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Anthony Rottino

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2014 JUN 23 A 11: 24
CIVIL DIVISION
CASE PROCESSING

ANTHONY ROTTINO,

Plaintiff,

v.

CITY OF HACKENSACK, KATHLEEN
CANESTRINO, JOHN LABROSSE,
MICHAEL MORDAGA, and JOHN DOES
1-10, fictitiously named defendants,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY
DOCKET NO:

Civil Action

COMPLAINT AND JURY DEMAND

Anthony Rottino, residing at 649 Dakota Trail Franklin Lakes, New Jersey in the County of Bergen, State of New Jersey, by way of Complaint, alleges as follows:

NATURE OF THIS ACTION

1. Plaintiff Anthony Rottino ("Plaintiff") brings this action to remedy a) retaliation in violation of the Conscientious Employees Protection Act, N.J.S.A. 34:19-1 et seq. ("CEPA"); b) retaliation in violation of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, et seq. ("LAD"); and c) to remedy defamation. Through Defendants' concerted actions, Mr. Rottino's physical safety, reputation, and livelihood have been threatened in retaliation for his efforts to manage Hackensack, including its Police Department, in a lawful way. Instead of

taking steps to protect the Plaintiff, the Defendants have participated in, encouraged, condoned and/or ratified efforts to intimidate, injure, and smear Plaintiff Anthony Rottino.

PARTIES

2. During all times relevant to this cause of action, Plaintiff has been an “employee” of the Defendant City of Hackensack (“Defendant” and/or “City”) as that term is defined by CEPA, N.J.S.A. 34:19-2(b) the New Jersey Law Against Discrimination, N.J.S.A 10:5-1 et seq.

3. The Defendant City of Hackensack is a governmental unit which controls the operations and employees of the City of Hackensack.

4. The Defendant City of Hackensack is chartered under the 1923 Municipal Manager form of government pursuant to N.J.S.A. 40:79-1 et seq.

5. Defendant John Labrosse is the Mayor of the City of Hackensack (“Defendant Mayor”).

6. Defendant Kathleen Canestrino is the Deputy Mayor of the City of Hackensack (“Defendant Deputy Mayor”).

7. Defendant Michael Mordaga is the City’s current Police Director (“Defendant Police Director”).

8. The John Doe Defendants 1-10 are fictitiously named individuals whose identities are currently unknown to Plaintiff, and are also employed by the City of Hackensack. John Doe Defendants 1-10 are individuals who have either personally participated in the illegal conduct described herein, or who have been willfully and/or recklessly indifferent to the illegal conduct inflicted on the Plaintiff.

FIRST COUNT

(Violation of CEPA)

9. Plaintiff is the Director of Economic Development and the City Manager for the Defendant Hackensack.

10. Plaintiff has been Director of Economic Development since August 28, 2013 and has been City Manager since December 16, 2013. In or about February 2014, the Defendants presented him with contract terms of employment seeking “to induce [the Plaintiff] to remain in the employment of the City in a permanent capacity.”

11. The Township of Hackensack is organized under the 1923 Municipal-Manager form of government law pursuant to N.J.S.A. 40:79-1 et seq.

12. Under the Municipal-Manager form of government, the City Manager is the Municipality’s Chief Executive and executes its laws and policies. The City Manager is authorized and empowered pursuant to N.J.S.A. 40:82-4, and as set forth in the Municipal Code of the City of Hackensack, including but not limited to Chapter 3, Article I, §§ 3.3 and 3.4. Among other things, the Manager prepares budgets for the City Council, recommends improvements, oversees contracts and franchises, appoints and removes department heads, and makes all additional appointments not made by the Council, and investigates the affairs of the City’s officers and various departments.

13. Under the aforesaid form of government, the City Council, including the Mayor and Deputy Mayor, functions strictly as a legislative body and is prohibited from undertaking administrative duties.

14. During his tenure with the City of Hackensack, the Plaintiff has objected to and refused to participate in unlawful conduct undertaken by the Defendants.

15. Plaintiff has objected to efforts by Defendant Deputy Mayor Kathleen Canestrino to violate state law by undertaking administrative functions reserved to the City Manager, the Plaintiff. In that regard, she has interfered with contract negotiations the Plaintiff has undertaken with the union for Hackensack's police officers, PBA Local No. 9. She has worked with the PBA to force the Plaintiff to violate state law, N.J.S.A. 34:13A-16.9, that required Hackensack to impose a 2% hard, annual cap on salary increases for the City's police officers. The Deputy Mayor's husband, Emil Canestrino, is a retired Hackensack Police Officer who will personally benefit from increases in benefits granted to the PBA during union negotiations.

16. Both the Defendant Mayor and Defendant Deputy Mayor as well as the PBA have engaged in threats against and attacks upon the Plaintiff in order to force him to violate state law by granting the PBA an increase in excess of 2%. In that regard, in order to retaliate against the Plaintiff because he refuses to violate the salary cap, the Mayor and Deputy Mayor have conspired to terminate the Plaintiff on various pretexts and are working actively to destroy his reputation among members of the City Council and the public.

17. The Defendant Mayor and Defendant Deputy Mayor as well as the Defendant Police Director, Michael Mordaga, have condoned, ratified, and failed to remediate mob-like behavior by members of the PBA against the Plaintiff. The Defendant Police Director has advised the Plaintiff that if he does not accede to the unlawful demands of the PBA, then the PBA or members thereof will "destroy him" and "blow this administration up."

18. The Plaintiff has objected to widespread use of steroids by members of the police department and the submission by such police officers of claims for insurance reimbursement based on inaccurate claims that they received steroids for treatment of covered medical conditions

such as obesity. The Plaintiff reasonably believed that such submissions to the City's insurance company amount to fraud.

19. The Plaintiff objected to efforts by Defendants Mayor and Deputy Mayor to fire Thomas Ammirato, a Public Relations Contractor, although the Hackensack Council had voted to retain him. The Plaintiff refused to override the Council majority's decision, an action that would have violated the law.

20. The Plaintiff has objected to efforts by Defendants Mayor and Deputy Mayor to violate the Open Public Meetings Act.

21. The Plaintiff has objected to efforts by the Defendant Deputy Mayor to prevent the appointment of a highly qualified African-American lawyer as the City's Municipal Judge and the appointment instead of a less-qualified white male judge. Plaintiff reasonably believed that the Defendant Deputy Mayor's actions in this regard violated the New Jersey Law Against Discrimination, N.J.S.A. 10;5-1, et seq. ("LAD").

22. The Defendants jointly and severally have retaliated against the Plaintiff because of his objections to and his refusal to participate in the aforesaid illegalities. The Defendant Mayor and Defendant Deputy Mayor as well as the Defendant Police Director, Michael Mordaga, have condoned, ratified, and failed to remediate mob-like and thuggish behavior by members of the PBA against the Plaintiff.

23. Defendants have retaliated against the Plaintiff for making the foregoing objections to unlawful conduct and for refusing to participate in the foregoing illegal activities in various ways including, but not limited to, the following: a) The Defendant Deputy Mayor has falsely and maliciously told at least two members of the City Council that Plaintiff is a "drug dealer;" b) The Defendants have schemed to create various pretexts for Plaintiff's termination; c)

The Defendant Deputy Mayor has falsely accused Plaintiff of granting himself an unauthorized raise; d) The Defendants have condoned and ratified and failed to punish mob-like and thuggish behavior by certain members of the PBA including threats to “destroy” the Plaintiff and “blow the administration up;” e) The Defendants falsely accused Plaintiff of secretly granting the City Prosecutor medical benefits knowing the benefits were granted by the prior City Manager; and f) The Defendants have allowed and created a climate where persons acting in the interest of the PBA have been driving by Plaintiff’s residence at night and placing stickers attacking the Plaintiff in public places that have caused great fear and embarrassment to Plaintiff’s family members including his children. Though they know of such threats to Plaintiff and his family, Defendants have failed to take meaningful steps to investigate the conduct and discipline those involved.

24. The Defendants have through the aforesaid action created a work environment so hostile that no reasonable person would remain employed under such circumstances. Defendants have constructively discharged the Plaintiff, though he has not resigned and continues in his efforts to serve the citizens of Hackensack.

25. As a direct and proximate result of the aforesaid conduct, Plaintiff has suffered and continues to suffer severe emotional distress, physical pain and suffering, damage to his reputation, and economic loss.

WHEREFORE, Plaintiff demands that judgment be entered against Defendants jointly and severally for compensatory damages and punitive damages, interest and costs, including statutory attorneys’ fees.

SECOND COUNT

(Violation of the LAD)

26. Plaintiff repeats, and realleges by reference each and every allegation made previously in the preceding as though fully set forth at length herein.

27. Plaintiff engaged in protected activity under the LAD when he objected to efforts by the Defendant Deputy Mayor to prevent the appointment of a highly qualified African-American lawyer as the City's Municipal Judge and to appoint instead a less-qualified white male as the City's Judge.

28. Plaintiff reasonably believed that the Defendant Deputy Mayor's aforesaid actions amounted to discrimination based upon race.

29. Defendants retaliated against Plaintiff by engaging in the pattern of retaliation set forth above in the First Count.

THIRD COUNT

(Defamation)

30. Plaintiff repeats and realleges the allegations of Counts One and Two as if fully set forth herein.

31. On or about June 13, 2014, Defendant Deputy Mayor Canestrino stated to Councilwoman Rose Greenman and also to Councilman Leonardo Battaglia that Plaintiff is "a drug dealer."

32. At the time Defendant Deputy Mayor Canestrino uttered the aforesaid statement she knew that her accusation was false and/or she spoke with reckless and malicious disregard of the truth.

33. The aforesaid statement amounted to slander in that it profoundly damaged Plaintiff's reputation in the community and held him up to ridicule and scorn.

34. The aforesaid statement was false.

35. In making the aforesaid statement Defendant Deputy Mayor Canestrino acted with actual malice and in bad faith.

36. In making the aforesaid statement Defendant Deputy Mayor Canestrino acted within the scope of authority and employment with the Defendant City of Hackensack

37. As a direct and proximate result of the aforesaid retaliation, Plaintiff has suffered and continues to suffer and will suffer in the future, damage to his reputation as well as severe emotional distress, stress, humiliation, damage and harm to his career development, physical pain and suffering, and economic loss.

WHEREFORE, Plaintiff demands the entry of judgment jointly and severally against the Defendants for compensatory and punitive damages as well as interest and costs.

SMITH MULLIN, P.C.
Attorneys for Plaintiff
Anthony Rottino

BY: 
NEIL MULLIN (Id.: 011891980)

Dated: June 23, 2014

JURY DEMAND

Plaintiff demands trial by jury with respect to all issues that are so triable.

SMITH MULLIN, P.C.
Attorneys for Plaintiff
Anthony Rottino

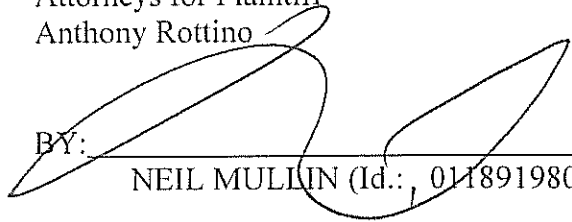
BY: 
NEIL MULLIN (Id.: 011891980)

Dated: June 23, 2014

DESIGNATION OF TRIAL COUNSEL

Plaintiff hereby designates Neil Mullin, Esq. as trial counsel of record in this matter.

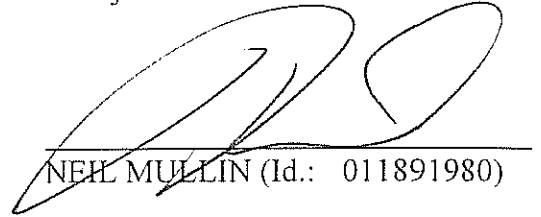
SMITH MULLIN, P.C.
Attorneys for Plaintiff
Anthony Rottino

BY: 
NEIL MULLIN (Id.: 011891980)

Dated: June 23, 2014

CERTIFICATION

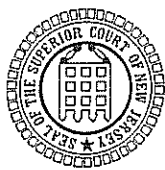

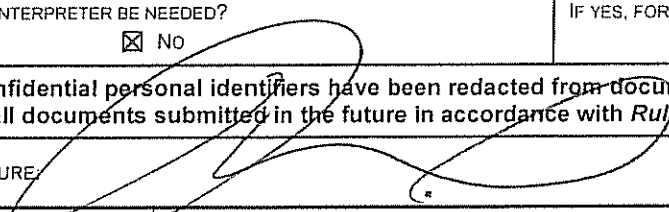
Pursuant to New Jersey Court Rule 4:5-1, I hereby certify that to my knowledge, the matter in controversy is not and will not be the subject of any other litigation or arbitration in any court or before any body nor do I know of any other party who should be joined in this action.



NEIL MULLIN (Id.: 011891980)

Dated: June 23, 2014

Appendix XII-B1

	CIVIL CASE INFORMATION STATEMENT (CIS)		FOR USE BY CLERK'S OFFICE ONLY	
	Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i> if information above the black bar is not completed or attorney's signature is not affixed		PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA	CHG/CK NO.
			AMOUNT:	OVERPAYMENT:
			BATCH NUMBER:	
	ATTORNEY / PRO SE NAME Neil Mullin, Esq. (Id. 011891980)		TELEPHONE NUMBER (973) 783-7607	COUNTY OF VENUE Bergen
FIRM NAME (if applicable) Smith Mullin, P.C.		DOCKET NUMBER (when available)		
OFFICE ADDRESS 240 Claremont Avenue Montclair, New Jersey 07042		DOCUMENT TYPE Complaint and Jury Demand		
		JURY DEMAND <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
NAME OF PARTY (e.g., John Doe, Plaintiff) Anthony Rottino, Plaintiff		CAPTION Anthony Rottino v. City of Hackensack, Kathleen Canestrino, John LaBrosse, Michael Mordaga, and John Does 1-10, fictitiously named defendants		
CASE TYPE NUMBER (See reverse side for listing) 618	HURRICANE SANDY RELATED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.		
RELATED CASES PENDING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, LIST DOCKET NUMBERS		
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN		
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.				
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION				
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		IF YES, IS THAT RELATIONSHIP: <input checked="" type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS		
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION				
	DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION	
	WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, FOR WHAT LANGUAGE?	
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i> .				
ATTORNEY SIGNATURE: 				



CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under *Rule 4:5-1*

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE – PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE – PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE – PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT – OTHER

Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

Multicounty Litigation (Track IV)

- | | |
|--|---|
| 266 HORMONE REPLACEMENT THERAPY (HRT) | 288 PRUDENTIAL TORT LITIGATION |
| 271 ACCUTANE/ISOTRETINOIN | 289 REGLAN |
| 274 RISPERDAL/SEROQUEL/ZYPREXA | 290 POMPTON LAKES ENVIRONMENTAL LITIGATION |
| 278 ZOMETA/AREDIA | 291 PELVIC MESH/GYNECARE |
| 279 GADOLINIUM | 292 PELVIC MESH/BARD |
| 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL | 293 DEPUY ASR HIP IMPLANT LITIGATION |
| 282 FOSAMAX | 295 ALLODERM REGENERATIVE TISSUE MATRIX |
| 284 NUVARING | 296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS |
| 285 STRYKER TRIDENT HIP IMPLANTS | 297 MIRENA CONTRACEPTIVE DEVICE |
| 286 LEVAQUIN | 601 ASBESTOS |
| 287 YAZ/YASMIN/OCELLA | 623 PROPECIA |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category Putative Class Action Title 59