

APR 20 2016

COSTELLO & MAINS, LLC
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APR 20 2016

DENISE BRODO,

Plaintiff,

vs.

THE TOWNSHIP OF HADDON;
HADDON TOWNSHIP POLICE
DEPARTMENT and JOHN DOES
1-5 AND 6-10,

Defendants.

: SUPERIOR COURT OF NEW JERSEY
: CAMDEN COUNTY - LAW DIVISION

: CIVIL ACTION

: DOCKET NO: L-1517-16

: COMPLAINT AND JURY DEMAND

Plaintiff, Denise Brodo, residing in the State of New Jersey, by way of Complaint against the defendants, says:

Preliminary Statement

This matter is opened to the Court under the Conscientious Employee Protection Act ("CEPA") and the doctrine set forth in *Pierce v. Ortho Pharmaceuticals* in the alternative.

Identification of Parties

1. Plaintiff Denise Brodo is, at all relevant times herein, a resident of the State of New Jersey and a former employee of defendants.

2. Defendant Township of Haddon is a public entity residing in Camden County and was plaintiff's employer.

3. Defendant Haddon Township Police Department is a public entity residing in Camden County New Jersey and was plaintiff's employer.

4. Defendants John Does 1-5 and 6-10, currently unidentified, are individuals and/or entities who, on the basis of their direct acts or on the basis of *respondeat superior*, are answerable to the plaintiff for the acts set forth herein.

General Allegations

5. Plaintiff began working for defendant as a Communication Specialist/Class II Officer beginning on approximately April 1, 1998.

6. She was terminated from her employment on October 22, 2015.

7. Throughout the course of her employment, plaintiff has performed her job up to the reasonable expectations of her employer.

8. Among plaintiff's many job responsibilities, she also does payroll for the Township.

9. Prior to February 25, 2013, plaintiff sent a bill to the Haddon Township Board of Education for a special detail that Officer Robert Preziosi had covered at Haddon Township High School.

10. On February 25, 2013, plaintiff received a fax from Haddon Township Board of Education indicating that "Preziosi was paid in cash by NJSIAA on 2/11/13."

11. Since plaintiff had been preparing a check to issue to Preziosi for his detail on this event, she stopped preparing the check so that Preziosi would not be doubly paid.

12. Other than the aforementioned fax, no one, including Preziosi, had advised plaintiff that he had already been paid for his detail on this event.

13. Plaintiff advised Sergeant Scan Gooley that she had not been informed that Preziosi had already been paid, and that she had been preparing to issue him a check for this detail, when she learned that he had in fact already been paid by NJSIAA.

14. Plaintiff then reported this to Personnel Director, Betty Band.

15. Later that day, Sergeant Gooley called plaintiff into his office and said, "I remember, Preziosi called me the day after that event to let me know that he took cash for that event."

16. Plaintiff asked Sergeant Gooley, "Why wouldn't you tell me, so that I wouldn't end up paying him twice?"

17. Sergeant Gooley responded, "This officer actually took cash for a double detail for that event."

18. Plaintiff obtained the activity log for Preziosi that night, which indicated that he only covered one event, and should have only been paid for one event.

19. When plaintiff showed Sergeant Gooley the activity log, he screamed at plaintiff and said, "This fucking place! These fucking assholes!"

20. The next day, Betty Band told plaintiff not to pay Preziosi.

21. Thereafter, Supervisor Sergeant Scott Bishop approached plaintiff and said, "The money is getting paid back. Officer Preziosi is bringing a check to the school today. He is entitled to be paid."

22. Plaintiff responded, "I am not allowed to pay him. Betty Band already told me not to pay him."

23. Hearing this, Sergeant Gooley said, "You have to do what we say. You work for us, not them."

24. Plaintiff responded, "No, actually I'm a civilian employee. I work for the Township."

25. Sergeant Gooley got visibly upset and stormed out of the room.

26. Later that day, Sergeant Gooley refused to offer plaintiff a sporting event detail for which, clearly, additional officers were needed.

27. After not being offered the event, when plaintiff asked Sergeant Gooley to be assigned to it, plaintiff told Betty Band "They're holding jobs from me now. They're really taking this all out on me."

28. The following day, Sergeant Bishop approached plaintiff and told plaintiff to pay Preziosi the money.

29. Again, when plaintiff advised that Betty Band told her not to pay Preziosi, Sergeant Bishop screamed at her, "You work for us!"

30. The next day, there were approximately three officers "on the street" because it was "range week," when officers get requalified for the use of their handguns.

31. During this week, plaintiff's supervisors have customarily asked her to work traffic detail.

32. Instead of asking plaintiff to work traffic detail, for which she would have been paid a higher rate of pay, Sergeant Gooley asked Audubon Police Department for officers to cover their streets.

33. Plaintiff was not offered the sporting event detail and the traffic detail in retaliation for refusing to pay Preziosi.

34. A short time later, Sergeants Gooley and Bishop called plaintiff into an office and said, "We're the supervisors now. You don't work for the Township. You work for us. You have to listen to us. You should be careful with your past employment history. You don't have the right to go to the Township and tell them what goes on in our department."

35. Plaintiff informed Betty Band about this meeting, and Ms. Band stated, "I can't have them retaliating against you about this incident. I have to talk to them."

36. Thereafter, plaintiff was advised that she could no longer do payroll or open the mail, thus reducing plaintiff's job responsibilities.

37. On May 1, 2013, plaintiff was issued a five day unpaid suspension for alleged "tardiness" and insubordination.

38. At this meeting, Sergeants Bishop and Gooley advised plaintiff that on May 13, 2013, at the end of her unpaid suspension, she was to take off her badge and take the patches off of her shirt, and turn in all police department equipment because, "You are no longer a Class II Officer."

39. As a result of these incidents, plaintiff filed a lawsuit under CEPA against defendants on August 13, 2013.

40. That lawsuit was resolved by the parties, and on August 31, 2015, the parties filed a joint stipulation dismissing the matter.

41. On October 22, 2015, plaintiff received a correspondence from defendants stating that she was being terminated from her job immediately.

42. The correspondence stated that plaintiff was being terminated because she arrived to work late on September 6, 2015 by six minutes and arrived late on September 30, 2015 by seven minutes.

43. Plaintiff's similarly situated co-workers who arrived late from work were not subjected to the same discipline or terminated as a result of arriving late.

44. In bringing her lawsuit under CEPA, plaintiff objected to and refused to participate in activity that she reasonably believed was in violation of a law, namely, CEPA.

45. Subsequent to plaintiff engaging in this particular activity, she was subjected to adverse employment actions, including, but not limited to, being terminated.

46. A determinative and motivating factor in plaintiff's termination was the fact that she engaged in protected activity.

47. Defendant's actions including terminating plaintiff were intentional, purposeful, willful and egregious retaliation, performed by members of upper management, making punitive damages warranted.

48. The fact that plaintiff was directly retaliated against as a result of having engaged in protected conduct under CEPA as described above, entitle her to claim compensatory and punitive damages under CEPA as set forth herein.

COUNT I

Violation of CEPA

49. Plaintiff hereby repeats and realleges paragraphs 1 through 48, as though fully set forth herein.

50. For the reasons set forth above, plaintiff claims liability against the defendant by virtue of the conduct of defendant's employees including, but not limited to, members of upper management.

51. Because the actions were all purposeful, willful and intentional, punitive damages are sought.

WHEREFORE, plaintiff demands judgment against the defendants jointly, severally and in the alternative, together with compensatory damages, including emotional distress and personal hardship, punitive damages, interest, cost of suit, attorneys' fees, enhanced attorneys' fees, equitable back pay, equitable front pay, equitable reinstatement, equitable instatement and promotion, and any other relief the Court deems equitable and just.

COUNT II

Pierce v. Ortho Pharmaceuticals in the Alternative to Count I

52. Plaintiff hereby repeats and realleges paragraphs 1 through 51, as though fully set forth herein.

53. At the close of plaintiff's case at trial, if the CEPA count remains viable, plaintiff will elect CEPA claims as the remedy, but will elect the *Pierce v. Ortho Pharmaceuticals* theory embodied in this count in the event that CEPA is no longer available.

54. New Jersey's public policy is clear that individuals who report violations of the law, or a rule or regulation promulgated pursuant to the law, the commission of fraud or crime, or actions which are incompatible of clear mandates of public policy must not be retaliated against for having done so.

55. To the extent plaintiff was retaliated against, subjected to a hostile work environment and terminated for having engaged in protected conduct, her claim is cognizable

under *Pierce v. Ortho Pharmaceuticals*, plaintiff claims tort-based damages, including all remedies, equitable back pay, equitable front pay, pain and suffering damages, punitive damages and equitable relief.

WHEREFORE, plaintiff demands judgment against the defendants jointly, severally and in the alternative, together with compensatory damages, including emotional distress and personal hardship, punitive damages, interest, cost of suit, attorneys' fees, enhanced attorneys' fees, equitable back pay, equitable front pay, equitable reinstatement, equitable instatement and promotion, and any other relief the Court deems equitable and just.

COUNT III

Request for Equitable Relief

56. Plaintiff hereby repeats and realleges paragraphs 1 through 55 as though fully set forth herein.

57. Plaintiff requests the following equitable remedies and relief in this matter.

58. Plaintiff requests a declaration by this Court that the practices contested herein violate New Jersey law as set forth herein.

59. Plaintiff requests that this Court order the defendants to cease and desist all conduct inconsistent with the claims made herein going forward, both as to the specific plaintiff and as to all other individuals similarly situated.

60. To the extent that plaintiff was separated from employment and to the extent that the separation is contested herein, plaintiff requests equitable reinstatement, with equitable back pay and front pay.

61. Plaintiff requests, that in the event that equitable reinstatement and/or equitable back pay and equitable front pay is ordered to the plaintiff, that all lost wages, benefits, fringe benefits and other remuneration is also equitably restored to the plaintiff.

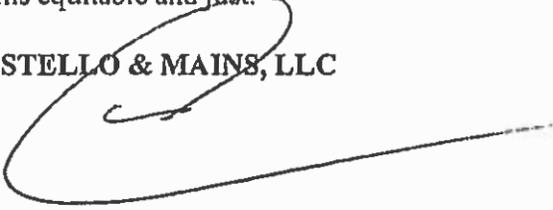
62. Plaintiff requests that the Court equitably order the defendants to pay costs and attorneys' fees along with statutory and required enhancements to said attorneys' fees.

63. Plaintiff requests that the Court order the defendants to alter their files so as to expunge any reference to which the Court finds violates the statutes implicated herein.

64. Plaintiff requests that the Court do such other equity as is reasonable, appropriate and just.

WHEREFORE, plaintiff demands judgment against the defendants jointly, severally and in the alternative, together with compensatory damages, punitive damages, interest, cost of suit, attorneys' fees, enhanced attorneys' fees, equitable back pay, equitable front pay, equitable reinstatement, and any other relief the Court deems equitable and just.

COSTELLO & MAINS, LLC

By: 
Kevin M. Costello

Dated: 4/15/14

DEMAND TO PRESERVE EVIDENCE

1. All defendants are hereby directed and demanded to preserve all physical and electronic information pertaining in any way to plaintiff's employment, to plaintiff's cause of action and/or prayers for relief, to any defenses to same, and pertaining to any party, including, but not limited to, electronic data storage, closed circuit TV footages, digital images, computer images, cache memory, searchable data, emails, spread sheets, employment files, memos, text messages and any and all online social or work related websites, entries on social networking sites (including, but not limited to, Facebook, twitter, MySpace, etc.), and any other information and/or data and/or things and/or documents which may be relevant to any claim or defense in this litigation.

2. Failure to do so will result in separate claims for spoliation of evidence and/or for appropriate adverse inferences.

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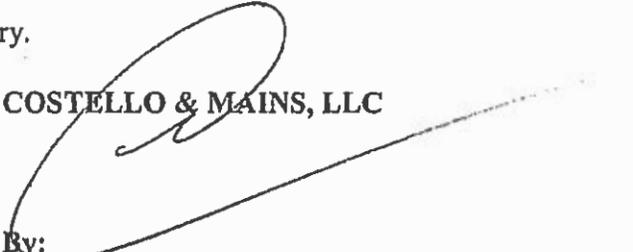
By: 

Kevin M. Costello

JURY DEMAND

Plaintiff hereby demands a trial by jury.

COSTELLO & MAINS, LLC

By: 

Kevin M. Costello

RULE 4:5-1 CERTIFICATION

1. I am licensed to practice law in New Jersey and am responsible for the captioned matter.
2. I am aware of no other matter currently filed or pending in any court in any jurisdiction which may affect the parties or matters described herein.

COSTELLO & MAINS, LLC

By: _____

Kevin M. Costello

DESIGNATION OF TRIAL COUNSEL

Kevin M. Costello, Esquire, of the law firm of Costello & Mains, LLC, is hereby-designated trial counsel.

COSTELLO & MAINS, LLC

By: _____

Kevin M. Costello