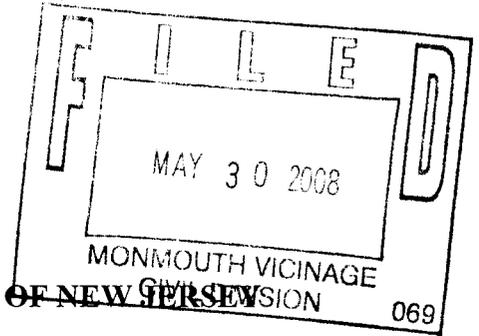


The Law Office of Steven Siegler, Esq.
197 Route 18 South, Suite 3000
East Brunswick, New Jersey 08816
(732) 214-2648
Attorneys for Plaintiff



MICHAEL DODD,

Plaintiff,

v.

GEORGE HARMS CONSTRUCTION CO.,
INC.,

Defendant.

SUPERIOR COURT OF NEW JERSEY

MONMOUTH COUNTY
LAW DIVISION

DOCKET NO. L-2582-08

CIVIL ACTION

**COMPLAINT, JURY DEMAND, and
DESIGNATION OF TRIAL COUNSEL**

Plaintiff, Michael Dodd, by way of Complaint against the Defendant, says:

PARTIES

1. Mr. Michael Dodd ("Plaintiff") is a resident of the State of New Jersey with an address of 10 Crater Lake Road and was, at all times relevant herein, an employee of the Defendant, George Harms Construction Co., Inc.

2. Defendant George Harms Construction Co., Inc. ("GHCC" or the "Company") is an entity organized under the laws of the State of New Jersey with a business address at 62 Yellowbrook Road, Howell, NJ 07731 and was, at all relevant times herein, Plaintiff's "employer" within the meaning of the Conscientious Employee Protection Act, N.J.S.A. 34:19-1, et seq. ("CEPA").

PERTINENT FACTS

3. GHCC hired Mr. Dodd in or around September 1985.

4. Mr. Dodd began his employment with GHCC in the position of Laborer and, over the next 17 years, worked his way up through the positions of Foreman and General Foreman to Acting Superintendent in July 2003. Due to family issues, Mr. Dodd accepted a demotion back to General Foreman in or around October 2003.

5. GHCC gave Mr. Dodd annual increases in his compensation, provided him with medical and life insurance, and gave him annual Christmas bonuses ranging from \$5,000 to \$12,000. GHCC also provided Mr. Dodd with a 401k plan which included a 5% employer match.

6. In January 2006, Mr. Dodd began disclosing, objecting to and refusing to participate in the Company's practice of falsifying Tool Box Safety Meeting forms.

7. Specifically, Mr. Dodd told his Job Superintendent, Chris Johnson, that he had personally witnessed Foremen who had not conducted Tool Box Safety Meetings pass a form around for their subordinates to sign indicating that they had attended such a meeting. Mr. Dodd objected to the fact that Mr. Johnson permitted this to continue and had, in fact, signed the falsified forms himself. Mr. Dodd informed Mr. Johnson that he would not participate in Tool Box Safety Meetings until the other Foreman started conducting meetings and stopped falsifying the forms.

8. Mr. Dodd also complained to Mr. Johnson that the African-American employees on his crew were not given as many overtime hours as white employees. Mr. Dodd told Mr. Johnson that the disparity in the distribution of overtime appeared to be discriminatory.

9. After that point, Mr. Johnson and the Company began retaliating against Mr. Dodd for his good faith complaints of illegal, discriminatory, and unsafe behavior. By way of example, and not of limitation:

- a. they phased Mr. Dodd out of onsite management meetings, which he had regularly attended for the past 10 years;
- b. they gave Mr. Dodd an inexperienced crew to work with, including a known drug user whom the Company later fired for failing a drug test;
- c. they cut Mr. Dodd's crew from 12-15 people to 4-5 people; and
- d. they assigned Mr. Dodd and his crew to lesser desirable jobs, including picking up garbage.

10. In the summer of 2006, Mr. Johnson left the Company. However, the retaliation against Mr. Dodd continued. By way of example, and not of limitation:

- a. the Company failed to provide Mr. Dodd with an office desk or a telephone at the next job site to which it assigned him;
- b. the Company took away Mr. Dodd's crew, leaving him no one to supervise;
- c. the Company continued to prevent Mr. Dodd from attending management meetings;
- d. the Company omitted Mr. Dodd from emails sent to other managers;
- e. the Company did not invite Mr. Dodd to the Annual Concrete Awards dinner, which Mr. Dodd had attended the for past 10 years; and

f. in February 2007, the Company CEO, Thomas Hardell, called Mr. Dodd an “unsafe asshole.” Mr. Hardell did not insult other, non-whistleblowing employees in this manner.

11. The Company’s actions, as outlined above, in addition to creating a hostile working environment, constituted a de facto demotion of Mr. Dodd to the position of Foreman.

12. In early April 2007, Mr. Dodd wrote two letters to the Company in which he blew the whistle once again on the Company’s illegal, fraudulent, unethical, and unsafe practices.

13. In the first letter, Mr. Dodd disclosed and objected to the fact that the Company had intentionally altered the design and structure of a retaining wall on Routes 1 and 9 in Elizabeth, New Jersey, thus compromising its structural integrity and public safety. Mr. Dodd requested an investigation into his allegations.

14. In the second letter, Mr. Dodd disclosed and objected to the fact that Tool Box Safety Meetings were not being conducted and that the forms had been falsified. Mr. Dodd also complained that he had been retaliated against for objecting to, disclosing, and refusing to participate in this conduct. Mr. Dodd requested an investigation into his allegations.

15. Mr. Dodd also complained that the Company had not posted the State-mandated CEPA poster at his workplace.

16. Mr. Dodd gave these letters to the Company’s Chief Operating Officer, Tom Hardell at a face-to-face meeting on April 11, 2007. Mr. Hardell formally demoted Mr. Dodd to the position of Foreman at this meeting and confirmed that he had demoted Mr. Dodd de facto many months earlier.

17. Two days later, the Company informed Mr. Dodd by letter that it would commence an investigation into his allegations. However, it appeared the Company had already determined that Mr. Dodd's allegations were false. Indeed, the letter warned Mr. Dodd that his whistleblowing activities would not be protected by CEPA if they were based upon "malicious or intentional falsehoods."

18. The Company then began its "investigation." The Company did not hire outside counsel or an independent third party to investigate Mr. Dodd's allegations. Rather, the Company assigned its President of Engineering, Joseph Griffin, Sr., and Chief Financial Officer, Gary Abadrabo, two of its most senior executives, to conduct the "investigation."

19. The Company's "investigation" was a sham. It was designed to cover-up the Company's illegal, unethical, fraudulent, and unsafe business practices. It was designed to find evidence to support the Company's predetermined conclusion that Mr. Dodd had "maliciously" or "intentionally" lied about the Company's illegal, unethical, fraudulent, and unsafe business practices. Most importantly, it was designed to find grounds to terminate Mr. Dodd's employment.

20. As part of the investigation, the Company's "investigators," i.e., two members of its most senior management, interviewed Mr. Dodd at length on two occasions. Mr. Dodd voluntarily submitted to this questioning and did so without an attorney present.

21. During this interview, Mr. Dodd disclosed to the Company that he had contacted the Occupational Health and Safety Administration ("OSHA") about the Company's conduct and was in the process of filing an OSHA complaint.

22. On April 19, 2007, the Company assigned Mr. Dodd to work in Virginia. There was no legitimate business purpose in sending him there, and Mr. Dodd returned to New Jersey after a day.

23. On April 27, 2007, the Company formally reprimanded Mr. Dodd for “abandoning his job responsibilities” by speaking to other employees and the Resident Engineer from the New Jersey Department of Transportation about the Company’s illegal, unethical, fraudulent, and unsafe practices. They directed him to “cease and desist” from such activity in the future.

24. On April 29, 2007, Mr. Dodd blew the whistle again. He disclosed and objected to more of the Company’s safety practices, including, but not limited to, the fact that it had no procedure for providing safety training to employees who did not speak English.

25. On that same date, Mr. Dodd contacted OSHA by letter and made a formal complaint about the Company’s safety practices.

26. On April 30, 2007, Mr. Dodd blew the whistle again. He disclosed and objected to the fact that the Company did not adjust his work hours when it demoted him. The Company required Mr. Dodd to work an hour a day longer than his non-whistleblowing peers.

27. In early May 2007, Mr. Dodd blew the whistle again. He disclosed and objected to the fact that Company managers and executives, including Mr. Hardell and owner George Harms’ son Robert, had fraudulently received Haz-Mat certifications.

28. On May 1, 2007, the Company contacted Mr. Dodd by letter to again advise him that “intentionally false allegations and/or reckless claims” of a “disparaging nature” had no legal protection. In addition, Company CEO Mr. Hardell wrote Mr. Dodd to request a “retraction” of his communications with OSHA. Evidently Mr. Hardell had already concluded that Mr. Dodd’s

allegations were false, although the Company's "investigation" would not be completed for another three weeks.

29. On May 2, 2007, the Company again contacted Mr. Dodd by letter to warn him that it "would not tolerate [him] using [his] working time for [his] own private agenda." Evidently the Company had already concluded that Mr. Dodd's allegations were false and that he was pursuing "an agenda," although its "investigation" would not be completed for another three weeks.

30. On May 3, 2007, Mr. Dodd blew the whistle again. He wrote a letter to the Company in which he complained that he was being retaliated against with respect to his work hours, which were an hour a day longer than his non-whistleblowing peers.

31. On May 4, 2007, OSHA conducted a site inspection at the Route 52 Causeway project, where Mr. Dodd worked.

32. After the site inspection, the "investigators" summoned Mr. Dodd to another lengthy interview. Among other things, they asked Mr. Dodd whether he had spoken to anyone at OSHA. Mr. Dodd confirmed that he had.

33. Later that day, Albert Pizzutiello, one of the employees who had supported Mr. Dodd's whistleblowing activities by providing him eyewitness evidence of the Company's illegal, fraudulent, unethical, and unsafe conduct, left a voice mail message for Mr. Dodd stating that he was afraid of retaliation and would no longer help Mr. Dodd.

34. On May 25, 2007, the Company concluded its self-investigation. Not surprisingly, the "investigation" reached the predetermined conclusion that Mr. Dodd's whistleblowing activities lacked "any factual basis" and were therefore "entirely unfounded."

35. Moreover, the “investigation” reached the predetermined conclusion that Mr. Dodd was “insubordinate,” “highly irresponsible,” “recklessly indifferent to the truth,” “dishonest and disruptive,” and had “lied,” “harassed and sought to bribe” a subordinate, and “obstructed the very investigation [he] requested.”

36. Based upon the predetermined conclusions of its self-investigation, the Company placed Mr. Dodd on a paid leave effective May 29, 2007, and terminated his employment on June 1, 2007.

COUNT ONE

(Violation of the New Jersey Conscientious Employee Protection Act, N.J.S.A. 34:19-1, et seq.)

37. Plaintiff repeats and realleges each and every allegation set forth above as if recounted at length herein.

38. GHCC created a hostile work environment for Mr. Dodd, demoted him de facto, demoted him in fact, and terminated his employment in retaliation for his whistleblowing activities.

39. The Company’s actions constitute a violation(s) of the New Jersey Conscientious Employee Protection Act, N.J.S.A. 34:19-1, et seq.

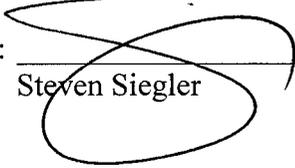
40. As a result of the foregoing unlawful action(s) on the part of the Company, Plaintiff has suffered, and will continue to experience, a loss of income and benefits.

41. In addition, Plaintiff has suffered, and will continue to experience, extreme emotional distress with physical sequelae thereof, as well as other adverse effects upon his daily, social and family life.

42. The Company's conduct was egregious, willful, wanton and/or in reckless disregard of Plaintiff's rights and, moreover, involved the participation of the Company's upper management, thus warranting the imposition of punitive damages.

WHEREFORE, Plaintiff demands judgment against GHCC awarding him compensatory damages, including front and back pay and benefits; emotional distress damages; punitive damages; and attorney's fees, costs of suit, and any other relief the Court may deem just and appropriate under the circumstances.

The Law Office of Steven Siegler, Esq.
Attorneys for Plaintiff

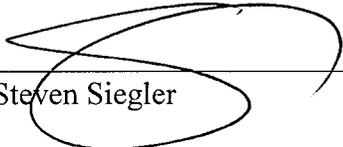
By:  _____
Steven Siegler

Dated: May 30, 2008

JURY DEMAND

Plaintiff hereby demands a trial by jury as to all causes so triable.

The Law Office of Steven Siegler, Esq.
Attorneys for Plaintiff

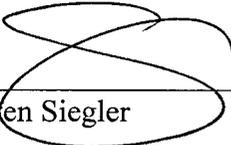
By:  _____
Steven Siegler

Dated: May 30, 2008

DESIGNATION OF TRIAL COUNSEL

Plaintiff hereby designates Steven Siegler as trial counsel.

The Law Office of Steven Siegler, Esq.
Attorneys for Plaintiff

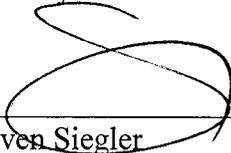
By:  _____
Steven Siegler

Dated: May 30, 2008

CERTIFICATION PURSUANT TO R. 4:5-1

The undersigned attorney for Plaintiff hereby certifies that the matter in controversy 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.

The Law Office of Steven Siegler, Esq.
Attorneys for Plaintiff

By:  _____
Steven Siegler

Dated: May 30, 2008