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STEPHEN STANZIANO

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
OCEAN COUNTY

Plaintiff(s),

DOCKET NO. OCN- L-

v.

Civil Action

MANCHESTER TOWNSHIP,
MICHAEL FRESSOLA, Individually,
ELENA ZSOLDOS, Individually,
JOHN AND JANE DOES (1-100),
ABC CORPS. (1-100), and
XYZ INC. (1-100),

COMPLAINT, DEMAND TO PRESERVE
EVIDENCE AND JURY DEMAND

Defendant(s).

Plaintiff Stephen Stanziano, residing at 1160 Roanoke Drive, Toms River, State of
New Jersey, by way of Complaint against the Defendants says:

THE PARTIES

1. Plaintiff, Stephen Stanziano is a tenured Manchester Township employee who
was hired by Defendant, Manchester Township (hereinafter Manchester) from on or about

July 1995 to and including the present. Plaintiff's position with Manchester is the Director of Public Works.

2. During all times pertinent hereto, Defendant, Manchester Township (hereinafter "Manchester") was and is Plaintiff's employer.

3. During all times pertinent hereto, Defendant, Michael Fressola (hereinafter "Fressola") was the Mayor of Manchester and Plaintiff's direct supervisor.

4. During all times pertinent hereto, Defendant Elena Zsoldos (hereinafter "Zsoldos") was the Business Administrator for Manchester. Pursuant to the Manchester Township Ordinance, the Plaintiff, as a Department Head, reports to the Mayor through the Business Administrator. Per ordinance, (Article VII, Sec. 2-22A) Defendant Zsoldos "shall manage and supervise all departments and be the ex officio head of all departments."

5. John Does (1-100), Jane Does (1-100), ABC Corps. (1-100), and XYZ Inc. (1-100), said names being fictitious, are named as Defendants herein and intended to represent any individual(s), partnership(s), business entity(ies); parties in interest and/or true identity of owner, and/or employees, agents or servants, and/or or other persons liable for the occurrences herein complained of.

COUNT ONE

LAD ALLEGATIONS

1. Plaintiff had brain surgery in 1995 prior to being employed by Defendant, Manchester. The Plaintiff did not this disclose this personal health information to Defendant, Manchester as he had no legal obligation to do so. Plaintiff's personal physician had cleared Plaintiff to return to full time employment.

2. On or about August, 2011, Defendant Zsoldos called the Plaintiff's Office Manager into his office during his absence and questioned her about the mental and physical state of the Plaintiff. Defendant Zsoldos stated to Plaintiff's Office Manager that the Plaintiff "is not all there". Defendant Zsoldos told the Office Manager not to tell the Plaintiff about their conversation.

3. On or around May 2012, in response to a grievance filed on behalf of an employee under Plaintiff's supervision, Defendant Zsoldos stated to the aggrieved employee that he "did nothing wrong" and that "Mr. Stanziano is a sick man." This statement by Defendant Zsoldos was included in writing in the grievance form filed by the aggrieved employee's union. Defendant Zsoldos' comment that the Plaintiff is a "very sick man", demeaned, humiliated and embarrassed the Plaintiff.

4. In or around June of 2012, the Plaintiff was sitting in his office at town hall with his office manager when Defendant, Zsoldos walked into the office. Defendant Zsoldos went up to the Plaintiff (in front of his office manager) and rubbed the top of his head and repeatedly said, "You are a very sick man" and "you need help." This conduct demeaned, humiliated and embarrassed the Plaintiff.

5. Plaintiff is the only male department head working for Defendant, Manchester. The female department heads were all given additional perks and benefits that the Plaintiff was denied. For example, the female department heads all receive three days of paid time off in addition to the other paid days off that the Plaintiff and the female department heads receive. When the Plaintiff asked Defendant Zsoldos for the same three days of paid time off that the female department heads enjoy, he was denied. This is blatant gender discrimination. This conduct humiliated and embarrassed the Plaintiff.

6. On or about November 26, 2012, the Plaintiff, Defendant Fressola and Defendant Zsoldos had a meeting. During the meeting Defendant Fressola told the Plaintiff that he "had too much on his plate, had personal problems and health problems. While Defendant Fressola quickly said that Plaintiff's health problems were none of his business, the fact that Defendant Fressola referred to Plaintiff's "health problems" violated the LAD and violated Plaintiff's right to privacy.

7. On or about January 4, 2013, a member of Manchester Township's Planning Board, who is also the chairman of the Veterans Advisory Committee, on which Plaintiff serves, visited the Plaintiff. The Chairman told the Plaintiff that Defendant Zsoldos stated to him that "the Plaintiff was off the wall" implying that he was sick in the head. This comment troubled the Chairman and prompted him to inform the Plaintiff as to what Defendant Zsoldos said. This conduct caused the Plaintiff to feel humiliated and embarrassed.

8. The Plaintiff has been an exemplary employee for the tenure of his employment with Defendant Manchester. Over the course of his 17-year tenure, he has received numerous commendations and accolades. (Attached as Exhibit "A" and "B")

8. The actions and conduct of Defendants constitute a violation of the Law Against Discrimination, N.J.S.A. 10:5-1, et. seq. (LAD).

9. The LAD was first enacted in 1945 and its purpose is nothing less than the eradication of the cancer of discrimination.

10. The opportunity to obtain employment is recognized as and declared to be a civil right.

11. The LAD was enacted to protect not only the civil rights of individual aggrieved employees but also to protect the public's strong interest in a discrimination-free workplace.

12. Freedom from discrimination is one of the fundamental principles of our society. Discrimination based upon gender, race, national origin, age, disability and/or sexual orientation is particularly repugnant in a society that prides itself on judging each individual by his or her merits.

13. The LAD specifically prohibits employment discrimination based on gender and disability N.J.S.A. 10:5-1, et. seq. (LAD).

14. In this action Plaintiff claims, inter alia, gender and perceived disability discrimination.

15. With respect to the alleged employment discrimination, Plaintiff contends and asserts that the complained of conduct would not have occurred but for the Plaintiff's gender and perceived disability issues; and it was severe or pervasive enough to make a reasonable man believe that the conditions of employment are altered and the working environment is hostile or abusive.

16. As a result of the conduct alleged herein Plaintiff has been caused to suffer damages and severe personal hardships, including but not limited to: physical and emotional stress, uncertainty regarding his daily life and planning, career, education, family disruptions, anxiety, humiliation and embarrassment.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally as follows:

- (1) Compensatory Damages;
- (2) Punitive Damages;

- (3) Equitable relief to the fullest extent permitted by the LAD;
- (4) Costs of Suit;
- (5) Attorney's Fees to the fullest extent permitted by the LAD and by Law;
- (6) Lawful interest;
- (7) Such other relief as the Court deems equitable and appropriate.

COUNT TWO

CEPA ALLEGATIONS

17. Plaintiff repeats each and every allegation of the First Count as though set forth more fully at length herein.

18. From on or about February, 2012 through the present, Plaintiff has submitted requests to the Mayor, Business Administrator, Personnel Officer, Chief Financial Officer and Purchasing Agent for equipment, capital funding, new employees, discipline of existing employees and specifications for public bids. See attached "Schedule A".

19. The Defendants have either totally ignored Plaintiff's requests or taken retaliatory action against the Plaintiff for making said requests.

20. To ignore requests for needed capital and to ignore requests for needed equipment to assure the safety and well being of Defendant Manchester's 40,000 residents constitutes outrageous and egregious conduct on the part of the Defendants. Safe equipment is also needed to insure the safety of the Plaintiff's 75 plus employees of the Department of Public Works.

21. The Plaintiff repeatedly complained to the Defendants that his requests for needed capital funding for the DPW, new employees for the DPW, needed equipment and/or equipment repairs for the DPW and bidding requests for the DPW were ignored.

22. Plaintiff's complaints to his supervisors about the non-action on behalf of the Defendants (who are in fact the actual supervisors who ignored Plaintiff's requests and concerns) constitute protected activity under CEPA.

23. After complaining and informing Defendants of the actions set forth in this complaint and in Schedule "A", (Schedule "A" contains several examples of alleged CEPA violations and retaliation but it is not meant to be an inclusive list of every alleged CEPA violation against the Defendants) Plaintiff was retaliated against, otherwise discriminated against all in violation of the Conscientious Employee Protection Act, (CEPA) N.J.S.A. 34:19-1, *et seq.*

24. The purpose of CEPA is to protect employees who report illegal and unethical workplace activities. CEPA is remedial legislation and Courts should construe CEPA liberally to achieve its remedial purpose. Barratt v. Cushman & Wakefield 144 N.J. 120, 127 (1996).

(a) CEPA is supposed to encourage not thwart legitimate employee complaints. Estate of Roach v. TRW, Inc. 164 N.J. 598 (2000).

(b) To establish a CEPA claim Plaintiff must prove that

(1) he reasonably believed illegal or unethical contact was occurring;

(2) he disclosed or threaten to disclose the activity to a supervisor or public body;

- (3) retaliatory employment action was taken against him;
and
- (4) a casual connection exists between the whistle blowing
action. Nardello v. Township of Voorhees 377 N.J.
Super. 428, 432, 433 (App. Div. 2005).
- (d) Plaintiff herein alleges that he engaged in protected whistle
blowing activity.
- (c) CEPA does not require that activity complained about be an
actual violation of a law or regulation, only that employee
reasonably believes that to be the case, Estate of Roach 164
N.J. 598 (2000).
- (f) Plaintiff reasonably believes that its activities he complained
about were illegal and/or unethical.
- (g) Plaintiff alleges that Defendant did unlawfully and illegally
retaliate against him in violation of CEPA as a direct result of
his whistle blowing activities.
- (h) Defendant, Michael Fressola and Elena Zsoldos retaliated
against Plaintiff for Plaintiff's engaging in protected activities as
herein alleged.
- (i) Personal liability may attach in a CEPA claim. N.J.S.A. 34:19-
2a makes both the employer and the employee subject to
CEPA's prohibitions. Maw v. Advanced Clinical Commc'ns,
359 N.J. Super. 420, 439-40 (App. Div. 2003), rev's on other

grounds, 179 N.J. 439 (2004) (Court construed N.J.S.A. 34:19-2a allowing for individual liability).

- (j) Michael Fressola and Elena Zsoldos are defendants individually liable for the wrongful conduct herein alleged.

25. As a result of the conduct alleged herein Plaintiff has been caused to suffer damages and severe personal hardships, including but not limited to: physical and emotional stress, uncertainty regarding his daily life and planning, career, family and social disruption and adjustment problems, anxiety, humiliation, embarrassment and a perception by co-workers and others that he was the problem when in actuality he was in good faith trying to be a solution to his employer's problems. Rather, than being rewarded for his efforts he was retaliated against in that the Defendants sent memos to the Plaintiff alleging insubordination, threatened Plaintiff's job status as the Director of Public Works, compelled Plaintiff to answer questions at an "investigatory interview" and revealed personal information to others about Plaintiff's health. This conduct is shocking.

WHEREFORE, Plaintiff demands judgment against the Defendants jointly and severally, as follows:

- (1) Compensatory damages
- (2) Punitive damages
- (3) Lawful interest
- (4) Costs of suit
- (5) Attorney's fees
- (6) Equitable relief.
- (7) Such other relief as Plaintiff may be entitled to at law or equity.

COUNT THREE

INVASION OF PRIVACY

26. Plaintiff repeats each and every allegation of the First and Second Counts as though set forth more fully at length herein.

27. Plaintiff repeats and re-alleges the allegations contained in this Complaint as if fully set forth at length herein.

28. The conduct alleged herein constitutes an unlawful invasion of privacy.

29. Plaintiff has been damaged as a result thereof.

WHEREFORE, Plaintiff demands judgment against Defendants jointly and severally as follows:

- (1) Compensatory Damages;
- (2) Punitive Damages;
- (3) Equitable relief permitted by the LAD;
- (4) Costs of Suit;
- (5) Attorney's Fees to the fullest extent permitted by the LAD and by law;
- (6) Lawful interest;
- (7) Such other relief as the Court deems equitable and appropriate.

COUNT FOUR

EMOTIONAL DISTRESS

30. Plaintiff repeats and re-alleges the allegations contained Counts One, Two and Three as if fully set forth at length herein.

31. The conduct of Defendant constitutes intentional and/or negligent infliction of emotional distress as well as outrageous conduct.

32. Plaintiff's emotional distress was accompanied by physical manifestations and same constitutes a bodily injury as defined by insurance law see Voorhees v. Preferred Mutual Ins. Co. 128 N.J. 165, 179 (1992) ("emotional injuries accompanied by physical manifestations" qualify as bodily injuries).

33. The individual Defendants are all members of upper management of the Township of Manchester.

34. Said members of upper management were willfully indifferent to the conduct of the other members and/or actually participated in the unlawful conduct alleged herein.

35. Plaintiff is entitled to punitive damages as a result of said willful indifferences and actual participation.

36. Plaintiff has been damaged as a result thereof.

WHEREFORE, Plaintiff demands judgment against Defendants jointly and severally as follows:

- (1) Compensatory Damages;
- (2) Punitive Damages;
- (3) Equitable relief permitted by the LAD;
- (4) Costs of Suit;
- (5) Attorney's Fees to the fullest extent permitted by the LAD and by law;
- (6) Lawful interest;
- (7) Such other relief as the Court deems equitable and appropriate.

COUNT FIVE

POLITICAL DISCRIMINATION

37. Plaintiff repeats each and every allegation of the First, Second, Third and Fourth Counts as though set forth more fully at length herein.

37. Plaintiff is tenured in the Office of Director of Public Works pursuant to ordinance § 2-25B and N.J.S.A. 40A:9-161.

38. Pursuant to this tenured status Plaintiff may not be removed from office for political or other reasons except for good causes upon written charges filed with the Municipal Clerk and after a public, fair and impartial hearing.

39. Upon information and belief, the Defendant Township of Manchester and Michael Fressola has set upon a course of action to remove Plaintiff from his office for political or other reasons and has trumped up insubordination and neglect of duties allegations in furtherance of said removal objective.

40. Such conduct is unlawful.

41. Political discrimination is actionable. See McKeever v. Twp. of Washington 236 F. Supp. 2d 400 (2002), aff'd 11-1093 (3rd Cir. 2012).

42. Plaintiff has been damaged as a proximate result thereof.

WHEREFORE, Plaintiff demands judgment against said Defendants, jointly and severally as follows:

- (1) Compensatory damages
- (2) Punitive damages
- (3) Lawful interest
- (4) Costs of suit
- (5) Attorney's fees

- (6) Equitable relief.
- (7) Such other relief as Plaintiff may be entitled to at law or equity.

COUNT SIX

PROMISE TO PAY

43. Plaintiff repeats each and every allegation of the First, Second, Third, Fourth and Fifth Counts as though set forth more fully at length herein.

44. Defendant Elena Zsoldos borrowed \$5,000 from Plaintiff.

45. Defendant Elena Zsoldos promised to re-pay Plaintiff.

46. To date Elena Zsoldos has only repaid Plaintiff \$4,000.

47. Elena Zsoldos owes Plaintiff \$1,000 based upon a promise to pay, book account and account stated.

48. Given the entire controversy doctrine Plaintiff must sue Elena Zsoldos in this action or risk being barred from doing so later.

Plaintiff seeks judgment against Elena Zsoldos for \$1,000 together with attorney's fees, lawful interest and costs of suit.

COUNT SEVEN

CIVIL CONSPIRACY

49. Plaintiff repeats each and every allegation of the First, Second, Third, Fourth, Fifth and Sixth Counts as though set forth more fully at length herein.

50. The foregoing conduct of the Defendant constitutes civil conspiracy.

51. Plaintiff has been damaged as a proximate result thereof.

WHEREFORE, Plaintiff demands judgment against said Defendants, jointly and severally as follows:

- (1) Compensatory damages
- (2) Punitive damages
- (3) Lawful interest
- (4) Costs of suit
- (5) Attorney's fees
- (6) Equitable relief.
- (7) Such other relief as Plaintiff may be entitled to at law or equity.

Dated: 2/20/13

By: Ronald L. Lueddeke
Ronald L. Lueddeke, Esq.

Dated: 2-20-13

By: Lynda Lee
Lynda Lee, Esq.

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 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.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, please be advised that Ronald L. Lueddeke, Esq. is hereby designated as trial counsel in the above entitled matter.

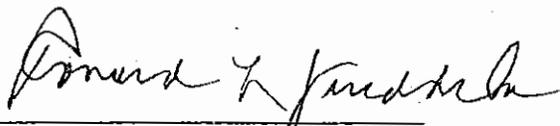
JURY DEMAND

Plaintiff, Stephen Stanziano demands a jury trial on all issues.

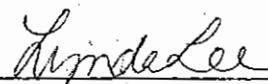
CERTIFICATION

Pursuant to R. 4:5-1(b)(2) the undersigned attorneys for Plaintiff hereby certifies that the matter in controversy is not the subject of another action pending in the Superior Court of New Jersey. The undersigned further certifies that he is unaware of any other parties who should be joined in this action at this time.

Dated: 2/20/13

By: 
Ronald L. Lueddeke, Esq.

Dated: 2/20/13

By: 
Lynda Lee, Esq.

Schedule "A"

(A sampling of CEPA violations and retaliation sustained by the Plaintiff)

1. On or about February 14, 2012, Plaintiff requested that one of his employees be disciplined for insubordination and lying. This request was ignored by Defendant Fressola (upon information and belief, Defendant Fressola was very fond of this particular employee) and in retaliation for this request, the Division of Data Processing was removed from Plaintiff's Department. The Division was placed under the supervision of Defendant Zsoldos' department notwithstanding the fact that Defendant Zsoldos lacked the technical ability to understand the township's networking system or the new VoIP phone system. The Plaintiff not only was responsible for the implementation of both systems but he also possessed the technical ability and computer literacy to oversee both systems. This conduct constitutes retaliation against the Plaintiff.
2. On or about April 25, 2012, Plaintiff submitted specifications for the provisions of Electric and HVAC services to go out for public bid. For three months, Plaintiff heard nothing. Bids were received 75 days after specifications were submitted. This conduct casts Plaintiff in a bad light as it could be perceived that Plaintiff was not performing his job.
3. On or about September 19, 2012, Plaintiff requested capital funding from Defendants Fressola and Zsoldos as well as the Director of Finance for the DPW to replace old and out-of-service vehicles and equipment. Because winter was approaching, Plaintiff needed to know what the Defendants plan was for this request as the equipment and vehicles were needed to protect

and preserve the public safety. To date, Plaintiff has never received a response to this request.

4. On or about August of 2012, Plaintiff submitted personnel requisitions to fill 2 vacancies within the DPW. Historically, these requests were approved and the position advertised within one week of the request. Plaintiff received no communications from the Personnel Office for approximately two months. On or about October 4, 2012, Plaintiff wrote a memo expressing his concern and importance of filling these two positions as soon as possible. On or about October 9, 2012, Plaintiff received a memo from the Personnel Officer that was extremely hostile and failed to address Plaintiff's concerns. Plaintiff then sent her a second email and copied Defendant Fressola and Defendant Zsoldos. Plaintiff's requests were ignored for a third time. There was a serious manpower shortage in the DPW, and this shortage seriously compromised the DPW's ability to respond to Township resident's need for services (emergency and otherwise), tarnishes the Plaintiff's reputation as the Director of Public Works with the public (approx. 40,000 residents) and with his employees.
5. On or about September 27, 2012, Plaintiff submitted a personnel request to fill a vacancy for an engineer. On or about October 19, 2012, the request was denied by Defendants Fessola and Zsoldos despite the fact that other departments were allowed to hire new employees. This personnel request was necessary because the Department of Public Works had a significant increase in workload and responsibilities due to the purchase of a private water company and the operation of two other water and sewer systems.

This was done without the necessary increase in staffing.

6. On or about October 30, 2012, Defendant Zsoldos, in response to Hurricane Sandy, texted all Manchester Township supervisors that the Municipal Building would be closed the next day (October 31, 2012). Several of Plaintiff's employees reported to work to find out the offices were closed. The Plaintiff did not receive the text message from Defendant Zsoldos. This conduct is retaliatory and put Plaintiff's staff in harms way. Plaintiff was never notified that Town Hall was closed notwithstanding the fact that as the Director of Public Works, he is in charge of the Town Hall building.
7. On or about November 28, 2012 a meeting was called with Defendants Fressola and Zsoldos regarding repair of Police Department Vehicles. There was a second meeting on the same day with Defendants Fressola, Zsoldos along with DPW and Police Department personnel. The meeting was regarding a memo that was prepared by Ptl. Antonio Ellis purporting to outline many deficiencies with regard to the repair of various police vehicles. While the Plaintiff's office manager prepared a comprehensive rebuttal to this memo, the Defendants chose to ignore it and continue to allocate blame to the Plaintiff. To date, the Defendants have not read Plaintiff's rebuttal to Ptl. Ellis' inaccurate memo. On or about February 1, 2013, Defendant Zsoldos confiscated all copies of the DPW's rebuttal to Ptl. Ellis' memo.
8. On or about mid to late December, Defendants received notice from the EEOC that the Plaintiff filed an EEOC complaint for discrimination and retaliation. Said EEOC Complaint with supporting documents is incorporated by reference as Exhibit "C". Notwithstanding receiving said

notice, Defendants continued on a course of discrimination and retaliation against the Plaintiff as the Plaintiff was ordered by Defendant Zsoldos to appear on two separate dates for "investigative interviews."

9. On Friday, January 4, 2013 at 4:30pm, Plaintiff received a memo from Defendant Zsoldos ordering him to appear for an investigatory interview on Monday January 7, 2013 at 10am over alleged "neglect of duties" and "insubordination." The memo was very hostile and dictatorial. It gave Plaintiff no opportunity to secure counsel and prepare for an investigatory interview first thing Monday morning. Plaintiff perceived this memo to be retaliatory for his legitimate concerns and complaints regarding the handling of staffing requests and capital funding requests.
10. On Friday, February 1, 2013 at 3pm, Plaintiff received another memo from Defendant Zsoldos ordering him to appear for an investigatory interview on Tuesday, February 5, 2012. This notice was given directly to the Plaintiff notwithstanding the fact that counsel represents Plaintiff. Plaintiff perceived this memo as retaliatory for his filing of the EEOC complaint and for his complaints and concerns regarding the handling of staffing requests and capital funding requests.