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ANDREA WARDROP,

Plaintiff,

vs.

BOROUGH OF MANVILLE, PHILIP
PETRONE, JOSEPH LUKAC III, PATRICIA
ZAMORSKI, RONALD SKIRKANISH AND
JOHN DOES 1-5 ,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: SOMERSET COUNTY

Docket No.: SOM-L-

CIVIL ACTION

**COMPLAINT, JURY DEMAND,
DESIGNATION OF TRIAL COUNSEL,
R. 1:38-7 AND R. 4:5-1
CERTIFICATIONS**

Plaintiff Andrea Wardrop says the following by way of Complaint against Defendants:

THE PARTIES

1. Plaintiff Andrea Wardrop (hereinafter “Plaintiff” or “Ms. Wardrop”) currently resides at 23 Bloomingdale Dr., Township of Hillsborough, County of Somerset, State of New Jersey. At all relevant times, Wardrop was Manville’s Borough Administrator and an employee of the Borough.

2. Defendant Borough of Manville (hereinafter “Manville” or “Borough”) is a borough in the County of Somerset and a municipality in the State of New Jersey. Manville is an “employer” as defined by the New Jersey Conscientious Employee Protection Act, N.J.S.A. §34:19-2.

3. Defendant Philip Petrone (hereinafter “Petrone”) is a resident of Manville and serves on its Borough Council.

4. Defendant Joseph Lukac III (hereinafter "Lukac") is a resident of Manville and serves on its Borough Council.

5. Defendant Patricia Zamorski (hereinafter "Zamorski") is a resident of Manville and serves on its Borough Council.

6. Defendant Ronald Skirkanish (hereinafter "Skirkanish") is a resident of Manville and serves on its Borough Council.

7. Defendants John Does 1-5 represent those individuals who participated in the decision to terminate Plaintiff but whose actions or identities are not presently known, including, *inter alia* employees of Manville, members of the Borough Council and/or others who acted directly or indirectly on behalf or in the interest of Manville with its consent.

FACTUAL ALLEGATIONS

8. On or about July 11, 2016, Plaintiff began her employment with Manville as Borough Administrator.

9. During her tenure as Borough Administrator, Plaintiff had received praise and good evaluations from the Mayor and Council members and never received any discipline.

10. In or about January of 2017, Petrone became a member of the Borough Council.

11. From approximately the beginning of 2017 through most of 2018, Petrone committed numerous acts of sexual harassment to women in the Administration and Borough Administrator's office, including but not limited to:

- a. Commenting on women's cleavage,
- b. Hugging and kissing office workers without their consent,
- c. Insisting to Plaintiff's administrative assistant that he would not leave the office without a hug and a kiss,

d. Walking behind Plaintiff's desk on multiple occasions and asking her if her legs were insured.

12. Plaintiff was very embarrassed by these numerous acts of harassment and received several complaints from women in her office that Petrone's actions were unwelcome and that he made them feel uncomfortable.

13. In or about the middle of 2018, Petrone took a trip to Las Vegas. Following his trip, he showed Plaintiff and others in her office pictures on his phone of scantily-clad showgirls and told them that these women would be the next Manville police officers.

14. Following this act of harassment, Plaintiff complained to the Mayor, the Borough Engineer and the Borough's labor attorney that Petrone's behavior constituted harassment and had to be stopped.

15. As a result of Plaintiff's complaint, Petrone was spoken to by a number of people about his inappropriate action and that such behavior had to stop.

16. At the request of Councilwoman Michele Magnani (now Council President), Plaintiff arranged for the Council to take a mandatory ethics/harassment training class, which they did on or about September 10, 2018.

17. Magnani also spoke with the County Prosecutor to discuss Petrone's harassing behavior. At the prosecutor's suggestion Plaintiff purchased a small security camera and changed the keyed lock to the office to a coded one.

18. After the training class, and the installation of the camera and new lock system, Petrone's harassing behavior ceased, however, it was evident from his attitude that he resented her complaints and wanted to retaliate against her. On several occasions when he was in the office, he asked whether the camera was on and he made a number of complaints about the lock being changed.

19. Petrone's attitude manifested itself in petty and childish behavior. For example: knowing that Plaintiff's married name is Wardrop and maiden name was Bierwirth, Petrone would call Plaintiff Mrs. Birddrop or Mrs. Butterworth in publicly recorded meetings in an attempt to humiliate her. He also had his son make an OPRA request for the cost of the door lock change.

20. At the Borough Council meeting on or about January 28, 2019, the Mayor sought to reappoint Thaddeus Maciag as Borough Attorney. That appointment was rejected by a vote of the Council in which Petrone, Lukac, Zamorski and Skirkanish voted no. This bloc was in favor of appointing the Borough's previous attorney, Francis Linnus to once again take over the position.

21. The Mayor was opposed to this appointment, in part because he believed that during his prior tenure as Borough Attorney, Linnus had improperly arranged to have himself considered a full-time employee of the Borough, thereby receiving full health benefits at the Borough's expense.

22. At the Mayor's request, Plaintiff began researching Linnus's past records and the state regulations concerning the entitlement of municipal employees to state health benefits. After doing her research, she believed that during Linnus' past tenure as Borough Attorney from 2008 to 2014, he had improperly and knowingly characterized himself as a full-time employee of the Borough in order to be entitled to health benefits from the municipality and thereby improperly received approximately \$150,000 in health benefits.

23. On or about February 11, 2019, Plaintiff went on the website of the New Jersey Pensions and Benefits Division, and submitted a form checklist to determine if Linnus should have received benefits.

24. During the Borough Council Meeting on February 11, 2019, a resident asked questions concerning whether Linnus's past pay and benefits were proper. At that time, Plaintiff announced that as Borough Administrator, she had started an inquiry into the situation. Petrone specifically expressed anger at Plaintiff's response.

25. Despite an attempt to table the appointment of Linnus as Borough Attorney until the issue of his past benefits could be resolved, the Council voted to appoint him.

26. On or about February 12, 2019, Plaintiff followed up her submission to the Division of Pensions with a letter to Ms. Dini Ajmani, Assistant Treasurer in charge of the Fraud and Abuse Unit of the Division. In the letter, Plaintiff explained why she had a reasonable belief that Linnus could not have been considered a full-time employee of the Borough and therefore should never have received health benefits.

27. On that same day, Linnus wrote to Plaintiff asking her whether she had already made a submission to the State and on what authority she was making her submission. Although Plaintiff was originally asked to look into the matter by the Mayor, she believed that as Borough Administrator she could investigate fraud against the Borough on her own authority. She told Linnus that she had already made a submission to the State and provided Linnus with her submission.

28. On or about February 14, 2019, Linnus wrote to Plaintiff and requested that she take no further action until she received authorization from the governing body.

29. However, by that time, the State had opened an investigation into Linnus' receipt of benefits. She responded to several requests from investigators for invoices and spent approximately four and a half hours meeting with investigators from the Pensions and Benefits Fraud and Abuse Unit as well as an investigator from the State Attorney General's office. The

investigators informed Plaintiff that they had reason to believe that health benefits were improperly received by Linnus and at least one other contractor for the Borough.

30. In addition, Plaintiff reasonably believed that if Linnus had fraudulently received benefits while serving as Borough Attorney from 2008 to 2014, he may have been assisted in this fraud by Zamorski and Petrone, who during the time Linnus previously served as Borough Attorney, held the positions of Borough Payroll Manager and Borough Clerk respectively.

31. Upon information and belief, the Pension Fraud and Abuse Unit issued a Letter of Determination on or about July 22, 2019, that Linnus was ineligible for health benefits during the time he served as Borough Attorney and had improperly received benefits at a cost to the Borough of over \$118,000.

32. Subsequent to Plaintiff's making her submission to the State and cooperating with State investigators, she faced retaliatory abuse from the Councilmembers who were opposed to her actions. For example, she was required to answer numerous Open Public Records Act requests from Petrone's son concerning purchase orders used to pay for her legitimate training classes, she had her daily timesheets scrutinized, her professional certifications questioned, and she was publicly harassed at Council meetings.

33. On or about March 6, 2019, Petrone improperly had an administrative assistant for the Borough issue a Rice notice to Plaintiff for the Council's March 11, 2019 meeting. No action was taken at that meeting since the Rice notice was clearly improper.

34. On or about April 16, 2019, Petrone and Lukac met with the Mayor to request that he ask for Plaintiff's resignation. The Mayor declined to do this.

35. In response to Petrone's and Lukac's request, Plaintiff wrote a memo to the Council stating that she was going to continue to cooperate with the State's investigation as it could result in considerable savings for the Borough and that she felt that she was being bullied.

36. At the following Council meeting on or about April 22, 2019, Petrone this time followed proper procedure and moved to issue a Rice notice to Plaintiff to discuss her employment at the next council meeting on May 13, 2019. The Council approved the notice with all four individual Defendants voting in favor.

37. At the Borough meeting on May 13, 2019, the Borough Council voted to terminate Plaintiff by a vote of 4-1, with all of the individual Defendants voting in favor.

38. In public session, a resident asked why the Council wanted to terminate Plaintiff. At first, Petrone mentioned that eight workers had left the employ of the Borough in the approximately three years that Plaintiff held the position of Borough Administrator. This explanation was a pretext.

39. Not satisfied that Petrone's explanation was the Council's real reason for Plaintiff's termination, the resident persisted to ask for a reason. In response, Lukac stated as follows:

[Referring to the eight employees leaving the Borough]
That's not my reason. That's not my reason. One of my reasons was that she announced at a meeting a few months ago that she had launched an investigation into ... former employees ... whatever. Which implicates some council people, you know, other township...

I just wanted to know if we are going to be put on the--on the mark for that accusation at the state, who gave her permission to go to the state and do that.

40. Zamorski and Skirkanish did not state their reasons on the record for voting for Plaintiff's termination.

41. Upon information and belief, all of the individual Defendants voted to terminate Plaintiff in retaliation for her protected activities as described above.

42. As per statute, Plaintiff's termination became effective three months after the vote on May 13, 2019.

FIRST COUNT

(As to the Borough of Manville)

New Jersey Conscientious Employee Protection Act, N.J.S.A. § 34:19-1, et seq.

43. Plaintiff repeats and re-alleges each of the foregoing allegations as if set forth at length herein.

44. Plaintiff engaged in protected conduct as set forth in the New Jersey Conscientious Employee Protection Act, N.J.S.A. § 34:19-1, et seq. in that she: 1) objected to and disclosed to a supervisor and a public body conduct which she reasonably believed to be fraudulent and deceptive to a governmental body and 2) provided information to a public body conducting an investigation.

45. As a result of her protected conduct, Plaintiff suffered retaliation including, without limitation, harassment and wrongful termination of her employment.

46. The retaliation was performed by members of upper management and/or with their actual knowledge or willful indifference.

47. The retaliation was done with actual malice and/or was done with wanton and willful disregard of the rights of Plaintiff.

48. As a direct and proximate result of the aforementioned conduct, Plaintiff has suffered and will continue to suffer damages, including but not limited to economic damages, loss of income, salary and benefits, as well as personal hardships including, but not limited to, humiliation, anxiety and emotional stress.

SECOND COUNT

(As to Defendants Petrone, Lukac, Zamorski Skirkanish and John Does 1-5)

New Jersey Conscientious Employee Protection Act, N.J.S.A. § 34:19-1, et seq.

49. Plaintiff repeats and re-alleges each of the foregoing allegations as if set forth at length herein.

50. Plaintiff engaged in protected conduct as set forth in the New Jersey Conscientious Employee Protection Act, N.J.S.A. § 34:19-1, *et seq.* in that she: 1) objected to and disclosed to a supervisor and a public body conduct which she reasonably believed to be fraudulent and deceptive to a governmental body and 2) provided information to a public body conducting an investigation.

51. As a result of her protected conduct, Plaintiff suffered retaliation including, without limitation, harassment and wrongful termination of her employment.

52. Defendants Petrone, Lukac, Zamorski, Skirkanish and John Does 1-5 were acting directly or indirectly on behalf of or in the interest of the Borough of Manville and with Manville's consent when they participated in imposing adverse employment consequences on Plaintiff, retaliating against Plaintiff and terminating Plaintiff.

53. The actions of Defendants, Petrone, Lukac, Zamorski, Skirkanish and John Does 1-5 were egregious and they acted with actual malice and/or with wanton and willful disregard of the rights of Plaintiff.

54. As a direct and proximate result of the aforementioned conduct, Plaintiff has suffered and will continue to suffer damages, including but not limited to economic damages, loss of income, salary and benefits, as well as personal hardships including, but not limited to, humiliation, anxiety and emotional stress.

THIRD COUNT
(As to Defendant Philip Petrone)
Hostile Work Environment and Discrimination
New Jersey law Against Discrimination N.J.S.A. § 10:5-1, et seq.

55. Plaintiff repeats and re-alleges each of the foregoing allegations as if set forth at length herein.

56. Plaintiff was subject to hostile and harassing conduct by Defendant Petrone that would not have occurred but for the fact that she is a woman.

57. The hostile and harassing conduct was severe and pervasive such that any reasonable person of Plaintiff's sex would believe that the conditions of the working environment were altered and the working environment was hostile and abusive.

58. At the time of the harassing conduct, Defendant Petrone was a member of upper management of the Borough in that he was a member of the Borough Council.

59. The hostile and harassing conduct was egregious and was performed with actual malice and/or with intentional disregard for the rights of Plaintiff.

60. As a direct and proximate result of the aforementioned conduct, Plaintiff has suffered and will continue to suffer damages, including but not limited to economic damages, loss of income, salary and benefits, as well as personal hardships including, but not limited to, humiliation, anxiety, emotional stress and physical injuries.

FOURTH COUNT
(As to Defendant Manville)
Retaliation

New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, et seq.

61. Plaintiff repeats and re-alleges each of the foregoing allegations as if set forth at length herein.

62. Plaintiff was retaliated against as a result of her complaining about the hostile harassing conduct of Defendant Petrone, including, without limitation, suffering further harassment and wrongful termination of her employment.

63. The retaliation was performed by members of upper management and/or with their actual knowledge or willful indifference.

64. The retaliation was done with actual malice and/or was done with wanton and willful disregard of the rights of Plaintiff.

65. As a direct and proximate result of the aforementioned conduct, Plaintiff has suffered and will continue to suffer damages, including but not limited to economic damages, loss of income, salary and benefits, as well as personal hardships including, but not limited to, humiliation, anxiety, emotional stress and physical injuries.

FIFTH COUNT
(As to individual Defendants Petrone, Lukac, Zamorski and Skirkanish)
Aiding and Abetting
New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, et seq.

66. Plaintiff repeats and re-alleges each of the foregoing allegations as if set forth at length herein.

67. Defendants Petrone, Lukac, Zamorski, Skirkanish and John Does 1-5 aided and abetted the Borough of Manville and each other in retaliating against Plaintiff for her complaints about Petrone's hostile and harassing conduct, including, without limitation, committing further hostile and harassing conduct and wrongfully terminating her employment.

68. The actions of Defendants, Petrone, Lukac, Zamorski Skirkanish and John Does 1-5 were egregious and they acted with actual malice and/or with wanton and willful disregard of the rights of Plaintiff.

69. As a direct and proximate result of the aforementioned conduct, Plaintiff has suffered and will continue to suffer damages, including but not limited to economic damages, loss of income, salary and benefits, as well as personal hardships including, but not limited to, humiliation, anxiety, emotional stress and physical injuries.

WHEREFORE, Plaintiff Andrea Wardrop, demands judgment be entered in her favor and against Defendants Borough of Manville, Petrone, Lukac, Zamorski Skirkanish and John Does 1-5 and that this Court grant the following relief:

- a. Compensatory damages;
- b. Front pay;
- c. Back pay;
- d. Emotional distress;
- e. Punitive Damages;
- f. Reasonable attorney's fees;
- g. Costs of suit; and
- h. Such other relief as the Court may deem equitable and just.

GREEN SAVITS, LLC
Attorneys for Plaintiff, Andrea Wardrop

By: s/Glen D. Savits
Glen D. Savits, Esq.

Dated: October 8, 2019

JURY DEMAND

Plaintiff, Andrea Wardrop, hereby demands a trial by jury with respect to all triable issues in this case.

GREEN SAVITS, LLC
Attorneys for Plaintiff, Andrea Wardrop

By: s/Glen D. Savits
Glen D. Savits, Esq.

Dated: October 8, 2019

DESIGNATION OF TRIAL ATTORNEY

Plaintiff, Andrea Wardrop, hereby designates Glen D. Savits and Laura M. LoGiudice as trial counsel for the above-captioned matter.

GREEN SAVITS, LLC
Attorneys for Plaintiff, Andrea Wardrop

By: *s/Glen D. Savits*
Glen D. Savits, Esq.

Dated: October 8, 2019

R. 1:38-7 CERTIFICATION

I hereby certify that all confidential personal identifiers have been redacted or not utilized in this pleading and that all subsequent papers submitted to the Court will not contain confidential personal identifiers.

GREEN SAVITS, LLC
Attorneys for Plaintiff, Andrea Wardrop

By: *s/Glen D. Savits*
Glen D. Savits, Esq.

Dated: October 8, 2019

R. 4:5-1 CERTIFICATION

I hereby certify that to the best of my knowledge, this matter is not the subject of any other action pending in any court or of a pending arbitration proceeding, and that no other action or arbitration proceeding is contemplated at this time. I further certify that to the best of my knowledge, there are no other non-parties who should be joined in this action at this time.

GREEN SAVITS, LLC
Attorneys for Plaintiff, Andrea Wardrop

By: *s/Glen D. Savits*
Glen D. Savits, Esq.

Dated: October 8, 2019

Civil Case Information Statement

Case Details: SOMERSET | Civil Part Docket# L-001343-19

Case Caption: WARDROP ANDREA VS BOROUGH OF MANVILLE

Case Initiation Date: 10/08/2019

Attorney Name: GLEN D SAVITS

Firm Name: GREEN SAVITS LLC

Address: 25 B VREELAND RD STE 207

FLORHAM PARK NJ 07932

Phone: 9736957777

Name of Party: PLAINTIFF : Wardrop, Andrea

Name of Defendant's Primary Insurance Company

(if known): Unknown

Case Type: WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA)

Document Type: Complaint with Jury Demand

Jury Demand: YES - 6 JURORS

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? YES

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? YES

If yes, is that relationship: Employer/Employee

Does the statute governing this case provide for payment of fees by the losing party? YES

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? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO **Title 59?** NO

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 *Rule 1:38-7(b)*

10/08/2019

Dated

/s/ GLEN D SAVITS

Signed