



3. Defendant Peter Mocco is a real estate developer, that together with his wife Lorraine Mocco, owns and controls the Liberty Harbor corporations that operate the Liberty Harbor development. Defendant Mocco resides with his wife at 81 Clark Road Bernardsville, New Jersey 07924.

### **BACKGROUND FACTS**

4. Plaintiff Linda Estok was employed with Defendants for 14 years prior to her unlawful termination in June 13, 2008. Ms. Estok at all relevant times was the Manager of the Liberty Harbor Marina.

5. Ms. Estok at all relevant times performed her job duties in a professional and diligent manner. In her 14 years as the Manager of Liberty Harbor Marina, Ms. Estok never received any disciplinary warning or reprimands of any kind.

6. In addition to providing docking services, the Liberty Marina Harbor Marina also sold fuel from its fuel dock.

7. In or about April/May 2008, Liberty Harbor Marina ordered new retro-fit parts necessary to calibrate the fuel usage from the pumps. The fuel pumps in use at the time were old, and did not calibrate fuel above 3.99 per gallon. Since fuel was selling above that rate, the new calibration parts were necessary to sell fuel over 3.99 a gallon.

8. Liberty Harbor ordered the new calibration parts from Corbo's Pump and Meter Company. John Corbo, the proprietor of this company, had advised Ms. Estok that while waiting for the new parts, it was illegal in New Jersey to cover the pump prices and sell non-calibrated fuel at a different rate than shown by the pump itself.

Ms. Estok was also provided the same information by Michelle and Lenny of Rachles/Michele's Oild Co., from which the Marina purchased its fuel.

9. On or about June 13, 2008, Ms. Estok received an angry phone call from her boss and supervisor, Defendant Mocco. Defendant Mocco was upset that fuel was not being sold from the Marina's fuel dock.

10. Ms. Estok advised Mr. Mocco that fuel was not being sold because certain retro-fit parts necessary to calibrate the fuel usages that had previously been ordered had not yet arrived, but that Mr. Corbo advised that they would be shipped that month.

11. Mr. Mocco angrily instructed Ms. Estok to nevertheless cover the pump prices and to sell fuel from the fuel dock anyway.

12. Ms. Estok complied with Mr. Mocco's instructions, but was concerned that her conduct was illegal in the State of New Jersey.

13. Ms. Estok, accordingly wrote an email to Mr. Mocco, which was copied to other officers within the Liberty Harbor organization. The email stated as follows:

"Hi Mr. Mocco, Jeff, Zuzanna & Donald,

I know you were upset with me this morning for not selling Gas at our Fueldock. I acted in what I believe to be in the best interest of Liberty Harbor Marine Services, Inc.

By your order, I covered the pumped price and posted a selling price to match Liberty Landings Fuel Dock. Gas will be sold at 4.749....Diesel is being sold at 4.689.

I just want it on record that I am doing this only because your ordered me to do so. I have been advised by the following entities that doing this is illegal in the State of New Jersey. And I personally do not want any part of the responsibility for this action.

...”

14. Within minutes after receiving this email, Defendant Mocco called Ms. Estok and summarily terminated her from her employment.

15. Shortly thereafter, Defendant Mocco sent Ms. Estok an email effectively confirming her that her prior email regarding the illegal sale of fuel was the basis of her termination. Defendant Mocco’s email purported to criticize Ms. Estok for her supposed “inability to communicate with [him] on a confidential basis” and for “broadcast[ing] [their] personal communications to other third parties.”

16. Exposed in illegal conduct, Defendant’s Mocco’s email also countermands his prior illegal instructions to Ms. Estok: “Please instruct Carmine to remove any paper covering the pumps. Also instruct Carmine to follow the rules of the State of New Jersey, to the letter, regarding the sale of Gas and Diesel.”

17. Defendants unlawfully terminated Ms. Estok in retaliation for her protected conduct on June 13, 2008 in explicitly complaining and reporting what she objectively and reasonably believed to be the illegal sale of fuel at the Liberty Harbor Marina.

#### **COUNT I – VIOLATION OF CEPA**

18. Plaintiff hereby incorporates and restates the allegations contained in the preceding paragraphs as if set forth at length herein.

19. Ms. Estok was terminated by Defendants in violation of  
Conscientious Employee Protection Act, N.J.S.A. 34:19-1 *et seq.*

20. As a result of Defendants' unlawful conduct, Ms. Estok was  
subjected to job detriment and substantial economic loss.

21. Also as a result of Defendants' unlawful conduct, Ms. Estok has  
been subjected to significant mental anguish, embarrassment, stress, anxiety, and  
humiliation.

WHEREFORE, Plaintiff demands the following damages and relief:

- a. Judgment in favor of the Plaintiff and against the Defendants;
- b. Compensatory damages;
- c. Punitive damages;
- d. Attorneys fees;
- e. Costs of suit;
- f. Any other relief that this Court deems just and equitable.



David Zatuchni, Esq.  
Zatuchni & Associates, LLC  
287 South Main Street  
(Route 29)  
Lambertville, New Jersey 08530  
(609) 243-0300  
Attorneys for Plaintiff

Dated: <sup>April 9</sup>~~March 1~~ 2009

**CERTIFICATION PURSUANT TO RULE 4:5-1**

This matter in controversy is not related to any currently pending court action or proceeding and no such action or proceeding is currently contemplated.



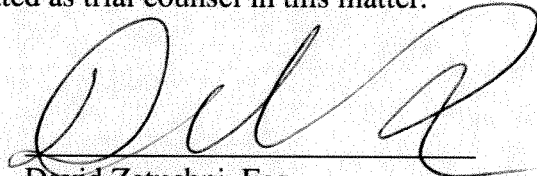
David Zatuchni, Esq.  
Zatuchni & Associates, LLC  
287 South Main Street  
(Route 29)  
Lambertville, New Jersey 08530  
(609) 243-0300  
Attorneys for Plaintiff

Dated: ~~March~~ April 9 2009

RECEIVED/FILED  
SUPERIOR COURT  
09 APR 13 PM 1:59  
SOMERSET COUNTY  
DEPUTY CLERK

**DESIGNATION OF TRIAL COUNSEL**

David Zatuchni, Esq. is hereby designated as trial counsel in this matter.

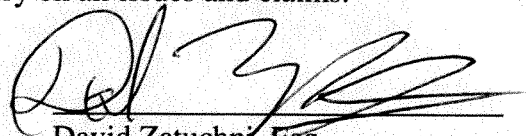


David Zatuchni, Esq.  
Zatuchni & Associates, LLC  
287 South Main Street  
(Route 29)  
Lambertville, New Jersey 08530  
(609) 243-0300  
Attorneys for Plaintiff

Dated: ~~March~~ April 9 2009

**JURY DEMAND**

Plaintiff hereby demands a trial by jury on all issues and claims.



David Zatuchni, Esq.  
Zatuchni & Associates, LLC  
287 South Main Street  
(Route 29)  
Lambertville, New Jersey 08530  
(609) 243-0300  
Attorneys for Plaintiff

Dated: ~~March~~ <sup>April 9</sup> 2009