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Attorneys for Plaintiffs Dan Wiley, Sabrina Harrold, Keesha Taylor, Alita Carter, Antonio Carrero, Daniel Ali, Andrew Kemp Joseph Jablonka, Frank Gilmore, Emerline Deline

DAN WILEY, SABRINA HARROLD,
KEESHA TAYLOR, ALITA CARTER,
ANTONIO CARRERO, DANIEL ALI,
ANDREW KEMP, JOSEPH JABLONKA,
FRANK GILMORE, EMERLINE DELINE

Plaintiff

vs.

CITY OF JERSEY CITY,
CORPORATION COUNSEL PETER
BAKER, BRIAN PLATT, MAYOR
STEVEN FULOP, DIRECTOR LUCINDA
MCLAUGHLIN, ACTING DIRECTOR
JOANNE ROSA, DIRECTOR STACEY
FLANAGAN, MARK BUNBURY,
ARTHUR WILLIAMS.

Defendants

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION-CIVIL PART
HUDSON COUNTY

DOCKET NO.:

CIVIL ACTION

VERIFIED COMPLIANT

Plaintiffs Keesha Taylor, Alita Carter, Antonio Carrero, Daniel Ali, Andrew Kemp Joseph Jablonka, Frank Gilmore, Emerline Deline work for the City of Jersey City Department of Recreation. Plaintiffs Dan Wiley and Sabrina Harrold also work at the Department of Recreation and they reside at 56 Randolph Ave. Jersey City, NJ 07305 and 28 Lexington Avenue, Jersey City, NJ 07305 respectively, by way of Verified Complaint all of the Plaintiffs say:

1. Plaintiff's are employees for the City of Jersey City and work for the Department of Recreation. Plaintiff Sabrina Harrold's position is Supervising Administrative Analyst, Plaintiff Keesha Taylor position is Omnibus Operator, Plaintiff Alita Carter position is Analyst Grant Applications/Program Monitor, Plaintiff Antonio Carrero position is Children's Supervisor, Plaintiff Daniel Ali position is Park Attendant, Plaintiff Andrew Kemp position is Senior Program Monitor, Plaintiff Joseph Jablonka position is Omnibus Operator, Plaintiff Frank Gilmore position is Clerk/Driver, Plaintiff Emerline

Deline position is Senior Program Monitor. Plaintiff Dan Wiley for the past 6 years served the City of Jersey City as a Senior Program Analyst assigned to the Department of Recreation which now has become the Department of Recreation and Youth Development.

2. The department has been assigned several directors in the last several years and its transition has been fraught with major difficulties that have led to violating the rights and mistreatment of its permanent civil service employees.
3. The Defendants want to change the Department of Recreation into a new department. Plaintiffs, who are permanent civil service employees, were being forced to apply for positions in the new department, while Jersey City- City Council and the Defendant Business Administrator entered into an agreement that allowed individuals to write a letter of interest to remain on staff.
4. It was discovered that several Civil Service titles, including the Senior Program Analyst position, were eliminated from the department's table of reorganization following the November 7, 2018 City Council meeting. At that time, approximately a dozen recreation employees advised the Council of major issues impacting the department and its performance in the delivery of promised services.
5. Earlier that year the former director, Defendant Arthur Williams, had vowed to "drained the swamp" during an open staff meeting in which he let it be known that he was targeting certain employees, although names were not mentioned.
6. On September 21, 2018, Plaintiff Dan Wiley received an email from the former director, Defendant Arthur Williams, advising him of his transfer into Health and Human Services. He gave him two weeks to gather his belongings for a full and complete move. Subsequently, this action was stopped because of the blatant disregard of Civil Service Commission guidelines and as the Mayor stated in his responding email to Plaintiff's Dan Wiley's query "We value the work that happens in Rec".
7. For the next 10 months Plaintiff Dan Wiley was not allowed to perform duties consistent with his Senior Program Analyst title like managing the planning and administration of the Summer Youth Camp. He was forced to report to work at the department's Pershing Field facility to ultimately research potential grant funding opportunities at his computer for the department's various programs.
8. Subsequently, the City Council was presented with a reorganization chart at its bi-weekly caucus on June 24, 2019 displaying available jobs in the new department.
9. By this time the previous director, Defendant Arthur Williams and other city officials Defendant's (Lucinda McLaughlin, Stacey Flanagan, and Mayor Steven Fulop) had identified and scrubbed out the names of selected permanent civil service staff whose titles they wanted to omit from the department's table of reorganization. The former director's promise that his participation in the plan to have certain employees transferred or demoted remained fully operational after his departure the second week of July, 2019.

10. At the July 17, 2019 City Council meeting two ordinances was passed. The first was to amend and supplement the Recreation Department with the adding of Youth Development (#19-081). The second ordinance (#19-088) was approved to create a Department of Finance. However, those permanent civil service employees in the new finance department never had to reapply.
11. Employees in the Recreation Department were singled out and forced to go through a process without the Civil Service Commission (hereinafter "CSC") approval. At that time there was no reorganization plan that many have requested, documenting these changes for both departments. The CSC did not receive a plan for the Department of Recreation and Youth Development prior to the council's passage of the ordinance. This is in violation of the CSC rules and regulations.
12. On September 25, 2019 all recreation employees received an email from former HR Director, Mark Bunbury, stating that everyone must reapply for their jobs even if they are permanent in their civil service title.
13. On September 25, 2019, Plaintiff Sabrina Harrold sent an email to Kelly Glen titled "Jersey City Recreation Department" stating that the actions of the City is in violation of Title 4A, Civil Service rules and regulations. She requested that CSC do a thorough investigation of JC Human Resources Department due to its untruthfulness and disingenuous behavior
14. On October 10, 2019 both Plaintiffs Sabrina Harrold and Dan Wiley joined a group of other staff members at another meeting of the City Council, where several Plaintiffs publically questioned the actual posting of jobs on the office door of the department's current director.
15. On or about October 15, 2019, Plaintiff Sabrina Harrold sent an e-mail to City Council Members with an attachment of an email thread from Mark Bunbury entitled "RE: Department of Youth Development dated 5/29/2018", which was originally sent to: Defendant Arthur Williams, Defendant Mayor Steven Fulop, Defendant Stacey Flanagan and Mark Albiez. Mr. Bunbury stated in the memo: "Please keep us abreast of any changes as there is a "Mass Transfer" Civil Service process that must be completed as well for all Recreation employees once we are ready to go forward. We will need to submit this request for approval and review to the CSC as well, but I'm not anticipating any concerns because employees aren't being moved but rather, are merely being "renamed"."
16. This email demonstrates that Defendant Mark Bunbury and all Defendants were aware of the proper procedure for a reorganization of a department. It also shows an intent that Defendant City of Jersey City had at that time specifically to have the Recreation employees only be re-named and not transferred.
17. On or about October 22, 2019, the following week, all recreation employees received an email from Defendant Lucinda McLaughlin scheduling interviews for employees who chose to exercise their rights to not apply for a position because of their current permanent Civil Service status. This email was sent despite the Defendant Business Administrator Brian Platt's statement at the Caucus meeting on October 21, 2019 that

employees only need to express interest in remaining in the department and would not have to apply for positions.

18. Ordinance #19-154, sponsored by Council President Lavarro, was to repeal ordinance #19-081. He introduced this ordinance on October 21, 2019 at the Council Caucus meeting. Ordinance #19-154 which amended and supplemented Chapter 3 of Jersey City's Administrative Code entitled Administration of Government and Article XV of Jersey City's Administrative Code entitled Department of Recreation, to change the Department of Recreation to "the Department of Recreation and Youth Development" and to reorganize the department in order to fulfill its new mission. Council President Lavarro was concerned that Ordinance #19-081 along with the process of employees having to re-apply for their Civil Service jobs was a questionable act and may be deemed illegal. He was also concerned because there was no prior approval of the reorganization plan submitted to counsel in Ordinance #19-081 in the summer of 2019, by the CSC. He was aware that the law required CSC to approve any movements of employees under reorganization plan. Therefore he deemed the ordinance #19-081 unlawful.
19. On or about October 23, 2019, the Defendant Corporation Counsel Peter Baker's office rendered a decision regarding the legality of the department's reorganization subsequent to the forwarding of the plan to CSC some 8 months later after the first (June 26, 2019) and second (July 17, 2019) readings of ordinance #19-081. The City Council voted down Ordinance #19-154, which would have rescinded Ordinance #19-081, the reorganization ordinance. It was also determined at that meeting that employees did not need to apply for positions, but to express interest in remaining in the department.
20. Many employees became alarmed and questioned the legality of this process in the absence of an official reorganization plan and it's sanctioning by the New Jersey CSC for promoting police officers without CSC approval. The Defendant City of Jersey City was fined \$10,000 by the CSC for not requesting certifications prior to the appointments of 16 police officers to the rank of sergeant on August 9, 2018 and waited 10 months from August 2018 to June 2019 to request a certification and then another month later requested retroactive seniority. The CSC declared that "Jersey City had exhibited a flagrant disregard for the established regulations to which all Civil Service jurisdictions are expected to adhere." This is according to an article in Real Jersey City dated November 1, 2019 by Michael Shurin.
21. Here again, the Defendant City of Jersey is flagrantly disregarding the rules of Civil Services jurisdictions which are meant to protect the jobs and provide a merit based systems of employment. Defendant Jersey City has no authority again to move, transfer or demote as part of a reorganization plan any employee without CSC approval.
22. We are seeking court intervention to save the taxpayers money of another possible hefty fine which could perhaps be used for more recreation programs for the city's youth or something positive for the residents of Jersey City.
23. Approximately two weeks later, on or about October 21, 2019, the Plaintiffs sent emails of inquiry and complaints to Civil Service officials.

24. On October 22, 2019 a Letter of Appeal was mailed to the attention of Christopher Meyers, Director, Division of Appeals and Regulatory Affairs at the CSC. Although the package of materials was delivered and received at the CSC on October 25, 2019, Plaintiffs are still waiting to receive an answer.
25. Several local news media outlets dispatched journalists to City Council meetings to hear Plaintiffs address their concerns about the reorganization and its adverse impact.
26. In addition to violating the CSC rules, Plaintiffs submit that the Defendants actions are intentional retaliation and political coercion in violation of the N.J.A.C. 4A:2-5-1 and 5.2, The New Jersey Law Against Discrimination and the Conscientious Employee Protection Act N.J.S.A. 34:19-1 et. seq. (hereinafter CEPA), by seeking to transfer and/or demote individuals who were vocally critical of the reorganization and job interview process. The Defendant actions are also race and age discrimination, harassment and creating a hostile work environment in violation of the New Jersey Law against Discrimination (hereinafter "NJLAD").
27. All Plaintiffs who are affected are majority African Americans, college educated employees also comprise the department's most experienced workers as well as senior staff with a combined total of more than 100 years of service in the department.
28. There are a total of 40 full time employees in the Department of Recreation, 25 are minorities including 15 African Americans, 15 Caucasians, 9 Hispanic and 1 Asian. 10 African Americans are being subjected to illegal transfers, title changes or demotions.
29. The majority of white employees are not being subjected to demotions, but promotions and are not being transferred or having their titles changed. In fact, it is all white employees with the exception of Plaintiff Joseph Jablonka Omnibus Operator.
30. All of the African American's being transferred or demoted are over 40 years old.
31. For the Plaintiff's outspokenness and public questioning, the Defendants have weaponized its authority against the Plaintiffs and other employees not to merely reassign duties in accordance with CSC regulations in N.J.S.A. 11A:4-16, but rather choosing instead to wrongfully transfer and/demote in violation of the law. The latter being more in line as a disciplinary action for expressing a dedicated concern about the department's future.
32. Transfers cannot be used as discipline. Disciplinary transfers are illegal.
33. Plaintiffs and specifically Plaintiff Dan Wiley as a former elected Ward F Jersey City Councilman who is the department's only Senior Program Analyst; also view this action as mirroring political retaliation.
34. It is important to factor into this discussion that the Defendant's behavior to engage in these acts of retaliation/ political coercion are also aimed at selected individuals with pending EEOC lawsuits against the department's former director, former HR director and the City of Jersey City itself.

35. Another appeal is being filed to show that sections of CSC regulations are unabashedly being violated by the Defendant the City of Jersey City in order to retaliate against the Plaintiffs as one of those individuals by:

1. Taking action to eliminate Plaintiffs titles from its departmental reorganization table while also violating Plaintiffs CEPA rights.
2. Forging a plan of political retaliation, in violation of N.J.A.C. 4A:5.1 and 5.2 for speaking out at City Council meetings against the issuing of threats of transfers and demotions for those employees who did not reapply for civil service jobs in the Department of Recreation and Youth Development as per the instructions of the Defendant the City Council and Defendant the Business Administrator.
3. Violating Civil Service law N.J.S.A. 11A:4-16 which states that "Transfers, reassignments, or lateral title changes shall not be utilized as part of any disciplinary action...."
4. Transferring Plaintiffs to jobs where they are performing duties which are inconsistent with the Civil Service titles. This is in direct violation of N.J.A.C. 4A:3-3.9 " concerning the correct classification of a job position" as the job duties "are not the duties listed in the job specification of the title that the Plaintiffs holds.
5. Transferring Plaintiffs into a job for which they may have had no prior training or experience to perform.
6. Publically criticizing the actions of the Mayor's political operative who was selected to become Director of the Recreation Department and removed for amassing too many EEOC complaints.
7. Treating all African Americans differently than white employees who are getting promoted in violation of the NJLAD.
8. Transferring and moving only employees who are over the age of 40 in violation of the New Jersey Law Against Discrimination.
9. Transferring and demoting employees without CSC approval to do so in violation of N.J.A.C. 4A:3-3.9.
10. Creating a hostile work environment for employees, in particular African Americans in the Department of Recreation by transferring and demoting them.
11. Transferring Plaintiffs who complained about race discrimination and other violations of the NJLAD.

36. The examples of Plaintiff Dan Wiley's work will provide future guidance for the continued management of existing recreation programs, afterschool activities and the selection or hiring of seasonal employees.
37. Plaintiff Dan Wiley has performed the duties of a Senior Program Analyst in a manner that the current director, Defendant Lucinda McLaughlin, has even characterized as being excellent. The specifics of the Senior Program Analyst title highly complements the department's summer fun camp's operations and other programs that are sponsored under the umbrella. Policy writing, creating the seasonal employee evaluation tool, preparing the power point Summer Camp Training presentation for counselors with the seasonal employees handbook of rules and regulations as well as authoring the Summer Fun Camp Program Planning Guide is just a few notable examples to mention.
38. The Senior Program Analyst title fits well into the operations and services that the department's Summer Camp and other seasonally sponsored sporting activities offer.
39. The department will need a Senior Program Analyst to carry forth the assignments of creating surveys and interpreting collected results as well as to provide written reports and statistical analysis of those findings in a thoughtful and coherent manner. At present, Plaintiff Dan Wiley is the only staff member who has performed these tasks consistently for the past 6 years.
40. To assert that Plaintiff Dan Wiley's Civil Service title of Senior Program Analyst "does not align with the structure of the new department" is an outrageous falsehood.
41. Another reason given for the "Involuntary Transfer" is that Plaintiff Dan Wiley did not apply for any position in the new department.
42. Yet, there were several other employees who exercised their option to not apply and were given assignments within the department and allowed to remain.
43. On February 13, 2020, the current director, Defendant Lucinda McLaughlin when discussing this entire situation in front of at least 5 office colleagues, informed Plaintiff Dan Wiley that a part-time Program Monitor position remains unfilled. Plaintiff Dan Wiley was not interested in applying for a part-time position. He is interested in maintaining and the restoring of his current Civil Service title into the department's overall structure.
44. Plaintiff Dan Wiley has also forwarded an email requesting the director to provide written assignments consistent with his civil service title that would support the department's forward progress.
45. She responded by directing Plaintiff Dan Wiley to design surveys for every program that currently is being sponsored as an afterschool or weekend activity. She stated that completing this assignment would enable the measuring of program satisfaction levels amongst parents and participants which would lead toward the improvement of existing and future program offerings. He accepted this assignment, only to have its completion interrupted because of the announced transfer.

46. The decision to transfer him and other Plaintiffs who have a similar experience is not based on past or present examples of work or even whether their titles are structurally relevant. It is part of a larger plot, and yes even something more than just reorganizing or restructuring. The actions and intent is overwhelmingly to exercise municipal authority to stop employees from participating in protected activity under CEPA when urgent and compelling reasons are forcefully made known and personal silence becomes unacceptable.
47. When all else fails there is a reliance on the tactics of race and age discrimination, creating hostile work environments, retaliation and political coercion to punish those who step out of line in a manner such as what is occurring in the Defendant City of Jersey City Department of Recreation and Youth Development.
48. The blueprint that is being followed here is to openly do whatever is necessary to deceive and achieve the goal of ridding the department of persons who are unfairly considered as undesirables for one reason or another in violation of N.J.A.C. 4A:25.1 and 5.2, N.J.A.C. 4A:3-3.9, the NJLAD and CEPA.
49. Based on information and belief, the CSC does not have a specific time period when they review reorganization plans that are submitted to them.
50. There will be irreparable and immediate harm if the temporary restraints are not granted, due to Defendant's attempt to transfer or demote Plaintiffs to positions that violate Civil Service Rules and Regulations, these transfers would have a detrimental effect on Plaintiffs current job status and future career positions, current and future finances. The transfers cannot occur because they are illegal under the law until CSC approves them.
51. As a result of their conduct, defendants have:
 - a. Violated CSC rules and regulations regarding classification, reorganization plans under N.J.A.C. 4A:3-3.9, N.J.A.C. 4A:3 3.1-3.6
 - b. Discriminated against the Plaintiffs based on race and age.
 - c. Retaliated against the Plaintiffs in violation of the NJLAD and CEPA and N.J.A.C. 4A:2-5.1 and 5.2
 - d. Transferring Plaintiffs as discipline in violation of N.J.S.A. 11A:4-16
 - e. Caused pain and suffering.

WHEREFORE, Plaintiffs DEMANDS judgment:

- a. Permanently enjoining the Defendant's from Transferring the Plaintiffs until CSC approves a reorganization plan as required by the law;
- b. Ordering Defendants to cease and desist from changing anything relating to any of the Plaintiffs job status including payroll, titles, or any term or condition;

- c. Ordering Defendants to cease and desist from retaliating against any of the Plaintiffs immediately.
- d. Ordering Defendants to cease and desist from race and age discrimination against the Plaintiffs immediately.
- e. Ordering Defendants to cease and desist from instituting disciplinary transfers.
- f. Imposing upon defendant all damages suffered by Plaintiff as a result of defendant's conduct;
- g. Awarding to Plaintiff all costs and counsel fees she has incurred in this matter either from Defendant;
- h. Awarding to Plaintiff such other relief as may be deemed just and equitable by the Court.

DESIGNATION OF TRIAL COUNSEL

Desha Jackson, Esq., has been designated as trial counsel on behalf of the Plaintiff(s) in the above-captioned matter pursuant to R. 4:25-4.

Desha Jackson Law Group, LLC.
Attorney for Plaintiff,

/s/ Desha Jackson

By: _____
DESHA JACKSON, ESQ.

Dated: 3/1/20

DEMAND TO PRESERVE EVIDENCE

1. The Defendants is hereby directed and demanded to preserve all, documents, physical and electronic information pertaining in any way to this matter, Plaintiff's cause of action and/or prayers for relief, to any defenses to same, and pertaining to any party, including, but not limited to, electric data storage, closed circuit TV footages, digital images, computer images, cache memory, searchable data, emails, spread sheets, memos, text messages and any and all online social or work related websites, entries on social networking sites (including, but not limited to, Facebook, Twitter, MySpace, etc.) and any other information and/or documents which may be relevant to any claim or defense in this litigation.
2. Failure to do so will result in separate claims for spoliation of evidence and/or for appropriate adverse inferences.

Desha Jackson Law Group, LLC.
Attorney for Plaintiffs,

/s/ Desha Jackson

By: _____
Desha Jackson, Esq..

Dated: 3/1/20

CERTIFICATIONS

The undersigned hereby certifies pursuant to R. 4:5-1 that the matter in controversy is not the subject of any other action pending in any other Court and is likewise not the subject of any pending arbitration proceeding. The undersigned further certifies that she has no knowledge of any action or arbitration proceeding which is contemplated regarding the subject matter of this action and that she is not aware of any other parties who should be joined in this action.

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 R. 1:38-7(b).

I hereby certify that the complaint and all documents annexed hereto comport with the requirements of R. 1-4.8(a).

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

/s/ Desha Jackson

Desha L. Jackson, Esq.

Date: 3/1/20