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<b>CHRISTOPHER NEUWIRTH,</b>	:	<b>SUPERIOR COURT OF NEW JERSEY</b>
	:	<b>LAW DIVISION: MERCER COUNTY</b>
<b>Plaintiff,</b>	:	<b>DOCKET NO.:</b>
	:	
<b>v.</b>	:	<b>Civil Action</b>
	:	
<b>STATE OF NEW JERSEY,</b>	:	<b>COMPLAINT AND JURY DEMAND</b>
<b>ABC COMPANIES (1-10) (fictitious names of</b>	:	
<b>unknown entities) and JOHN/JANE DOES</b>	:	
<b>(1-10)(fictitious names of unknown entities),</b>	:	
	:	
<b>Defendants.</b>	:	
	:	
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Plaintiff, Christopher Neuwirth, having an address of 152 Old Clinton Road, Flemington, New Jersey 08822 (hereafter "Plaintiff"), by way Complaint against Defendants, State of New Jersey, ABC Companies (1-10) (fictitious names of unknown entities) and John/Jane Does (1-10) (fictitious names of unknown individuals), says as follows:

**FACTS COMMON TO ALL COUNTS**

**A. Parties and Relevant Individuals**

1. Defendant State of New Jersey (the "State") is a state within the United States of America that makes and enforces laws via its local government.

2. State of New Jersey Department of Health (“DOH”) is a branch of the state government and is responsible for formulating and managing the state’s health infrastructure by providing statewide support services to state and local government agencies as well as the citizens of New Jersey.

3. Governor Philip D. Murphy (“Murphy”), at times relevant herein, is a New Jersey resident and the Governor of the State of New Jersey.

4. Colonel Patrick J. Callahan (“Callahan”), at times relevant herein, is an individual employed by the State in the position of Acting Superintendent.

5. George Helmy (“Helmy”), at times relevant herein, is an individual employed by the State in the position of the Chief of Staff to the Governor.

6. Matt Platkin (“Platkin”), at times relevant herein, is an individual employed by the State in the position of the Chief Counsel to the Governor.

7. Heather Taylor, Esq. (“Taylor”) at times relevant herein, is an individual employed by the State as the Chief Ethics Officer for the Office of the Governor.

8. Judith Persichilli (“Persichilli”), at times relevant herein, is an individual employed by the State in the position of Commissioner of the DOH.

9. Andrea Martinez-Mejia (Martinez-Mejia”), at times relevant herein, is an individual employed by the State in the position of Chief of Staff of the DOH.

10. Joy Lindo (“Lindo”), at times relevant herein, is an individual employed by the State in the position of Division Director of the Office of Legal and Regulatory Compliance.

11. Lubna Qazi-Chowdhry (“Qazi-Chowdhry”), at times relevant herein, is an individual employed by the State in the position of Ethics Liaison Officer for the DOH.

12. Kaitlyn Woolford (“Woolford”), at times relevant herein, is an individual employed by the State in the position of Executive Assistant to the Deputy Commissioner of the Public Health Services Branch of the DOH.

**B. Plaintiff’s Employment/Consulting History**

13. From 2011 through 2013, Plaintiff was employed as the State Homeland Security Exercise Coordinator (Government Representative 2) for the New Jersey Office of Homeland Security and Preparedness.

14. From 2013 through 2016, Plaintiff worked for the DOH in the position of Director of Public Health Recovery (Government Representative 1) and then as an Information Security Officer (Information Technology Specialist).

15. From 2013 through 2015, Plaintiff also worked for Margolis Healy and Associates, LLC (“MHA”). Plaintiff fully disclosed his business activities with MHA to the State and obtained the State’s express approval to engage with MHA outside his job duties, responsibilities and hours working for the State.

16. From 2016 through 2018, Plaintiff was employed in the position of Manager of the Emergency Management and Enterprise Resilience for New York University Langone Health.

**C. Plaintiff’s Employment as DOH Assistant Commissioner**

17. In or about October 29, 2018, Plaintiff commenced employment with the DOH as Assistant Commissioner.

18. In the position of Assistant Commissioner of DOH, Plaintiff was responsible for providing strategic leadership and guidance to the Division of Public Health Infrastructure, Laboratories and Emergency Preparedness which included approximately 250 staff across the

Offices of Disaster Resilience, Emergency Medical Services and the Public Health and Environmental Laboratories.

19. Plaintiff was also responsible for managing an operational budget of approximately \$57 million, including more than \$28 million in federal grants from ASPR and the CDC for the Hospital Preparedness Program and the Public Health Emergency Preparedness program, respectively.

20. Plaintiff participated in cybersecurity threat identification and business continuity activities to strengthen enterprise resilience and ensure continuity of government during a disaster.

21. Plaintiff also partnered with the New Jersey Office of Homeland Security and Preparedness to complete the statewide threat and hazard identification risk assessment for the healthcare and public health sectors.

22. Plaintiff also conducted preparedness activities for numerous ongoing incidents, crises, and pre-planned large-scale events across the State of New Jersey and/or impacting the northeast United States.

**D. Plaintiff's Consulting Services with Margolis Healy and Associates**

23. At the time he began his employment as Assistant Commissioner, Plaintiff disclosed to the State his own company, Emergency Manager Project, LLC, ("EMP") which administered the Emergency Manager 1 and 2 courses.

24. Plaintiff licensed both courses to Crossroads Education, LLC prior to beginning his employment with the DOH.

25. At no time after starting his employment with the DOH in 2018 did Plaintiff

administer any courses.

26. Plaintiff disclosed the EMP outside activity in his 2019 Financial Disclosure Statement form and the Outside Activity Questionnaire (“OAQ”) he submitted at the onset of his employment.

27. State employees are required to complete the Financial Disclosure Statement on an annual basis and disclose, *inter alia*, all sources of income for the 12-month period prior to the filing.

28. State employees are required to complete the OAQ (1) when they commence State employment; (2) whenever there is a change in the employee’s outside activity; and (3) at a minimum every three years.

29. In or about August 2019, Plaintiff was contacted by Margolis Healy and Associates, LLC (who is now owned by Cozen O’Connor, P.C.) (collectively herein referred to as “MHA”) regarding a Request for Proposal (“RFP”) they were responding to on behalf of an out-of-state university client of the firm.

30. At the time of Plaintiff’s hiring in October 2018, Plaintiff did not identify MHA on his Financial Disclosure Form because he did not currently work for MHA, and had not received any income from MHA in the calendar year preceding the commencement of his employment.

31. Contrary to recent media reports caused by the false dissemination of information of the State, Plaintiff had not worked for, or provided any consulting services to, MHA since 2016.

32. The RFP for the out-of-state university was in response to a highly complex, large-scale cybersecurity exercise it was interested in conducting in early 2020.

33. Based upon Plaintiff’s education, training and experience, MHA expressed an

interest in including Plaintiff as the lead exercise designer/facilitator for this particular RFP.

34. Plaintiff was not to receive any compensation for being included in the RFP or by providing his input to MHA on their draft proposal prior to submission.

35. Because the opportunity with MHA would constitute an outside activity and could result in future engagements, Plaintiff believed he should disclose the opportunity to the State pursuant to N.J.A.C. 19:61-5.9(c).

36. In connection therewith, prior to working on any project with MHA in 2019, Plaintiff disclosed the specific opportunity with MHA to Ethics Liaison Officer of the DOH, Nancy Kelly-Goodstein.

37. Plaintiff further submitted an updated OAQ in or about October 2019 to further disclose the opportunity.

38. After initially disclosing the opportunity, Plaintiff and Ms. Kelly-Goodstein had additional conversations concerning the opportunity during which Plaintiff provided additional clarifications on his relationship with both his own company, EMP, and MHA.

39. After discussing the opportunity with Plaintiff and reviewing the OAQ, Ms. Kelly-Goodstein informed Plaintiff that there was no conflict of interest.

40. Specifically, the State determined that because neither the DOH nor Plaintiff had any regulatory oversight of institutions of higher education (i.e. colleges and universities), there was no conflict of interest.

41. Thereafter, it was widely known among state employees, including DOH leadership and Plaintiff's staff, that Plaintiff provided outside consulting services to MHA.

42. In fact, Plaintiff listed his work with MHA on his resume, LinkedIn page and openly

discussed his work with MHA to DOH leadership.

43. At no time did anyone from the DOH question Plaintiff's outside consulting services with MHA during his employment with the State.

44. After providing consulting services to MHA for the out-of-state university's RFP submission, MHA provided Plaintiff other projects for out-of-state higher education clients in which he was paid for his services.

45. The work Plaintiff performed for MHA after the initial RFP submission included projects that only involved institutions of higher education and therefore, consistent with Plaintiff's disclosures and the approved OAQ, no conflict of interest ever arose.

46. In or about December 2019, Plaintiff requested permission to use accrued and available vacation days during which time off Plaintiff planned to perform some projects for MHA.

47. Ms. Woolford, Plaintiff's supervisor at the time, approved Plaintiff's request.

48. At the time, Ms. Woolford was employed in the position of Executive Assistant to the Deputy Commissioner of the Public Health Services Branch.

49. Ms. Woolford was considered DOH leadership and currently serves as the Commissioner-appointed New Jersey "COVID-19 Testing Czar" responsible for coordinating all aspects of COVID-19 testing across New Jersey.

50. Plaintiff was compensated less than \$2,000 during calendar year 2019 from MHA.

51. Plaintiff would have disclosed all outside income he earned from consulting with MHA on his 2020 Financial Disclosure Form, which would have been due by July 31, 2020.

52. Plaintiff did not complete any work for any MHA clients once the State's COVID-19 pandemic response began on January 24, 2020.

**E. COVID-19 Pandemic**

53. New Jersey's response to the novel coronavirus ("COVID-19") pandemic began on January 24, 2020.

54. Plaintiff regularly worked sixteen (16) to twenty (20) hour days, with no days off from January 24, 2020 through the peak period of the pandemic in April.

55. On January 27, 2020, Plaintiff established the DOH Crisis Management Team, authorized the original Coronavirus Response Plan, and served as the initial Incident Commander for the state's pandemic response, coordinating all DOH activities related to COVID-19.

56. On February 3, 2020, Governor Murphy signed Executive Order 102, creating a statewide Coronavirus Task Force.

57. On March 9, 2020, Governor Murphy declared a State of Emergency in response to the COVID-19 outbreak and Plaintiff served as the DOH representative to the State's Unified Command.

58. On March 10, 2020, Governor Murphy and Commissioner Persichilli agreed to have Plaintiff travel to Washington, D.C., to testify before the United States House of Representatives Homeland Security Subcommittee on Emergency Preparedness, Response and Recovery.

59. During the hearing, Plaintiff provided the committee with testimony concerning his experience and expertise and how New Jersey was preparing for and responding to the novel coronavirus public health crisis.

60. Plaintiff was also tasked to request additional funding from the federal government and distribution of items from the Strategic National Stockpile, and elsewhere, on



behalf of New Jersey, which he did during his testimony.

61. Following the World Health Organization declaring COVID-19 a pandemic on March 11, 2020, Governor Murphy signed numerous Executive Orders, including a stay-at-home order, the closure of non-essential businesses, retail and schools, and prohibiting all social gatherings and mandating work from home arrangements.

62. There were widespread shortages of PPE and molecular testing supplies as the COVID-19 pandemic hit New Jersey.

63. Because of the shortage of testing, it was New Jersey's public policy that individuals who do not have any symptoms not be tested and that individuals with mild symptoms stay home while they are sick and follow the guidance of their health care provider.

64. Testing was prioritized for individuals with symptoms of fever, cough and shortness of breath severe enough to require hospitalization, those who were in close contact with confirmed COVID-19 cases and individuals who traveled to/from highly affected areas.

65. Testing was specifically not recommended for persons who did not have symptoms.

66. On or about April 8, 2020, it was reported that Mr. Platkin had tested positive for COVID-19.

67. It was reported at that time, consistent with New Jersey's clear mandate of public policy, that Governor Murphy had twice stated in the weeks before April 8, 2020 that he had not been tested because he was not experiencing any COVID-19 symptoms and because of a lack of testing supplies.

68. On April 9, 2020, Governor Murphy confirmed that he had not been tested at that

time and that he did not plan on getting tested in light of Mr. Platkin's positive test.

69. Governor Murphy reasoned that he did not have any symptoms and that he did not go near people.

70. When pressed by a reporter as to why Mr. Platkin was able to obtain a test when he was not symptomatic per public policy, Governor Murphy asked, "Why does he get a free pass to do that? We need this guy."

71. On April 10, 2020, Governor Murphy announced the acquisition of 15 point-of-care ID NOW testing instruments from the federal government to expand access to COVID-19 testing in New Jersey.

72. The portable, rapid testing machines were dispersed to health care systems throughout the state in an effort to assist New Jersey to meet the high demand for testing.

73. On May 13, 2020, the State announced that it would be investing hundreds of millions of dollars to expand COVID-19 testing and that the tests would be prioritized for vulnerable populations, their caregivers and frontline workers.

74. At this time, Governor Murphy said that he directed \$6 billion in federal funding to Rutgers University to help them scale up -- as much as five-fold -- production of a saliva-based test kit, allowing it to reach as many as 50,000 people daily.

75. Governor Murphy further publicly stated that there was a need to double the state's testing capacity so that it could screen 20,000 people a day for COVID-19 by the end of May, and that he wanted to see 25,000 tests done daily by the end of June.

76. Governor Murphy was quoted as saying, "Every day we take another step forward to ramp up our testing abilities. But we know that even this jump in testing is not enough. We

need to have an even more robust testing program that is engrained throughout our communities and which go out to the people as much as the people can go to it.”

**F. Plaintiff's Ethics Complaint**

77. On April 24, 2020, Plaintiff received a missed telephone call to his cellphone from Colonel Callahan.

78. A few minutes later, Plaintiff returned Callahan's phone call.

79. During the call, Callahan informed Plaintiff that he “needs a favor”.

80. The “favor” was for Plaintiff or a member of his staff to go to the home of one of Helmy's relatives that weekend to collect specimens from two relatives for testing of SARS-COV-2 to be performed at DOH's Public Health and Environmental Laboratories.

81. Plaintiff did not want to participate in this request because, in his reasonable belief, the actions were unethical, unlawful, incompatible with public policy, a misuse of governmental resources and/or misuse of power.

82. However, fully understanding that the request for the “favor” was coming from top-level people within the Governor's inner circle, Plaintiff responded to Callahan that he would look into it and check to see if he had staff available.

83. Callahan instructed Plaintiff that the testing could occur anytime over the weekend, either Saturday or Sunday.

84. At the end of the conversation, Plaintiff requested Callahan to text him the details, which he did.

85. Shortly after the phone call ended, Callahan sent the text message to Plaintiff confirming the instruction.

86. The following day on April 25, 2020, Callahan called Plaintiff and angrily demanded why no one had contacted Helmy's relatives and performed the tests yet.

87. Plaintiff responded that he had no staff available.

88. Callahan then asked, "So then, this is something you are going to do?"

89. Plaintiff responded, "Yea, I don't have a choice."

90. Callahan responded, "Thanks Chris. I will let her know."

91. Following his communications with Callahan, Plaintiff wrote an email to DOH Chief of Staff, Andrea Meija-Martinez, to disclose the improper request and complain that he was being instructed to perform a private COVID-19 test on relatives of a Governor's Office employee as "a favor".

92. The April 25, 2020 email to Ms. Martinez-Mejia reads, in relevant part:

Clearly, we cannot say no, or advise them that this test doesn't matter, and it's a complete waste of an AC's time to spend literally 6-hours collecting one specimen.

I'm sharing this with you simply for documentation and, in case, this continues to spiral out of control.

93. On April 26, 2020, at 9:00 a.m. Plaintiff received a text message from Callahan with further instructions concerning the "favor."

94. On April 26 at 10:53 a.m., Ms. Martinez-Mejia responded to Plaintiff's email as follows, "Thank you Chris. I will discuss this with Commissioner."

95. On April 26, Plaintiff travelled from his home to the Public Health and Environmental Laboratories in West Trenton to obtain specimen collection tubes.

96. Thereafter, Plaintiff drove to the Health and Agriculture Building in Trenton to retrieve his state vehicle.

97. A few minutes later at 11:02 a.m., Plaintiff responded to Ms. Martinez-Mejia's email and stated, "I'm driving up there now."

98. While Plaintiff was in the process of obtaining his state vehicle, Plaintiff called Joy Lindo from the DOH Office of Legal and Regulatory Compliance to complain and disclose to her that he had been instructed to perform private COVID-19 tests on relatives of a Governor's Office employee as "a favor", which he reasonably believed was unethical, unlawful, incompatible with public policy, a misuse of governmental resources and/or misuse of power.

99. Ms. Lindo agreed with Plaintiff.

100. Specifically, Ms. Lindo concluded to Plaintiff that, "[t]his is a textbook ethics violation."

101. Ms. Lindo further directed Plaintiff to pull over on the side of the road, while she called Commissioner Persichilli to discuss his complaints and disclosures concerning the situation directly with her.

102. Soon thereafter, Ms. Lindo called Plaintiff and informed him that she relayed his complaints to Commissioner Persichilli.

103. Ms. Linda also informed Plaintiff that Commissioner Persichilli told her that Ms. Martinez-Mejia never sent Plaintiff's email to Commissioner Persichilli, nor did Ms. Martinez-Mejia ever speak with Commissioner Persichilli about Plaintiff's complaints and disclosures concerning the situation.

104. Ms. Lindo instructed Plaintiff to not proceed with the specimen collection and to go home.

105. While en route back to Trenton, Plaintiff dropped off his state vehicle and called

Commissioner Persichilli to discuss the situation.

106. Plaintiff told the Commissioner about his conversation with Ms. Lindo and Commissioner Persichilli confirmed her instruction for Plaintiff to go home and not perform the test on the relatives.

107. On April 27, Plaintiff called the State Ethics hotline to formally lodge an ethical complaint concerning the situation.

108. However, no one from the State Ethics hotline answered the call and it went to a voicemail.

109. Thereafter, Plaintiff spoke to Ms. Lindo about the best method of contact for the State Ethics Commission as he had previously attempted to make contact on April 27.

110. Plaintiff informed Ms. Lindo that there was no answer at the State Ethics hotline and did not feel comfortable leaving a message on an unidentified voicemail.

111. In response, Ms. Lindo suggested that Plaintiff contact the DOH's internal ethics officer, Lubna Qazi-Chowdhry.

112. Thereafter, a telephone meeting between Ms. Qazi-Chowdhry and Plaintiff was scheduled for May 14 to discuss his ethics complaint.

113. In preparation for the meeting on May 14, Plaintiff attached screenshots of Callahan's text message to the meeting invitation.

114. During the call, Plaintiff complained to Ms. Qazi-Chowdhry that he had been instructed to perform private COVID-19 tests on relatives of a Governor's Office employee as "a favor", which he reasonably believed was unethical, unlawful, incompatible with public policy, a misuse of governmental resources and/or misuse of power.

115. After listening to Plaintiff's complaint, Ms. Qazi-Chowdhry responded to Plaintiff's complaint by stating that she would not be the person to handle it because the situation involved misconduct of high ranking individuals within the Governor's Office.

116. Ms. Qazi-Chowdhry further told Plaintiff that she would have to speak with the State Ethics Commission to determine the best way to handle the complaint, and that she would contact Plaintiff by the end of the day with further instruction on how he should proceed.

117. Later that day, Ms. Qazi-Chowdhry called Plaintiff.

118. During this call, Ms. Qazi-Chowdhry informed Plaintiff that she had spoken to the State Ethics Commission and instructed Plaintiff that "you need to have a consultation with a lawyer" before proceeding with processing the complaint.

119. Plaintiff was completely taken aback by Ms. Qazi-Chowdhry's direction and response to her complaints.

120. Plaintiff responded, "okay", and the conversation then ended.

121. The following day, Plaintiff called Ms. Qazi-Chowdhry to ask two questions to clarify her instructions from the day prior.

122. The first question Plaintiff asked: "what kind of lawyer were you suggesting I consult with" and the second: "what am I supposed to tell them?"

123. Ms. Qazi-Chowdhry responded to the first question, a "criminal defense lawyer."

124. Ms. Qazi-Chowdhry responded to the second question by instructing Plaintiff have the criminal defense lawyer explain the "consequences of submitting the ethics complaint."

125. Based upon Ms. Qazi-Chowdhry's implication of criminal repercussions if Plaintiff went forward with the complaint, Plaintiff asked Ms. Qazi-Chowdhry whether "this [his

complaint] is dead in the water?”

126. Addressing the threat of criminal repercussions, Plaintiff further stated that he had small children and may not want to proceed with the complaint if he was going to be criminally prosecuted because of it.

127. Ms. Qazi-Chowdhry responded by assuring Plaintiff that she would not process the complaint until after he spoke with a criminal defense lawyer.

128. This conversation confirmed Plaintiff's initial concern that he was being threatening with criminal repercussions should he go forward with the ethics complaint.

129. The following week, Ms. Qazi-Chowdhry and Plaintiff had another communication about the processing of the complaint.

130. During the conversation, Ms. Qazi-Chowdhry asked Plaintiff if he had the opportunity to meet with a criminal defense lawyer.

131. Plaintiff responded affirmatively and that after speaking with the criminal attorney, he was comfortable that he did not do anything wrong and certainly nothing criminal.

132. Ms. Qazi-Chowdhry responded, “Okay, good.”

133. Plaintiff asked Ms. Qazi-Chowdhry for further clarification about his complaint and how it would proceed.

134. Ms. Qazi-Chowdhry responded that she would not be handling his ethics complaint and would not provide a direct answer to any of his questions about the next steps in processing the complaint.

135. Following this last communication with Ms. Qazi-Chowdhry, senior staff removed scheduled meetings with Plaintiff from his calendar, refused to share information with him,



would not respond to his emails and would not participate in scheduled meetings with him.

136. Plaintiff was no longer consulted on important matters, including the receipt and distribution of remdesivir to hospitals and the \$613 million Epidemiology and Laboratory Capacity for Prevention and Control of Emerging Infectious Diseases (ELC) cooperative agreement grant.

137. Additionally, Plaintiff stopped receiving communications from other senior staff members including, but not limited to, Commissioner Persichilli, Ms. Martinez-Mejia and Ms. Woolford.

138. On May 19, 2020, Plaintiff received an email meeting invitation from the Commissioner's Executive Assistant, Dee Morris, to meet with the "staff from the Governor's Office" scheduled for May 20, 2020 from 3:30 p.m. to 4:30 p.m.

139. Plaintiff responded to Ms. Morris' email and asked which staff would be attending the meeting.

140. Plaintiff received no response to this email.

141. On May 20, 2020, Plaintiff attended a meeting with two attorneys from the office of the Governor, one of whom was the Chief Ethics Officer, Heather Taylor.

142. During the meeting, the attorneys asked Plaintiff if he was aware of a news article citing to anonymous sources, about recording the Commissioner in meetings and leaking confidential information to the media.

143. Specifically, Plaintiff was asked if he knew of the news reporter and/or if he had any contact with the news reporter.

144. Plaintiff stated that he did not speak or provide any information to any media

member and that he did not know who was doing so.

145. The purported investigation taken into the alleged leaks from within the DOH to the media was not completed fairly, thoroughly or completely as required by state law and regulations.

146. On May 28, 2020 at 10:30 a.m., Plaintiff was informed by the Director of Human Resources that he was terminated.

147. When Plaintiff asked if his termination was for cause or no-cause, Plaintiff was informed it was a “no-cause termination” and that his “services were no longer needed.”

148. As a result of the harassing and discriminatory conduct, Plaintiff has suffered emotional distress and continues to experience ongoing emotional distress and significant economic damages.

**F. Plaintiff's Due Process Rights**

149. Contrary to what he was told as the reason for his termination, the public position being taken by the State is that the reason for Plaintiff's termination was because he failed to properly disclose his consulting work for MHA and that he did not obtain appropriate approval to do so.

150. This position is demonstrably false and easily verifiable by State records.

151. At no time prior to his termination, or during his termination discussions, did anyone from the State ever accuse Plaintiff of failing to disclose his outside employment relationship with MHA.

152. Plaintiff was never informed of any ethics investigation being conducted concerning Plaintiff's outside business activities.

153. Plaintiff's termination has been the subject of numerous media reports in which anonymous persons associated with the State and/or Governor's Office began disclosing false and defamatory information concerning Plaintiff, Plaintiff's employment with the State and the purported reasons for his termination.

154. In these reports, anonymous sources of the State claim that Plaintiff was terminated "for cause."

155. Anonymous sources of the State further told news outlets that Plaintiff became "overloaded" with work at his "other job" at MHA.

156. The allegation that Plaintiff was ever "overloaded" with his work at his "other job" at MHA is false and defamatory.

157. Another news story reported that anonymous sources have stated that Plaintiff faced criticism for poor attendance at the DOH post.

158. The allegation that Plaintiff faced criticism for poor attendance at the DOH post is also false and defamatory.

159. Upon information and belief, the State has not conducted any investigation into the identification of any of the anonymous sources who have been leaking false and defamatory information about Plaintiff to the media.

160. Instead, the State has publicly made general comments about Plaintiff's termination that essentially endorse the defamatory statements.

161. The statements have caused the public to believe the leaks about Plaintiff are credible.

162. For example, when asked about Plaintiff's termination, Governor Murphy

perpetuated the falsehoods being disseminated by “anonymous” sources by stating, “Folks are not – it’s par for the course that you’re not supposed to have another source of income...”

163. A few days later, Governor Murphy was again quoted in response to questions about Plaintiff’s termination, “I don’t have a good answer about anyone else who may have a second job, but there is a process and I don’t think I addressed it as crisply as I could have.”

164. Governor Murphy further stated, “Someone has to declare themselves and see[k][sic] basically an exemption or waiver.”

165. Governor Murphy’s public adoption of the falsehoods being pushed by “anonymous sources” have severely damaged Plaintiff’s once stellar professional reputation.

166. Mr. Platkin has also been attributed to false reports that Plaintiff violated ethical rules by failing to disclose his consulting services to MHA.

167. For example, one article reported, “Chief Counsel Matt Platkin said that there are certain classes of state employees who are not permitted to earn outside income and others who must get the approval of the State Ethics Commission.”

168. It further reads, “Platkin said that there are certain classes of state employees who are not permitted to earn outside income and others must get the approval of the State Ethics Commission. Platkin said if the employee did receive approval, they would still have to disclose outside income and others who must get the approval of the State Ethics Commission.”

169. The misrepresentations of the anonymous sources, and endorsement of same by state employees, including Governor Murphy and Mr. Platkin, have caused other politicians to call for an investigation into Plaintiff and the relationship between the DOH and MHA.

170. Assemblyman Christopher DePhillips, who asked the State Commission of

Investigation and the State Controller to launch an investigation, was quoted, “A troubling pattern of ethics breaches has been emerging from the Department of Health, and it calls for a thorough and swift investigation. The people of our state deserve to know if their State Health Department has been abusing ethical and transparency protocols, especially during the ongoing pandemic.”

171. Plaintiff’s reputation has been and continues to be severely damaged by the State’s defamatory and retaliatory conduct.

172. Prior to his termination, no one from the Governor’s Office or the State ever confronted Plaintiff regarding any accusation of impropriety concerning his association with MHA.

173. No investigation was ever conducted into Plaintiff’s disclosures of his association with MHA.

174. Plaintiff was told that his termination was not for cause and was never provided any opportunity to defend himself against these false allegations.

175. If the State had afforded Plaintiff his due process rights under applicable state regulations, the facts surrounding his work with MHA would have been fully known and the State would have cleared Plaintiff of any suspected wrongdoing.

176. Plaintiff would have also been able to explain that MHA erroneously kept his profile page posted, which stated that he worked for them for “two years.”

177. In fact, a simple “Way Back Machine” internet archive search of the MHA website reflects that as of December 31, 2015, Plaintiff’s profile reads, “Chris as [sic] a Manager of Emergency Management Services at Margolis Healy for two years.”

178. The information that Plaintiff was a Manager at MHA for “two years” was true when it was first published in or about mid to late 2015, but is obviously untrue five (5) years later in May 2020.

179. Upon information and belief, MHA’s profile link of Plaintiff was leaked to the media to support the false assertion that Plaintiff has been working at MHA for the immediate preceding two years.

180. Contrary to the news reports, anonymous sources and calls for investigations from political foes of Governor Murphy, Plaintiff’s prior profile page that identified him as working for MHA as a “Manager of Emergency Management Services at Margolis Healy for two years” was mistakenly never updated or removed from MHA’s website.

181. The Plaintiff’s due process rights in the face of an allegation of an ethics violation are described in detail in the New Jersey Conflicts of Interest Law, N.J.S.A. 52:13D-12 et seq. (Conflicts Law) and on the State Ethics Commission’s website.

182. Allegations of wrongdoing are received by the Ethics Commission from many sources, including State employees or members of the public, and can be made via a phone call to the Ethics Commission hotline or in writing.

183. Complaints to the Ethics Commission can be made anonymous.

184. Allegations of wrongdoing may also be filed with the State agency employing the State officer or employee in accordance with procedures established by the agency.

185. As it relates to Plaintiff, an allegation would properly be filed with the Ethics Commission or the DOH.

186. Upon receipt of an allegation, the DOH is required to file the allegation with the

Ethics Commission.

187. All determinations by the DOH with respect to the Conflicts Law which involve the removal of a State officer or employee or any other disciplinary actions are effective only when approved by the Ethics Commission.

188. When the Ethics Commission receives an allegation, the staff first reviews it for an initial determination as to whether the alleged conduct falls within the jurisdiction of the Commission.

189. Upon information and belief, no allegations of wrongdoing have been made to either the Ethics Commission or the DOH regarding Plaintiff.

190. If the Ethics Commission determines that it has jurisdiction over an allegation, the Commission initiates a preliminary investigation, which may include a review of documents, interviews of the complainant, the State officer or employee involved, and any other individuals who possess knowledge of the circumstances surrounding the alleged conduct.

191. Any interviews conducted are under oath and recorded, and the interviewee has the right to be accompanied by an attorney.

192. Upon information and belief, no preliminary investigation was conducted by the Ethics Commission or the DOH in regards to Plaintiff's work with MHA.

193. Upon the conclusion of a preliminary investigation, a written report of the investigation is presented at an Ethics Commission meeting.

194. The subject of an investigation is notified, in writing, of the date that the matter will be presented to and considered by the Ethics Commission.

195. The subject and his/her attorney have the right to be present at the Commission

meeting.

196. Plaintiff never received notice of an Ethics Commission meeting at which any allegations against him would be reviewed.

197. If the Ethics Commission determines that there are indications of a violation meriting further proceedings, a complaint is issued and the case is referred to the Office of Administrative Law ("OAL") for a full due process hearing pursuant to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

198. After the OAL hearing is concluded, the Administrative Law Judge ("ALJ") issues an initial decision in accordance with the time frame set forth in the Administrative Procedure Act.

199. The Ethics Commission ultimately issues a Final Order, in which the Commission may accept, reject or modify the ALJ's initial decision.

200. The subject of the complaint has the right to appeal Final Orders of the Commission to the Superior Court, Appellate Division.

201. Plaintiff never received notice of any OAL hearing, ALJ decision or Final Order of the Ethics Commission regarding any alleged violations.

202. Alternatively, the Ethics Commission may permit the subject of an ethics investigation to enter into a consent agreement with the Commission either prior to or after the issuance of a complaint.

203. Consent orders are retained in an individual's personnel file.

204. Consent orders, complaints and answers are public records.

205. Consent orders and other final agency decisions are posted on the Ethics



Commission's website.

206. Nothing has been posted to the Ethics Commission's website in reference to Plaintiff.

207. Despite the foregoing, Defendants continue to disseminate false and defamatory information concerning Plaintiff to the public and through anonymous sources to damage Plaintiff and further retaliate against him for engaging in protected activity.

208. As a result of the foregoing, Plaintiff has been denied his right to due process and has suffered severe reputational, economic and emotional distress damages.

**FIRST COUNT**

**CONSCIENTIOUS EMPLOYEE PROTECTION ACT ("CEPA")**

**N.J.S.A. 34:19-1 et seq.**

209. Plaintiff repeats and realleges each of the prior allegations of the within Complaint as if set forth at length herein.

210. Plaintiff's disclosures, complaints and/or objections to Defendants concerning being instructed to perform a private COVID-19 test on relatives of a Governor's Office employee as "a favor" constitutes protected activity under CEPA.

211. Plaintiff reasonably believed such conduct was unethical, unlawful, incompatible with public policy, a misuse of governmental resources and/or misuse of power.

212. The adverse employment actions taken against Plaintiff, including the termination of Plaintiff's employment and denial of his due process rights under applicable state law and regulation, was in retaliation for Plaintiff's complaints, disclosures and objections to

conduct he reasonably believed was unethical, unlawful, incompatible with public policy, a misuse of governmental resources and/or misuse of power.

213. Defendants' conduct was in violation of CEPA.

214. Defendants engaged in, participated in, condoned, ratified, perpetuated and/or aided and abetted the CEPA violations.

215. Defendants' conduct and actions were malicious and/or undertaken with a wanton and willful disregard of and for Plaintiff.

216. As a result of Defendants' conduct, Plaintiff has suffered emotional distress, compensatory and other damages.

**WHEREFORE**, Plaintiff demands judgment against Defendants, jointly and severally, for harm suffered as a result of the violations of CEPA, N.J.S.A. 34:19-1, et seq., as follows:

- A. Reinstatement;
- B. Back pay and benefits;
- C. Front pay and benefits;
- D. Compensatory damages;
- E. Consequential damages;
- F. Punitive damages;
- G. Equitable relief;
- H. Declaring that Defendants have violated CEPA and requiring Defendants to take appropriate corrective action to end unlawful retaliation in the workplace;
- I. Pre-judgment interest and enhancements to off-set negative tax consequences;

- J. Any and all attorneys' fees, expenses and/or costs, including, but not limited to, court costs, expert fees and all attorneys' fees incurred by Plaintiff in the prosecution of this suit (including enhancements thereof required to off-set negative tax consequences and/or enhancements otherwise permitted under law); and
- K. Such other relief as may be available and which the Court deems just and equitable.

**SECOND COUNT**

**CEPA -- POST-TERMINATION RETALIATION**

217. Plaintiff repeats and realleges each of the prior allegations of the within the Complaint as if set forth at length herein.

218. After unlawfully terminating Plaintiff's employment for engaging in whistleblowing activity, Defendants took further retaliatory action against Plaintiff by defaming Plaintiff and misrepresenting to the public his performance, attendance and reasons for termination.

219. Defendants further misrepresented to the public that Plaintiff did not properly disclose his outside business activities with MHA.

220. Defendants further misrepresented to the public that Plaintiff engaged in and/or participated in certain leaks concerning the State's response to the COVID-19 pandemic.

221. The reported "anonymous" sources of this false and defamatory information were individuals of the Governor's Office and/or other state employees or representatives.

222. Governor Murphy and Platkin aided and abetted the post-termination retaliatory conduct through their public statements to questions posed to them concerning the reasons for

Plaintiff's termination, set forth herein.

223. By endorsing the anonymous leaks, the State has caused the public to believe that Plaintiff was terminated for ethical reasons, which is not true and has caused Plaintiff to suffer irreparable harm.

224. As set forth above, Defendants provided false and defamatory information to the media to damage Plaintiff's stellar professional reputation and to further retaliate against him for engaging in protected activity.

225. The post-termination retaliatory actions taken by Defendants against Plaintiff are in violation of CEPA.

226. Defendants' acts or omissions were the cause of Plaintiff's harm and Defendants' acts or omissions were actuated by actual malice or accompanied by a wanton and willful disregard of persons who foreseeably might be harmed by those acts or omissions.

227. As a direct and proximate result of Defendants' violation of CEPA, Plaintiff has suffered compensatory, emotional distress and other damages.

**WHEREFORE**, Plaintiff demands judgment against Defendants for harm suffered due to the aforesaid violation of CEPA as follows:

- A. Reinstatement;
- B. Back pay and benefits;
- C. Front pay and benefits;
- D. Compensatory damages;
- E. Consequential damages;
- F. Punitive damages;

- G. Equitable relief;
- H. Declaring that Defendants have violated CEPA and requiring Defendants to take appropriate corrective action to end unlawful retaliation in the workplace;
- I. Pre-judgment interest and enhancements to off-set negative tax consequences;
- J. Any and all attorneys' fees, expenses and/or costs, including, but not limited to, court costs, expert fees and all attorneys' fees incurred by Plaintiff in the prosecution of this suit (including enhancements thereof required to off-set negative tax consequences and/or enhancements otherwise permitted under law); and
- K. Such other relief as may be available and which the Court deems just and equitable.

**SMITH EIBELER, LLC**

By:   
**CHRISTOPHER J. EIBELER**  
**Attorneys for Plaintiff**

Dated: June 16, 2020

**CERTIFICATION**

Pursuant to Rule 4:5-1, it is hereby stated to the best of my knowledge and belief that the matter in controversy is not the subject of any other action pending in any other court or of a pending arbitration proceeding,

**SMITH EIBELER, LLC**


By:   
**CHRISTOPHER J. EIBELER**  
**Attorneys for Plaintiff**

Dated: June 16, 2020

**JURY DEMAND**

Plaintiff hereby demands trial by jury on all issues so triable.

**SMITH EIBELER, LLC**


By:   
**CHRISTOPHER J. EIBELER**  
**Attorneys for Plaintiff**

Dated: June 16, 2020

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to Rule 4:25-4, CHRISTOPHER J. EIBELER, Esq. is designated as trial counsel for the above-captioned matter.

**SMITH EIBELER, LLC**

By:   
**CHRISTOPHER J. EIBELER**  
**Attorneys for Plaintiff**

Dated: June 16, 2020