

#1

**COSTELLO & MAINS, P.C.**  
By: Kevin M. Costello, Esquire  
18000 Horizon Way, Suite 800  
Mount Laurel, NJ 08054  
(856) 727-9700  
Attorneys for Plaintiff

RECEIVED & FILED  
JUL 19 2013  
SUPERIOR CI. OCEAN CO

SCOTT BUNDY	:	SUPERIOR COURT OF NEW JERSEY
	:	OCEAN COUNTY - LAW DIV
Plaintiff,	:	
	:	Civil Action
vs.	:	DOCKET NO. 2009-13
	:	
BRICK TOWNSHIP MUNICIPAL UTILITY AUTHORITY; PATRICK BOTTAZZI and JOHN DOES 1-5 AND 6-10:	:	COMPLAINT AND JURY DEMAND
	:	
Defendants.	:	

Plaintiff Scott Bundy, residing in Toms River, New Jersey, by way Complaint against the defendants, says:

**Preliminary Statement**

This matter is opened to the Court under the New Jersey Conscientious Employee Protection Act ("CEPA") and/or under the *Pierce v. Ortho Pharmaceuticals* doctrine in the alternative.

**Identification of Parties**

1. Plaintiff Scott Bundy is, at all relevant times herein, a resident of the State of New Jersey and employed by the Brick Township Municipal Utility Authority.
2. Defendant Brick Township Municipal Utility Authority ("BMUA") is, at all relevant times herein, a public body corporate and politic and, at all relevant times herein, the plaintiff's employer.

3. Defendant Patrick Bottazzi is an individual subject to liability for acts of retaliation taken in violation of CEPA.

4. Defendants John Does 1-5 and 6-10, currently unidentified, are individuals and/or entities who, on the basis of their direct acts or on the basis of *respondeat superior*, are answerable to the plaintiff.

#### General Allegations

5. Plaintiff was employed by defendants from 1988 to 1998, his initial employment not relating to this cause of action.

6. Plaintiff returned to work for the BMUA from in or about 2007 until his unlawful termination in 2012.

7. At all relevant times herein, defendant Bottazzi was a commissioner of the BMUA and at times served as the chairman.

8. In or about August 2010, plaintiff learned that defendant Bottazzi was suffering financial difficulties.

9. Plaintiff further learned that defendant Bottazzi was then attempting to obtain a loan from Crown Bank and in exchange for the loan had agreed to transition the BMUA's bank accounts to Crown Bank.

10. Plaintiff reasonably believed the same to be fraudulent, illegal, and against public policy which discourages the corruption of public officials.

11. N.J.S.A. 2C:27-11(a) provides that "A person commits a crime if the person offers, confers or agrees to confer any benefit, whether the benefit inures to the public servant or another person, to influence a public servant in the performance of an official duty to commit a violation of an official duty."

12. Plaintiff reported the same to the BMUA's auditor, Frank Holman.
13. Plaintiff thereby engaged in protected activity within the meaning of CEPA.
14. On or about August 30, 2010, defendant Bottazzi referred to Plaintiff Bundy as a "rat" and stated, "I hate your guts."
15. Upon information and belief, Mr. Holman confronted defendant Bottazzi regarding his agreement with Crown Bank, and defendant Bottazzi screamed at Mr. Holman and threatened his appointment as an auditor for the following year.
16. Subsequently, by Resolution 69-10, BMUA did, in fact, appoint Crown Bank as a depositor for the organization.
17. Following the adoption of Resolution 69-10, defendant Bottazzi publically stated, "I got my loan."
18. Upon information and belief, defendant Bottazzi did, in fact, receive a personal loan from Crown Bank.
19. Such loan would not have been granted but for defendant Bottazzi illegally shifting the BMUA's deposit funds to Crown Bank.
20. On or about October 4, 2010, plaintiff reported defendant Bottazzi and Crown Bank's illegal activity to the Federal Bureau of Investigation ("FBI").
21. Plaintiff thereby engaged in protected conduct under CEPA.
22. In or about July of 2011, Mr. Holman released an audit report which specifically noted that around the same time BMUA's funds were transferred from TD Bank to Crown Bank, a commissioner (defendant Bottazzi) received a loan from Crown Bank.
23. Following the issuance of that report, plaintiff met with Mr. Holman and Jerry Dasti, the BMUA's attorney.

24. During that meeting, plaintiff advised that they could not be associated with corruption and that the same had to be reported to public authorities.
25. Plaintiff thereby once again engaged in protected conduct within the ambit of CEPA.
26. In or about July of 2011, defendant Bottazzi stated to plaintiff, "You're nothing but a fucking rat. You went to the FBI about some made-up bank scandal."
27. In or about January, 2012, plaintiff learned that defendant Bottazzi had struck a deal with fellow commissioner Joseph Veni, whereby Mr. Veni would remain as chairman, despite the fact that Mr. Bottazzi was expected to assume that role, and in exchange, plaintiff would be terminated.
28. Plaintiff was advised by the BMUA's water quality director, "Pat just traded the chairmanship for your head on a silver platter."
29. In or about January 2012, defendant Bottazzi introduced knowingly false charges against plaintiff seeking to have him terminated.
30. In or about April, 2012, defendant BMUA decreased plaintiff's authority and removed the Information Technology Department from his control.
31. Plaintiff was also the subject of an investigation in which it was falsely stated that plaintiff had destroyed and/or manipulated documents.
32. Plaintiff spoke with Mr. Dasti, the BMUA's attorney, who advised, "This is all a vendetta from Bottazzi."
33. Thereafter, plaintiff received a sixty day notice that his employment with the BMUA was terminated.

34. Upon information and belief, similar notices were issued to two other employees, both of whom were permitted to continue in their employment.

35. A determinative and/or motivating factor in plaintiff's discharge was his protected conduct under CEPA.

36. In addition and/or in the alternative, plaintiff's discharge violates public policy inasmuch as it was purposeful retaliation for having complained about political corruption.

37. This State maintains a public policy discouraging political corruption as evidenced by the above cited criminal statute and New Jersey's Pay-to-Play laws.

38. Plaintiff has been forced to suffer economic and non-economic damages as a result of the actions of defendants.

39. Because the actions of defendants were purposeful, willful, intentional, and egregious, punitive damages are warranted.

#### COUNT I

##### Violation of CEPA – BMUA

40. Plaintiff hereby repeats and realleges paragraphs 1 through 39, as though fully set forth herein.

41. For the reasons set forth above, plaintiff was purposefully and egregiously retaliated against as a determinative and/or motivating response to plaintiff's protected conduct under CEPA.

WHEREFORE, plaintiff demands judgment against the defendants jointly, severally and in the alternative, together with compensatory damages, punitive damages, interest, cost of suit, attorneys' fees, enhanced attorneys' fees, equitable back pay, equitable front pay, equitable reinstatement, and any other relief the Court deems equitable and just.

**COUNT II**

**Violation of CEPA – Bottazzi**

42. Plaintiff hereby repeats and realleges paragraphs 1 through 41, as though fully set forth herein.

43. Defendant Bottazzi is individually liable for his actions as a retaliator in violation of CEPA.

44. For the reasons set forth above, plaintiff was purposefully and egregiously retaliated against as a determinative and/or motivating response to plaintiff's protected conduct under CEPA.

WHEREFORE, plaintiff demands judgment against the defendants jointly, severally and in the alternative, together with compensatory damages, punitive damages, interest, cost of suit, attorneys' fees, enhanced attorneys' fees, equitable back pay, equitable front pay, equitable reinstatement, and any other relief the Court deems equitable and just.

**COUNT III**

**Pierce v. Ortho Pharmaceuticals**

45. Plaintiff hereby repeats and realleges paragraphs 1 through 44, as though fully set forth herein.

46. To the extent that, at the time of the close of plaintiff's evidence, plaintiff's CEPA claims have been dismissed and/or discarded, plaintiff elects this count to proceed to jury, inasmuch as it is against public policy to terminate a public employee who complains about political corruption.

47. If, at the end of plaintiff's proofs at trial, the CEPA count is still viable, plaintiff will elect that remedy and voluntarily dismiss this count.

**RULE 4:5-1 CERTIFICATION**

1. I am licensed to practice law in New Jersey and am responsible for the captioned matter.
2. I am aware of no other matter currently filed or pending in any court in any jurisdiction which may affect the parties or matters described herein.

**COSTELLO & MAINS, P.C.**

By:   
\_\_\_\_\_  
Kevin M. Costello

**DESIGNATION OF TRIAL COUNSEL**

Kevin M. Costello, Esquire, of the law firm of Costello & Mains, P.C., is hereby designated trial counsel.

**COSTELLO & MAINS, P.C.**

By:   
\_\_\_\_\_  
Kevin M. Costello