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MARIE MURPHY

Plaintiff,

v.

SOMERSET MEDICAL CENTER; MARY
ANN BROSS; AMY COPPOLA, and
JOHN DOES 1-10 (fictitious
names of entities and/or
individuals whose identities
are presently unknown),
individually, jointly,
severally and/or in the
alternative,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
HUNTERDON COUNTY

CIVIL ACTION

DOCKET NO.: *L468-13*

COMPLAINT AND JURY DEMAND

The Plaintiff, MARIE MURPHY, by way of complaint against the Defendants, SOMERSET MEDICAL CENTER, MARY ANN BROSS, and AMY COPPOLA, states as follows:

FACTS IN COMMON TO ALL CAUSES OF ACTION

1. Upon information and belief, at all times relevant herein, Defendant Somerset Medical Center is a 355-bed nationally accredited, regional medical center providing comprehensive emergency, medical, surgical and rehabilitative services that is authorized to do business as a non-profit corporation in New Jersey, and operates and conducts business in Somerset, Hunterdon, Middlesex and Mercer Counties in New Jersey.

2. Specifically, Somerset Medical Center operates a facility in Flemington, Hunterdon County, New Jersey. Therefore, the defendant does business in Hunterdon County, and venue is properly laid in Hunterdon County.
3. Upon information and belief, Defendant Amy Coppola ("Coppola") was employed by Somerset Medical Center as the Human Resources Manager/Business Partner and at all relevant times had supervisory authority over the Plaintiff. Upon information and belief, Coppola resides in Hunterdon County, New Jersey.
4. Upon information and belief, Defendant Mary Ann Bross ("Bross") was employed by Somerset Medical Center as the Vice President of Human Resources & Emergency Preparedness and at all relevant times had supervisory authority over the Plaintiff. Upon information and belief, Bross resides in Pennsylvania.
5. The Plaintiff, Marie Murphy ("Ms. Murphy" and "Plaintiff"), was employed by Defendant Somerset Medical Center from on or about June 16, 2003 until her unlawful termination on January 11, 2013. Ms. Murphy resides in Somerset County, New Jersey.
6. At the time of her termination, Ms. Murphy was working as a "Secretary in the Bed Control Area" at the Somerset Medical Center in Somerset, New Jersey. In her position, Ms. Murphy did not have personal interaction with patients.
7. At all times prior to her termination, Ms. Murphy was

performing her job duties to the reasonable expectation of her employer.

8. Ms. Murphy had a clerical position at the hospital. She worked in a non-clinical area and had no direct patient contact.
9. In January 2013, Ms. Murphy was terminated for allegedly not complying with Somerset Medical Center's flu vaccination policy.
10. The policy stated that the flu vaccination shot was mandatory for all employees, unless: 1) the employee proved that they had already received the shot, 2) the employee had an acceptable medical condition exemption; or 3) the employee demonstrated a religious need to be excused from the vaccination.
11. The flu vaccination policy went into effect on or about September 24, 2012. The policy expressly required that "if an individual is unable to take the flu vaccination for medical or religious reasons, (appropriate documentation is required) and the individual is required to wear a face mask whenever s/he in any area where patients are present administering patient care or on patient units".
12. The policy does not define what kind of documentation is required for a religious exemption. It merely requires "written documentation" from their "healthcare or religious

leader".

13. In or about November 2012, Ms. Murphy spoke to Defendant Coppola about an exemption to the flu shot. Ms. Murphy told Coppola that she was requesting a religious exemption.
14. Coppola responded that Ms. Murphy should get "an arrangement" with a doctor for a medical exemption instead. Ms. Murphy stated that she was under the belief that a valid medical exemption was only given if an individual has an egg allergy and/or prior negative reaction to the shot. Defendant Coppola responded, "we really don't need to know the reason, you could just say you have a fear of needles." Ms. Murphy refused to lie about her medical condition, but insisted that she had a sincere religious objection to the flu vaccine.
15. At all relevant times herein, Ms. Murphy has maintained a sincerely held religious belief that the flu vaccination is against her understanding of Christianity and the teachings of the Bible:
 - a. The Book of I Corinthians (6:19,20) states, "Know ye not that your body is the temple of the Holy Ghost which is in you, which ye have of God, and ye are not your own. For ye are bought with a price: therefore glorify God in your body, and in your spirit, which are God's."
 - b. As a Christian, Ms. Murphy believes that her body is a temple which houses the Holy Spirit and she is prohibited

from polluting it with unnatural materials.

c. The Bible's Acts 5:29, states "We must obey God rather than men." Ms. Murphy holds a sincere religious belief that vaccination is an artificial invention made by man to alter immune function. Ms. Murphy sincerely believes that her immune system, on the other hand, is a natural function given by God to protect her from disease.

16. Defendant Somerset Medical Center did not permit or accept a personal statement from an employee regarding her sincerely held religious beliefs.

17. In early December 2013, Ms. Murphy submitted a letter from the Calvary Bible Church's Senior Pastor, Mr. Steve Siefkes, to her employer. Pastor Siefkes stated,

"I am writing in reference to Marie Murphy. She has contacted me as her Pastor in reference to a mandatory flu shot and a religious exemption letter. We do not believe it is the role of government or an employer to mandate certain individual behaviors. We also acknowledge there may be consequences to following those beliefs. It is imperative to understand that it is not the position of this church to not take shots but rather we believe that a person has the right to make those individual choices".

18. On or about December 21, 2013, Defendant Coppola called Ms. Murphy and stated that the employer was rejecting the letter.

19. On or about January 11, 2013, the Plaintiff received a telephone call from Defendant Coppola. The Plaintiff explained to Coppola her religious beliefs, as set forth

above, and the Christian doctrines on which they were based.

20. Defendant Coppola responded that Coppola spoke to the Plaintiff's pastor, and that he did not "back her up". In fact, Coppola stated that the Pastor himself had received a flu shot. Coppola advised that Ms. Murphy's request for religious accommodation was denied because Ms. Murphy's church did not have a religious policy against flu shots, and that Ms. Murphy must either get the shot or be terminated.
21. Based upon sworn testimony of the Defendants, every other employee of Somerset Medical Center who requested a religious exemption to the flu shot was similarly denied based upon the Defendants subjective decision that the employees did not hold a sincerely held religious belief against flu shots. Not a single religious request was granted.
22. To the contrary, at least 167 employees requested, and received, medical exemptions from the flu vaccine shot. Those 167 employees were allowed to continue working throughout flu season while wearing a mask. Upon information and belief, no medical exemption requests were denied.
23. Upon information and belief, it was Defendant Bross who made the final decision to terminate the Plaintiff's employment.
24. On or about January 14, 2013, Defendants sent a termination letter to Ms. Murphy with a termination effective date of January 11, 2013.

25. After the Plaintiff's termination, the Defendants made intentional exaggerations and misrepresentations to the Department of Labor in attempts to prevent Ms. Murphy from collecting unemployment insurance benefits.
26. During the unemployment hearings, the Defendants admitted that Defendant Somerset Medical Center decided that Ms. Murphy did not have a sincerely held religious belief merely because her church did not have a specific policy against its members taking flu shots.

COUNT ONE

**VIOLATION OF THE NEW JERSEY LAW AGAINST DISCRIMINATION,
N.J.S.A. 10:5-1, et seq.-**

DISCRIMINATION AND WRONGFUL TERMINATION ON THE BASIS OF CREED

27. The Plaintiff repeats, reiterates, and incorporates by reference each and every allegation contained in the previous paragraphs and Counts of this Complaint as if fully set forth herein.
28. Plaintiff Marie Murphy is of the Christian religion and is religiously observant.
29. Many Christians believe that the ingredients in the flu vaccine are pollutants to my body and voluntarily electing to have a flu shot is contrary to the teachings of the Bible. Ms. Murphy's personal religious beliefs are that the Lord Jesus Christ and the Creator are the only source of protection of her body that she can voluntarily accept. She believes that using the natural resources God has provided, as well as

trusting in him for protection, is more than enough to keep herself healthy.

30. The Plaintiff specifically expressed her sincerely-held religious beliefs and constitutional rights to the Defendants.
31. In no way did Plaintiff's beliefs impede her work performance or pose any safety concerns. She could have worn a mask like the 167 co-workers who refused vaccination on medical grounds.
32. Ms. Murphy was performing her work duties adequately throughout the entirety of her employment by Defendants.
33. The Defendants could have permitted the religious exemption as a reasonable accommodation to Ms. Murphy's religious beliefs, by permitting her to wear a mask during flu season like 167 of her coworkers, which clearly did not place an undue hardship on the Defendants.
34. Despite the fact that Ms. Murphy explicitly explained her sincerely-held religious belief, and the Christian doctrines on which they were based, the Defendants terminated the Plaintiff solely because they unilaterally decided that Ms. Murphy's religious beliefs were "not sincerely held."
35. For purposes of establishing discrimination on the basis of "creed", the Plaintiff need only demonstrate that she holds a moral or ethical belief as to what is right and wrong which are sincerely held with the strength of traditional religious views. The fact that no religious group espouses such beliefs

or the fact that the religious group to which the individual professes to belong may not accept such belief will not determine whether the belief is a religious belief of the employee. See 29 C.F.R. §1605.1.

36. The conduct complained of above by the Plaintiffs would not have occurred but for the fact that the Plaintiff requested to exercise a sincerely held religious belief.
37. By refusing to reasonably accommodate the Plaintiff's religious beliefs, and by terminating Ms. Murphy, the Defendants' discriminated and retaliated against the Plaintiff on the basis of her religious, the Defendants violated the New Jersey Law Against Discrimination's prohibition against discrimination on the basis of creed.
38. The discriminatory actions made against the Plaintiff would not have occurred but for the Plaintiff's religious beliefs.
39. The Plaintiff's religious beliefs was a determinative factor in the Defendants' decision to terminate the Plaintiff, and thus they discriminated against the Plaintiff in violation of the Law Against Discrimination.
40. Defendant Bross aided and abetted the employer by making decisions which resulted in discriminatory actions complained of by the Plaintiff.
41. Defendant Bross violated the Law Against Discrimination in that she took adverse actions against the Plaintiff on the

basis of her religion.

42. Defendant Bross directly participated in the discrimination and therefore is individually liable pursuant to New Jersey Law Against Discrimination.
43. Defendant Coppola aided and abetted the employer by making decisions which resulted in discriminatory actions complained of by the Plaintiff.
44. Defendant Coppola violated the Law Against Discrimination in that she took adverse actions against the Plaintiff on the basis of her religion.
45. Defendant Coppola directly participated in the discrimination and therefore is individually liable pursuant to New Jersey Law Against Discrimination.
46. Upon information and belief, there may be other John Does, to be identified through discovery, participated in or made decisions to discriminate against the Plaintiff. These John Does may be later added as named parties.
47. The alleged allegations were outrageous and beyond all bounds of human decency, justifying the imposition of punitive damages against the Defendants.
48. The Defendants' acts were performed with malice and a reckless indifference to the Plaintiff's protected rights.
49. The willful indifference and actual participation by upper management creates liability against the Defendant Somerset

Medical Center.

50. As a result of the Defendants' intentional and outrageous actions toward the Plaintiff, as detailed in the previous paragraphs of this Complaint, the Plaintiff has suffered, and continue to suffer, embarrassment, humiliation, monetary, emotional, reputational, and other personal injuries.

WHEREFORE, the Plaintiff demands judgment against the Defendants, jointly, severally and alternatively, for compensatory damages including damages for emotional distress, loss of reputation and other personal injury, back pay, front pay, consequential damages, punitive damages, pre- and post-judgment interest, compensation for negative tax consequences, reasonable attorney's fees enhanced under the LAD, costs of suit, and any other relief this Court deems just.

COUNT TWO
VIOLATION OF THE NEW JERSEY LAW AGAINST DISCRIMINATION
WRONGFUL TERMINATION ON THE BASIS OF RELIGION

51. The Plaintiff repeats, reiterates, and incorporates by reference each and every allegation contained in the previous paragraphs and Counts of this Complaint as if fully set forth herein.

52. The Defendants only denied accommodations to those employees, including the Plaintiff, seeking religious exemptions. On the other hand, all medical exemptions were granted.

53. The Defendants took it upon themselves to decide whether the

Plaintiff's religious beliefs were sincerely held.

54. In violation of law and common sense, the Defendants decided that, unless the Plaintiff's church had a formal policy forbidding all flu vaccines, then the Plaintiff could not hold a sincerely-held religious belief.
55. Accordingly, had the Plaintiff belonged to a different religious sect, such as Christian Science or Jehovah's Witnesses, then she would not have been fired due to the Defendants' discriminatory belief that a person of faith can only sincerely believe those religious tenets taught by their own church.
56. In imposing their ignorance upon the Plaintiff and terminating her because of the church that she belonged to, the Defendants violated the New Jersey Law Against Discrimination's prohibition against discrimination on the basis of religion.
57. By terminating those persons seeking a religious exemption, yet granting exemptions for medical reasons, the Defendants discriminated against the Plaintiff because of her religion.
58. The discriminatory actions made against the Plaintiff would not have occurred but for the Plaintiff's religion.
59. The Plaintiff's religion was a determinative factor in the Defendants' decision to terminate the Plaintiff, and thus they discriminated against the Plaintiff in violation of the Law Against Discrimination.

60. Defendant Bross aided and abetted the employer by making decisions which resulted in discriminatory actions complained of by the Plaintiff.
61. Defendant Bross violated the Law Against Discrimination in that she took adverse actions against the Plaintiff on the basis of her religion.
62. Defendant Bross directly participated in the discrimination and therefore is individually liable pursuant to New Jersey Law Against Discrimination.
63. Defendant Coppola aided and abetted the employer by making decisions which resulted in discriminatory actions complained of by the Plaintiff.
64. Defendant Coppola violated the Law Against Discrimination in that she took adverse actions against the Plaintiff on the basis of her religion.
65. Defendant Coppola directly participated in the discrimination and therefore is individually liable pursuant to New Jersey Law Against Discrimination.
66. Upon information and belief, there may be other John Does, to be identified through discovery, participated in or made decisions to discriminate against the Plaintiff. These John Does may be later added as named parties.
67. The alleged allegations were outrageous and beyond all bounds of human decency, justifying the imposition of punitive

damages against the Defendants.

68. The Defendants' acts were performed with malice and a reckless indifference to the Plaintiff's protected rights.
69. The willful indifference and actual participation by upper management creates liability against the Defendant Somerset Medical Center.
70. As a result of the Defendants' intentional and outrageous actions toward the Plaintiff, as detailed in the previous paragraphs of this Complaint, the Plaintiff has suffered, and continue to suffer, embarrassment, humiliation, monetary, emotional, reputational, and other personal injuries.

WHEREFORE, the Plaintiff demands judgment against the Defendants, jointly, severally and alternatively, for compensatory damages including damages for emotional distress, loss of reputation and other personal injury, back pay, front pay, consequential damages, punitive damages, pre- and post-judgment interest, compensation for negative tax consequences, reasonable attorney's fees enhanced under the LAD, costs of suit, and any other relief this Court deems just.

COUNT THREE
VIOLATION OF THE NEW JERSEY LAW AGAINST DISCRIMINATION,
N.J.S.A. 10:5-1(q)
FAILURE TO PROVIDE REASONABLE RELIGIOUS ACCOMMODATION

71. The Plaintiff repeats, reiterates, and incorporates by reference each and every allegation contained in the previous

paragraphs and Counts of this Complaint as if fully set forth herein.

72. Subsection N.J.S.A. 10:5-12(q) of The New Jersey Law Against Discrimination prohibits any employer from imposing upon a person as a condition of obtaining or retaining employment any terms or conditions that would require a person to violate or forego a sincerely held religious practice or religious observance.
73. Plaintiff Marie Murphy is of the Christian religion and is religiously observant.
74. The Plaintiff specifically expressed her religious beliefs to the Defendants.
75. In no way did Plaintiff's beliefs impede her work performance or pose any safety concerns.
76. Ms. Murphy was performing her work duties adequately throughout the entirety of her employment by Defendants.
77. Despite the fact that Ms. Murphy explicitly explained her religious belief, and the Christian doctrines on which they were based, the Defendants terminated the Plaintiff solely because they decided that the beliefs were not sincerely held.
78. In violation of the Law Against Discrimination, Defendants refused to reasonably accommodate Ms. Murphy's religious beliefs by not allowing her a religious exemption from the flu vaccine shot.

79. The Plaintiff specifically requested the reasonable accommodation of wearing a surgical mask during the flu season instead of being forced to take a flu shot.
80. Allowing Ms. Murphy the religious exemption, and thus allowing her to wear a mask during flu season like 167 of her coworkers who received a medical exception and were permitted to work wearing masks, would have been a reasonable accommodation and would not have placed any undue hardship on the Defendants, since they had permitted a similar accommodation for anyone with a medical exception.
81. Despite the fact that Ms. Murphy explicitly explained her religious belief, and the Christian doctrines on which they were based, the Defendants refused to accommodate the Plaintiff solely because they unilaterally decided that the plaintiff's religious beliefs were not sincerely held.
82. The refusal to accommodate the Plaintiff's religious beliefs was discriminatory and unlawful, and thereby violated the New Jersey Law Against Discrimination, N.J.S.A. 10:5-12(q).
83. Defendant Bross aided and abetted the employer by making decisions which resulted in discriminatory actions complained of by the Plaintiff.
84. Defendant Bross violated the Law Against Discrimination in that she took adverse actions against the Plaintiff on the basis of her religion.

85. Defendant Bross directly participated in the discrimination and therefore is individually liable pursuant to New Jersey Law Against Discrimination.
86. Defendant Coppola aided and abetted the employer by making decisions which resulted in discriminatory actions complained of by the Plaintiff.
87. Defendant Coppola violated the Law Against Discrimination in that she took adverse actions against the Plaintiff on the basis of her religion.
88. Defendant Coppola directly participated in the discrimination and therefore is individually liable pursuant to New Jersey Law Against Discrimination.
89. Upon information and belief, there may be other John Does, to be identified through discovery, participated in or made decisions to discriminate against the Plaintiff. These John Does may be later added as named parties.
90. The alleged allegations were outrageous and beyond all bounds of human decency, justifying the imposition of punitive damages against the Defendants.
91. The Defendants' acts were performed with malice and a reckless indifference to the Plaintiff's protected rights.
92. The willful indifference and actual participation by upper management creates liability against the Defendant Somerset Medical Center.

93. As a result of the Defendants' intentional and outrageous actions toward the Plaintiff, as detailed in the previous paragraphs of this Complaint, the Plaintiff has suffered, and continue to suffer, embarrassment, humiliation, monetary, emotional, reputational, and other personal injuries.

WHEREFORE, the Plaintiff demands judgment against the Defendants, jointly, severally and alternatively, for compensatory damages including damages for emotional distress, loss of reputation and other personal injury, back pay, front pay, consequential damages, punitive damages, pre- and post-judgment interest, compensation for negative tax consequences, reasonable attorney's fees enhanced under the LAD, costs of suit, and any other relief this Court deems just.

COUNT FOUR
VIOLATION OF THE CONSCIENTIOUS EMPLOYEE PROTECTION ACT,
N.J.S.A. 34:19-1, et seq.-
RETALIATION FOR REFUSING TO FILE A FALSE MEDICAL REPORT

94. The Plaintiff repeats, reiterates, and incorporates by reference each and every allegation contained in the previous paragraphs and Counts of this Complaint as if fully set forth herein.

95. As set forth above, when the Plaintiff requested a religious exemption, she was advised by defendant Coppola that Ms. Murphy should get "an arrangement" with a doctor for a medical exemption instead. Ms. Murphy stated that she was under the belief that a valid medical exemption was only given if an

individual has an egg allergy and/or prior negative reaction to the shot. Defendant Coppola responded, "we really don't need to know the reason, you could just say you have a fear of needles." Ms. Murphy refused to lie about her medical condition, but insisted that she had a sincere religious objection to the flu vaccine.

96. In refusing to manufacture a false and fraudulent medical report, Ms. Murphy engaged in protected activity pursuant to the New Jersey Conscientious Employee Protection Act, specifically N.J.S.A. 34:19-3(c).
97. In retaliation for Ms. Murphy's refusal to produce and false and fraudulent medical report, the Defendants retaliated against Ms. Murphy, by refusing to accept her religious exemption, refusing to accommodate her religious beliefs, and ultimately by terminating her employment.
98. The alleged allegations were outrageous and beyond all bounds of human decency, justifying the imposition of punitive damages against the Defendants.
99. The waiver provisions of the Conscientious Employee Protection Act, N.J.S.A. 34:19-8, do not apply to this claim, because the discrimination claims relate to the plaintiff's NJLAD claims of discrimination on the basis of religion and creed, while this CEPA retaliation claim alleges retaliatory action for refusing to produce a false and fraudulent medical record.

100. The willful indifference and actual participation by upper management creates liability against the Defendant Somerset Medical Center.

101. The Defendants' acts were performed with malice and a reckless indifference to the Plaintiff's protected rights.

102. As a result of the Defendants' intentional and outrageous actions toward the Plaintiff, as detailed in the previous paragraphs of this Complaint, the Plaintiff has suffered, and continue to suffer, embarrassment, humiliation, monetary, emotional, reputational, and other personal injuries.

WHEREFORE, the Plaintiff demands judgment against the Defendants, jointly, severally and alternatively, for compensatory damages including damages for emotional distress, loss of reputation and other personal injury, back pay, front pay, consequential damages, punitive damages, pre- and post-judgment interest, compensation for negative tax consequences, reasonable attorney's fees enhanced under CEPA, costs of suit, and any other relief this Court deems just.

COUNT FIVE
VIOLATION OF THE NEW JERSEY LAW AGAINST DISCRIMINATION
N.J.S.A. 10:5-1, et seq. :
POST-TERMINATION RETALIATION
DEFENDANTS SOMERSET MEDICAL CENTER AND MARY ANN BROSS ONLY

103. The Plaintiff repeats, realleges, and incorporates by reference each and every allegation contained in the previous paragraph and Count of this Complaint as if fully set forth

herein.

104. After Plaintiff's termination, the Plaintiff advised the New Jersey Department of Labor that she was the victim of a discriminatory terminations. In direct retaliation for Plaintiff's complaint of discrimination, the Defendants made intentional exaggerations and misrepresentations to the Department of Labor in attempts to deny Plaintiff her unemployment insurance benefits.
105. The Defendants, by their aforementioned described actions, have retaliated against the Plaintiff in violation of the New Jersey Law Against Discrimination as set forth in Roa v. Roa, 200 N.J. 555, (2010).
106. Defendant Bross directly participated in the discrimination and therefore is individually liable pursuant to New Jersey Law Against Discrimination.
107. Other John Does, to be identified through discovery, participated in or made decisions to discriminate against the Plaintiff.
108. The alleged actions were outrageous and beyond all bounds of human decency, justifying the imposition of punitive damages against all parties.
109. The acts alleged herein were performed with malice and reckless indifference to the Plaintiff's protected rights.
110. The willful indifference and actual participation of Defendant

Somerset Medical Center creates liability against the corporation for the retaliatory actions against Plaintiff by Defendant Bross.

111. As a result of the Defendants' intentional and outrageous actions toward the Plaintiff, as detailed in the previous paragraphs of this Complaint, the Plaintiff has suffered, and continues to suffer, physical injuries, embarrassment, humiliation, monetary, emotional, reputational, and other personal injuries.

WHEREFORE, the Plaintiff demands judgment against the Defendants, jointly, severally and alternatively, for compensatory damages, including damages for emotional distress, physical injury, loss of reputation and other personal injury, back pay, front pay, reinstatement with full seniority and benefits, consequential damages, punitive damages, pre- and post- judgement interest, enhancement for tax consequences, reasonable attorney's fees enhanced under the LAD, costs of suit, and any other relief this Court deems just.

COUNT SIX - JOHN DOES

112. The Plaintiff repeats, realleges, and incorporates by reference each and every allegation contained in the previous paragraphs and Counts as if fully set forth herein.

113. Although the Plaintiff believes that the acts complained of were performed or caused by the named Defendants, the

Plaintiff cannot be certain that the named Defendant is the only person(s) or entity(ies) liable for the acts complained of as set forth herein. Therefore, the Plaintiff has named John Does 1 - 50, fictitious persons or legal entities as Defendant(s) to this action.

14. As such, the terms "Defendant" or "Defendants" as used in all of the above Counts and paragraphs should therefore be defined and read as "Defendant(s) and/or John Doe(s)".

WHEREFORE, the Plaintiff demands judgment against the Defendant and John Does 1 - 50, jointly, severally, and alternatively, for such sums as would reasonably and properly compensate the Plaintiff in accordance with the laws of the State of New Jersey, together with interest and costs of suit.

By: 
Alan H. Schorr, Esquire

Dated: September 25, 2013

JURY DEMAND

Plaintiff demands trial by jury as to all of the triable issues of this complaint, pursuant to R. 1:8-2(b) and R. 4:35-1(a).

DEMAND FOR DISCOVERY OF INSURANCE COVERAGE

PURSUANT to R.4:10-2(b), demand is hereby made that you disclose to the undersigned whether there are any insurance agreements or policies under which any person or firm carrying on an insurance business may be liable to satisfy all of part of all of a judgment which may be entered in the action or to indemnify or reimburse for payment made to satisfy the Judgment. If so, please attach a copy of each, or in the alternative state, under oath and certification: (a) policy number; (b) name and address of insurer; (c) inception and expiration date; (d) names and addresses of all person insured thereunder; (e) personal injury limits; (f) property damage limits; and (g) medical payment limits.

DESIGNATION OF TRIAL COUNSEL

PURSUANT to the provisions of Rule 4:25-4, the Court is advised that Alan H. Schorr, Esquire, is hereby designated as trial counsel.

CERTIFICATION OF NO OTHER ACTIONS

Pursuant to Rule 4:5-1, it is stated that the matter in controversy is not the subject of any other action pending in any other court or of a pending arbitration proceeding to the best of our knowledge or belief. Also, to the best of our belief, no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this pleading, we know of no other parties that should be joined in the above action. In addition, we recognize the continuing obligation of each party to file and serve on all parties and the Court an amended certification if there is a change in the facts stated in this original certification.

NOTICE REGARDING NON-DESTRUCTION OF EVIDENCE

Please be advised and noticed that the Defendants should refrain from destroying, disposing or altering any potential evidence in its possession which would related in any way to this matter.

Please also be advised and noticed that this includes any and all electronic records, including but not limited to the hard drives on any and all computers and/or servers. To that end:

- A. The Defendant(s) should not initiate any procedures which would alter any active, deleted, or fragmented files. Such procedures may include, but are not limited to: storing (saving) newly created files to existing drives and diskettes; loading new software, such as application programs; running data compression and disk defragmentation (optimization) routines; or the use of utility programs to permanently wipe files, disks or drives.
- B. The Defendant(s) should stop any rotation, alteration, and/or destruction of electronic media that may result in the alteration or loss of any electronic data. Backup tapes and disks should be pulled from their rotation queues and be replaced with new tapes.
- C. The Defendant(s) should not alter and/or erase active files, deleted files, or file fragments, on any electronic media storage devices replaced due to failure, upgrade, and/or lease expiration that may contain electronic data having any relation to this matter.

Alan H. Schorr & Associates, P.C.
Attorney for the Plaintiff


Alan H. Schorr, Esquire

DATED: September 25, 2013