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RECEIVED / FILED
Superior Court of New Jersey
JAN 05 2012
CIVIL CASE MANAGEMENT
UNION COUNTY

GERALD HATTON, individually, and
LAURA HATTON, individually and as
wife of Gerald Hatton,

Plaintiffs,

vs.

**COUNTY OF UNION, UNION COUNTY
DEPARTMENT OF CORRECTIONAL
SERVICES, WILLIAM BURKERT,**
individually and in his official capacity;
KEVIN BURKERT, individually and in his
official capacity; **KENNETH BURKERT**,
individually and in his official capacity;
BRIAN RIORDAN, individually and in his
official capacity,
ABC CORPORATIONS 1-10 (fictitious
names representing unknown entities),
and JOHN/JANE DOES 1-20 (fictitious
names representing unknown persons),

Defendants.

SUPERIOR COURT OF NEW JERSEY
UNION COUNTY, LAW DIVISION, CIVIL
PART

Docket No: UNNL 0084 12

Civil Action

COMPLAINT AND JURY DEMAND

84

Plaintiffs, GERALD HATTON and LAURA HATTON, his wife, residing in Union
County, by way of Complaint against the Defendants, allege and say:

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SECTION

COUNT 1: Intentional infliction of emotional distress

1. Plaintiff GERALD HATTON (“Mr. Hatton”) and Plaintiff LAURA HATTON (“Ms. Hatton”), husband and wife, live at 9 William Street, New Providence, New Jersey 07974. They are residents of the County of Union.
2. At all times herein concerned, Defendant COUNTY OF UNION, was a subdivision of the State of New Jersey and body politic; its headquarters and/or principal place of business is located at the County Administration Building at 10 Elizabethtown Plaza, Elizabeth, New Jersey.
3. Defendant UNION COUNTY DEPARTMENT OF CORRECTIONAL SERVICES is a Department and a Division and section of government Defendant COUNTY OF UNION.
4. Defendant COUNTY OF UNION and UNION COUNTY DEPARTMENT OF CORRECTIONAL SERVICES are together referred to as “UNION COUNTY” in this Complaint.
5. At the time of the Accident, Defendant UNION COUNTY was Plaintiff’s employer and was in full control and in operation of the Union County Jail Facility located in the City of Elizabeth, State of New Jersey, where incidents underlying this Complaint occurred.
6. Defendant BRIAN RIORDAN is the director of UNION COUNTY DEPARTMENT OF CORRECTIONAL SERVICES at all times relevant to the subject matter of

this Complaint, and was the individual with disciplinary control and oversight of corrections officers. Upon information and belief, he is a resident of Union County. Union County Administrative Code 1-76.

7. Defendant WILLIAM BURKERT, KEVIN BURKERT, and KENNETH BURKERT, are and were corrections officers employed by UNION COUNTY at all times relevant to the subject matter of this Complaint. Together, WILLIAM BURKERT, KEVIN BURKERT, and KENNETH BURKERT are referred to as "THE BURKERT DEFENDANTS". Upon information and belief, they are residents of Union County. Union County Administrative Code 2-22.
8. Mr. Hatton experienced persecution causing medical injury, as follows.
9. On January 8, 2011 anonymous picture flyers were scattered through the parking garage consisting of a wedding picture of Mr. Hatton and his wife with vulgar, pornographic, and gang-related language added thereto.
10. Among other details, the flyers accused Ms. Hatton, a woman, of unchastity.
11. Among other details, the flyers accused Ms. Hatton of commission of a crime.
12. Among other details, the flyers accused Mr. Hatton of being incompetent and ineffectual.
13. The subject material of these flyers is extreme and outrageous.
14. Upon information and belief, THE BURKERT DEFENDANTS watched Mr. Hatton retrieve the fliers and made threatening comments as he walked past.

intimidation by THE BURKERT DEFENDANTS. Upon information and belief, THE BURKERT DEFENDANTS also made numerous false statements during this period about Mr. Hatton to third parties.

23. The flyers, threats and physical intimidation of Mr. Hatton caused him to be unable to work and caused him to seek psychological treatment, which treatment is ongoing.
24. An independent investigation by Mr. Hatton's union established Defendant WILLIAM BURKERT as the author of the flyers based on handwriting analysis.
25. Defendant WILLIAM BURKERT later admitted to authoring the fliers after handwriting tests confirmed his authorship.
26. Defendant BRIAN RIORDAN and UNION COUNTY dragged their feet on investigation and did not pursue the wrongdoers.
27. Despite a confession by one of the wrongdoers and an apparent indictable offense having been committed, Defendant BRIAN RIORDAN and UNION COUNTY refused to pursue any criminal prosecution of the wrongdoing. Mr. Hatton was told to file a complaint in Elizabeth Municipal Court if he felt that a criminal act had occurred.
28. The lack of investigation and discipline made Mr. Hatton further fear for his safety and exacerbated his symptoms.

37. The actions of Defendants UNION COUNTY and BRIAN RIORDAN in failing to investigate or discipline were extreme and outrageous.
38. The lack of any discipline deepened and reinforced the psychological injuries Mr. Hatton suffered and eventually he was forced to retire because he was unable to return to work.
39. As a result of the persecution and the lack of subsequent discipline, Mr. Hatton has been permanently disabled, can no longer work as a corrections officer, and requires continued psychological counseling.
40. The costs for Mr. Hatton's medical treatment are, upon information and belief, well in excess of \$3,600.00.
41. Such conduct constitutes the torts of intentional and/or negligent infliction of emotional distress and outrage.
42. By reason of the actions complained of, Mr. Hatton has suffered damages, including economic loss, physical and emotional stress and disability, and career, personal, and social disruption and damage to his reputation.
43. The individual Defendants performed the above actions in scope of their employment, and acted intentionally, recklessly, or negligently in the scope of their duties or authority. As such, Defendants UNION COUNTY and BRIAN RIORDAN are liable for their actions.

44. Defendants committed the acts alleged maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, and acted with an improper and evil motive amounting to malice, and in conscious disregard of plaintiff's rights.

WHEREFORE, Plaintiffs demand judgment jointly and severally, or, in the alternative, individually, against the Defendants aforesaid and named herein for compensatory and consequential damages; interest, counsel fees and costs of suit; punitive damages; and an award of such other and further relief as the Court may deem just, equitable, and fair on Count 1.

COUNT 2: Slander, libel, and defamation

45. Plaintiffs repeat and reiterate each and every allegation contained in the previous Counts of the Complaint as if set forth at length herein.

46. Plaintiffs are not public figures.

47. THE BURKERT DEFENDANTS' written and oral statements spoken and written to third parties were false and knowingly, recklessly or negligently made.

48. These false statements were both written and spoken.

49. These statements both constitute slander per se, and caused injury to Plaintiff Gerald Hatton's reputation, to Plaintiff Laura Hatton's reputation, and to Plaintiff Gerald Hatton's ability to earn a livelihood.

50. By reason of the actions complained of, Plaintiffs suffered damages for slander, libel and defamation, including physical and emotional stress and disability, career, personal, and social disruption, and damage to their reputation.
51. The individual Defendants performed the above actions in scope of their employment, and acted intentionally, recklessly, or negligently in the scope of their duties or authority. As such, Defendants UNION COUNTY and BRIAN RIORDAN are liable for their actions.
52. Defendants committed the acts alleged maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, and acted with an improper and evil motive amounting to malice, and in conscious disregard of plaintiff's rights.

WHEREFORE, Plaintiffs demand judgment jointly and severally, or, in the alternative, individually, against the Defendants aforesaid and named herein for compensatory and consequential damages; interest, counsel fees and costs of suit; punitive damages; and an award of such other and further relief as the Court may deem just, equitable, and fair on Count 2.

COUNT 3: False light invasion of privacy

53. Plaintiffs repeat and reiterate each and every allegation contained in the previous Counts of the Complaint as if set forth at length herein.

54. The above-described written and oral statements placed Mr. And Ms. Hatton in a false light.
55. The import of the above-described written and oral statements would be highly offensive to a reasonable person.
56. THE BURKERT DEFENDANTS had knowledge of or acted in reckless disregard as to the falsity of the publicized matter and the false light in which Plaintiffs would be placed.
57. By reason of the actions complained of, Plaintiffs suffered damages for false light, including physical and emotional stress and disability, career, personal, and social disruption, and damage to their reputation.
58. The individual Defendants performed the above actions in scope of their employment, and acted intentionally, recklessly, or negligently in the scope of their duties or authority. As such, Defendants UNION COUNTY and BRIAN RIORDAN are liable for their actions.
59. Defendants committed the acts alleged maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, and acted with an improper and evil motive amounting to malice, and in conscious disregard of plaintiff's rights.

WHEREFORE, Plaintiffs demand judgment jointly and severally, or, in the alternative, individually, against the Defendants aforesaid and named herein for

compensatory and consequential damages; interest, counsel fees and costs of suit; punitive damages; and an award of such other and further relief as the Court may deem just, equitable, and fair on Count 3.

COUNT 4: Common law assault

60. Plaintiffs repeat and reiterate each and every allegation contained in the previous Counts of the Complaint as if set forth at length herein.
61. THE BURKERT DEFENDANTS' above-specified actions were purposeful, knowing and intentional.
62. THE BURKERT DEFENDANTS' above-specified actions caused Mr. Hatton to reasonably fear harmful or offensive non-consensual contact.
63. By reason of the actions complained of, Plaintiffs suffered damages for common law assault, including physical and emotional stress and disability, career, personal, and social disruption, and damage to their reputation.
64. The individual Defendants performed the above actions in scope of their employment, and acted intentionally, recklessly, or negligently in the scope of their duties or authority. As such, Defendants UNION COUNTY and BRIAN RIORDAN are liable for their actions.
65. Defendants committed the acts alleged maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, and acted with

an improper and evil motive amounting to malice, and in conscious disregard of plaintiff's rights.

WHEREFORE, Plaintiffs demand judgment jointly and severally, or, in the alternative, individually, against the Defendants aforesaid and named herein for compensatory and consequential damages; interest, counsel fees and costs of suit; punitive damages; and an award of such other and further relief as the Court may deem just, equitable, and fair on Count 4.

**COUNT 5: Negligent, reckless, or intentionally
deficient supervision and retention**

66. Plaintiffs repeat and reiterate each and every allegation contained in the previous Counts of the Complaint as if set forth at length herein.
67. Upon information and belief, THE BURKERT DEFENDANTS have extensive disciplinary histories.
68. Upon information and belief, there are dangers to corrections officers at the Union County Jail due to difficulties presented during interactions with inmates.
69. Upon information and belief, these dangers are known to UNION COUNTY and BRIAN RIORDAN.
70. Upon information and belief, breaches of discipline and criminal activity increase the dangers to corrections officers from inmates.

71. Upon information and belief, this increase in danger is known to UNION COUNTY and BRIAN RIORDAN.
72. UNION COUNTY and BRIAN RIORDAN knew or had reason to know of the particular unfitness, incompetence or dangerous attributes of the THE BURKERT DEFENDANTS.
73. UNION COUNTY and BRIAN RIORDAN could and should have reasonably foreseen that failure to exercise due care in supervision of employees of THE BURKERT DEFENDANTS' attributes created a risk of harm to others, whether on or off the premises.
74. UNION COUNTY and BRIAN RIORDAN could and should have reasonably foreseen retention of employees of THE BURKERT DEFENDANTS' attributes created a risk of harm to others, whether on or off the premises.
75. UNION COUNTY and BRIAN RIORDAN, in their retention and supervision of THE BURKERT DEFENDANTS, intentionally disregarded the known danger to others in its supervision and retention of THE BURKERT DEFENDANTS, or were intentionally deficient in their supervision and retention thereof.
76. This negligent supervision and retention proximately caused and exacerbated Plaintiffs' damages, as above-specified.
77. Defendants committed the acts alleged maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, and acted with

an improper and evil motive amounting to malice, and in conscious disregard of plaintiff's rights.

WHEREFORE, Plaintiffs demand judgment jointly and severally, or, in the alternative, individually, against Defendants UNION COUNTY, BRIAN RIORDAN, ABC CORPORATIONS 1-10, and JOHN/JANE DOES 1-20 for compensatory and consequential damages; interest, counsel fees and costs of suit; punitive damages; and an award of such other and further relief as the Court may deem just, equitable, and fair on Count 5.

COUNT 6: Violation of terms of employment

78. Plaintiffs repeat and reiterate each and every allegation contained in the previous Counts of the Complaint as if set forth at length herein.
79. Defendant BRIAN RIORDAN is director of Defendant UNION COUNTY DEPARTMENT OF CORRECTIONAL SERVICES.
80. As director, Defendant BRIAN RIORDAN is the chief executive officer of Defendant UNION COUNTY DEPARTMENT OF CORRECTIONAL SERVICES.
81. As director, Defendant BRIAN RIORDAN is the chief supervisor of Defendant UNION COUNTY DEPARTMENT OF CORRECTIONAL SERVICES.
82. As director, Defendant BRIAN RIORDAN has the authority to, hire, retain, and fire, and has the final say in personnel decisions.

83. Defendant UNION COUNTY has policies against harassment, discipline, and workplace safety, including but not limited to Workplace Discrimination and Harassment, Policy on Workplace Violence, Disciplinary Action Manual, and Employee Handbook.
84. These policies are codified in locations including Defendant COUNTY OF UNION's administrative code. Upon information and belief, these policies are distributed to employees and employees are trained thereon.
85. These policies form part of the contract of employment.
86. These policies forbid the above-actions taken by THE BURKERT DEFENDANTS against Plaintiffs and mandate discipline or termination.
87. Defendants UNION COUNTY and BRIAN RIORDAN negligently, recklessly, or intentionally failed to honor and enforce those policies.
88. The failure to honor and enforce those policies by Defendant UNION COUNTY and BRIAN RIORDAN proximately caused and exacerbated Plaintiffs' damages, as above-specified.
89. Defendants committed the acts alleged maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, and acted with an improper and evil motive amounting to malice, and in conscious disregard of plaintiff's rights.

WHEREFORE, Plaintiffs demand judgment jointly and severally, or, in the alternative, individually, against Defendants UNION COUNTY, BRIAN RIORDAN, ABC CORPORATIONS 1-10, and JOHN/JANE DOES 1-20 for compensatory and consequential damages; interest, counsel fees and costs of suit; punitive damages; and an award of such other and further relief as the Court may deem just, equitable, and fair on Count 6.

COUNT 7: Per quod

90. Plaintiffs repeat and reiterate each and every allegation contained in the previous Counts of the Complaint as if set forth at length herein.
91. As a result of Defendants' wrongful actions, Ms. Hatton has lost Mr. Hatton's services, including household duties, companionship and comfort, and consortium.
92. The individual Defendants performed the above actions in scope of their employment, and acted intentionally, recklessly, or negligently in the scope of their duties or authority. As such, Defendants UNION COUNTY and BRIAN RIORDAN are liable for their actions.
93. Defendants committed the acts alleged maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, and acted with an improper and evil motive amounting to malice, and in conscious disregard of plaintiff's rights.

WHEREFORE, Plaintiffs demand judgment jointly and severally, or, in the alternative, individually, against the Defendants aforesaid and named herein for compensatory and consequential damages; interest, counsel fees and costs of suit; punitive damages; and an award of such other and further relief as the Court may deem just, equitable, and fair on Count 7.

DEMAND FOR JURY TRIAL

In accordance with R. 1:8-1(b) and R. 4:35-1, the plaintiffs demand a trial by jury.

DESIGNATION OF TRIAL COUNSEL

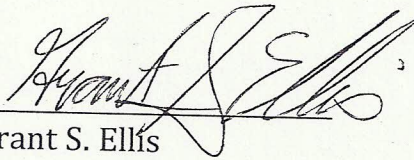
Matthew T. Rinaldo, Esq., is designated as Trial Counsel.

CERTIFICATION PURSUANT TO RULE 4:5-1

I certify that the matter in controversy is not the subject of any other action or proceeding pending in any court or tribunal, nor is there any other action or arbitration proceeding contemplated between the parties hereto other than the ongoing workers compensation litigation, Gerald Hatton vs. County of Union, docket number to be assigned. Upon information and belief, there is also a related quasi-criminal matter, State v. William Burkert, pending in the Elizabeth Municipal Court.

I further certify that at this time I know of no other parties who should be joined in this action.

RINALDO AND RINALDO, ESQS.
Attorneys for Plaintiffs


Grant S. Ellis

Dated: January 5, 2012