

**LAW OFFICES OF JAY J. BLUMBERG, ESQ.**  
158 Delaware Street  
P. O. Box 68  
Woodbury, New Jersey 08096  
(856) 848-7472  
Attorneys for Plaintiff, Les Frie

**FILED**

AUG 08 2012

**CAPE MAY COUNTY  
LAW DIVISION**

<p>LES FRIE,  Plaintiff,</p> <p style="text-align: center;">Vs.</p> <p>THE NATURE CONSERVANCY, BOB ALLEN, BRAD SMITH, AND/OR JOHN DOES 1-50, j/s/a,  Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION – CAPE MAY COUNTY DOCKET NO. CPM-L- <b>397-12</b></p> <p style="text-align: center;">CIVIL ACTION</p> <p style="text-align: center;"><b>COMPLAINT AND DEMAND FOR JURY TRIAL</b></p>
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Plaintiff, Les Frie, residing at 357 Fidler Road, Woodbine, NJ 08270, by way of

Complaint against Defendants, says:

1. At all time relevant herein, Plaintiff, Les Frie (“Frie”), was an employee of The Nature Conservancy (“the Conservancy”).
2. At all times relevant herein, Defendant Conservancy is a not for profit organization existing pursuant to the laws of the State of New Jersey, which maintains an office in Cape May County at 2350 Route 47, Delmont, New Jersey 08314.
3. At all times relevant herein, Defendant Bob Allen (“Allen”) was the Delaware Bayshores Office’s (“DBO”) Director and one of Plaintiff’s supervisors, and who acting within the course and scope of his employment with Defendant Conservancy, directly engaged in and participated in a conspiracy and wrongful acts that resulted in damage being sustained by the Plaintiff as referred to herein.

4. At all times relevant herein, Defendant, Brad Smith (“Smith”) was the Director of Land Management and one of Plaintiff’s supervisors, and who acting within the course and scope of his employment with Defendant Conservancy, directly engaged in and participated in a conspiracy and wrongful acts that resulted in damage being sustained by the Plaintiff as referred to herein.
5. At all times relevant herein, John Does 1 through 50, inclusive, are fictitious names for individuals, persons, partnerships, joint venturers, associations, corporations, successors or predecessors in interest or other forms of business or governmental entities, the identity of which are unknown at present, but who participated in the decision to terminate or adversely affect the Plaintiff’s employment with Defendant Conservancy, and who have individually, or in concert with other Defendants, participated in action(s) in furtherance of a plan to violate Plaintiff’s rights under the New Jersey Law Against Discrimination (“LAD”), whether as aiders, abettors, conspirators and who have individually, or in concert with one, some or all of the Defendants referred to herein failed to provide the Plaintiff with a discrimination free workplace, and/or to retaliate against Plaintiff and to take adverse job action against Plaintiff, to violate Plaintiff’s rights under the New Jersey Conscientious Protection Act and/or all those who ratified, authorized, acquiesced in, approved or condoned the misconduct complained of, and specifically, includes all individuals who in any way, shape or form participated in the adverse employment actions taken against Plaintiff.

6. Plaintiff began working for the Conservancy in or about April 1997 as an intern, rose through the ranks and was promoted in or about 2005 to Stewardship Manager.
7. During Plaintiff's tenure with Defendant Conservancy, he received many accolades for his hard work, dedication, passion and loyalty.
8. In or about June of 2010, Plaintiff, along with several other Conservancy employees, reported to Claudia Sherman, Chief Compliance Officer at the Conservancy's World Headquarters, that Jay Laubengeyer ("Laubengeyer"), the then DBO Director, was stealing company funds.
9. After an investigation into Laubengeyer's actions, Defendant Conservancy replaced Laubengeyer with Defendant Allen.
10. As soon as Defendant Allen was promoted, he began a campaign against Plaintiff to strip him of his management responsibilities as well as his oversight responsibilities over the Cape May preserve, took away his Company truck and barraged him with insulting comments that affected the terms, conditions and privileges of his employment. Such comments including, but were not limited to, "how much do you expect someone to pay you for mowing grass?" and "seniority means nothing at TNC."
11. In addition, Plaintiff received an overall "Meets Expectations" on his 2010 Performance Evaluation which was the lowest ranking he had received during his tenure with the Conservancy.
12. Plaintiff verbally complained to Defendant Allen about his 2010 performance ranking and questioned its legitimacy especially given the fact that Plaintiff had

been commended by the President of the Conservancy for his participation in the Laubengeyer's investigation.

13. Defendant Allen's response was that Plaintiff's involvement with the Laubengeyer investigation was a component of his job and that if he did not stop complaining, he would be forced to give Plaintiff a lower ranking.
14. Thereafter, Defendant Allen hired his close friend Defendant Smith to Director of Land Management. Smith who was clearly unqualified for the position, became Plaintiff's immediate supervisor.
15. After Defendant Smith's hire, he and Defendant Allen re-wrote and altered the objectives for Plaintiff's position as a Stewardship Manager. This marked the first time during Plaintiff's career with the Conservancy that he did not write his own objectives.
16. In or about the Fall of 2011, Plaintiff received his 2011 Performance Evaluation from Defendant Smith that contained outright fabrications concerning his work habits, reliability and overall performance.
17. Plaintiff rebutted his 2011 Performance Evaluation with the following:

The issue of my reliability is disturbing since I have not been offered any valid examples to support the accusation. I have always prided myself on being reliable. In this type of work there are always emergencies and unexpected circumstances that can affect the outcome of any project. The negative tenor of this yearly evaluation which you presented questions my performance capabilities. With this low performance rating I would have expected many more supervisory and mentoring opportunities throughout the year.

18. After Plaintiff submitted the above rebuttal, his overall performance ranking was lowered from an overall ranking of "Meets Expectations" to a "Needs Improvement."

19. Plaintiff was also given his "objectives" for the year with one of them being "clean up of 10 miles of roadside." This essentially meant that Plaintiff was required to pick up trash which had never been one of his duties and responsibilities as a Stewardship Manager.
20. For the first time during his tenure with the Conservancy, Plaintiff did not receive a salary increase in 2011.
21. Plaintiff lodged a complaint with Sherman at the Conservancy's World Headquarters indicating that he believed he was being targeted by Defendant Allen and Defendant Smith for reporting Laubengeyer's illegal acts as he was now labeled as a "whistle blower."
22. Sherman referred Plaintiff to the Acting Regional Human Resources Director, "Byron", to whom Plaintiff voiced the same complaints as he had to Sherman. Byron told Plaintiff that he would speak to Defendant Allen and Defendant Smith about his complaint.
23. Based on information and belief, Byron spoke to Defendant Allen and Defendant Smith about Plaintiff's complaints against them..
24. Thereafter, Defendant Smith placed Plaintiff on a Performance Improvement Plan ("PIP"), the first and only PIP Plaintiff had been placed on during his tenure with the Conservancy.
25. The PIP that was prepared by Defendant Smith was replete with tasks and assignments that were either completely unreasonable because of: (1) the time frame in which they were required to be completed; and/or (2) Plaintiff's lack of adequate training on Excel or Access to complete the tasks and/or (3) atmospheric conditions that were clearly outside of Plaintiff's control.

26. In or about November 2011, Plaintiff's complaints against Defendant Allen and Defendant Smith regarding the retaliatory environment to which he was subjected were turned over to Jack Brown ("Brown") a more senior Human Resources Manager with the Conservancy. Plaintiff reiterated to Brown what he previously complained about to Sherman and Byron, namely, that he believed he was the victim of retaliation because of his initial whistleblowing activities in regards to Laubengeyer as well as his more recent complaints to Sherman and Byron after receiving the poor and unwarranted performance appraisal in 2011.
27. Brown conducted an investigation in Plaintiff's complaints, which included interviewing other employees in the Conservancy's Cape May County Office.
28. Despite the unreasonableness of the objectives set forth in the PIP Defendant Smith gave to Plaintiff, he worked hard to meet them and successfully completed all of the PIP objectives in mid-March 2012. During that time however, Defendant Smith ceased any and all communications with Plaintiff.
29. On or about April 16, 2012, Plaintiff was told that his job was being eliminated due to a "realignment of program conservation priorities."
30. Based on information and belief, an intern in her late twenties was hired for the Cape May County office and trained to perform the essential functions of Plaintiff's job. Plaintiff was forty-seven (47) years old at the time of his termination from the Conservancy.

**FIRST COUNT**

31. Plaintiff, Les Frie, hereby incorporates paragraphs 1 through 30 as though set forth at full herein.

32. The aforesaid acts of intentional age discrimination, namely, Plaintiff's termination from the Conservancy, because of his age, which acts were perpetrated by Defendant Allen and Defendant Smith and encouraged and substantially assisted by certain John Doe Defendants, violated Plaintiff's rights as provided under the Law Against Discrimination ("LAD"), N.J.S.A. 10:5-12 et seq.
33. As a direct and proximate result of the Defendants' negligent, intentional, malicious, willful, wanton and reckless violation of Plaintiff's rights under the LAD, Plaintiff sustained severe emotional distress, conscious pain and suffering, physical injury, humiliation, embarrassment, mental anguish and loss of personal dignity.

**WHEREFORE**, Plaintiff demands judgment against Defendants, jointly, severally and in the alternative for compensatory damages, punitive damages, interest, attorney's fees, costs of suit and such other relief as is just and equitable.

### **SECOND COUNT**

34. Plaintiff, Les Frie, hereby incorporates paragraphs 1 through 33 as though set forth at full herein.
35. As set forth above, Plaintiff engaged in protected activity when he complained to Defendant Conservancy's Human Resources at its World Headquarters in 2010 and was instrumental in effectuating the termination of Laubengeyer. Plaintiff also engaged in protected activity when he complained to numerous Human Resource representatives from World Headquarters in 2011 that he believed he was the victim of unlawful retaliation at the hands of Defendant Allen and Defendant Smith because he blew the whistle on Laubengeyer.

36. Plaintiff's whistle-blowing activities, as afordescribed, were a substantial factor in the adverse employment actions taken against him, including, but not limited to, his ultimate termination.
37. As a direct and proximate result of the Defendants' combination or conspiracy to retaliate and/or knowing violation of Plaintiff's rights under the Conscientious Employee Protection Act ("CEPA"), N.J.S.A. 34:19-1 et seq., Plaintiff has been damaged.

**WHEREFORE**, Plaintiff demands judgment against Defendants, jointly, severally and in the alternative for compensatory damages, punitive damages, interest, attorney's fees, costs of suit and such other relief as is just and equitable.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury as to all issues and claims.

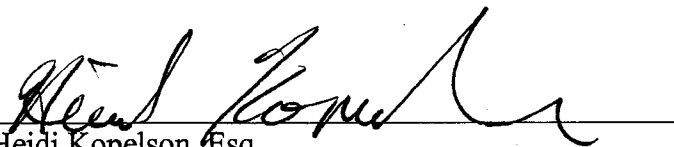
**TRIAL DESIGNATION**

Heidi Kopelson, Esq. has been designated as trial counsel in the above matter pursuant to R.4:25-4.

**CERTIFICATION PURSUANT TO RULE 4:5-1**

The matter in controversy is not the subject matter of any other action pending in any court or of a pending arbitration proceeding. Another action or arbitration proceeding is not contemplated. There are no other names and addresses of any parties who should be joined in the action.

THE LAW OFFICES OF JAY J. BLUMBERG, ESQ.  
Attorneys for Plaintiff, Les Frie

  
Heidi Kopelson, Esq.