MVFD"], is a volunteer fire company located at 2365 Amwell Road, East Millstone, New Jersey, County of Somerset. MVFD is located in Fire District No. 1 in Franklin Township, Somerset County, New Jersey and thus its personnel is under the supervision and control of the District pursuant to N.J.S.A. 40A:14-70.1(b) and N.J.S.A. 40A:14-81.3.
4. Defendants Robert R. Scheer, Jr., James Wickman, Joseph Danielsen, and William H. Cullen, III are or were duly elected Commissioners in Fire District No. 1 in Franklin Township, Somerset County, New Jersey.
5. At all relevant times, the District was a public employer and qualifies as Plaintiff's "employer" as defined under the New Jersey Law Against Discrimination ["NJLAD"]. The District is liable for the acts of the Defendants alleged herein either as the direct employer of the Plaintiff, the direct acting party or under the doctrine of *Respondeat Superior*.
6. Defendants John and Jane Does 1 through 10 are or were at all appropriate times supervisors, employees, and/or agents of the District No. and/or Millstone Valley Fire Department. These John and Jane Does also include persons who are or were agents of Defendants whose conduct was intended to further the unlawful and/or harassing efforts of the Defendants. Said Defendants are fictitiously named herein inasmuch as their current identities are unknown to the Plaintiff. Any and all allegations against any of the specifically named Defendants should be deemed to include and list these fictitiously named Defendants automatically by reference. As the true identities of these Defendants

are made known to the Plaintiff, the John and Jane Doe Defendants shall be designated by proper name.

STATEMENT OF FACTS

7. The Plaintiff, Deborah Nelson, has worked for the District for 18 years as an administrative aide.
8. Robert R. Scheer, Jr. was employed by the District as a publicly elected fire commissioner in Fire District No. 1, and was the Chairman of the five-person Board of Fire Commissioners.
9. Commissioner Scheer was employed full-time as a Township building inspector in the construction code department and served as the Township's Deputy Director of the Office of Emergency Management.
10. Commissioner Scheer was Plaintiff's direct supervisor from approximately 1991 through 2008.
11. At various times during many typical workdays, and while actively employed in his capacity as a full-time building inspector with the Township's construction code department, Commissioner Scheer was present in the District office when the egregious and sexually explicit conduct outlined throughout this complaint occurred. As a result of his unsupervised conduct, the District failed to properly supervise Commissioner Scheer in his official capacity as a Commissioner.
12. Commissioner Scheer and Plaintiff shared the District office. Each had their own desk but shared a printer. In addition, there was a conference table located in the District office.

13. In or around 2001, Plaintiff found a pubic hair on her computer keyboard located on her desk at the District office. She complained about the pubic hair to then Commissioner Joseph Danielsen, but no action was taken to investigate her complaints.
14. In or around 2003, Plaintiff became aware that Commissioner Scheer was viewing pornography on his computer in the District office.
15. Plaintiff again complained to Commissioner Danielsen that Commissioner Scheer was viewing pornography in the District office, that he was in fact printing out pornography on their shared printer, and that she felt highly uncomfortable. However, no action was taken to prohibit Commissioner Scheer from viewing pornography.
16. On or about November 19, 2007, Plaintiff discovered what appeared to be sexually explicit pornography of children on their shared printer. Not only was this a violation of the District's newly enacted computer policy, but it was also extremely disturbing and upsetting to Plaintiff since the pornography appeared to portray depictions of children. She was horrified and emailed Commissioner James Wickman to report the child pornography to him, but he failed to respond to her concerns. Plaintiff also showed the child pornography to now-former Commissioner Danielsen, who maintained the District's computer network. Plaintiff then complained to Commissioner Timothy Szymborski, who informed Plaintiff that the other Commissioners would monitor Commissioner Scheer's computer usage.
17. It was later revealed to Plaintiff by Commissioner Szymborski that Commissioner Scheer was also engaging in inappropriate sexual activities while at work, including masturbating on the conference room table located in their shared office. Plaintiff had to clean off the conference room table upon which he masturbated to her great disgust and

embarrassment. Around this time, Mr. Danielsen, who was reviewing Commissioner Scheer's activity on his District computer, located and subsequently displayed naked photographs of Commissioner Scheer to Plaintiff that were taken in the District office and stored on his District computer.

18. Plaintiff directly expressed her concerns of continuing to work with and be in the presence of Commissioner Scheer to both Commissioner Wickman and Commissioner Szymborski.
19. The District, however, did not move to quickly address this disturbing issue nor did it terminate Commissioner Scheer's position or charge him with any misconduct. Instead, as a result of the investigation that ensued after Plaintiff made complaints and brought to light the inappropriate conduct of Commissioner Scheer, he was allowed to tender his written resignation "for personal reasons" in good standing over two months later on January 24, 2008. His resignation explicitly provided that he would not trespass on Fire District No. 1 property, effective immediately, and that he would cease all affiliation with Fire District No. 1 and all of its business, now and in the future.
20. During the time that Plaintiff shared the District office with Commissioner Scheer, the District did not have a sexual harassment policy in place, nor had the Commissioners or its personnel been required to attend any sexual harassment training.
21. Former Commissioner Scheer was ultimately investigated by the Somerset County Prosecutor's Office on charges related to child pornography and brought before a grand jury, which returned a no bill in his favor.¹

¹ On or about August 2008, the Township terminated Mr. Scheer from his position as a Township building inspector, a penalty independent of the lawful sanctions within the District's purview.

22. Nevertheless, Mr. Scheer has returned to the District office while Plaintiff was present on at least one occasion since tendering his resignation, which was highly threatening and frightening for Plaintiff.
23. Moreover, Mr. Scheer was allowed to continue to serve as a member of the Millstone Valley Fire Department ["MVFD"], which is statutorily under the direct supervision of the District. Although Mr. Scheer resigned his active volunteer firefighter duties at MVFD, he continues to serve as the Vice-President of Administration for the MVFD and continues to be a social member of MVFD. Mr. Scheer is also considered a Life Member of the MVFD. However, despite the express language of his resignation, no effort has been made by the District to prevent him from frequenting, volunteering at, and being a member of the MVFD.
24. Mr. Scheer is thus often present at, and actively participates in, District and/or MVFP sponsored meetings and/or events that has resulted in contact with, and exposure to Plaintiff, who is required to attend these meetings and/or events as a condition of her employment.
25. For example, Plaintiff is required to attend the District's monthly meetings to record the meeting's minutes for the District. The District's monthly meetings rotate among the four firehouses within the District, and Mr. Scheer has been present at such meetings while Plaintiff was required to record the meeting's minutes. His presence at such meetings is highly threatening to Plaintiff and has caused her great anxiety and alarm.
26. In addition to his administrative duties, Mr. Scheer continues to engage as a social member with the MVFD; for instance, he was allowed to play Santa Claus during the 2008 holidays and interact with young children in association with the MVFD.

27. Furthermore, Mr. Scheer continues to be carried on Franklin Township's life insurance policy for firefighters as member of the MVFD even though he is no longer an active fire fighter.
28. Despite the fact that Plaintiff had explicitly expressed her feelings regarding Mr. Scheer and his inappropriate conduct to the Commissioners on multiple occasions, the District has made little effort to bar Mr. Scheer from District property like the MVFD or from using District apparatus.
29. In addition, in or around February 5, 2009, Plaintiff was directed in an e-mail message from Commissioner William H. Cullen, III to prepare an official District Award certificate for Mr. Scheer for Honorable Service to be presented to him at the District's annual Inspection and Awards Ceremony held on March 7, 2009. Plaintiff protested, but her complaints were ignored, and she was thus forced to prepare the Honorable Service Award as ordered.
30. Prior to the MVFD awards ceremony, Mr. Scheer actively participated in the Commissioners' annual inspection of the MVFD and he stood side-by-side in the inspection line with the MVFD's firefighters as the Commissioners conducted their physical inspection of the MVFD.
31. Mr. Scheer's award presentation during the March 7, 2009 District Awards Ceremony was preceded by a Commissioner sanctioned video tribute featuring several photographs that clearly depicted Mr. Scheer as an active participant during District sponsored or sanctioned activities.

32. Mr. Scheer's presence at and active participation in District and/or MVFD sponsored meetings and/or events has caused continued contact with Plaintiff and has caused her great emotional upset and continued the harassing and hostile work environment.
33. Plaintiff was outraged and continued to complain, however, no action was taken, and instead, Plaintiff has been ignored and treated disparately by the Board of Commissioners, who are her supervisors.
34. Because of the emotional distress she has suffered on account of having to regularly encounter Mr. Scheer and the shunning she has experienced in the workplace, Plaintiff has been forced to seek counseling.

COUNT ONE

(NJLAD Discrimination)

35. Plaintiff, Deborah Nelson, complained to upper level management, including the District Commissioners, about the sexually hostile work environment, gender discrimination, and harassment she was being subjected to. However, after no action was taken. In addition, Mr. Scheer finally resigned and Plaintiff continued to complain, no action was taken and the culpable party was protected by the District which directly condoned and participated in the misconduct by allowing the aforesaid conduct to continue.
36. The District is liable for the acts of its employees pursuant to the doctrine of *Respondeat Superior*. Moreover, the custom, policy, and practices of the employer caused plaintiff to be harmed.
37. As a direct result of the actions of Defendants in violation of the NJLAD, N.J.S.A. 10:5-1, et seq., Plaintiff has been treated disparately in her employment rights and denied rights. Plaintiff has sustained injury to her reputation and employability. Plaintiff has

also suffered emotional distress, pain, and suffering. Further, Plaintiff has been compelled to retain an attorney to vindicate her rights. Additionally, Plaintiff has been otherwise injured.

WHEREFORE the Plaintiff demands judgment jointly and severally against Defendants, compensatory damages for pain and suffering as well as loss of earnings and other employee benefits, damages for reputational and career development injury, consequential damages, incidental damages, punitive damages, attorneys fees and costs of suit, injunctive relief requiring remediation of Defendants' harassment and discrimination through affirmative action, and any other relief deemed by the Court to be equitable and just.

COUNT TWO

(NJLAD Aiding and Abetting)

38. Plaintiff incorporates by reference each and every allegation made previously herein.
39. Defendants Robert R. Scheer, Jr., James Wickman, Joseph Danielsen, and William H. Cullen, III, violated Plaintiff's rights guaranteed by the NJLAD, N.J.S.A. 10:5-1 and 10:5-12, et seq. These individual Defendants committed unlawful employment practices by knowingly giving substantial assistance and encouragement to the unlawful conduct by aiding and abetting the harassment of Plaintiff because of her sex and subjecting her to a sexually hostile work environment.
40. The individual Defendants acted deliberately and with malicious animus and exhibited a reckless and callous indifference to Plaintiff's right through their purposeful actions, willful misconduct and evil motive and are all upper-level management and agents of the

District. Moreover, the custom, policy, and practice of the employer caused Plaintiff to be harmed.

41. Accordingly, the individual Defendants are liable as is the Defendant employer, the District, who was responsible for the conduct of its agents and employees.
42. As a direct result of the actions of Defendants in violation of the NJLAD, N.J.S.A. 10:5-1, et seq., Plaintiff has been treated disparately in her employment rights and denied rights. Plaintiff has sustained injury to her reputation and employability. Plaintiff has also suffered emotional distress, pain, and suffering. Further, Plaintiff has been compelled to retain an attorney to vindicate her rights. Additionally, Plaintiff has been otherwise injured.

WHEREFORE the Plaintiff demands judgment jointly and severally against Defendants, compensatory damages for pain and suffering as well as loss of earnings and other employee benefits, damages for reputational and career development injury, consequential damages, incidental damages, punitive damages, attorneys fees and costs of suit, injunctive relief requiring remediation of Defendants' harassment through affirmative action, and any other relief deemed by the Court to be equitable and just.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R.4:25-4, GINA MENDOLA LONGARZO is designated as trial counsel.

DEMAND FOR TRIAL BY JURY

Please take notice that the plaintiff, DEBORAH NELSON, demands a trial by jury.

CERTIFICATION PURSUANT TO RULE 4:5-1

I hereby certify, pursuant to R. 4:5-1, that the present matter in controversy is not the subject of any other action pending in any court, nor is any other action or arbitration proceeding contemplated.

LAW OFFICES OF GINA MENDOLA
LONGARZO, LLC

By: 

GINA MENDOLA LONGARZO, ESQ.
Attorney for Plaintiff
DEBORAH NELSON

Dated: November 19, 2009

PROOF OF MAILING

I hereby certify that an original and copy of the within Complaint, Designation of Trial Counsel and Jury Demand was filed with the Clerk of Somerset County as deputy Clerk of the Superior Court of Somerset, New Jersey.

LAW OFFICES OF GINA MENDOLA
LONGARZO, LLC

By: 

GINA MENDOLA LONGARZO, ESQ.
Attorney for Plaintiff
DEBORAH NELSON

Dated: November 19, 2009