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SUPERIOR COURT

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CIVIL DIVISION

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

LILLIAN MAC RAE,

Plaintiff,

v.

THE TERRANOVA GROUP, INC., d/b/a and
a/k/a CHAPEL HILL ACADEMY; THOMAS
CELLI; DAVID CONLAN; and DIANE
SOMERS

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MORRIS COUNTY
DOCKET NO.: L-2767-11

CIVIL ACTION

COMPLAINT AND JURY DEMAND

Plaintiff Lillian Mac Rae, by way of Complaint against Defendants The Terranova Group, Inc., d/b/a and a/k/a Chapel Hill Academy, herein referred to as Chapel Hill Academy, Thomas Celli, David Conlan, and Diane Somers, hereby states and alleges as follows:

PARTIES

1. Plaintiff Lillian Mac Rae is a natural person residing 188 Cork Hill Road in Franklin, New Jersey. At the time of her unlawful termination in July 2011, Ms. Mac Rae was an employee of Defendant Chapel Hill Academy.

2. Defendant Chapel Hill Academy, ("Chapel Hill") is a New Jersey corporation, which maintains its principal business at 31 Chapel Hill Road, in Lincoln Park, New Jersey. Chapel Hill is a private, for-profit school for children with special needs in grades Kindergarten through Twelve (12).

3. Defendant Thomas Celli is a Director of Chapel Hill and resides in New Jersey.

4. Defendant David Conlan is the Principal of Chapel Hill and resides in New Jersey.

5. Defendant Diane Somers is the President of Chapel Hill and resides in New Jersey.

BACKGROUND FACTS

6. Ms. Mac Rae is a Registered Nurse and a Certified School Nurse. She obtained her Bachelor of Nursing in 2002, and her Certification for School Nursing in 2003.

7. Ms. Mac Rae was employed as a full-time School Nurse with Defendant Chapel Hill beginning in 2006.

8. Prior to her position with Defendant Chapel Hill, Ms. Mac Rae had also served as a School Nurse for Drummond School, Cozy Lake School, and Lincoln School.

9. Due to Ms. Mac Rae's education and experience, she had direct, personal knowledge of State laws regarding the administration of drugs to school students.

10. As a School Nurse at Defendant Chapel Hill, Ms. Mac Rae was responsible for providing first aid to students, conducting health screenings of students, administering medications and treatments to students, conducting health interviews of new students, providing in-service training to faculty and staff, and interfacing with organizations and agencies about student health, issues and well-being.

11. Ms. Mac Rae was a highly-trained School Nurse, and accordingly always performed her duties with the utmost care, skill and diligence. She was never the subject of any discipline, had always received positive performance reviews, and her employment contract was renewed four (4) times without incident.

12. As mandated by State law, whenever a student is required to take medication during the school day, a parent must provide a Medication Administration Permission Form, that

is signed by the child's treating physician, and that outlines exactly the type and dosage of medication to be given to the student. As per the New Jersey Department of Education, this medication can only be administered by a certified School Nurse or Physician, a substitute registered nurse, or a parent or guardian.

13. Ms. Mac Rae often received these forms for students at Defendant Chapel Hill, and administered medications without incident.

14. However, at some point during her employment, Defendant Somers instructed Ms. Mac Rae to provide students' medications to their teachers so they could then administer the medications while the students were on off-campus field trips.

15. When asked to engage in this unlawful conduct, Ms. Mac Rae refused and informed Defendant Somers that medications needed to be administered by a licensed and certified School Nurse or the substitute registered nurse.

16. Thereafter, a substitute registered nurse was sent on field trips in order to abide by the State requirements.

17. However, in the event that the substitute registered nurse was not available, Defendant Somers would direct Ms. Mac Rae to give the medications to her, and Defendant Somers would then have the students' school counselors or teachers administer the medications directly to the students on the field trip.

18. Ms. Mac Rae knew that Defendant Chapel Hill was violating State law by having teachers and counselors administer medications, but she felt she had no choice but to abide by Defendant Somers' directives to preserve her job.

19. After being witness to this unlawful conduct for a period of time, Ms. Mac Rae finally determined to make a formal complaint.

20. On December 8, 2010, Ms. Mac Rae sent an email to Defendant Somers, Defendant David Conlan, and Defendant Thomas Celli in which she stated that she was becoming “increasingly uncomfortable and stressed due to sending medication with teachers for on class trips because legally I cannot do this.” To support her assertions, Ms. Mac Rae attached a print-out from the New Jersey Department of Education that outlined exactly who was authorized by law to administer medications to students.

21. Ms. Mac Rae continued: “I feel torn between following directives from administration and following the law. . . . Even with the parents [sic] permission, a teacher may not administer medications; please understand the position I am in.”

22. Ms. Mac Rae closed her email with the following plea: “I hope you will understand the dilemma I find myself in and invite you to further discuss this with me.”

23. Defendant Somers, Defendant Celli and Mr. Conlan never formally responded to Ms. Mac Rae’s email.

24. Instead, Defendants began to engage in a campaign of retaliation against Ms. Mac Rae, ultimately culminating in her unlawful termination in July 2011.

25. To that end, Defendants instituted arbitrary rules that purposely isolated Ms. Mac Rae from the student population. For example, Defendants issued a mandate instructing students and teachers not to go into Ms. Mac Rae’s office unless there was a medical emergency or necessity. This was particularly upsetting because Ms. Mac Rae’s office, which contained a water cooler, was often a place for the students to visit in between classes and speak to Ms. Mac Rae on a personal level. Ms. Mac Rae held deep affection for her students and considered her relationship with them a vital part of her job.

26. To enforce this policy, Defendants and teachers would punish students who went into Ms. Mac Rae’s office when they were not ill or in need of medical assistance.

27. In or around late May 2011, Defendants entered into a new employment contract with Ms. Mac Rae for the following school year; however, they decreased her salary by \$5,000. Defendants decreased her salary with the intention of pressuring Ms. Mac Rae to leave her position in the hopes that she would voluntarily withdraw from her employment. Ms. Mac Rae, however, accepted the decrease and signed the new contract.

28. Shortly thereafter, Ms. Mac Rae requested of Defendant Celli a written confirmation as to why her salary had been reduced. Defendant Celli met with Ms. Mac Rae in her office to discuss the salary reduction.

29. During this meeting, Defendant Celli found a student injury report in Ms. Mac Rae's materials. This report was the original version of a student injury report filled out by Ms. Mc Rae that Defendant Somers had previously instructed Ms. Mac Rae to alter in order to decrease the appearance of liability on the part of Defendants. Although Ms. Mac Rae had abided by this directive from her supervisor, and drafted a second report, she maintained the original as it contained the injured student's personal account of what had occurred and Ms. Mc Rae was concerned that (1) it had been illegal to alter the original document, and (2) she was legally required to maintain the original until the student reached the age of twenty-one (21).

30. Upon seeing that Ms. Mac Rae had maintained the original report that exposed that the Defendants had previously unlawfully instructed Ms. Mac Rae to alter the document, Defendant Celli became agitated and upset. He refused to give the document back to Ms. Mac Rae when she asked for it.

31. Defendant Celli then immediately contacted Defendant Conlan.

32. Several days later, on or around June 3, 2011, Defendants Somers and Celli brought Ms. Mac Rae to Defendant Somers' office. Ms. Mac Rae, sensing that the conference would be important, requested that Defendant Conlan also be present. After he arrived,

Defendant Celli handed Ms. Mac Rae an envelop containing a termination letter and stated, "We no longer need you here." When Ms. Mac Rae asked why she was being terminated, Defendant Celli replied, "I don't have to say anything to you. I don't have to tell you anything." The effective date of the termination was July 15, 2011.

33. Thereafter, on July 1, 2011, the newly-hired School Nurse showed up to campus to be trained by Ms. Mac Rae. Ms. Mac Rae was not previously told the new nurse would be coming while she was still on campus, and she had not been informed that she would be conducting any training.

34. At the end of that day, Defendant Conlan and Defendant Celli approached Ms. Mac Rae and stated: "You've had a difficult day. Give me your keys and leave." They instructed her to pack her things.

35. Ms. Mac Rae then approached Defendant Somers and asked for a letter confirming that she would be paid through July 15 even though she was being forced to leave two (2) weeks early. Defendant Somers called Defendant Celli and said that Ms. Mac Rae wanted a letter. Defendant Celli came into Defendant Somers' office and told Ms. Mac Rae there was no letter and that she needed to "get out." He then physically escorted Ms. Mac Rae out of the building for the sole purpose of humiliating her. Defendant Celli slammed the door after Ms. Mac Rae left the building.

36. Ms. Mac Rae was unlawfully terminated from her position as a School Nurse in retaliation for engaging in protected whistleblowing conduct.

COUNT I – VIOLATON OF CEPA

37. Plaintiff hereby incorporates and restates the allegations contained in the preceding Paragraphs as set forth at length herein.

38. Defendants subjected Ms. Mac Rae to an adverse employment action in retaliation for protected whistleblowing conduct in violation of the New Jersey Conscientious Employee Protect Act, N.J.S.A. 34:19-1 et seq. (CEPA).

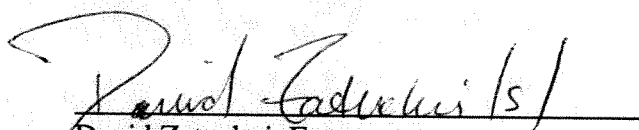
39. As a result of Defendants' unlawful conduct, Ms. Mac Rae has been subjected to job detriment and economic losses.

40. As a result of Defendants' unlawful conduct, Ms. Mac Rae has been subjected to mental anguish, embarrassment, stress, anxiety, and humiliation and other pain and suffering.

WHEREFORE, Plaintiff demands the following damages and relief:

- a. Judgment in favor of the plaintiff and against the defendants;
- b. Compensatory damages;
- c. Punitive damages;
- d. Attorneys fees;
- e. Costs of suit;
- f. Such additional relief as this Court deems just and equitable.

Respectfully submitted,

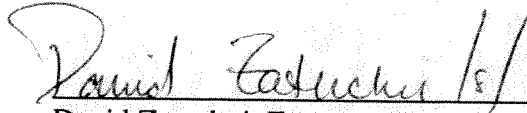


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Dated: October 5, 2011

CERTIFICATION PURSUANT TO R. 4:5-1

I hereby certify that this matter in controversy is not the subject of other actions pending in any court or arbitration proceedings, or any such contemplated other actions or arbitration proceedings.



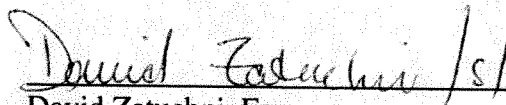
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DESIGNATION OF TRIAL COUNSEL

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

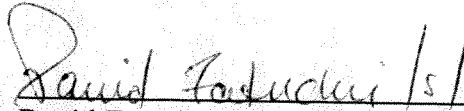


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Dated: October 5, 2011

JURY DEMAND

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

A handwritten signature in black ink, appearing to read "David Zatuchni /s/". The signature is written over a horizontal line.

David Zatuchni, Esq.

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