

Civil Rights
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Jury X

RECEIVED / FILED
Superior Court of New Jersey

SEP 13 2011

CIVIL CASE MANAGEMENT
UNION COUNTY

BREUNINGER & FELLMAN
Attorneys at Law
1829 Front Street
Scotch Plains, New Jersey 07076
(908) 490-9900
Attorneys for Plaintiff

RICHMOND LAPOLLA

Plaintiff,

v.

COUNTY of UNION; GEORGE
DEVANNEY, County Manager and
individually;

Defendants.

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - UNION COUNTY**
DOCKET NO: UNN-L-3547 11

Civil Action

**VERIFIED COMPLAINT IN LIEU OF
PREROGATIVE WRIT AND DEMAND
FOR JURY TRIAL**

3547

Plaintiff, Richmond Lapolla, residing in the city of Cranford, County of Union, State of New Jersey, verifies as follows:

PRELIMINARY STATEMENT

Plaintiff brings this Verified Complaint in Lieu of Prerogative Writ alleging continuing violations by Defendants County of Union and George Devanney. of the New Jersey State Constitution, and The New Jersey Civil Rights Act on the basis of political affiliation, freedom of association, and freedom of beliefs. Plaintiff also alleges intentional infliction of emotional and mental distress by Defendants. Plaintiff seeks injunctive relief, damages – both compensatory and punitive – counsel fees and costs of suit.

**COMPUTER
SEP 16 2011
SECTION**

9-14-11 FEE ATTACHED
BATCH NO. 417
CHECK CASH M.O. D.C.
PAYOR: Breuninger
CHECK/CASH RECEIPT # 11013
AMOUNT \$ 200 of 230

PARTIES

PLAINTIFF

1. Plaintiff RICHMOND LAPOLLA (“Plaintiff”) has been employed by the County of Union since 1979 – thirty-two years. He presently holds the civil service title of Director of Repair and Maintenance and is presently assigned to the County Department of Engineering, Public Works and Facilities Management.

DEFENDANTS

2. Defendant, THE COUNTY OF UNION (“County”) is a political subdivision of the State of New Jersey with general offices in the Union County Administration Building, Elizabeth, New Jersey. Union County has been and continues to be the employer of Plaintiff.

3. Defendant, GEORGE DEVANNEY (“Devanney”) was the County Manager of Union County from 2002 until August 1, 2011. As such, he was the supervisor of Plaintiff with the ultimate authority to hire, fire and assign County employees.

STATEMENT OF FACTS

4. Plaintiff began his public service in Union County in September of 1979 with the civil service title of Maintenance Repair Carpenter. Through the years, Plaintiff took additional civil service tests and was certified in the following higher job titles: Senior Carpenter in October, 1983; Assistant Carpenter Foreman in May, 1985; Assistant Director of Repair and Maintenance in July, 1987. Plaintiff was then appointed the Director of the Division of Buildings and Grounds in the Department of Public Works by then County Manager Ann Baron. In December, 1999, Plaintiff was

promoted to the civil service position of Director of Repair and Maintenance (**Exhibit A** –job description). In April of 2004, while maintaining this title, Plaintiff was appointed to the County position of Director of Department of Operations and Facilities by Defendant George Devanney. In this position, Plaintiff managed a work force of over 200 county employees and maintained over one million square feet of office space.

5. Plaintiff's promotions through the ranks of Union County positions illustrate his abilities and commitment to public service. During his thirty-two years, Plaintiff received many positive reviews regarding his work performance and ability to effectively function on the County's behalf. He worked under a number of County Managers appointed by both political parties – never with any problems until George Devanney.

6. Plaintiff's brother, Michael Lapolla, was previously very active in Union County politics. Michael Lapolla served for many years as a Union County Freeholder. He was later appointed County Manager of Union County, a position in which he served for five years. Plaintiff, on the other hand, while supportive of his brother, continued to work in County government as a civil service employee with little or no active involvement in politics.

7. Although the government of Union County is primarily controlled by the Union County Democratic Party, there are factions within the Party competing for political power. One faction is led by Charlotte Defilippo who has been a major political power broker in the Union County Democratic Party for years. Michael Lapolla belonged to another faction.

8. Michael Lapolla was an open critic of Charlotte Defilippo. He openly criticized her use of power and authority to manage and manipulate County workers as well as most of the County Manager's duties. Defilippo was openly hostile to Michael Lapolla as he was to her. Defendant,

George Devanney was close to Ms. Defilippo and, based on information and belief, readily followed her instructions.

9. Based on information and belief, Ms. Defilippo had wanted George Devanney appointed County Manager instead of Michael Lapolla. After Michael Lapolla retired, Devanney received the appointment. Former State Senator Joseph Suliga, who had been active in County politics, pushed to have Plaintiff appointed by Devanney to the position of Deputy County Manager. Plaintiff declined the position since he viewed it as too much in the political spotlight. Also, Devanney preferred to appoint another individual. A deal was reached to make Plaintiff Director of the Department of Operations and Facilities. Devanney was allowed to make his selection to the position, and appoint Elizabeth Genievich as Deputy County Manager. Plaintiff believed he got along well with both Devanney and Defilippo.

10. Shortly after Plaintiff became Department Head, Senator Suliga resigned his Senate seat. Without the political influence of Joseph Suliga, Devanney began to engage in a course of constant and continuing harassment against Plaintiff. His harassment increased in severity after Senator Suliga died in a tragic auto accident. Devanney's harassment created an intolerable work environment for Plaintiff by actions including, but not limited to the following:

- a) unjustifiably accusing Plaintiff of performance deficiencies in an attempt to build a case for Plaintiff's termination;
- b) Moving Plaintiff's key staff people into other departments, replacing four of the five with inexperienced, untrained people unfamiliar with the department – in an effort to insure Plaintiff's inability to be successful in running the Department;
- c) unprovoked public screaming at Plaintiff in tirades of criticism causing Plaintiff

tremendous embarrassment;

d) threatening Plaintiff with suspension in the presence of coworkers and subordinates;

e) removing Plaintiff's authority to sign documents, vouchers, orders, etc. necessary for doing his job;

f) based on information and belief, Devanney also intimidated other employees into refusing to associate with Plaintiff, isolating him from friends and coworkers.

11. The harassment became so severe that Plaintiff was required to go out on sick leave. While Plaintiff was on sick leave, Devanney appointed another person to oversee the Department. Devanney also took this occasion to inform Plaintiff of Plaintiff's reassignment to Facilities Manager at the construction of a Vocational-Technical School in Scotch Plains totally isolated from the other members of the Operations and Facilities Department. This occurred when Plaintiff returned from sick leave.

12. Plaintiff, with no other option, undertook this new assignment. The new job turned out to be a non-job. Plaintiff was permitted to attend meetings with construction personnel and architects, but was never given any direction from Union County as to his role or duties. Plaintiff had no authority to instruct or order any of the construction personnel or architects because they were autonomous agents not under County control. Plaintiff had no support staff. He served no purpose, and had no responsibilities. This isolation caused Plaintiff severe anxiety and depression. Plaintiff, clearly an outsider, served no County function nor purpose for over five years.

13. After approximately five years in this non-position, the Vocational-Technical School project was completed. Devanney found another place for Plaintiff even more isolated –

again with absolutely no duties nor responsibilities. Plaintiff was reassigned in the fall of 2010 to the Union County Juvenile Detention Center in Linden.

14. Plaintiff reports to a windowless cinder-block storage closet. He must ask permission everyday from the facility security personnel to enter or leave the facility by a door in the back of the Center. Plaintiff sits in this isolated closet day after day without contact with anyone. He has no responsibilities, no supervision, and no purpose.

15 As a result of this solitary confinement, Plaintiff suffers from severe anxiety and depression. Fearful of losing his job, Plaintiff has made no complaints to Devanney. He requires ongoing medical treatment but refuses to resign his employment of thirty-two years.

16. Plaintiff has been under the care of psychiatrist Harvey M. Hammer, M.D. since November, 2010. Dr. Hammer has diagnosed Plaintiff with Major Depressive Disorder. Dr. Hammer has found, "The Disorder is directly related to the punitive measures imposed on Mr. Lapolla by Union County as related to his employment and his employment environment". Dr. Hammer found that the future of Plaintiff's condition is "dependent in part in some relief from his oppressive work environment." (See **Exhibit B -- copy of Dr. Hammer's Report dated June 22, 2011**)

CAUSES OF ACTION

COUNT ONE

(Violation of New Jersey Civil Rights Act, N.J.S.A. 10:6-1, et seq.)

17. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1 through 16 as if set forth at length herein.

18. By and through the actions set forth in the above Statement of Facts, Defendants violated N.J.S.A. 10:6-2 by acting under color of state law to retaliate against Plaintiff by reason of Plaintiff's political affiliation. Plaintiff is protected by Article 1, Section 6 and Section 18 of the New Jersey Constitution from such retaliation.

19. At all times relevant to this action, Defendant Devanney, had final decision-making authority relevant to Defendants' retaliatory actions against Plaintiff, and by his actions has set the policy for Union County.

20. As a result of Defendants' political retaliation, Plaintiff has suffered career disruption, humiliation, loss of status, anxiety, depression, and general mental and emotional distress.

WHEREFORE, Plaintiff RICHMOND LAPOLLA demands judgment:

- A. Reinstating Plaintiff to a position commensurate with his civil service title, with all offices, staff, and duties of his civil service position and in a physical location where he worked before the harassment began. (See **Exhibit A**)
- B. Ceasing of all harassment against Plaintiff and interference with Plaintiff's work;
- C. An award of damages, both compensatory and punitive, against the Defendants, jointly and singly;
- D. An award of counsel fees and costs of suit.

COUNT TWO

(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)

21. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1 through 20 as if set forth at length herein.

22. Defendants could not fire Plaintiff without cause due to his being a civil service

employee. Defendants decided to cause Plaintiff extreme emotional distress for the purpose of compelling his resignation or making him so ill he would have to resign. This treatment constitutes extreme and outrageous conduct on the part of the Defendants.

23. As a result of Defendants' extreme and outrageous intentional conduct, Plaintiff has suffered career disruption, humiliation, loss of status, anxiety, depression, and severe mental and emotional distress and injury.

WHEREFORE, Plaintiff RICHMOND LAPOLLA demands judgment against the Defendants County of Union and George Devanney, jointly and singly,

- A. Reinstating Plaintiff to a position commensurate with his civil service title, with all offices, staff, and duties of his civil service position and in a location where he worked before the harassment began. (See **Exhibit A**)
- B. Ceasing of all harassment against Plaintiff and interference with Plaintiff's work;
- C. An award of damages, both compensatory and punitive, against the Defendants, jointly and singly;
- D. An award of counsel fees and costs of suit.

BREUNINGER AND FELLMAN

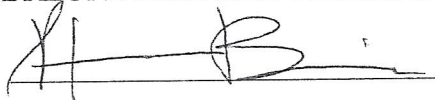

By: PATRICIA BREUNINGER
Attorneys for Plaintiff

Dated: September 12, 2011

DEMAND FOR JURY TRIAL

Plaintiff herein demands trial by jury as to all issues in this action.

BREUNINGER AND FELLMAN



By: PATRICIA BREUNINGER
Attorneys for Plaintiff

Dated: September 12, 2011

CERTIFICATION AND DESIGNATION OF TRIAL COUNSEL

1. Pursuant to R. 4:5-1, it is hereby stated that the matter in controversy is not the subject of any other action pending or arbitration proceeding, to the best of my knowledge and belief. Also, to the best of my belief, no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this pleading and previous pleadings, at the present time, we know of no other parties that should be joined in the within action.

2. PATRICIA BREUNINGER and SUSAN B. FELLMAN are designated as trial attorneys of the within matter.

I hereby certify that the foregoing statements made by me are true. If any of the foregoing statements made by me are willfully false, I am subject to punishment.

BREUNINGER AND FELLMAN



By: PATRICIA BREUNINGER
Attorneys for Plaintiff

Dated: September 12, 2011

MARY LOCKHART
A NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES MAY 12, 2014

Mary Lockhart

Subscribed and sworn before
me on this 12th day of
September, 2011

Richmond Lapolla

Richmond Lapolla

are true.

I am the Plaintiff named in this Verified Complaint and the allegations set forth therein

Richmond Lapolla, being duly sworn, says:

VERIFICATION

107-300231300
P.272

DIRECTOR, REPAIR AND MAINTENANCE

DEFINITION

Under direction, is responsible for the planning, supervision, and administration of the construction, alteration, maintenance, and repair programs for publicly owned buildings and structures; does related work as required.

EXAMPLES OF WORK

Organizes, develops and has charge of maintenance and repair programs.

Responsible for preparation of specifications for competitive bids for repair work.

Responsible for the evaluation of competitive bids and makes suitable recommendations based on these evaluations.

Responsible for training assigned employees by giving them suitable assignments and instructions.

Evaluates and is responsible for the completion of assignments for conformance with efficient and economical trade and jurisdictional practices.

Provides technical assistance in estimating costs for various maintenance programs.

Directs and supervises the operation, maintenance and repair, as well as the servicing of buildings and parts thereof, mechanical equipment, gas, electrical, plumbing and/or sewage lines, pipes and fixtures, carpentry, steamfitting, masonry and other equipment or accessories.

Directs a program of repair, remodeling or renovation of physical structures.

Implements and maintains a program for the effective utilization of personnel and supplies and equipment.

Controls adherence to contractual obligations.

Responsible for preparation of the annual budget covering activities of the repair and maintenance division.

Conducts periodic investigations at various repair locations to determine effectiveness of maintenance and repair programs.

Prepares and maintains concomitant reporting systems.

Develops policies and procedures for the division.

Establishes and maintains pertinent records and files.

REQUIREMENTS

Experience

Five years of administrative experience in work involving maintenance, construction and repairs of large buildings and structures.

DIRECTOR, REPAIR AND MAINTENANCE - (Continued)

Knowledge

Thorough knowledge of the problems and work involved in maintenance, repair and construction work.

Of the standard tools, materials, methods, practices, occupational hazards and safety precautions.

Of the preparation of specifications for materials and equipment.

Of the proper scheduling of work in a large facility.

Ability

Ability to read, write, speak and understand English sufficiently to perform the duties of this position.

Ability to plan, develop, organize, install, analyze, and administrate building maintenance and repair functions.

To give suitable assignments and instructions.

To direct the establishment and maintenance of suitable records and files.

Good health and freedom from disabling physical and mental defects which would impair the proper performance of the required duties or which might endanger the health and safety of oneself or others.

ES

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