

all times relevant hereto Plaintiff Joseph Kenney's wife and has her own claims relative to per quod damages for loss of consortium every claim listed herewith.

PARTIES

2. Plaintiff, Joseph Kenney, is a citizen of the State of New Jersey residing in the Borough of Stockton, County of Hunterdon and State of New Jersey. His wife, Robin Kenney is also a citizen of the State of New Jersey residing in the Borough of Stockton, County of Hunterdon and State of New Jersey.

3. The Township of Edison, ("Township") is and was at all times mentioned a governmental entity organized and existing under and by virtue of the laws of the State of New Jersey.

4. Defendant, Brian Collier, at all relevant times set forth herein, was the Police Director of the Township of Edison Police of Department and the official responsible for the administration of the department with final authority on all matters of policy, procedures and discipline. He is being sued both individually and in his official capacity.

5. Defendant, Thomas Bryan, at all relevant times mentioned herein, was the Chief of Police for the Township and in said capacity was charged with the efficiency and routine day-to-day operations of the department and was directly responsible to the Director. He is being sued both individually and in his official capacity.

6. Defendant, Gregory Formica, at all relevant times mentioned herein, was employed as lieutenant in the police department of the Township. He is being sued both individually and in his official capacity.

7. Defendant Alexander Glinsky at all relevant times mentioned herein, was employed as sargent in the police department of the Township. He is being sued both individually and in his official capacity.

8. Defendants, John Does 1-10, are fictitious names for any and all presently unknown persons who are at all times relevant to this complaint, agents, representatives, and/or employees of the police department of the Township who were involved or in any way responsible for the events described in this complaint. They are being sued both individually and in their official capacities.

FACTUAL ALLEGATIONS

9. In 2009, the Plaintiff's filed suit against the Defendants, alleging violations of the New Jersey Law Against Discrimination, and the Conscientious Employee Protection Act in addition to other causes of action. This lawsuit proceeded under Docket Number MID-L-5922-09.

10. This lawsuit alleged that the Defendants had engaged in age discrimination against him, and that he was subjected to severe and pervasive harassment and retaliation due to his age, which is a protected class, his political activity which was protected under the constitutions of the State of New Jersey and the United States of America, and due to his having blown the whistle on the Defendant Employer, Edison Township and been retaliated against therefor.

11. Part of the allegations in the underlying lawsuit was that Defendants Collier and Formica, in contravention of New Jersey Attorney General Guidelines, had misused the Internal Affairs division of the police department to gather intelligence on individual officers and their families concerning (a) their political affiliations and professional connections, (b) the nature and extent of their political donations and/or campaign activities for Antonio Riciglicano, a mayoral candidate, and (c) their friendships and association with fellow members of the force who were critical of Defendant Bryan's policies or who were pursuing employment related litigations against the Defendant Edison Township.

12. The scope of this activity and the allegations that the Internal Affairs Department of the Edison Township Police Department had been misused, and the retaliatory action that was taken by Plaintiff Joseph Kenney's employer Defendant Township of Edison were the subject of a

number of broad discovery requests, including the complete police Internal Affairs files from a number of investigations, including complaints brought by Plaintiff Joseph Kenny and others.

13. Motion practice in the Docket Number MID-L-5922-09 case included at least one court order issued by Superior Court Judge William Paley on April 1, 2011 that required even more Internal Affairs documents to be disclosed after an in camera review by the court.

14. Numerous documents, including those indicating that a "Wheel of Death" which contained specific targets for termination, were withheld from both in-camera review and from the Plaintiffs themselves despite due requests and court orders requiring the disclosure of same.

15. The failure to disclose these critical evidential discovery items, including the "Wheel of Death" documents, despite an obligation to do so, and with the intent that the Plaintiffs rely on such omission, was done by the Defendants with knowledge that the Plaintiffs would in fact rely on the completeness of the disclosures.

16. The Defendants were under a legal obligation to disclose the above referenced evidence that was withheld from the Plaintiffs in discovery in Docket Number MID-L-5922-09 case.

17. The above referenced evidence that was withheld from the Plaintiffs in discovery in Docket Number MID-L-5922-09 case was material to the litigation in that it was highly probative in indicating that the Defendants had engaged in a premeditative plan of illegal retaliation against Plaintiff Joseph Kenney and others.

~~18. There was no way for the Plaintiff to obtain access to the diagrams, reports and Internal Affairs files that were not produced by Edison Township other than from the Defendants as they were non-public materials which were not disclosed.~~

19. The Defendants intentionally or in the exercise of gross negligence intentionally omitted, withheld, altered and/or destroyed evidence in the underlying case, with the explicit purpose to disrupt the litigation and to prevent the Plaintiffs from discovering facts which would have had a serious and material impact upon the case, in particular by preventing the Plaintiffs from

discovering evidence in the case that would have been highly probative in indicating that the Plaintiff was the subject of illegal and wrongful retaliatory actions by the Defendants.

20. As a result of the refusal, failure and or intentional non-disclosure in the foregoing, the Plaintiffs were damaged by having to rely on an evidential record that did not contain the evidence that was not disclosed and or was concealed.

21. The Plaintiffs did not become aware of any of the foregoing non-disclosures until the case was already settled, which settlement was adversely impacted and the Plaintiffs were severely damaged thereby.

22. The discovery of the wrongful fraudulent activities of the Defendants relating to the undisclosed evidence as above was not discovered until after the settlement in 2011.

COUNT 1 - Fraudulent Concealment

1. Plaintiff incorporates each and every factual averment made in the Factual Allegations above as if more fully set forth herein.

2. The Plaintiffs were subjected to fraudulent concealment by the Defendants in that they reasonably relied upon the Defendants, who had a legal obligation to disclose evidence in connection with the existing litigation, and failed to do so.

3. As set forth more fully above, the Defendants were aware that the evidence that was concealed was material to the litigation, and that the plaintiff could not obtain access to it from any other source.

4. Despite their obligations and understanding that they were legally obligated to produce the evidence, the Defendants intentionally withheld, altered, obfuscated, and/or destroyed evidence with the purpose of impacting the litigation and disrupting it to the disadvantage of the Plaintiffs.

5. As a result of the above, the Plaintiffs were caused to suffer damages when they

relied upon the fraudulent concealment of the Defendants to their detriment, as they were induced into settling claims that they had for a value less than the full value of the case.

6. The Defendants intended to deceive the Plaintiffs in order to receive a substantial tactical advantage in litigation and a financial benefit in settling the case without ever disclosing critical evidential information that was their possession.

7. The case settled at trial for less than the full value due to the fraudulent concealment of the aforementioned evidence.

8. As a direct result of reliance by the Plaintiffs and their representatives, upon the aforesaid false, misleading, and inaccurate evidential record produced, Plaintiffs sustained damages.

WHEREFORE, Plaintiffs, Joseph Kenney and Robin Kenney, demand judgment against the Township of Edison, Department of Public Safety, Brian Collier, Thomas Bryan, Gregory Formica, Alexander Glinsky and John Does 1-10, for compensatory damages, punitive damages, statutory damages, counsel fees, interest, costs of suit and such other damages as the Court deems just and appropriate.

COUNT 2 - Fraud In the Inducement

1. Plaintiff incorporates each and every factual averment made in the Factual Allegations above as if more fully set forth herein.

2. The Plaintiffs were subjected to fraudulent inducement by the Defendants in that they reasonably relied upon the Defendants, who had a legal obligation to disclose evidence in connection with the existing litigation, but failed to do so.

3. As set forth more fully above, the Defendants were aware that the evidence that was concealed was material to the litigation and made representations to the Plaintiffs and/or to the

Superior Court that there was no materials concealed, knowing that the plaintiff could not obtain access to it from any other source.

4. Despite their obligations and understanding that they were legally obligated to produce the evidence, the Defendants intentionally withheld, altered, obfuscated, and/or destroyed evidence with the purpose of impacting the litigation and disrupting it to the disadvantage of the Plaintiffs.

5. As a result of the above, the Plaintiffs were caused to suffer damages when they relied upon the fraudulent concealment of the Defendants to their detriment, as they were induced into settling claims that they had for a value less than the full value of the case.

6. The Defendants intended to deceive the Plaintiffs in order to receive a substantial tactical advantage in litigation and a financial benefit in settling the case without ever disclosing critical evidential information that was their possession.

7. The Plaintiffs entered into a settlement agreement at trial for less than the full value due to the fraudulent inducement of the concerning the completeness of evidence.

8. As a direct result of reliance by the Plaintiffs and their representatives, upon the aforesaid false, misleading, and inaccurate evidential record produced, Plaintiffs sustained damages.

WHEREFORE, Plaintiffs, Joseph Kenney and Robin Kenney, demand judgment against the ~~Township of Edison, Department of Public Safety, Brian Collier, Thomas Bryan, Gregory Formica, Alexander Glinsky and John Does 1-10~~, for compensatory damages, punitive damages, statutory damages, counsel fees, interest, costs of suit and such other damages as the Court deems just and appropriate.

COUNT 3 - Fraudulent Misrepresentation

1. Plaintiff incorporates each and every factual averment made in the Factual

Allegations above as if more fully set forth herein.

2. The Plaintiffs were subjected to fraudulent concealment by the Defendants in that they reasonably relied upon the Defendants, who had a legal obligation to disclose evidence in connection with the existing litigation, and failed to do so.

3. As set forth more fully above, the Defendants were aware that the evidence that was concealed was material to the litigation, and that the plaintiff could not obtain access to it from any other source and misrepresented the completeness of the materials that were produced.

4. Despite their obligations and understanding that they were legally obligated to produce the evidence, the Defendants intentionally withheld, altered, obfuscated, and/or destroyed evidence with the purpose of impacting the litigation and disrupting it to the disadvantage of the Plaintiffs.

5. As a result of the above, the Plaintiffs were caused to suffer damages when they relied upon the fraudulent concealment of the Defendants to their detriment, as they were induced into settling claims that they had for a value less than the full value of the case.

6. The Defendants intended to deceive the Plaintiffs in order to receive a substantial tactical advantage in litigation and a financial benefit in settling the case without ever disclosing critical evidential information that was their possession.

7. The Plaintiffs entered into a settlement agreement at trial for less than the full value due to the fraudulent misrepresentations of the Defendants.

8. As a direct result of reliance by the Plaintiffs and their representatives, upon the aforesaid false, misleading, and inaccurate evidential record produced, Plaintiffs sustained damages.

WHEREFORE, Plaintiffs, Joseph Kenney and Robin Kenney, demand judgment against the Township of Edison, Department of Public Safety, Brian Collier, Thomas Bryan, Gregory Formica, Alexander Glinsky and John Does 1-10, for compensatory damages, punitive damages, statutory

damages, counsel fees, interest, costs of suit and such other damages as the Court deems just and appropriate.

COUNT 4 – Common Law Fraud

1. Plaintiff incorporates each and every factual averment made in the Factual Allegations above as if more fully set forth herein.

2. The Plaintiffs were subjected to fraud by the Defendants in that they reasonably relied upon the Defendants, who represented that they had produced all of the relevant materials that were duly requested by the Plaintiffs in the scope of discovery, even though they had not.

3. As set forth more fully above, the Defendants were aware that the evidence that was concealed was material to the litigation, and that the plaintiff could not obtain access to it from any other source, nor would the Plaintiffs be able to verify the existence or non-existence of the evidence that the Defendants did not produce or identify.

4. Despite their obligations and understanding that they were legally obligated to produce the evidence, the Defendants intentionally withheld, altered, obfuscated, and/or destroyed evidence with the purpose of impacting the litigation and disrupting it to the disadvantage of the Plaintiffs and further with the intent that the Plaintiffs would rely on misrepresentations about the scope and identity of documents that were produced during discovery in that litigation.

5. As a result of the above, the Plaintiffs were caused to suffer damages when they relied upon the fraudulent acts of the Defendants to their detriment, as they were induced into settling claims that they had for a value less than the full value of the case.

6. As a direct result of reliance by the Plaintiffs and their representatives, upon the aforesaid fraud, Plaintiffs sustained damages.

WHEREFORE, Plaintiffs, Joseph Kenney and Robin Kenney, demand judgment against the Township of Edison, Department of Public Safety, Brian Collier, Thomas Bryan, Gregory Formica,

Alexander Glinsky and John Does 1-10, for compensatory damages, punitive damages, statutory damages, counsel fees, interest, costs of suit and such other damages as the Court deems just and appropriate.

COUNT 5 – BREACH OF GOOD FAITH AND FAIR DEALING

1. Plaintiff incorporates each and every factual averment made in the Factual Allegations above as if more fully set forth herein.

2. The Plaintiffs were subjected to fraud by the Defendants in that they reasonably relied upon the Defendants, who represented that they had produced all of the relevant materials that were duly requested by the Plaintiffs in the scope of discovery, even though they had not. Said reliance on the Defendants on the requirement of good faith and fair dealing in entering into an agreement to settle certain claims by the Plaintiffs against the Defendants was violated by the Defendants when they failed to produce the critical evidence in discovery as above.

3. As set forth more fully above, the Defendants were aware that the evidence that was concealed was material to the litigation, and that the plaintiff could not obtain access to it from any other source, nor would the Plaintiffs be able to verify the existence or non-existence of the evidence that the Defendants did not produce or identify. Then, the Defendants entered into an agreement with the Plaintiffs to settle claims, knowing that they had not disclosed critical evidence about the Plaintiff Joseph Kenney and his case that he should have known prior to settling his claims.

4. As a result of the above, the Plaintiffs were caused to suffer damages when they entered into an agreement to settle claims with the Defendants while the Defendants failed to exercise Good Faith and Fair Dealing in entering into the agreement.

WHEREFORE, Plaintiffs, Joseph Kenney and Robin Kenney, demand judgment against the Township of Edison, Department of Public Safety, Brian Collier, Thomas Bryan, Gregory Formica,

Alexander Glinsky and John Does 1-10, for compensatory damages, punitive damages, statutory damages, counsel fees, interest, costs of suit and such other damages as the Court deems just and appropriate.

COUNT 6 - BREACH OF CONTRACT

1. Plaintiff incorporates each and every factual averment made in the Factual Allegations above as if more fully set forth herein.

2. The Plaintiffs were subjected to fraud by the Defendants in that they reasonably relied upon the Defendants, who represented that they had produced all of the relevant materials that were duly requested by the Plaintiffs in the scope of discovery, even though they had not. Said reliance on the Defendants representations in settlement of settle certain claims by the Plaintiffs against the Defendants prior to and in the entry of the agreement was violated by the Defendants when they failed to produce the critical evidence in discovery prior and during the entry of the agreement as above.

3. As set forth more fully above, the Defendants were aware that the evidence that was concealed was material to the litigation, and that the plaintiff could not obtain access to it from any other source, nor would the Plaintiffs be able to verify the existence or non-existence of the evidence that the Defendants did not produce or identify. Then, the Defendants entered into and executed an agreement with the Plaintiffs to settle claims, knowing that they had not disclosed critical evidence about the Plaintiff Joseph Kenney and his case that he should have known prior to or during the settlement of his claims.

4. As a result of the above, the Plaintiffs were caused to suffer damages when the Defendants violated their agreement settle claims with the Plaintiffs.

WHEREFORE, Plaintiffs, Joseph Kenney and Robin Kenney, demand judgment against the Township of Edison, Department of Public Safety, Brian Collier, Thomas Bryan, Gregory Formica,

Alexander Glinsky and John Does 1-10, for compensatory damages, punitive damages, statutory damages, counsel fees, interest, costs of suit and such other damages as the Court deems just and appropriate.

DEMAND FOR TRIAL BY JURY

Plaintiffs hereby demand Trial by Jury in this matter.

DESIGNATION OF TRIAL COUNSEL

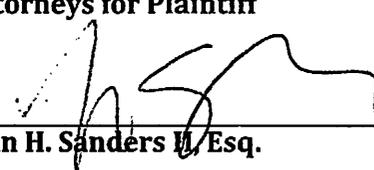
Pursuant to R. 4:25-4, John H. Sanders II, Esq., is hereby designated as Trial Counsel.

CERTIFICATION PURSUANT TO R. 4:5-1

1. The matter in controversy is not the subject of any other action pending in any Court of a pending arbitration proceeding.
2. No other action or arbitration is contemplated herein.
3. All parties presently known by Plaintiff are named and identified in the action filed herein.

SHEBELL & SHEBELL, LLC
Attorneys for Plaintiff

Date: April 24, 2015



John H. Sanders II, Esq.