

EVAN L. GOLDMAN, ESQ. (011871979)
GOLDMAN DAVIS KRUMHOLZ & DILLON, P.C.
THREE UNIVERSITY PLAZA, SUITE 410
HACKENSACK, NJ 07601
(201) 488-2600
(201) 488-5059 (TELECOPIER)
ATTORNEYS FOR PLAINTIFF

CRAIG O’KEEFFE,

Plaintiff,

vs.

TOWN OF SECAUCUS, SECAUCUS
DEPARTMENT OF PUBLIC WORKS and
KEVIN O’CONNOR individually,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: HUDSON COUNTY
DOCKET NO.:

Civil Action

COMPLAINT AND JURY DEMAND

Plaintiff, Craig O’Keeffe, by way of Complaint against the Town of Secaucus (hereinafter “Secaucus”), the Secaucus Department of Public Works (hereinafter “SDPW”) and Kevin O’Conner in his official capacity says:

THE PARTIES

1. Plaintiff, Craig O’Keeffe, (hereinafter “Plaintiff” or “Mr. O’Keeffe”) resides at 1179 Cedar Lane, Secaucus, New Jersey 07094.
2. Defendant Secaucus is a public entity established and organized under the laws of the State of New Jersey.
3. At all times relevant hereto, Defendant Secaucus managed and controlled its Department of Public Works whose employees handle the recycling programs and maintain streets, parks, and all public buildings and properties.

4. Defendant SDPW is a municipal corporation organized under the laws of the State of New Jersey and the Town of Secaucus New Jersey and is located at 370 Secaucus Road, Secaucus, New Jersey 07094.

5. During all times relevant hereto, Defendants Secaucus and SDPW were Plaintiff's "employer" as that term is defined by the New Jersey Law Against Discrimination (NJLAD), N.J.S.A. 10:5-1 *et. seq.*

6. During all times relevant hereto, Defendant Kevin O'Connor was the Superintendent of the SDPW, with the authority to control the Plaintiff's work environment, respond to and initiate investigations, respond to accommodation requests, ensure SDPW employees abide by all rules and regulations, and not discriminate against its employees.

FACTS COMMON TO ALL COUNTS

7. Plaintiff began working for Defendants Secaucus and SDPW in 2008 as a part time driver-laborer. Mr. O'Keeffe was an employee of Defendants Secaucus and SDPW for fifteen (15) years until his termination in August 2023.

8. During all times relevant hereto, Mr. O'Keeffe performed his job at a level that met his employer's expectations.

9. After a decade of employment at SDPW, the Plaintiff sustained a torn rotator cuff in his left shoulder while at work in August 2019. The next year, Plaintiff sustained a second workplace injury, a torn rotator cuff in his right shoulder, eventually requiring Mr. O'Keeffe to undergo surgery in September 2021. The injury and surgery kept Plaintiff out of work for five months.

10. Plaintiff's injuries qualify as a disability or perceived disability under the NJLAD, N.J.S.A. 10:5-1 *et. seq.* for which he has been under the care of various medical providers.

11. In February 2022, Mr. O’Keeffe returned to work at SDPW and provided the Defendants with a doctor’s note outlining his work restrictions due to his disability resulting from workplace injuries. Specifically, the Plaintiff was restricted to sitting and standing motions only and not permitted to perform work which consisted of lifting, pushing or pulling.

12. Despite this, Plaintiff was assigned a detail requiring work which Mr. O’Keeffe could not perform pursuant to his doctor’s direction. For this reason, Mr. O’Keeffe left work for the day.

13. SDPW’s failure to accommodate Mr. O’Keeffe’s disability in February 2022 prompted the Plaintiff to use his sick time, then his personal and vacation days to remain out of work and attempt to heal and return without restrictions. The Plaintiff was out of work for approximately seventy-four (74) days and returned to SDPW in May 2022.

14. In May 2022 the Plaintiff returned to work and was assigned a detail which accommodated his disability. Unfortunately, Mr. O’Keeffe was required to have surgery again in June 2022, this time for his left shoulder injury, and was out of work until August 2022.

15. In August 2022, Mr. O’Keeffe returned to work at SDPW. His left arm was in a sling and his doctor provided a note advising SDPW he was not permitted to perform work requiring use of his left arm. Nevertheless, SDPW assigned the Plaintiff to a detail that still required the use of Mr. O’Keeffe’s arm. For two weeks Mr. O’Keeffe showed up to his detail but could not perform any work due to his arm being in a sling. The Plaintiff complained to management and his supervisors, including Defendant O’Connor, Ed Roesing, Frank Sasso, Jason Leppin, and Rob Michaelkovich, that his disability prohibited him from performing the work assigned. Mr. O’Keeffe’s supervisors took no action.

16. After the Plaintiff's sling was removed, he returned to work with the same restrictions, he was not permitted to use his left arm. The Plaintiff did the best he could to perform his work regardless of his disability and lack of adequate accommodation. The Plaintiff continued to complain to his supervisors, including Defendant O'Connor, that the work he was being assigned did not conform to his limitations due to his disability. Once again, no action was taken.

17. In April 2023, the Plaintiff underwent surgery on his elbow and was out of work for two weeks.

18. In May 2023, Plaintiff returned to work at SDPW with the same accommodation requirement, no use of his left arm. Mr. O'Keeffe was assigned to another detail and was told by his supervisors that the detail was the lightest one available, however, he was still unable to perform the work without using his left arm.

19. After Mr. O'Keeffe was forced to miss more workdays due to the pain from his injuries in August 2023, SDPW terminated his employment.

DISCRIMINATION AND RETALIATION

20. Beginning shortly after Mr. O'Keeffe's first injury in August 2019 and continuing until the time of his termination in August 2023, supervisors and co-workers berated and harassed Mr. O'Keeffe daily, targeting him because of his disabilities.

21. The harassment and discrimination by his supervisors and co-workers became so intolerable that the Plaintiff contacted the Mayor of Secaucus in August 2022 complaining that he was being mistreated by the town employees and SDPW.

22. The beratement and harassment included but was not limited to supervisors and co-workers calling Mr. O'Keeffe "bitch", "pussy", "cunt", "faggot", "sissy" and telling the Plaintiff to "stop being a little girl" and to "man the fuck up". Supervisors further said about the Plaintiff

that “this pussy can’t do this detail”, and “all he’s going to do is bitch and complain” and “look at this little bitch walking around (acting) as if he’s really injured”. This conduct created a hostile work environment for the Plaintiff and was in retaliation for Plaintiff seeking accommodations for his disability.

23. Plaintiff repeatedly complained about this discrimination to Defendant O’Connor, who, to the Plaintiff’s knowledge, took no action to remedy.

24. At the end of 2021, while Mr. O’Keeffe was out on medical leave, Defendant O’Connor had a meeting with employees at the SDPW. During the meeting, Mr. O’Connor referred to Mr. O’Keeffe’s absence and asked Mr. O’Keeffe’s supervisors and co-workers whether the Plaintiff was faking an injury. The supervisors present at the meeting were Jason Leppim, Rob Michaelkovich and Frank Sasso. After the meeting, Mr. Leppim told Plaintiff’s co-workers that Mr. O’Keeffe was “fine” and “just faking all of it”.

25. In February 2023, Mr. O’Keeffe’s co-worker put a sticker on the Plaintiff’s right shoulder that said, “stay away, injury zone.” Mr. O’Keeffe complained to Defendant O’Connor about this incident. In response, Mr. O’Connor met with Mr. O’Keeffe and the co-worker and told the co-worker this behavior would not be tolerated, however, to the Plaintiff’s knowledge, the co-worker received no further warning, nor was he disciplined for the discriminating acts. Despite Mr. O’Keeffe’s many complaints directly to Mr. O’Connor, this was the only time Defendant O’Connor ever took action responding to Plaintiff’s constant complaints about the discrimination and harassment against him.

COUNT I
(As to All Defendants)
DISABILITY AND/OR PERCEIVED DISABILITY DISCRIMINATION

26. Plaintiff repeats each and every allegation contained above as if the same were set forth at length herein.

27. Plaintiff qualifies as an individual with a disability and/or is perceived by Defendants as having a disability as that term is defined by the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 *et. seq.*

28. Plaintiff was qualified to perform and had been performing the essential functions of his job with or without an accommodation.

29. Defendants had knowledge Plaintiff submitted medical notes outlining his disabilities and requesting accommodation.

30. Defendants' actions in terminating the Plaintiff's employment constituted an adverse action and was a pretext for discrimination based on disability and/or perceived disability in violation of NJLAD, N.J.S.A. 10:5-1 *et. seq.*

31. As a direct and proximate result of the actions of the Defendants as aforesaid, Plaintiff was caused to sustain a loss of employment and income and was caused to sustain emotional and psychological distress and harm, embarrassment and a continuous and permanent interference with the prospect of future economic advantage and with the ability to obtain future employment.

WHEREFORE, Plaintiff demands judgment be entered against Defendants, jointly and severally, awarding actual and compensatory damages, incidental and consequential damages, punitive damage, attorneys' fees and costs of suit, pre and post judgment interest and any such other relief as the Court may deem equitable and just.

COUNT II
(As to All Defendants)
FAILURE TO ACCOMMODATE

32. Plaintiff hereby repeats and realleges all allegations set forth above as if fully set forth herein.

33. Plaintiff was able to perform all the essential functions of his job, with or without a reasonable accommodation as outlined in the medical notes from his medical providers.

34. Defendants repeatedly failed to accommodate Mr. O’Keeffe when they assigned him to details violating his work restrictions, ignored medical orders, and ultimately terminated his employment.

35. Defendants failed to sincerely engage in the interactive process when they failed to provide accommodation following restrictions imposed by Plaintiff’s medical providers.

36. The actions of Defendants in failing to provide Mr. O’Keeffe reasonable accommodation constituted a violation of Plaintiff’s rights as a form of disability discrimination in violation of the NJLAD, N.J.S.A. 10:5-1 *et. seq.*

37. As a direct and proximate result of the actions of the Defendants as aforesaid, Plaintiff was caused to sustain a loss of employment and income and was caused to sustain emotional and psychological distress and harm, embarrassment and a continuous and permanent interference with the prospect of future economic advantage and with the ability to obtain future employment.

WHEREFORE, Plaintiff demands judgment against any and all said defendants, jointly and individually, awarding actual and compensatory damages, incidental and consequential damages, punitive damage, attorneys’ fees and costs of suit, pre and post judgment interest and any such other relief as the Court may deem equitable and just.

COUNT III
(As to All Defendants)
HOSTILE WORK ENVIRONMENT

38. Plaintiff hereby repeats and realleges all allegations set forth above as if fully set forth herein.

39. Defendants subjected Plaintiff to a continuing pattern of harassment and intimidation which created a hostile work environment during the course of his employment. This conduct would not have occurred but for Mr. O’Keeffe’s disabilities and/or perceived disabilities in violation of the NJLAD.

40. The hostile work environment was ongoing, and continued unabated despite Plaintiff’s complaints, would not have occurred but for the fact that Plaintiff suffered from disabilities and/or perceived disabilities, and such conduct had been severe or pervasive such that a reasonable person would have believed that the conditions of his employment were altered, and the work environment was intimidating, hostile or abusive.

41. Defendants Secaucus and SDPW negligently, recklessly and/or intentionally:
- Failed to have in place well-publicized and enforced anti-discrimination policies.
 - Failed to properly train its employees regarding compliance with anti-discrimination policies.
 - Failed to properly supervise its employees to ensure compliance with anti-discrimination policies.
 - Failed to make an unequivocal commitment making clear that any anti-discrimination policy is not just words but backed up by consistent practice.

42. The conduct of Defendants against the Plaintiff because of his disabilities and/or perceived disabilities, constitutes disability discrimination in violation of the NJLAD, N.J.S.A. 10:5-1 *et. seq.*

43. As a direct and proximate result of the actions of the Defendants as aforesaid, Plaintiff was caused to sustain a loss of employment and income and was caused to sustain emotional and psychological distress and harm, embarrassment and a continuous and permanent interference with the prospect of future economic advantage and with the ability to obtain future employment.

WHEREFORE, Plaintiff demands judgment against any and all said defendants, jointly and individually, awarding actual and compensatory damages, incidental and consequential damages, punitive damage, attorneys' fees and costs of suit, pre and post judgment interest and any such other relief as the Court may deem equitable and just.

COUNT IV
(As to All Defendants)
RETALIATION

44. Plaintiff hereby repeats and realleges all allegations set forth above as if fully set forth herein.

45. Defendants retaliated against Mr. O'Keeffe because of his disability and/or perceived disability.

46. Plaintiff was acting in good faith and had a reasonable belief that he had a right to be free from discrimination based on his disability and/or perceived disability when he complained to defendants about the hostile work environment and lack of adequate accommodation.

47. There is a causal connection between Plaintiff's complaints to Defendants about the discriminatory conduct and the retaliatory action and ultimate termination of Plaintiff's employment.

48. As a result of Plaintiff's request for accommodation and reporting the conduct of Defendants and his co-workers, Mr. O'Keeffe was retaliated against for his disability and/or perceived disability.

49. As a direct and proximate result of the actions of the Defendants as aforesaid, Plaintiff was caused to sustain a loss of employment and income and was caused to sustain emotion and psychological distress and harm, embarrassment and a continuous and permanent interference with the prospect of future economic advantage and with the ability to obtain future employment.

WHEREFORE, Plaintiff demands judgment against any and all said defendants, jointly and individually, awarding actual and compensatory damages, incidental and consequential damages, punitive damage, attorneys' fees and costs of suit, pre and post judgment interest and any such other relief as the Court may deem equitable and just.

COUNT VI
(As to Kevin O'Connor)
AIDING AND ABETTING ILLEGAL DISCRIMINATION

50. Plaintiff hereby repeats and realleges all allegations set forth above as if fully set forth herein.

51. The NJLAD prohibits conduct that aids or abets unlawful discrimination.

52. Defendant Kevin O'Connor, as the Superintendent for SDPW was an upper-level manager, supervisor and decision-maker regarding Plaintiff and was responsible for ensuring a workplace free of discrimination.

53. Defendant O'Connor intentionally and wrongfully aided and abetted Defendant Secaucus and SDPW's aforesaid violation of the NJLAD, N.J.S.A. 10:5-1 *et. seq.* by creating and maintaining a discriminatory environment and by engaging in a pattern and practice of unlawful discrimination against Plaintiff based on his disability and/or perceived disability.

54. As a direct and proximate result of the actions of the Defendant as aforesaid, Plaintiff was caused to sustain a loss of employment and income and was caused to sustain emotional and psychological distress and harm, embarrassment and continuous and permanent interference with the prospect of future economic advantage and with the ability to obtain future employment.

WHEREFORE, Plaintiff demands judgment against any and all said defendants, jointly and individually, awarding actual and compensatory damages, incidental and consequential damages, punitive damage, attorneys' fees and costs of suit, pre and post judgment interest and any such other relief as the Court may deem equitable and just.

JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues herein pursuant to R. 1:8-2(b) and R. 4:45-1(a).

DESIGNATION OF TRIAL COUNSEL

Plaintiff hereby designates Evand Goldman, Esq., as trial counsel.

GOLDMAN DAVIS
KRUMHOLZ & DILLON, P.C.
Attorneys for Plaintiff
s/ Evan L. Goldman
Evan Goldman

Dated: September 9, 2024

CERTIFICATION PURSUANT TO R. 4:5-1

The undersigned attorney for Plaintiff hereby certifies that the within matter is not the subject of any other action or arbitration proceeding pending or contemplated, nor are there any other parties known to Plaintiff who should be joined in this proceeding.

GOLDMAN DAVIS
KRUMHOLZ & DILLON, P.C.
Attorneys for Plaintiff
s/ Evan L. Goldman
Evan Goldman

September 9, 2024

DEMAND FOR DISCOVERY OF INSURANCE COVERAGE

Pursuant to R. 4:10-2(b), demand is hereby made that the Defendant disclose to the undersigned whether there are any insurance agreements or policies under which any person carrying on an insurance business may be liable to satisfy part or all of the judgment which may be entered in this action or to indemnify or reimburse for payments made to satisfy the judgment. Said disclosure shall require the names and address of the issuer or insurer, policy number, dates of coverage, and exact limits of coverage for each policy or agreement pertaining to each Defendant.

GOLDMAN DAVIS
KRUMHOLZ & DILLON, P.C.
Attorneys for Plaintiff
s/ Evan L. Goldman
Evan Goldman

Dated: September 9, 2024

DEMAND FOR DOCUMENT PRODUCTION PURSUANT TO R. 4:18-1

1. Plaintiff's entire personnel file.
2. Plaintiff's Workers Compensation file.