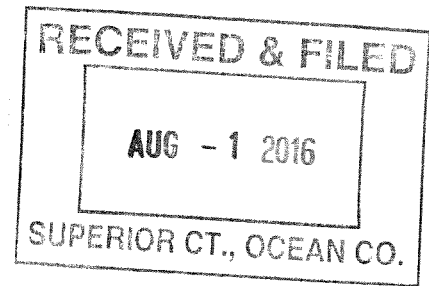


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Attorney for Defendant, Berkeley Township



CATHERINE PANCONI

Plaintiff(s),

v.

BERKELEY TOWNSHIP and JOHN DOES
1-5 AND 6-10,

Defendant(s).

SUPERIOR COURT OF NEW JERSEY
OCEAN COUNTY
LAW DIVISION

DOCKET NO: L-1763-16

CIVIL ACTION

Defendant, Berkeley, by way of answer to Plaintiff's complaint, hereby state as follows:

Identification of the Parties

1. The allegations of this paragraph are denied, as stated. It is specifically denied that Plaintiff is a "former employee" of Berkeley Township. The remaining allegations of this paragraph are admitted.

2. The allegations of this paragraph are denied, as stated. Defendant specifically denies that it is "a municipal resident". Notwithstanding the foregoing, it is admitted that Defendant Berkeley Township is the employer of Plaintiff.

3. Denied.

General Allegations

4. This answering Defendant is with sufficient knowledge or information to either admit or deny the allegation(s) set forth within this paragraph. Therefore, Plaintiff is left to her proofs.

5. Defendant cannot respond to this allegation as pled. Plaintiff is left to her proofs.

6. Denied.

7. Denied.

8. Denied.

9. Denied.

10. Denied.

11. This answering Defendant is without sufficient knowledge or information to admit or deny the allegations of this paragraph. Therefore, Plaintiff is left to her proofs. By way of further response, Defendant notes that Plaintiff, prior to the filing of her complaint herein, never complained to Berkeley Township regarding Ms. Maldonado's alleged use of ethnic slurs.

12. Denied.

13. Denied.

14. This answering Defendant is with sufficient knowledge or information to either admit or deny the allegation(s) set forth within this paragraph. Therefore, Plaintiff is left to her proofs.

15. Denied.

Count I

National Origin/Ethnicity Harassment Under the LAD

16. Defendant hereby repeats and reiterates the responses to the foregoing paragraphs as if the same were set forth herein at length.

17. Denied.

WHEREFORE, defendant hereby demands judgment dismissing Plaintiff's complaint, for reasonable counsel fees and court costs, and for such other relief as the Court might deem equitable and just.

Count II

Request for Equitable Relief

18. Defendant hereby repeats and reiterates the responses to the foregoing paragraphs as if the same were set forth herein at length.

19. Denied.

20. Denied.

21. Denied.

22. Denied.

23. Denied.

24. Denied.

25. Denied.

26. Denied.

WHEREFORE, defendant hereby demands judgment dismissing Plaintiff's complaint, for reasonable counsel fees and court costs, and for such other relief as the Court might deem equitable and just.

SEPARATE DEFENSES

1. This party is a public entity or public employee within the meaning of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq., and, by virtue of the said New Jersey Tort Claims Act and its various provisions, these parties are not liable to any party herein and any recovery by any party herein is subject to the limitations set forth in said Act.

2. Plaintiff's complaint is barred by the applicable statute of limitations.

3. Plaintiff's complaint fails to state a cause of action upon which relief may be granted.

4. The complaint does not set forth a cause of action for punitive damages.

5. Plaintiff has not suffered any damages.

6. Plaintiff has failed to mitigate damages.

7. Plaintiff cannot establish a prima facie case of religious and/or military discrimination.

8. The adverse employment actions taken against plaintiff (if any) were legitimate and non-discriminatory.

9. Plaintiff has no right, claim or entitlement to back pay, front pay or compensatory damages.

10. Plaintiff's claim is barred by his failure to pursue administrative remedies.

11. Plaintiff's claim for punitive damages is governed by the limitations set forth in the New Jersey Punitive Damages Act, N.J.S.A. 2A:15-5.9 et seq.

12. The work conditions of which Plaintiff now complains were not and are not such as to make a reasonable person in the position of Plaintiff to believe that the conditions of the workplace had been altered to his or her detriment.

13. Defendant took immediate action to prevent and remedy any known or alleged harassment.

14. Defendant took immediate action to prevent and remedy any known (or alleged) discrimination.

15. This answering Defendant made no intentional act that gives rise to liability to Plaintiff.

16. Plaintiff's complaint is barred by the doctrine of estoppel.

17. Plaintiff's claim is barred under the doctrine of unclean hands.

18. Plaintiff's complaint is barred by the doctrine of collateral estoppel.

19. Plaintiff's complaint is barred by the doctrine of res judicata.

20. The acts or omissions alleged in the complaint are cloaked by the doctrine of absolute immunity and/or qualified and/or good faith immunity.

21. The prior state and/or Federal Proceeding bars plaintiff's complaint.

22. The complaint is barred by the entire controversy doctrine.
23. Plaintiff's complaint is barred by the doctrine of accord and satisfaction.
24. Plaintiff's claim is barred by the doctrine of laches.
25. Plaintiff cannot maintain this claim of harassment in light of Defendant's well established and effective anti-harassment policies.
26. Plaintiff's claim is barred by his failure to pursue administrative remedies.
27. Defendant has not violated any duty to or right of Plaintiff, nor breached any agreement with Plaintiff.

CERTIFICATION PURSUANT TO R. 4:5-1

I, Patrick J. Madden, Esquire, hereby certify to the best of my knowledge that there are no other actions pending in which the matter in controversy is the subject, nor are there any other actions or arbitration proceedings contemplated. Furthermore, pursuant to Rule 4:5-1, there are no other parties who should be joined in this action at this time. The undersigned further certifies that this pleading has been served within the time prescribed by Rule 4:6-1.

JURY DEMAND

The Defendant in the above matter does hereby demand a trial of all issues of this cause by jury.

DESIGNATION OF TRIAL COUNSEL

Please take notice that the undersigned, Patrick J. Madden, Esquire, is hereby designated as trial counsel.

NOTICE REGARDING NON-DESTRUCTION OF EVIDENCE

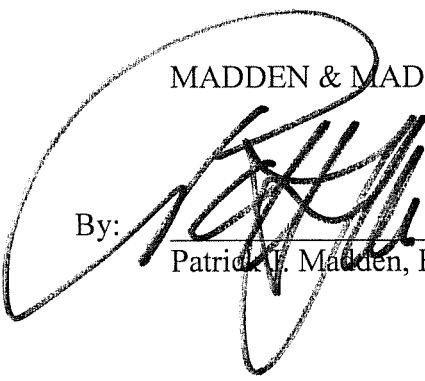
Please be advised and noticed that the Plaintiff should refrain from destroying, disposing or altering any potential evidence in its possession which would relate in any way to this matter.

Please also be advised and noticed that this includes any and all electronic records,

including, but not limited to, the hard drives on any and all computers and/or servers. To that end:

1. The Plaintiff should not initiate any procedures which would alter any active, deleted, or fragmented files. Such procedures may include, but are not limited to: storing (saving) newly created files to existing drives and diskettes; loading new software, such as application programs; running data compression and disk defragmentation (optimization) routines; or the use of utility programs to permanently wipe files, disks or drives.
2. The Plaintiff should stop any rotation, alteration, and/or destruction of electronic media that may result in the alteration or loss of any electronic data. Backup tapes and disks should be pulled from their rotation queues and be replaced with new tapes.
3. The Plaintiff should not alter and/or erase active files, deleted files, or file fragments on any electronic media that may have any relation to this matter.
4. The Plaintiff should not dispose of any electronic media storage devices replaced due to failure, upgrade, and/or lease expiration that may contain electronic data having any relation to this matter.
5. The Plaintiff should not erase or delete any materials currently maintained on any social media, such as Facebook, twitter, MySpace and the like.

MADDEN & MADDEN, P.A.

By: 

Patrick F. Madden, Esquire