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Superior Court of New Jersey

JUN 27 2008

CIVIL CASE MANAGEMENT
UNION COUNTY

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Plaintiff(s)

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: UNION COUNTY

JEROME CHEVALLIER

Docket No.

UNN-L-2226-08

vs.

Defendant(s)

Civil Action
COMPLAINT AND DEMAND FOR
TRIAL BY JURY

L'OREAL USA, LAURA HASTINGS,
ALAN MEYERS, JOAN SZYMONIFKA,
JOHN E. MURPHY, and EDDIE L. HALL, JR.

2226

Plaintiff(s), Jerome Chevallier, residing at 109 Turtleback Road,
Califon, New Jersey 07830, by way of Complaint against the defendants,
says:

FIRST COUNT
(CEPA)

1. In or about May 1994, plaintiff Jerome Chevallier commenced performing services for defendant L'Oreal USA as an intern under a program sponsored by the French government.
2. After completing his internship, plaintiff was hired by L'Oreal USA as a full-time employee in February 1996.
3. After several promotions and lateral moves, plaintiff became Regulatory Affairs Director in or about July 2003. Plaintiff served in that position until his termination from employment on August 21, 2007.
4. During the entire time that plaintiff was employed as Regulatory Affairs Director, he reported to defendant Laura Hastings, who

was employed as Vice President of Product Support. Defendant Hastings reported to defendant Alan Meyers, who was employed as Senior Vice President of Research and Development.

5. As Regulatory Affairs Director, plaintiff's duties and responsibilities included, but were not limited to, supervising defendant L'Oreal USA's research and development formulation and chemical usage compliance, as well as handling defendant L'Oreal USA's scientific participation at the United States Cosmetics Trade Association. In essence, plaintiff served as head of regulatory affairs for defendant L'Oreal USA's research and development, and was charged with overseeing regulatory compliance of raw materials and formulas developed in the United States and distributed throughout the world, as well as formulas developed overseas and distributed within the United States.
6. Throughout his employment with defendant L'Oreal USA, plaintiff provided loyal, dedicated, and highly competent job performance, which resulted in promotions, commendations, merit salary increases, bonuses, and positive performance appraisals.
7. Relatively shortly prior to his termination, plaintiff voiced strong objections and complained about unlawful activities that were countenanced by his superiors, defendant Hastings and defendant Meyers.
8. In addition to voicing harsh opposition to his management's refusal to comply with governmental regulatory laws, plaintiff also objected to and complained about false packaging, company position statements, and other public company documents which defrauded consumers. These incidents included the manufacture

and distribution in South America of Maybelline containing DBP, a material banned in those countries for its carcinogenicity and risks to reproduction, and publicly declared by defendant L'Oreal USA as removed from all of its formulas (2006); use of an HFC compound known as 152A in products exported to European markets in contravention of defendant L'Oreal USA's environmental policies and ignoring potential local ban (March 2007); the fraudulent packaging of a product known as Pureology, which used animal derivative ingredients despite marketing itself as formulated with vegan products (May 2007); and use of banned Triclosan in deodorants despite defendant L'Oréal USA's pronouncement that it would not be used (July 2007).

9. As a result of his whistle-blowing activity, plaintiff became the victim of malicious harassment, including being excluded from regulatory discussions and meetings at which he naturally should have participated, being prohibited from handling certain regulatory issues which clearly fell within his responsibilities, being subjected to unwarranted criticism, false criticism, nit-picking, and false and fabricated performance reviews, and being treated with disdain, disrespect, and as *persona non grata*.
10. The final incident that triggered plaintiff's discharge was his strenuous objection after learning on or about July 2, 2007 that products commercialized in Europe apparently contained a concentration of a preservative, Kathon CG, above lawful levels, and that the formulae had been omitted by the formulators and

management from the computer system so as to avoid regulatory department scrutiny.

11. After requesting a recall of the subject products, plaintiff was removed from having any involvement and was prohibited from communicating with his European counterparts.
12. Approximately one month later, on August 10, 2007, plaintiff complained to defendant Hastings after he learned that the illegal products still were being shipped to Europe. Defendant Hastings reacted with disdain and rage. This turned out to be the last time that defendant Hastings would speak with him until his termination about eleven days later.
13. Plaintiff reasonably believed that defendant L'Oreal USA was engaging in conduct that violated laws or public policies.
14. On August 21, 2007, plaintiff was terminated, effectively immediately.
15. Plaintiff was told that he was terminated because he had purportedly violated defendant L'Oreal USA's policy concerning Free Goods and Discounted Product Purchases. In essence, plaintiff was accused of violating this policy by selling on eBay company goods that he had received free of charge.
16. The reason given for plaintiff's discharge was false, pretextual and in retaliation for his engaging in protected whistle-blowing activity by objecting to and complaining about conduct which he reasonably believed to be in violation of law or public policy. As such, plaintiff's wrongful discharge was in violation of New Jersey's Conscientious Employee Protection Act ("CEPA"), N.J.S.A. 34:19-1, et seq.

17. Although plaintiff sold on eBay company products that he had received free of charge, such conduct was not in violation of the Free Goods and Discounted Product Purchases policy. Moreover, even if technically in violation of such policy, lesser forms of discipline were appropriate and would have been implemented had plaintiff not engaged in protected CEPA activity.
18. As a result of the malicious acts of harassment and his wrongful discharge in violation of CEPA's anti-reprisal provisions, plaintiff has suffered and will continue to suffer substantial damages, including economic loss and emotional distress.
19. Individual defendants Hastings and Meyers orchestrated the reprisal against plaintiff which resulted in his discharge, and aided and abetted such reprisal.

WHEREFORE, plaintiff demands judgment against defendants L'Oreal USA, Hastings, and Meyers, individually and jointly, as follows:

- A. For compensatory and consequential damages encompassing, but not by way of limitation, loss of income and employee benefits, pain and suffering, and emotional distress;
- B. Compelling L'Oreal USA to re-employ plaintiff at an income level commensurate with such a level as plaintiff would have attained had he not been unlawfully discharged, together with other benefits and emoluments which plaintiff had or may have had the right to receive or acquire;
- C. For punitive damages;
- D. For attorneys' fees and costs of suit;
- E. For any other relief which the Court deems just and equitable.

SECOND COUNT
(Common Law Wrongful Discharge)

20. Plaintiff repeats and realleges the allegations contained in the First Count as though fully set forth at length.
21. In the alternative, defendants' retaliation against plaintiff, which resulted in plaintiff's wrongful discharge, gives rise to common law "*Pierce v. Ortho Pharmaceutical*" wrongful discharge causes of action, in tort and in contract.

WHEREFORE, plaintiff demands judgment against the defendants, individually and jointly, as follows:

- A. For compensatory and consequential damages encompassing, but not by way of limitation, loss of income and employee benefits, pain and suffering, and emotional distress;
- B. For punitive damages;
- C. For attorneys' fees and costs of suit;
- D. For any other relief which the Court deems just and equitable.

THIRD COUNT
(National Origin Discrimination)

22. Plaintiff repeats and realleges the allegations contained in the First Count as though fully set forth at length.
23. Plaintiff's national origin (French) also was a determinative factor in the decision to discharge him.
24. It was common knowledge within defendant L'Oréal USA's Research & Development department that defendant Meyers, who headed the department, had been in direct conflict over many years with his French counterparts and sought to build his United States

division independent from the company's French-run worldwide headquarters.

25. Defendant Meyers, his direct report, defendant Hastings, and Joan Szymonifka (Vice President of Human Resources) made numerous public comments denigrating the French-born members of their management team. They consistently threatened the French managers to act "more American", belittled their French accents, directed employees to remove pictures of French monuments from office walls, etc.
26. On June 4, 2007 at the annual Research & Development management seminar, all seven French-born managers present were gathered into an unscheduled meeting and told by defendant Meyers, in the presence of Szymonifka, that they "must act as Americans, not French." Thereafter, plaintiff was harassed and terminated, and other French managers were functionally demoted or coerced to transfer overseas.
27. Plaintiff's national origin (French) was a determinative factor in the decision to discharge him. As such, plaintiff is the victim of discrimination in violation of New Jersey's Law Against Discrimination ("LAD"), N.J.S.A. 10:5-1 et seq.
28. The discrimination against plaintiff because of his national origin was condoned, aided, and abetted by individual defendants Meyers and Hastings.
29. As a result of such discrimination, plaintiff has suffered and will continue to suffer substantial economic loss and emotional distress.

WHEREFORE, plaintiff demands judgment against defendants L'Oreal USA,

Hastings, Meyers, and Szymonifka, individually and jointly, as follows:

- A. For compensatory and consequential damages encompassing, but not by way of limitation, loss of income and employee benefits, pain and suffering, and emotional distress;
- B. Compelling L'Oreal USA to re-employ plaintiff at an income level commensurate with such a level as plaintiff would have attained had he not been unlawfully discharged, together with other benefits and emoluments which plaintiff had or may have had the right to receive or acquire;
- C. For punitive damages;
- D. For attorneys' fees and costs of suit;
- E. For any other relief which the Court deems just and equitable.

FOURTH COUNT
(False Imprisonment)

30. Plaintiff repeats and realleges the allegations contained in the First through Third Counts as though fully set forth at length.
31. On August 20, 2007, plaintiff was pulled out of his office by Heidi Barnes, Manager of Human Resources, and directed to meet with two members of Corporate Security, defendants John E. Murphy and Eddie L. Hall, Jr.
32. Plaintiff was detained, told he could not leave the room, treated with extreme hostility, and forced to endure a variety of heavy-handed tactics designed to induce a confession.
33. Defendants Murphy and Hall used a forged personnel document and physical intimidation in their malicious effort to coerce plaintiff to agree to sign a statement which they would not even show him.

34. Plaintiff, a long service employee with an unblemished record, was treated as though he had committed a major crime.
35. Defendants physically intimidated and threatened plaintiff with their unduly aggressive behavior.
36. Defendants denied plaintiff's request to leave the interrogation and detained him against his will.
37. Defendants were without legal justification to confine plaintiff and did so maliciously.
38. As a result of such false imprisonment, plaintiff has suffered and continues to suffer emotional distress and pain and suffering.

WHEREFORE, plaintiff demands judgment against defendants L'Oreal USA, Murphy, and Hall, individually and jointly, as follows:

- A. For damages to compensate plaintiff for his pain and suffering and emotional distress;
- B. For punitive damages;
- C. For any other relief which the Court deems just and equitable.

FIFTH COUNT

(Intentional Infliction of Emotional Distress)

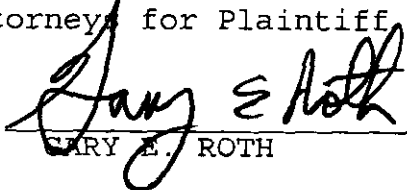
39. Plaintiff repeats and realleges the allegations contained in the First through Fourth Counts as though fully set forth at length.
40. The actions of defendants Murphy and Hall were extreme and outrageous and intended to produce emotional distress, or in reckless and deliberate disregard of the high degree of probability that emotional distress would follow.

41. The emotional distress suffered by plaintiff as a result of such extreme and outrageous conduct was so severe that no reasonable person should be expected to endure it.

WHEREFORE, plaintiff demands judgment against defendants L'Oreal USA, Murphy, and Hall, individually and jointly, as follows:

- A. For damages to compensate plaintiff for his pain and suffering and emotional distress;
- B. For punitive damages;
- C. For any other relief which the Court deems just and equitable.

Javerbaum Wurgaft Hicks Kahn
Wikstrom & Sinins
Attorneys for Plaintiff

BY: 
GARY E. ROTH

Dated:

6/24/08

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a Trial by jury as to all issues.

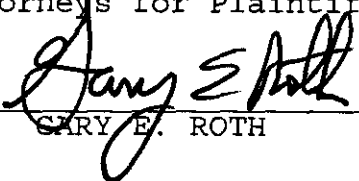
JAVERBAUM WURGAFT HICKS KAHN
WIKSTROM & SININS
Attorneys for Plaintiff

by: 
Gary E. Roth

CERTIFICATION PURSUANT TO R. 4:5-1

Pursuant to R. 4:5-1 the undersigned certifies that the matter in controversy is not the subject of any action pending in any other court of a pending arbitration proceeding, nor is any other action or arbitration proceeding contemplated.

Javerbaum Wurgaft Hicks Kahn
Wikstrom & Sinins
Attorneys for Plaintiff

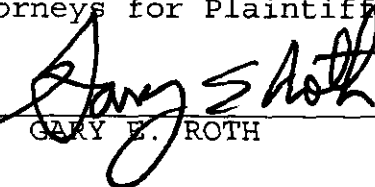
BY: 
GARY E. ROTH

Dated: 6/24/08

DESIGNATION OF TRIAL COUNSEL

Gary E. Roth, Esq. is hereby designated as trial counsel.

Javerbaum Wurgaft Hicks Kahn
Wikstrom & Sinins
Attorneys for Plaintiff

BY: 
GARY E. ROTH

Dated: 6/24/08