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Our File No.: 13483.3700

DARCI SANTELLA

Plaintiff,

vs.

HAZLET BOARD OF EDUCATION, et al.,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MONMOUTH COUNTY

DOCKET NO.: MON-L-2550-19

CIVIL ACTION

**DEFENDANT HAZLET BOARD OF
EDUCATION'S ANSWER AND
AFFIRMATIVE DEFENSES**

Defendant Hazlet Board of Education (the "District"), by and through its attorneys, Scarinci & Hollenbeck, LLC, hereby asserts its Answer and Affirmative Defenses to the Complaint:

PARTIES

1. The District is without information sufficient to admit or deny the allegations in this paragraph and, thus, must deny them.
2. Admitted.
3. This allegation is not directed at the Hazlet BOE. To the extent any allegation in this paragraph is construed against it, the allegation is denied.

JURISDICTION AND VENUE

4. Admitted that venue is proper. The remaining allegations in this paragraph are denied.

5. Admitted.

STATEMENT OF THE CASE

6. Denied.

7. Denied.

8. Admitted that the District has a twitter account. The remaining allegations in this paragraph are denied.

9. Admitted only that the tweet was “liked.” The remaining allegations in this paragraph are denied.

10. Denied.

11. The District is without information sufficient to admit or deny the allegations in this paragraph and, thus, must deny them.

12. Admitted that plaintiff raised an issue about the tweet. The remaining allegations in this paragraph are denied.

13. Denied.

COUNT ONE
N.J.S.A. 34:19-1, ET SEQ.

14. The foregoing responses are incorporated as if they were fully set forth herein.

15. Denied.

16. Denied.

WHEREFORE, the District denies plaintiff is entitled to any of the relief demanded in her Prayer for Relief and, instead, the District prays for judgment in its own favor, including costs and attorney fees.

COUNT TWO
N.J.S.A. 10:5-12, ET SEQ.

17. The foregoing responses are incorporated as if they were fully set forth herein.

18. The District is without information sufficient to admit or deny the allegations in this paragraph and, thus, must deny them.

19. Denied.

20. Denied.

WHEREFORE, the District denies plaintiff is entitled to any of the relief demanded in her Prayer for Relief and, instead, the District prays for judgment in its own favor, including costs and attorney fees.

COUNT THREE
N.J.S.A. 10:4-7, ET SEQ.

21. The foregoing responses are incorporated as if they were fully set forth herein.

22. Denied.

23. Denied.

24. Denied.

WHEREFORE, the District denies plaintiff is entitled to any of the relief demanded in her Prayer for Relief and, instead, the District prays for judgment in its own favor, including costs and attorney fees.

AFFIRMATIVE DEFENSES

1. Recovery is barred, in whole or in part, because the Complaint fails to state a claim upon which relief can be granted.
2. Recovery is barred, in whole or in part, because the Complaint fails to present legally cognizable causes of actions.
3. Recovery is barred, in whole or in part, because the District and its agents, at all relevant times, acted in good faith, without malice, and had reasonable grounds for believing their actions complied with all agreements and applicable law.
4. Recovery is barred, in whole or in part, because the District complied with all applicable statutes, regulations, and laws in dealing with or towards plaintiff.
5. Recovery is barred, in whole or in part, because all actions taken by the District were undertaken in good faith and for legitimate business reasons unrelated to plaintiff's sexual orientation or any complaints plaintiff raised.
6. Recovery is barred, in whole or in part, by plaintiff's failure to mitigate her alleged damages.
7. Recovery is barred, in whole or in part, because plaintiff's employment, at all times relevant to this action, was at-will and could be terminated by either party for any reason and at any time, with or without notice.
8. Recovery is barred, in whole or in part, because plaintiff failed to exhaust administrative remedies.
9. Recovery is barred, in whole or in part, because plaintiff unreasonably failed to take advantage of the District's preventive and corrective opportunities.
10. Recovery is barred, in whole or in part, because plaintiff failed to demonstrate that the District or its agents were motivated by a discriminatory purpose.

11. Recovery is barred, in whole or in part, because plaintiff cannot demonstrate that she had a reasonable expectation of a continuing contractual relationship.

12. Recovery is barred, in whole or part, because all conduct and actions on the part of the District concerning plaintiff were wholly based on legitimate, non-discriminatory, and non-retaliatory reasons.

13. Recovery is barred, in whole or in part, because plaintiff did not engage in any activity that could result in retaliation.

14. Recovery is barred, in whole or in part, because the District did not engage in any willful or malicious conduct sufficient to warrant punitive damages.

15. Recovery is barred, in whole or in part, based on the affirmative defenses articulated in *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998), *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742 (1998), and *Aguas v. State of New Jersey*, 220 N.J. 494 (2015).

16. Recovery is barred, in whole or in part, based on the applicable statute of limitations, the doctrine of laches, and/or any other applicable limitation on the period of time in which such claims may be instituted.

17. Recovery is barred, in whole or in part, based on the doctrines of *res judicata*, collateral estoppel and/or judicial estoppel.

18. Recovery is barred, in whole or in part, because plaintiff's Complaint and its underlying theories of recovery are frivolous.

19. The District reserves the right to assert additional affirmative defenses.

RESERVATION OF RIGHTS

The District reserves the right, at or before trial, to move to dismiss the Complaint, in part or in whole, for failure to state a claim and/or summary judgment.

DEMAND FOR JURY TRIAL

The District demand a trial by jury for all issues of fact.

DEMAND FOR STATEMENT OF DAMAGES

The District demands that plaintiff furnish a written statement of the amount of damages claimed within five (5) days of service of this responsive pleading pursuant to Rule 4:5-2.

DEMAND FOR DOCUMENTS REFERRED IN COMPLAINT

In accordance with Rule 4:18-2, the District demands that plaintiff serve on counsel for the District within five (5) days after service of this Answer with Affirmative Defenses a true and complete copy of any documents referred to in the Complaint, not annexed thereto.

NOTICE PURSUANT TO RULES 1:5-1(a) and 4:17-4

Please take notice that the undersigned attorney does hereby demand that each party herein serving pleadings and interrogatories and receiving answers thereto, serve copies of all such pleadings and answered interrogatories, and all documents, papers and other material referred to therein, upon the undersigned attorney. This is a continuing demand.

CERTIFICATION REGARDING OTHER ACTIONS

Pursuant to Rule 4:5-1, it is hereby certified that, to the best of our knowledge and belief, the matter is not the subject of any other action pending in any other court or tribunal, and no other court action or arbitration proceeding is currently contemplated.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:5-1(c), the Court is advised that Roshan D. Shah, Esq. is hereby designated as trial counsel.

SCARINCI & HOLLENBECK, LLC

ATTORNEYS AT LAW

*Attorneys for Defendant Hazlet Board of
Education*

By: /s/ Roshan D. Shah
Roshan D. Shah, Esq.

Dated: September 9, 2019

CERTIFICATION OF SERVICE

I hereby certify that, on this date, the foregoing pleading was filed with the Clerk of the Monmouth County Superior Court, and served upon all counsel of record, via eCourts Civil.

Dated: September 9, 2019

/s/Roshan D. Shah
Roshan D. Shah

Civil Case Information Statement

Case Details: MONMOUTH | Civil Part Docket# L-002550-19

Case Caption: SANTELLA DARCI VS HAZLET TWP
BOARD OF EDUCATION

Case Initiation Date: 07/22/2019

Attorney Name: ROSHAN D SHAH

Firm Name: SCARINCI & HOLLENBECK LLC

Address: 1100 VALLEY BROOK AVE PO BOX 790

LYNDHURST NJ 070710790

Phone: 2018964100

Name of Party: DEFENDANT : HAZLET TWP BOARD OF
EDUCATION

Name of Defendant's Primary Insurance Company
(if known): Summit Risk

Case Type: WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE
PROTECTION ACT (CEPA)

Document Type: Answer

Jury Demand: YES - 6 JURORS

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

**Do you anticipate adding any parties (arising out of same
transaction or occurrence)?** NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? YES

If yes, is that relationship: Employer/Employee

Does the statute governing this case provide for payment of fees by the losing party? NO

**Use this space to alert the court to any special case characteristics that may warrant individual
management or accelerated disposition:**

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO

Title 59? NO

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 *Rule 1:38-7(b)*

09/09/2019
Dated

/s/ ROSHAN D SHAH
Signed

