

<p>ALLISON STEC,</p> <p>Plaintiff,</p> <p>v.</p> <p>COOPER UNIVERSITY HEALTH CARE, MICHAEL GOODMAN, M.D., NORA VIZZACHERO, NICOLE FOX, M.D., NECHOLE HUNTER, ABC CORPORATIONS 1-5 (fictitious names describing presently unidentified business entities); and JOHN DOES 1-5 (fictitious names describing presently unidentified individuals),</p> <p>Defendant.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION BURLINGTON</p> <p>DOCKET NO.:</p> <p><u>Civil Action</u></p> <p>COMPLAINT AND DEMAND FOR JURY TRIAL</p>
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INTRODUCTION

This is an action brought under the New Jersey Conscientious Employee Protection Act N.J.S.A. 34:19-1 *et seq.* (“CEPA”) against an organization and individuals willing to do whatever is necessary, including engaging in retaliatory activities, to bury unlawful and dangerous conduct in the workplace. Plaintiff, who is currently employed by Defendant Cooper as an Advanced Practice Nurse (“APN”) in the Pediatric Gastroenterology (“GI”) department, was subjected to retaliation for simply doing her job with integrity, for reporting conduct that, *inter alia*, endangered the welfare of patients, and for objecting to the unlawful activity of her supervisors. Rather than applaud Plaintiff for reporting dangerous conduct, Defendants swept her concerns under the rug and commenced an immediate, retaliatory, and orchestrated effort to compel her resignation. As discussed below, Defendant Cooper’s actions and inactions may have had deadly consequences.

From 2019 through June 2021, Plaintiff’s collaborative Gastroenterologist (herein referred to as “Dr. Doe”) treated patients and performed surgical procedures at Defendant Cooper’s medical facilities while impaired, i.e., intoxicated, under the influence of controlled substances, and/or in withdraw from drug and alcohol abuse. Plaintiff, and other Defendant Cooper employees, witnessed this first-hand. They repeatedly observed Dr. Doe’s impaired state at work. Dr. Doe often slurred her speech. At times, she was incapable of formulating basic sentences, she could not spell basic words, or she was unable to stand without leaning against a wall. Dr. Doe exhibited manic like behavior, passed out at her desk, and told Plaintiff she vomited on herself prior to entering work. Dr. Doe made careless errors, such as treating the wrong patient or prescribing the wrong medication. Plaintiff knew Defendant Cooper was running its physicians and staff into the ground, and that Dr. Doe had a serious substance abuse problem. Thus, Plaintiff repeatedly complained to her direct supervisors that Dr. Doe was endangering the welfare of patients and

exposing the hospital and its employees to significant liability. Plaintiff reported her serious concerns up the chain, including to Defendant Goodman (the Department Chair of Pediatric Neurology and Chairman of Cooper Pediatrics). She explained that Dr. Doe needed help, and she needed it immediately. She warned that, under no circumstances, should Dr. Doe be permitted to treat patients, to write prescriptions, or to perform surgeries on pediatric patients in an impaired state. Someone was going to get hurt. Defendant Cooper did nothing.

Instead, Defendants intentionally made Plaintiff's working conditions more difficult, deliberately instituted unreasonable performance standards, refused to provide Plaintiff with appropriate support personnel, attempted to bury Plaintiff's complaints, initially blocked Plaintiff's duly earned pay increases, and blamed Plaintiff for Defendant Cooper's own failings. When her complaints fell on deaf ears, Plaintiff reported the matter to the appropriate medical boards, to the department of health, and eventually to the Chief Executive Officers of the hospital. Yet again, rather than remediate the matter, Defendants conducted a sham internal investigation and actively misled external investigators, falsely reporting that Dr. Doe's issues were non-existent or were merely stress related. They attempted to convince Plaintiff to "let it go." Plaintiff refused.

In early June 2021, Plaintiff made a final plea with Defendant Cooper as Dr. Doe continued to treat patients in an impaired state. But it was too late. Three days after Plaintiff's complaint, Dr. Doe – a married 42-year-old mother of three children – ***was found dead in her New Jersey home.*** Defendant Cooper did more than just turn a blind eye here. It knowingly put patients in danger. It failed to care for one of their own. It may have cost a doctor her life. And incredibly, even after Dr. Doe's death, Defendant Cooper still refused to fully investigate Plaintiff's concerns.

Plaintiff thus brings this lawsuit to expose exactly what happened here. She also seeks a jury trial for the unlawful retaliation in violation of New Jersey law.

PARTIES

1. Plaintiff is an individual residing in Mount Laurel, New Jersey and, at all times relevant hereto, was employed by Defendant Cooper.

2. Defendant Cooper is a corporation organized and existing under the laws of the State of New Jersey, with its principal place of business located at 101 Haddon Avenue, Suite 301 Camden, New Jersey 08103. At all times relevant hereto, Defendant Cooper is an “employer” as defined under CEPA.

3. Defendant Goodman is an individual residing in Pennsylvania. At all times relevant hereto, Defendant Goodman is employed by Defendant Cooper as a Physician, Department Chair of Pediatric Neurology, and Chairman of Pediatrics. This claim is brought against Defendant Goodman in his individual capacity and as an agent of Defendant Cooper during the course of his employment.

4. Defendant Vizzachero is an individual residing in Pennsylvania. At all times relevant hereto, Defendant Vizzachero is employed by Defendant Cooper as a lead Advanced Practice Nurse. This claim is brought against Defendant Vizzachero in her individual capacity and as an agent of Defendant Cooper during the course of her employment.

5. Defendant Fox is an individual residing in New Jersey. At all times relevant hereto, Defendant Fox is employed by Defendant Cooper as a Surgeon, Associate Chief Medical Officer, Associate Professor of Surgery and Medical Director of Pediatric Trauma. This claim is brought against Defendant Fox in her individual capacity and as an agent of Defendant Cooper during the course of her employment.

6. Defendant Hunter is an individual residing in New Jersey. At all times relevant hereto, Defendant Hunter is employed by Defendant Cooper as a Senior Human Resources

Business Partner. This claim is brought against Defendant Hunter in her individual capacity and as an agent of Defendant Cooper during the course of her employment.

FACTS COMMON TO ALL CLAIMS

7. Plaintiff repeats each and every allegation set forth above as if set forth fully herein at length.

8. Plaintiff is currently employed by Defendant Cooper as an APN in the Pediatric GI department. Plaintiff commenced employment in this capacity in February 2019 although she was previously employed at Defendant Cooper for nine years as a Registered Nurse in the Neonatal Intensive Care Unit.

9. An APN is a registered nurse who has received advanced education, training, and certification.

10. Plaintiff works in the Defendant Cooper Pediatric Care at Voorhees. This location includes several different disciplines, including the Pediatric Specialty office where Plaintiff works.

11. At all relevant times, Plaintiff was an exemplary employee. Until recently, Plaintiff has never had a negative performance evaluation and always exceeded expectations.

12. In fact, as of today, Plaintiff single-handedly manages Defendant Cooper's GI department when, typically, such a department has at least one accompanying physician and a registered nurse for support.

13. From 2019 through 2021, Plaintiff's collaborative and supervising physician was Dr. "Doe."¹ Until June 2021, Plaintiff worked alongside and with Dr. Doe on a daily basis.

¹ The name of this individual is not identified since the individual is deceased.

14. Prior to her death and addiction, Dr. Doe was generally well-liked at Defendant Cooper. Dr. Doe commenced her GI practice at Defendant Cooper in 2012. Dr. Doe was eventually promoted to Defendant Cooper's Head of Pediatric Gastroenterology.

15. Gastroenterologists observe, diagnose, and treat a range of gastrointestinal illnesses – both acute and chronic. Gastroenterologists treat a full range of gastrointestinal disorders in children, including Crohn's disease, Chronic diarrhea, Constipation, Encopresis (soiling), Gastroesophageal reflux disease (GERD), Inflammatory bowel disease, Irritable bowel syndrome, Peptic ulcer disease, and Obesity.

16. Throughout her tenure, Dr. Doe treated and performed surgeries on young children on a regular basis. Unfortunately, during the course of her employment, and in or around the summer of 2019, Plaintiff became aware that Dr. Doe was a struggling with substance abuse. Other employees, however, knew of the issue earlier than Plaintiff. Based on observations, Dr. Doe was addicted to alcohol and/or prescription drugs.

17. Plaintiff and other Cooper employees often witnessed Dr. Doe carry out her duties while impaired at work.

18. To begin, Dr. Doe often "called-out" of work last minute, forcing the cancellation of critical appointments and surgical procedures. This occurred several times each month and was unusual for a physician of her stature.

19. On one particular occasion, Dr. Doe called out after a patient was already at the medical facility waiting for treatment, leaving Plaintiff to care for the patient herself. Dr. Doe's conduct was becoming increasingly alarming.

20. On other occasions, Dr. Doe showed up to work and treated patients while slurring her speech and speaking at an elevated voice level in a manic manner. Dr. Doe's conduct was

consistent with a highly intoxicated individual who had just consumed a significant amount of alcohol or prescription drugs (or both).

21. Dr. Doe also became “sick” at work on a regular basis. This is because she was intoxicated, hungover, and/or withdrawing/detoxing from the ingestion of alcohol/drugs.

22. The American Medical Association Journal of Ethics explicitly states symptoms of an impaired physician—many of which Dr. Doe was exhibiting, such as late to appointments, increased absences, increased conflicts with colleagues, and increased irritability and aggression.

23. Dr. Doe had a duty to report her own conduct because “when physician health or wellness is compromised, so may the safety and effectiveness of the medical care provided.”

24. Defendant Doe also had an ethical duty to cease treating patients and seek appropriate help as needed. Namely:

To fulfill this responsibility individually, physicians should:

- (a) Maintain their own health and wellness by:
 - (i) Following healthy lifestyle habits
 - (ii) Ensuring that they have a personal physician whose objectivity is not compromised
- (b) Take appropriate action when their health or wellness is compromised, including:
 - (i) Engaging in honest assessment of their ability to continue practicing safely
 - (ii) Taking measures to mitigate the problem
 - (iii) Taking appropriate measures to protect patients, including measures to minimize the risk of transmitting infectious disease commensurate with the seriousness of the disease
 - (iv) Seeking appropriate help as needed, including help in addressing substance abuse. Physicians should not practice if their ability to do so safely is impaired by use of a controlled substance, alcohol, other chemical agent or a health condition

Collectively, physicians have an obligation to ensure that colleagues are able to provide safe and effective care, which includes promoting health and wellness among physicians.

(d) A licensee, who is not already known to the Board's Impairment Review Committee through participation in the Alternative Resolution Program, shall provide notice to the Board in writing within 21 days of any changes in circumstances that would alter the response last provided by the licensee to questions on the biennial renewal form pertaining to medical conditions and use of chemical

substances, which in any way impair or limit the licensee's ability to practice with reasonable skill and safety.²

25. Dr. Doe did not self-report under the presumption no one would take notice. However, Plaintiff, an experienced nurse, was particularly adept at recognizing symptoms of alcohol/drug abuse. It was clear to Plaintiff and others that Dr. Doe was impaired and that her addiction seemed to be getting worse.

26. For example, in October 2019, Dr. Doe was so impaired at work that she was incapable of swiping her employee identification badge to enter Defendant Cooper's facility. Plaintiff was also told by a colleague that also observed Dr. Doe was leaning her head against a tree outside of the facility, unable to stand on her own.

27. On one occasion, Plaintiff, along with a medical assistant and another nurse, also observed Dr. Doe visibly impaired and/intoxicated. The nurse and medical assistant had to intervene and physically escort Dr. Doe out of Defendant Cooper's facility before she injured herself or a patient.

28. In her intoxicated state, Dr. Doe also became angry. At time, Dr. Doe loudly berated the employees, began cursing at them, and engaged in a physical struggle. This was inconsistent with Dr. Doe's behavior and personality when sober. When confronted, Dr. Doe refused to leave the facility and refused to allow Cooper employees to drive her home. On occasion, Dr. Doe would fumble her way into her car and drive herself home, impaired.

29. In October 2019, an employee reported the matter to Defendant Cooper's Human Resources department. Upon information and believe these individuals reported Dr. Doe's impairment and a meeting was held to "address" the situation.

² See <https://www.ama-assn.org/delivering-care/ethics/physician-health-wellness>; <https://journalofethics.ama-assn.org/article/identifying-impaired-physician/2003-12>; N.J.A.C. 13:35-6.19(d).

30. Yet, rather than address Dr. Doe's conduct and Plaintiff's concerns, the HR Representative blamed the Defendant Cooper employees for not calling the onsite manager. The HR Representative simply distributed a policy regarding impaired employees and reiterated that the incident was mishandled.

31. Plaintiff was astonished – Dr. Doe was intoxicated, high, and/or impaired while attempting to treat patients and Defendant Cooper focused its attention on the manner in which employees reported the matter. Defendant Cooper's response was directed at the employees who were attempting to diffuse the situation and prevent Dr. Doe from treating patients while impaired. Defendant Cooper should have immediately addressed Dr. Doe's irresponsible, unlawful, and unethical conduct. Dr. Doe also needed help.

32. In the beginning, Plaintiff observed Dr. Doe reporting to work impaired approximately once a week (usually on Mondays). However, it quickly became more often and once a week turned into several days per week, every week until her death.

33. Rather than investigate and remediate the workplace – which posed serious public and patient safety issues – Defendant Cooper went to great lengths to sweep Dr. Doe's conduct under the rug. Under New Jersey Law, medical practitioners (including physicians) are required to report information that reasonably indicates a practitioner is acting impaired that would present imminent danger to a patient.³ In fact, practitioners are required to report far less concerning conduct (e.g., unprofessional conduct). Specifically:

State Board of Medical Examiners

Licensee Reporting Obligations

Colleague Reporting

Practitioners (physicians and podiatrists) must report to the Board if they have information that reasonably indicates that another practitioner has demonstrated impairment, gross incompetence or unprofessional conduct that would present imminent danger to a patient or to the public. N.J.S.A. 45:1-37.

³ <https://www.njconsumeraffairs.gov/bme/Pages/Reporting-Obligations.aspx#>

**Plaintiff's Initial Complaint to Cooper That Dr. Doe Is Treating and Operating
On Pediatric Patients While Intoxicated/Impaired**

34. In or around November 2019, Plaintiff showed up to work for her scheduled shift. Shortly thereafter, Dr. Doe arrived late to work. Plaintiff immediately noticed that Dr. Doe was once again intoxicated and/or impaired. For example, Dr. Doe showed up with her midriff completely uncovered by clothing.

35. Immediately upon Dr. Doe's arrival, Plaintiff observed Dr. Doe acting in a disheveled and intoxicated manner. When Plaintiff began to exchange pleasantries with Dr. Doe, it was clear that Dr. Doe's speech was extremely slurred and that she was under the influence of drugs and/or alcohol.

36. Plaintiff watched in shock as basic tasks seemed extremely difficult for Dr. Doe – tasks that would take minimal effort for a person who is sober.

37. For example, Dr. Doe attempted to login into her computer by slowly typing with one finger. Dr. Doe had trouble logging into the computer and was squinting at the computer screen. While on the phone with IT, Dr. Doe was unable to spell kindergarten-grade level words (e.g., apple) when IT asked for verification purposes. Dr. Doe also kept dropping her phone.

38. Plaintiff was not the only employee to notice Dr. Doe's behavior. Another Defendant Cooper employee ("Emma") approached Plaintiff and asked her to speak in confidence. After observing Dr. Doe's behavior, Emma asked Plaintiff if Dr. Doe was "okay." Emma explained that a front desk employee and medical assistant also noticed Dr. Doe's obviously impaired state.

39. Plaintiff and Emma reported Dr. Doe's behavior to Patty Marco, Defendant Cooper's Operations Manager. Plaintiff and Emma believed that this conduct triggered a

mandatory and legal reporting obligation. They formally reported the incident to Ms. Marco and, in turn, hospital administration was informed of the situation.

40. By this time, Dr. Doe had begun treating patients *while impaired*. This clearly posed a health and safety risk. Further, Dr. Doe was belligerent toward patients rather than calm, patient, and professional. For example, due to her impaired state, Dr. Doe began yelling and scolding an autistic patient (a young child and in the room with her mother). Plaintiff had no choice but to intervene on the patient's behalf and asked Dr. Doe to leave the exam room (which she ultimately did).

41. Ms. Marco also observed the situation, but she was not permitted to pull Dr. Doe out of the room. Plaintiff addressed the situation, caring for the patient and escorting the patient and guardian out of the room.

42. Shortly thereafter Plaintiff was pulled into a meeting with Ms. Marco and Ms. Raimo (Director of Ambulatory Operations). Ms. Marco told Plaintiff: ***"This is very serious, I am going to make my own assessment but do you think she is impaired?"*** Plaintiff responded affirmatively and explained her observations. Plaintiff also explained that this was not the first time that Dr. Doe was, or appeared, impaired at work.

43. Plaintiff specifically explained to Ms. Marco and to Ms. Raimo that patient care was going to suffer, or someone was going to get seriously hurt, if Defendant Cooper continued to allow Dr. Doe to work in an intoxicated and/or impaired state.

44. Plaintiff explained that Dr. Doe needed help and she was a danger to both herself and her patients.

45. Shortly thereafter, Plaintiff noticed that Defendant Goodman, Ms. Raimo, and Dr. Doe were in a meeting together in the office next to the patient room. The meeting lasted approximately 45 minutes.

46. Initially, Plaintiff was relieved as she believed Defendant Cooper was acting promptly to address the matter. But once the meeting ended, Plaintiff observed Ms. Raimo, Defendant Goodman and Dr. Doe leaving the office in good spirits and laughing in a jovial matter. Plaintiff was stunned. Defendants were supposed to be investigating Dr. Doe for treating patients while impaired and putting their health/safety at risk. Dr. Doe should have been immediately sent to Worknet for drug testing, sent home and placed on leave while the hospital conducted a full investigation. Defendant Cooper even allowed Dr. Doe to drive home. This violated procedure that mandated Defendant Cooper arrange for transportation for Dr. Doe.

47. But it was obvious to Plaintiff that the meeting was nothing more than Dr. Doe and Defendant Goodman “getting their story straight” on what just occurred in the workplace. Dr. Goodman not only missed an opportunity to assist a colleague with a life-threatening and debilitating issue, but he also enabled Dr. Doe by refusing to take any serious action to address the matter. At the conclusion of the meeting, Defendant Goodman told Plaintiff that he ***concluded Dr. Doe’s impaired state was merely stress related.*** As discussed below, Dr. Goodman’s decision and failure to act upon Plaintiff’s warnings may have had deadly consequences.

48. Plaintiff immediately expressed her disagreement – it was obvious to Plaintiff and other employees that Dr. Doe was impaired from alcohol or some other controlled substance. This also was not the first time that Plaintiff and other employees made these observations. Other administrative staff, medical professionals and Resident doctors all witnessed her conduct prior.

49. Most shockingly, although Dr. Doe left work that day and was not required to get drug tested in accordance with Defendant Cooper policy, Dr. Doe was permitted to treat patients in the Operating Room the next day. ***Defendant Goodman told Plaintiff the Operating Room was Dr. Doe's happy place.***

50. Defendant Goodman apparently blindly accepted Dr. Doe's "stress" excuse without any further inquiry and never escalated the matter within Defendant Cooper or the appropriate regulatory bodies. Defendant Goodman had an obligation to report Dr. Doe but he failed Dr. Doe by not doing so while also putting the health and safety of Cooper patients at serious risk.

51. More specifically, the American Medical Association Code of Ethics provides:

Opinion 9.031 - Reporting Impaired, Incompetent, or Unethical Colleagues

Physicians have an ethical obligation to report impaired, incompetent, and/or unethical colleagues in accordance with the legal requirements in each state and assisted by the following guidelines:

Impairment. Physicians' responsibilities to colleagues who are impaired by a condition that interferes with their ability to engage safely in professional activities include timely intervention to ensure that these colleagues cease practicing and receive appropriate assistance from a physician health program (see Opinion E-9.0305, "Physician Health and Wellness"). Ethically and legally, it may be necessary to report an impaired physician who continues to practice despite reasonable offers of assistance and referral to a hospital or state physician health program. The duty to report under such circumstances, which stems from physicians' obligation to protect patients against harm, may entail reporting to the licensing authority.

52. After this incident, Defendant Cooper never followed up with Plaintiff. Upon information and belief, Defendant Goodman also never followed up on Dr. Doe.

53. From this point forward, Plaintiff tried to maintain a professional, friendly relationship with Dr. Doe but she could not and would not allow her actions or Defendant Goodman's inaction impact the pediatric patients.

**Plaintiff Formally Complains For a Second Time That Dr. Doe
Is Working Impaired and Putting Patients at Risk**

54. Three months later, in February 2020, Plaintiff once again observed Dr. Doe at work in a state of total intoxication/impairment. This time Dr. Doe was unable to hold a conversation without slurring her speech. Eventually, Dr. Doe become irate and began speaking in a manic-like state. Dr. Doe was so impaired that she could barely function at all. Specifically, Dr. Doe was late to work, unable to type, and falling asleep at her desk:



55. This was not the first time Dr. Doe fell asleep due to her level of impairment rendering her incapable of working. After observing Dr. Doe's actions and condition, Plaintiff quickly texted the acting manager at the Camden office, Cathy Borden (Ms. Borden). Plaintiff explained, "Not good today," which was in reference to Dr. Doe's visibly impaired state.

56. In response, and because Dr. Doe was clearly impaired/intoxicated, Ms. Borden confiscated Dr. Doe's car keys. Ms. Borden recognized that Dr. Doe was unable to drive her vehicle, let alone treat patients. Ms. Borden understood that Dr. Doe was a danger to herself, to

patients, and to the general public. However, Dr. Doe refused the help and within 30-45 minutes, Dr. Doe snatched her keys back from Ms. Borden and drove herself home.

57. Plaintiff and Ms. Borden regularly communicated regarding Dr. Doe's impairment and as time progressed, they observed more indicators that Dr. Doe's addiction was only worsening. For example, Plaintiff observed Dr. Doe picking at her head, scalp and arms and routinely saw bleeding and scabs on her body—all indicators of substance abuse.

58. On the following day, Dr. Doe arrived at the office. This time she appeared to be in withdraw and/or detoxing from whatever alcohol and/or controlled substances she consumed the day prior. As the day progressed, Dr. Doe became progressively more ill. She was profusely sweating, constantly going in and out of the restroom, and moaning/groaning at her desk for long periods of time. When Plaintiff confronted Dr. Doe about her condition, Dr. Doe blurted to Plaintiff that she was *"okay"* and *"just needed sleep."* Dr. Doe told Plaintiff she had not slept in three weeks because her children were sick, but Plaintiff knew that was not the reason. Dr. Doe worked until about 3:30p.m. that day.

59. That same day, Defendant Goodman arrived at the medical facility around 4:00p.m., just after Dr. Doe left the facility. Dr. Goodman immediately asked, "how's today...better than yesterday? The same?" These questions were in direct reference to Dr. Doe's impaired state during the workday. Plaintiff explained that she observed Dr. Doe impaired at work the day prior. Plaintiff also advised Defendant Goodman that, in both her medical and personal opinion, Dr. Doe was suffering from "withdrawal" – either from alcohol or a controlled substance.⁴

60. Plaintiff further expressed that Dr. Doe is a liability for Defendant Cooper and explained that the situation required Defendant Cooper to report the matter to the authorities or the

⁴ Withdrawal occurs when an individual is experiencing physical and/or mental symptoms because of the sudden stopping or reducing intake of a drug or alcohol.

Board of Medicine. Plaintiff even expressed that Defendant Cooper could face criminal fines or sanctions for failing to address the matter.

61. Defendant Goodman did not deny that Dr. Doe was working impaired or under the influence of a controlled substance/alcohol. Nor did he deny that Dr. Doe was experiencing withdrawal. Still, Defendant Goodman explained there was nothing he could do even though he could. Indeed, at this point Defendant Goodman was required to report Dr. Doe under New Jersey law but he did not:

b. A health care entity shall notify the division in writing if it is in possession of information that indicates that a health care professional has failed to comply with a request to seek assistance from a professional assistance or intervention program approved or designated by the division or a board to provide confidential oversight of the health care professional, or has failed to follow the treatment regimen or monitoring program required by that program to assure that the health care professional's physical, mental, or emotional condition or drug or alcohol use does not impair the health care professional's ability to practice with reasonable skill and safety.⁵

62. Dr. Goodman literally advised Plaintiff that *it is difficult to make people “get help” until they are “ready.”* It was clear from Defendant Goodman's response that he, too, had knowledge that Dr. Doe was a struggling addict, that she was often impaired, that she was not ready to become sober, and that she was a liability to herself, her patients, and to the hospital.

63. Plaintiff was not willing to accept Defendant Goodman's justification for allowing Dr. Doe to continue putting patients at risk. Plaintiff explained: *“respectfully, I disagree, and you are in a position where something more should be done. If this was a nurse, she would have been gone a long time ago.”*

⁵ N.J.S.A. § 26:2H-12.2b

64. Plaintiff continued to urge Defendant Goodman to do something and explained that Defendant Cooper was enabling her by failing to address the matter. Plaintiff explained, on a human level, Dr. Doe needed help. From an organizational standpoint, Defendant Goodman's inaction and allowing Dr. Doe to "wear Cooper scrubs in an impaired state" would undoubtedly reflect poorly on Defendant Cooper.

65. During this same conversation, Plaintiff questioned who her collaborative physician would be since Dr. Doe was clearly not a functioning physician, nor was she capable of oversight. Plaintiff also objected to Dr. Doe signing off on Plaintiff's prescriptions. Plaintiff made it clear that she did not want to work with Dr. Doe, who posed a risk to Plaintiff's own medical license. The meeting concluded without any real assurances that Defendant Goodman intended to, or would, take action to remediate the workplace. Defendant Goodman became Plaintiff's collaborative physician while Dr. Doe was on leave.

66. The next day, February 12, 2020, Plaintiff was informed that Dr. Doe would not be seeing patients and that she would be put on paid administrative leave for several weeks.

67. Plaintiff was initially pleased with Defendant Cooper's actions. On paper, it appeared Defendant Cooper was finally taking Plaintiff's concerns seriously. Plaintiff was wrong, however.

68. Defendant Cooper orchestrated its actions to make it appear that the hospital took the matter seriously; in reality, Defendant Cooper had no interest in getting to the bottom of Dr. Doe's conduct and whether she put patients at risk. For example, Dr. Doe was required to get a drug *test approximately 48 hours after she was observed at work visibly impaired*. Defendant Cooper purposefully did not send Dr. Doe for an immediate drug test as required. The delay

allowed Dr. Doe to sober up and, upon information and belief, pass the drug test. It was clear that Defendant Goodman was doing everything possible to ignore Dr. Doe's conduct.

69. In turn, on February 13, 2020, Plaintiff reported Dr. Doe to the New Jersey Medical Board Examiners ("BME").

70. Due to Defendant Goodman's inaction, Plaintiff reasonably believed it was her moral, ethical, and legal obligation to report Dr. Doe, Defendant Goodman, and Defendant Cooper to the BME.

71. In this report, Plaintiff detailed the November 2019 and February 10, 2020 incidents concerning Dr. Doe's impaired state at the medical facility while treating patients. Plaintiff also reported Defendant Cooper's intentional choice to not administer a drug test immediately following the incidents, relieving the hospital of any potential liability in connection with a finding that an intoxicated physician treated patients. Plaintiff also reported that, for months, Defendant Cooper had not taken any serious action against Dr. Doe and was enabling her conduct. Plaintiff believed it was only a matter of time before something catastrophic.

72. Approximately one month later, on March 17, 2020 the BME visited Defendant Cooper to investigate Plaintiff's complaint.

73. Defendant Goodman, Ms. Borden and Plaintiff were all interviewed as part of their investigation. The BME Investigator was Winni Quizon ("Ms. Quizon")

74. During Plaintiff's interview, Plaintiff explained she had direct knowledge of similar incidents with Dr. Doe prior to the February 2020 incident. ***Ms. Quizon was blindsided by this information. The investigator told Plaintiff that Defendant Goodman assured the BME there were no prior incidents.***

75. Plaintiff explained she was not surprised by Defendant Goodman's deceitful conduct – it was consistent with his actions to that point and with his attempts to cover up the truth. Plaintiff explained that Defendant Goodman was well aware of Dr. Doe's addiction and/or impairment but repeatedly made excuses for Dr. Doe to keep both Dr. Doe's and, more importantly, Defendant Cooper's patient care record clean.

76. Knowing Defendant Goodman was not forthright with the BME, Plaintiff continued to follow up with Ms. Quizon to ensure the appropriate action would be taken. Yet again, Defendants were not taking Plaintiff's complaints seriously.

Dr. Doe Returns to Work Only To Continue Practicing Impaired

77. After approximately ten weeks of paid administrative leave, on April 1, 2020, Dr. Doe returned to Defendant Cooper.

78. Plaintiff immediately reported Dr. Doe's return to the BME. The BME was unaware that Dr. Doe had or was to return to work.

79. Ms. Quizon immediately asked why Dr. Doe returned to work because Dr. Doe was supposed to be in the Physicians Assistance Program ("PAP"). As Ms. Quizon explained:

Good morning Allison, I don't know why [REDACTED] is back to work but Sharon Dostman mentioned that she is in PAP (Physicians Assistance Program). As long as she attend the PAP, the Board gets report on her progress.

Sent via the Samsung Galaxy S9, an AT&T 5G Evolution capable
smartphone
Get [Outlook for Android](#)

80. PAP provides services to medical professionals, including physicians with issues such as, substance abuse. PAP has a contractual relationship with the BME. As such, the BME

receives reports and updates on Dr. Doe's progress. However, Defendant Cooper never informed the BME that Dr. Doe was returning to work.

81. In essence, despite Plaintiff's complaints and Defendant Goodman's firsthand knowledge of Dr. Doe's addiction, Defendant Cooper returned Dr. Doe to work without actually addressing her substance abuse issues and without informing the BME.

82. At no point was Dr. Doe disciplined, reprimanded, suspended or prevented from treating patients in her impaired state. Nor did Defendant Cooper take steps to monitor Dr. Doe's behavior to ensure that she was not treating patients while impaired or had a relapse. ***Even more alarming, Defendant Cooper never conducted a full investigation into the patients Dr. Doe treated or operated on while in an impaired state.***

83. Upon her return, Dr. Doe's conduct was making it significantly more difficult for Plaintiff to do her job. For example, Dr. Doe no longer sat in the same office with Plaintiff. When Plaintiff had to approach her for work-related matters, Dr. Doe made it extremely uncomfortable for Plaintiff to do so and often ignored Plaintiff altogether. Upon information and belief, Dr. Doe changed her desk location to a different office so Plaintiff would not observe her as much during work hours and so she could not notice/report on her level of impairment.

84. Plaintiff became so frustrated with Defendant Cooper and Dr. Doe that, in or around April/May 2020, Plaintiff contacted her superior, Eileen Campbell (AVP of Advanced Practice Providers). Plaintiff reported to Ms. Campbell that she did not know what to do about Dr. Doe and it was affecting her ability to do her job. Plaintiff needed a responsive, helpful collaborative physician and Dr. Doe was the opposite. Plaintiff sought change from Ms. Campbell but all Ms. Campbell did was set a follow up meeting with Plaintiff for June to "check on" the situation without taking any action during that time period.

85. In June 2020, Plaintiff and Ms. Campbell had their follow up meeting in her office. Plaintiff questioned Ms. Campbell on the status of the BME investigation. Plaintiff also reported Defendant Goodman's misrepresentation to the BME investigators regarding the full extent of Dr. Doe treating patients in an impaired state.

86. While Ms. Campbell was visibly displeased with how Dr. Doe's situation was being handled and with Defendant Goodman's misrepresentation, she explained that so long as Dr. Doe did not appear impaired, there was nothing she could do about the matter.

Plaintiff Reports Dr. Doe's False Patient Report

87. Because of Defendant Cooper's failure to adequately address Plaintiff's concerns, predictably, Dr. Doe's unlawful conduct continued.

88. On September 1, 2020, Plaintiff filed a compliance report with Defendant Cooper after Dr. Doe lied about treating a patient. Dr. Doe also prescribed medication without ever seeing or examining a sixteen-year-old patient.

89. More specifically, Dr. Doe documented that she treated the minor patient via telemedicine when in reality she never saw the patient—telemedicine or otherwise. An actual doctor's visit was necessary for the patient to receive a prescription.

90. The patient and patient's legal guardian both admitted to Plaintiff that Dr. Doe never actually saw or examine the patient.

91. Dr. Doe's conduct violated the State of New Jersey's Department of Health guidelines regarding telemedicine.

92. For one, verification of patient/client identity is required. Dr. Doe failed to comply with this legal requirement.

93. For another, Dr. Doe contacted the patient's parents who were not the patient's legal guardians and unable to make any medical decisions on the patient's behalf.

94. Dr. Doe's conduct also constituted fraudulent billing.⁶ Specifically:

8. What are the requirements for documenting a telehealth visit?

The recordkeeping standards do not change based on the setting by which the patient/client is seen. Providers should ensure that items such as relevant findings, tests ordered, treatment recommendations, and consent are documented. Verification of a patient/client identity is extremely important in a telephone-only encounter. For example, collection of a patient or client driver's license number and comparison of the number to practice records is a possible method of identification.

Appropriate and detailed patient/client records are needed to support billing for services. Board regulations regarding improper billing remain in effect. "Improper" means the billing is false, fraudulent, misrepresents services provided, or otherwise does not meet professional standards. Complete medical record documentation guards against such accusations.

95. Dr. Doe's actions also violate patient-rights regulations per the New Jersey Department of Health.⁷ Dr. Doe's failure to examine the patient leaves the patient (or patient's guardian) entirely unaware of any condition or treatment plan. Specifically:

Your Rights As A Patient

As a patient in a New Jersey hospital, you have the right to:

Medical Care

- Receive an understandable explanation from your physician of your complete medical condition including recommended treatment, expected results, risks and reasonable alternatives. If your physician believes that some of this information would be detrimental to your health or beyond your ability to understand, the explanation must be given to your next of kin or guardian.

96. Plaintiff reported Dr. Doe's violations to Defendant Cooper's compliance department, but Defendant Cooper yet again remained silent. This allowed Dr. Doe's reckless conduct to continue. Plaintiff experienced this first-hand.

97. On September 20, 2020, Dr. Doe treated the wrong patient. Dr. Doe failed to follow basic protocol by verifying a patient's name or date of birth, which would have prevented her from

⁶ https://www.nj.gov/oag/newsreleases20/FAQs-Telehealth_040320.pdf

⁷ <https://www.nj.gov/health/healthcarequality/patients-families/patient-your-rights/>

continuing treatment on this particular patient. Dr. Doe also prescribed medications to this patient that did not align with her actual medical condition.

98. In turn, the patient's mother called Defendant Cooper questioning why the medications prescribed did not align with her daughter's medical condition. Defendant Cooper once again covered up the error and chalked it up to an inadvertent mistake by Dr. Doe.

99. Dr. Doe's impairment was preventing her from safely treating patients. Yet, at no point, did Defendant Cooper take any action to address, investigate, or remediate Plaintiff's complaints. To the contrary, they brushed them aside, allowing Dr. Doe to continue treating patients impaired and in a dangerous fashion.

Plaintiff Reports Dr. Doe to the NJBE For a Second Time.

100. On June 10, 2021, Plaintiff was working alongside Dr. Doe in the GI Department. Dr. Doe appeared to be in an impaired, disoriented state. Dr. Doe was speaking loudly, repeating herself, and making odd, incoherent statements. Dr. Doe even told Plaintiff she vomited on herself in her car before coming into work. Dr. Doe should not have been permitted to treat and examine patients in such a condition.

101. Dr. Lania observed Dr. Doe's impairment and reported it to Defendant Goodman that night.

102. Plaintiff also called Beth Green (Strategic and Operational Leader for Human Resources) to complain and address the matter. Ms. Green was unavailable but left a message with her secretary explaining it was sensitive information that needed immediate attention.

103. Later that day, Plaintiff was contacted by Jennifer Moughan (Vice President of Human Resources). Ms. Moughan told her she was aware that Dr. Doe was treating patients the

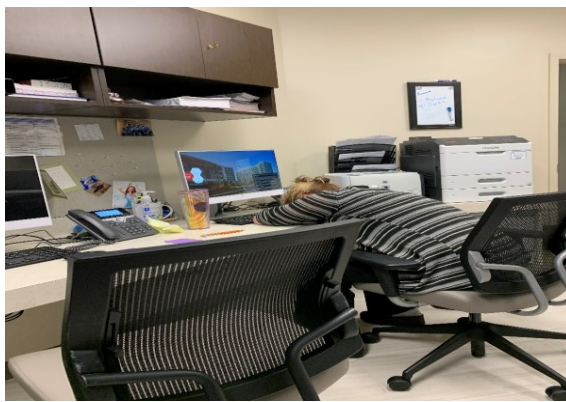
following day, i.e., the morning after Dr. Doe was noticeably and visibly impaired. Ms. Moughan conceded that this presented a serious safety issue.

104. Plaintiff firmly demanded that something needed to be done and asked what possibly she could do get Defendant Cooper to care about patient safety and the well-being of Dr. Doe. Plaintiff even asked if she needed to go to the news with pictures and videos—expressing that children’s lives were at risk.

105. True to form, Defendant Cooper representatives that told Plaintiff that the matter would be addressed. And like Plaintiff’s prior complaints, Defendant Cooper failed to take any immediate action.

106. In turn, on June 10, 2021, Plaintiff filed a new report with the BME. Then, on June 11, 2021, Plaintiff filed a report with the New Jersey Department of Health (“DOH”). Plaintiff expressed that Dr. Doe was scheduled to operate on pediatric patients the next day. Plaintiff explained this obviously problematic because (i) Dr. Doe could still be impaired and (ii) if she was no longer impaired, she could be withdrawing, which could affect her ability to safely operate on pediatric patients.

107. For example, when Dr. Doe was in a state of withdraw, she had trouble staying awake, staying still, and was constantly vomiting—which could affect her ability to safely operate on children. Indeed, this picture was taken of Dr. Doe just a few days before her death:



108. Plaintiff's complaint detailed Defendant Cooper's misrepresentations, cover-ups, and failure to take action for the last two years despite constant pleas for action. Specifically:

-----Original Message-----	
From: alryan04@yahoo.com < alryan04@yahoo.com >	Cell Phone:
Sent: Friday, June 11, 2021 8:58 AM	Email: [REDACTED]
Subject: Facilities Complaint Form	
Facility Information	Patient Information
Facility ID: 10402	Relationship: Select Relationship
Name: Cooper Hospital University Medical Center	Name of Patient:
Street: 1 COOPER PLAZA	Room Number:
City: CAMDEN	Patient DOB:
State: NJ	
Zip: 08103	Incident Information
Facility Type: Acute	Incident Type: Administration/personnel
Contact Information from person filing the complaint.	Description: For 2 years there has been a physician practicing impaired. Administration has repeatedly covered up incidents and allowed the physician to continue working creating an extremely difficult work environment as well as endangering the health and welfare of children. Administration has failed to follow up with the team who works with this physician a single time. There has been inadequate supervision of the physician. Administration has enabled the behavior endangering children. Reported to Facility Staff?: Yes Reported to whom?: Michael Goodman Lorraine Ramos J. Moughan Reported to other Agency?: Yes Reported Agency Name: NJ board of Medical examiners
Name: Allison Stec	
Street: [REDACTED]	
City: [REDACTED]	
State: [REDACTED]	
Zip: [REDACTED]	
Home Phone: 609-234-0111	
Work Phone:	

109. That same day, Plaintiff also submitted a complaint to the Joint Commission because they accredit hospital facilities. Plaintiff thought this would finally get Defendant Goodman and Defendant Cooper's attention since their accreditation could be at risk.

110. Three days later, on June 14, 2021, Dr. Doe passed away at her, New Jersey home. Dr. Doe was merely 42 years old.

111. Plaintiff was devastated by the news and immediately thought that Dr. Doe's death was preventable. Defendant Cooper completely failed Dr. Doe. A few hours later, Plaintiff contacted Ms. Campbell to report Dr. Doe's death. Plaintiff wanted Ms. Campbell to know because she was in a leadership position.

112. About one month after Dr. Doe's death, Plaintiff received correspondence from the DOH regarding her June 11, 2021 complaint. Based upon the information provided by Defendant Cooper, the DOH did not find any violations by Dr. Doe or Defendant Cooper.

113. Plaintiff was incensed. Defendant Cooper clearly lied to the BME investigators. Although Dr. Doe could no longer commit numerous violations moving forward, Defendant Cooper never once addressed any potential medical errors made while Dr. Doe treated patients

impaired. Upon information and belief, at no point, did Defendant Cooper investigate any of the treatment or operations conducted by Dr. Doe while she was impaired. Defendant Cooper apparently justified its ethical and legal obligations concerning Dr. Doe's conduct as non-existent due to her death.

114. On June 15, 2021 Plaintiff met with the Associate Chief Medical Officer, Defendant Fox. In this meeting Defendant Fox admitted that she was made aware of Dr. Doe's illegal conduct from November 2019 through her June 2021 death. In response, Plaintiff candidly explained:

- Since November 2019, Defendant Cooper and BME policy have not been followed;
- Dr. Doe was impaired within a 24-hour period of operating on pediatric patients;
- Plaintiff followed policy by reporting to her supervisors and compliance departments, but nothing was done;
- Defendant Goodman clearly and repeatedly lied to the BME;
- Dr. Doe's conduct was a liability to Defendant Cooper and its employees;
- Defendant Cooper did not follow policy with respect to impaired physicians;
- Plaintiff contacted the DOH;
- Plaintiff contacted the BME multiple times, which had no open files, cases, or investigation into Dr. Doe's conduct;
- Plaintiff filed a new complaint with the BME; and
- Plaintiff filed a complaint with the Joint Commission responsible for hospital accreditation.

115. In response to Plaintiff's complaints, Defendant Fox explained—like the many others before her—that there is going to be a “*serious investigation*.” She further explained that while there is no way to make this right “they are going to see where the process broke down.”

116. However, in retaliation, Defendant Fox also blamed Plaintiff (the whistleblower) for failing to escalate the matter to higher leadership. Plaintiff was shocked by the accusation, as she complained to management within Defendant Cooper as well as the BME, DOH, and Joint

Commission. Notwithstanding, Defendant Fox admitted Defendant Cooper could have done more to address Plaintiff's complaints. Defendant Fox even admitted that *"this was a fallout and we failed at some level here."*

Defendant Cooper Retaliates Against Plaintiff for Her Continued Reports

117. On July 27, 2021, Plaintiff discussed with Defendant Goodman, Megan Avila, Pamela Ladu and Defendant Vizzachero the logistics surrounding Plaintiff's job responsibilities going forward. Plaintiff's supervising and collaborative physician (Dr. Doe) was now deceased.

118. In this meeting, Defendant Goodman, Megan Avila, Pamela Ladu and Defendant Vizzachero commended Plaintiff's superior performance and patient care, emphasizing her knowledge and expertise in the field.

119. They also declined to provide Plaintiff with a raise given the additional responsibilities and that she was single-handedly running the GI department.

120. In retaliation, Defendant Goodman, Megan Avila, Pamela Ladu and Defendant Vizzachero were focused on silencing Plaintiff and pushing her out of the organization.

121. Defendant Cooper left Plaintiff no other choice but to work overtime without pay and refused to address the matter for weeks.

122. On August 17, 2021, Plaintiff followed up with Defendant Vizzachero and Ms. Avila. Ultimately, Defendant Cooper reluctantly agreed to provide a one-time bonus to Plaintiff:

From: Avila, Megan
Sent: Friday, August 20, 2021 11:45 AM
To: Stec, Allison
Cc: Vizzachero, Nora
Subject: Meeting follow-up

Hi Allison,

Below are items that I needed to follow up on after our meeting earlier this week.

* The one-time bonus payment of \$5,361.72 will be paid to you in the 9/2/21 paycheck.

* Your Epic schedule is being updated to reflect admin time from 9am-1pm on Mondays. As we discussed, we will keep your schedule as is until a full time physician is hired. Once a full time physician is hired, we will add two hours of patient facing hours to your schedule (and two hours of admin time at that point).

* A communication was sent to internal providers reminding them to utilize the Nemours peds GI priority line.

* Plan for inbox coverage/support while RN is on FMLA:

- o The office managers in Camden and Voorhees are going to monitor the peds GI in-basket and forward messages to General Pediatric nurses. If the GP provider and GP RN can handle the issue, they will. If not, they will reach out to the Nemours peds GI priority line.
- o Ambulatory operations does have a per diem RN that can occasionally help, but her hours are limited.
- o I reiterated to the team that the above plan is particularly important on days when you do not work (Wednesdays and Fridays).

Please let me know if you have any questions.
Megan

123. Throughout September and October 2021, Plaintiff was adamant that she be provided with additional support or compensated in accordance with the work she was performing. If Plaintiff refused to perform the additional work or to take on the additional responsibilities, patient care would plummet. This was clear retaliation and an orchestrated effort to punish Plaintiff for her complaints about Dr. Doe and Defendant Goodman.

124. It was not until months later in November 2021, when Ms. Avila finally agreed to compensate Plaintiff accordingly, which was a result of silencing Plaintiff's complaints, not out of concern for patient care.

From: Avila, Megan
Sent: Friday, November 12, 2021 9:41:44 AM
To: Stec, Allison
Subject: Additional pay

Hi Allison,

We've discussed your request to be paid an additional 4 hours of per week for the work that you're doing to ensure that patient issues are addressed in a timely fashion. I was going to discuss this with you at our meeting scheduled earlier this week which was cancelled.

We can temporarily increase your FTE by 0.1 (4 hours per week) until a new peds GI physician is hired. This change will result in you being paid 4 hours extra per week. This extra pay is for the additional work that you've explained that you've taken on being the sole provider in the division. Once a new peds GI physician is hired, we will return your FTE to 0.6, as you've indicated to us several times that you're not interested in increasing your FTE in the long term.

We recognize the challenges that exist with you being the sole provider in the division at this time. I want to thank you for the care and support that you have (and continue to) consistently offer to our peds GI patients.

Please let me know if you have any questions.

Thank you,
Megan

**Plaintiff Is Threatened With Termination After Reporting
Defendant Cooper's Continued Misconduct**

125. In December 2021, Plaintiff scheduled a meeting with Defendant Goodman in an effort to move forward in a professional manner despite Defendant Goodman's past failures. Defendant Goodman, however, did not want to discuss Dr. Doe. Plaintiff's concerns once again were not addressed.

126. For example, in February 2022, Plaintiff complained to Defendant Goodman about the additional responsibilities she was tasked with following Dr. Doe's death.

127. Not only was Plaintiff deserving of additional compensation, but the lack of support also once again posed a risk to patient care. Defendant Goodman never responded.

128. At her wits end, in March 2022, Plaintiff elevated her complaints directly to Defendant Cooper's Co-CEO's – Anthony Mazzealli and Kevin O'Dowd.

129. Plaintiff reiterated her concerns that remain unaddressed:

From: Mazzarelli, Anthony
Sent: Thursday, March 17, 2022 7:14 PM
To: Stec, Allison
Cc: O'Dowd, Kevin
Subject: Re: Pediatrics

Allison,
Thank you very much for reaching out. Without a doubt we want people to reach out. Especially if they feel they are not being heard. We will look into this immediately.
Thank you again for all you do for Cooper and our patients.

Sent from my iPhone

On Mar 17, 2022, at 5:11 PM, Stec, Allison <Stec-Allison@cooperhealth.edu> wrote:

Dear Dr. Mazzerelli and Dr. O'Dowd,

During the meeting that occurred the day after [REDACTED] death, Dr. Fox, after learning of my efforts to obtain assistance for [REDACTED] by going to administration, NJ BME, human resources and finally, the Department of Health, asked if I was unaware that I could have gone higher within Cooper itself if I was not receiving an appropriate response.

I sent the forwarded email below to Dr. Goodman almost three weeks ago. I have not received any response. Despite this having very little impact on my personal decisions, I felt I needed to "go higher" and at minimum, inform senior leadership of the continued shortcomings of pediatric leadership contributing to poor morale and turnover that ultimately affects the population we care for.

I watched a colleague die over the course of a year. At least two additional pediatric colleagues relayed to me that they previously expressed concerns to pediatric leadership regarding [REDACTED] behavior but saw no action taken. Another pediatric colleague I barely knew reached out to me through social media out of fear she was "heading in the same direction as [REDACTED]" She too stated she sent an email to Dr. Goodman and received no response. Ignoring people's problems does not make the problems go away, it makes the people go away, sometimes a bit too permanently, as we are all well aware of. How many more great pediatric providers need to leave Cooper before change is implemented?

I have rarely heard a pediatric provider express contentment with their career at Cooper. This includes the 8+ years I spent as an RN in Cooper's NICU as well as the last three years as an APN in pediatric GI. The Nemours specialty physicians who physically see patients at Cooper, regularly express their disdain with pediatric leadership as well as operations within pediatrics. They do not want to be a part of Cooper.

Specialty Care at Cooper is the only option for the majority of children I see. These children are a large part of the reason I have chosen to stay despite a difficult work environment. Why are we not doing better? There is such great potential for impact, yet it appears the division of pediatrics settles for mediocrity at best.

Over the course of the last three years, I have come to realize that everything rises and falls on leadership. A division or group can only ever be as good as the individuals leading it. This has been an extremely difficult lesson to learn but I am thankful for the opportunity to have learned it. I recently stumbled upon a quote about leadership that stated "people don't leave bad jobs, they leave bad leaders."

130. Approximately, one week later, on March 25, 2022 Plaintiff had a Webex meeting with Defendant Fox, Ms. Campbell and Defendant Hunter regarding her email complaint to the Co-CEO's.

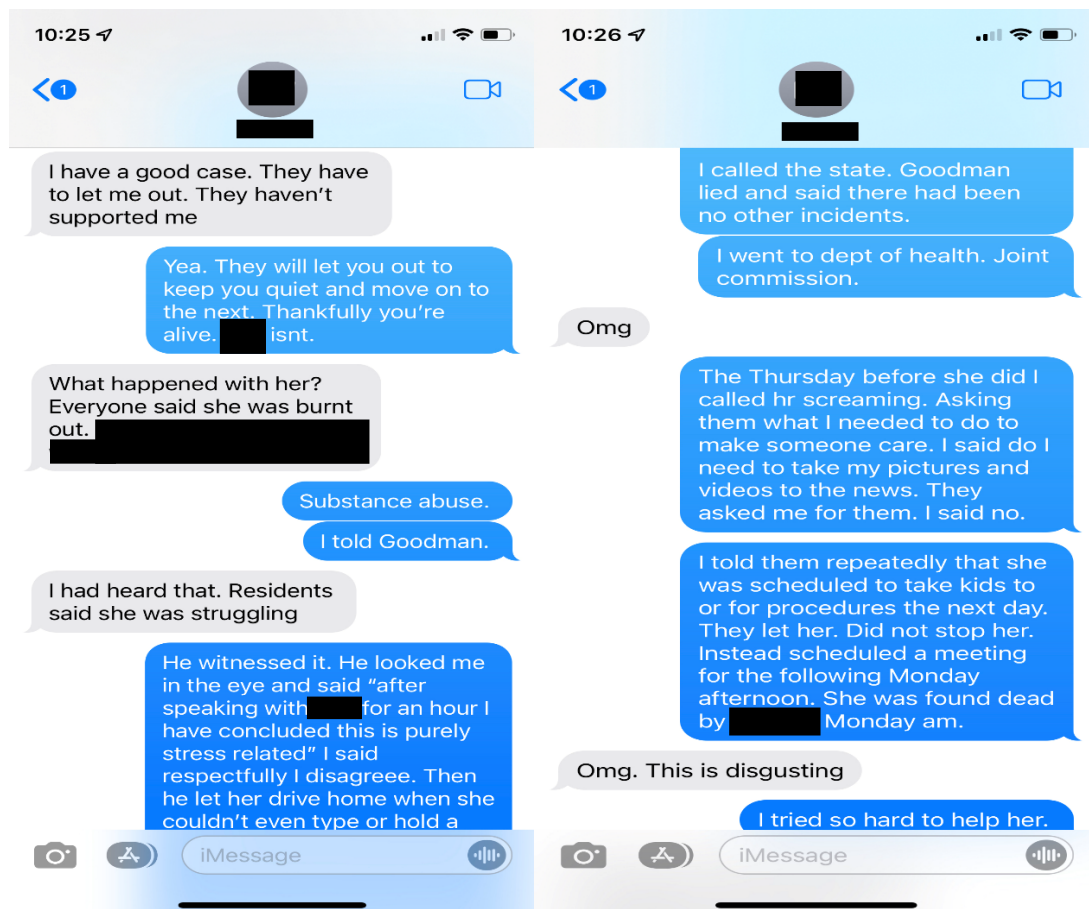
131. Plaintiff's complaints were not addressed at this meeting either. There was no follow-up on Dr. Doe's death or her treatment of patients while impaired.

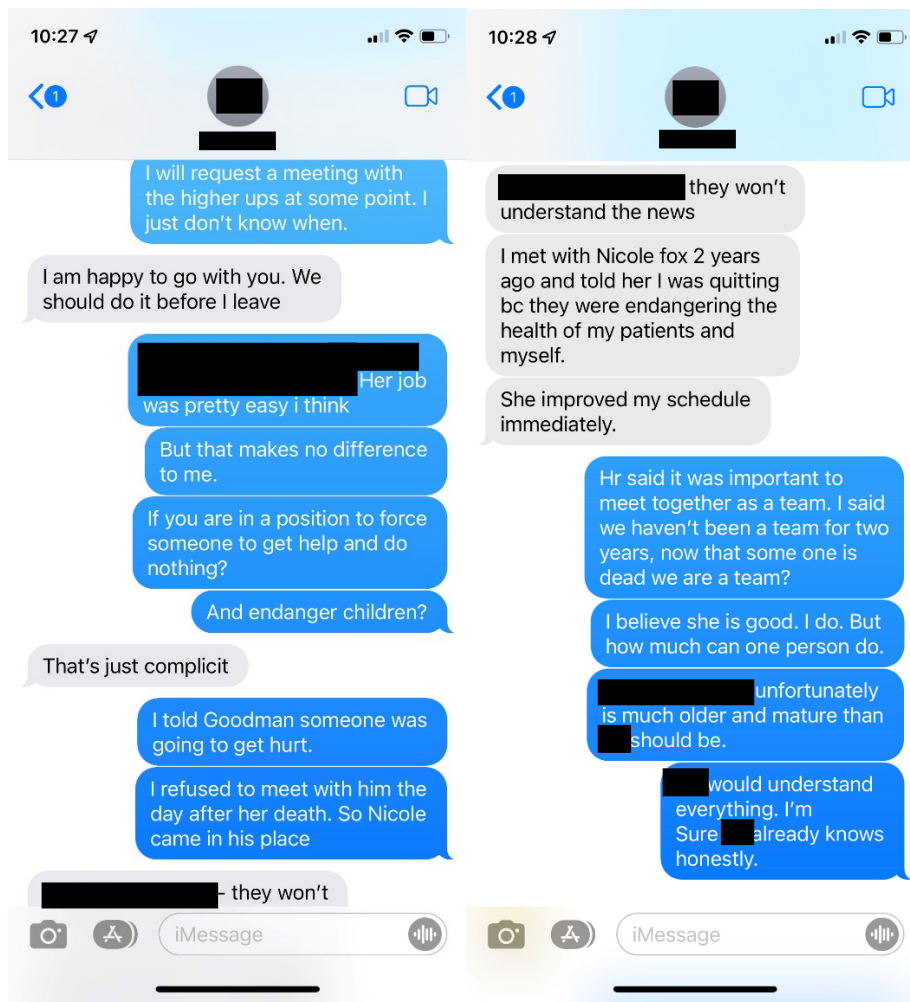
132. There was no follow-up on Defendant Goodman's intentional efforts to sweep the conduct under the rug. There was no discussion of the retaliation.

133. Instead, Dr. Fox made a point to discuss Defendant Goodman's contract, which was renewed for five more years because, as she put it, "the good far outweighs the bad."

134. Plaintiff was speechless. Thus, without a full investigation, and after being apprised of Defendant Goodman's lies to a state agency and medical board to cover up an impaired physician putting children at grave risk, Defendant Cooper renewed his contract. Defendant Fox reiterated Defendant Goodman was "not going anywhere." Defendant Fox made it clear to Plaintiff that, if Plaintiff was not comfortable with Defendant Goodman, it was Plaintiff who needed to seek other employment.

135. It was clear to Plaintiff that Defendant Cooper would go to great lengths to protect Defendant Goodman and silence those (like Plaintiff) who reported unlawful and deceitful conduct. In fact, another Defendant Cooper physician contacted Plaintiff and expressed similar failures by Defendant Goodman. She also informed Plaintiff that she "heard" about Dr. Doe's substance abuse.





The Retaliation Continues – Plaintiff’s Sub-Par Performance Review

136. In May 2022, Plaintiff was provided her annual performance evaluation by Defendant Vizzachero.

137. Defendant Vizzachero’s evaluation did not at all comport with Plaintiff’s performance. The evaluation did not take into consideration the immense job responsibilities put on her to keep the GI department afloat; did not consider she was performing the work of multiple individuals on a part-time schedule; and did not consider the overtime work she put in to keep the patients safe. The evaluation did not include all of Plaintiff’s attributes to Defendant Cooper that supported a “top performer” designation.

138. For years Plaintiff was exceeding expectations and was now by herself running the GI department, seamlessly. In fact, just six months prior, Plaintiff was applauded and thanked for her dedication to the department and patient care.

139. Plaintiff respectfully questioned why she was not rated a “top performer”. In response, Defendant Vizzachero explained that Defendant Goodman refused to “sign off” on the “top performer” designation for Plaintiff. This was pure retaliation and part of Defendant Goodman’s retaliatory scheme to force Plaintiff’s resignation.

140. Plaintiff expressed her disagreement with the designation and asked for details on her decision. ***Shockingly, Defendant Vizzachero’s specifically explained that the subpar performance evaluation was direct retaliation for Plaintiff going “above” Defendant Goodman and complaining to the Defendant Cooper’s Co-CEOs.*** When Plaintiff pushed for more information, Defendant Vizzachero outright stated, “I heard you went to the CEO’s about an issue.”

141. Defendant Vizzachero admitted that Plaintiff was being punished for complaints about Defendant Goodman/Defendant Cooper’s failure to adequately investigate and remediate Dr. Doe’s conduct. Plaintiff was shocked at Defendant Vizzachero’s blatant admission.

142. Plaintiff reiterated the numerous examples of Defendant Cooper’s failures. She had defended her actions of protecting the patients rather than protecting an impaired physician and Defendant Cooper’s reputation. For example, Plaintiff explained that Defendant Cooper allowed a physician to treat patients while impaired and ultimately die because the hospital refused to intervene. Plaintiff reminded Defendant Vizzachero of the compliance report she filed when Dr. Doe falsely reported she saw a patient through telemedicine when she did not. At that time, Defendant Vizzachero did nothing about Plaintiff’s concerns or her complaint. Plaintiff explained

she observed Defendant Goodman allow Dr. Doe to operate her vehicle while clearly impaired. Plaintiff reiterated she went to the Co-CEO's because she was not getting answers and was being ignored by her direct superiors. Finally, Plaintiff also expressed that she would not allow Defendant Cooper to ignore the subpar patient care occurring nearly every day.

143. In an effort to silence Plaintiff, Defendant Vizzachero offered to change Plaintiff's evaluation to "top performer." But Plaintiff wanted actual change. Plaintiff signed the original, retaliatory evaluation and left the meeting.

144. To date, Defendant Cooper still has made no changes to any policies or procedures or taken any remedial action whatsoever in connection with Dr. Doe's treatment of patients, her death, or with respect to Defendant Goodman's lies to a state agency/BME.

145. To the contrary, Plaintiff continues to suffer ongoing and increased retaliation. In turn, Plaintiff submitted another complaint to Defendant Cooper's Compliance hotline.



146. This time, Defendant Hunter requested a meeting with Plaintiff. While Plaintiff agreed to comply with the request, she noted her dissatisfaction and demanded that the meeting bring about change. Specifically:

From: Stec, Allison <Stec-Allison@CooperHealth.edu>
Sent: Monday, May 16, 2022 10:16 PM
To: Hunter, Nechole <hunter-nechole@CooperHealth.edu>
Cc: Campbell, Eileen <campbell-eileen@CooperHealth.edu>; Fox, Nicole <fox-nicole@CooperHealth.edu>; Goodman, Michael <goodman-michael@CooperHealth.edu>
Subject: Re: Compliance Issue

Nechole,

I am able to talk but honestly, you are right—all I have been doing is repeating myself for over 2 years now. I voiced my concerns about [REDACTED] coming to work impaired and the risk that posed to her patients as early as November 2019. My complaints were never taken seriously and always brushed under the rug. While at times it seemed like Cooper was trying to help, it was just an appearance of help to save face. In reality, [REDACTED] continued to deteriorate while putting patients at risk. She was permitted to perform procedures on children in the operating room while observed to be visibly impaired the prior afternoon (on more than one occasion). That is terrifying. My concerns were ignored.

Obviously [REDACTED] has unfortunately passed away, but I have been and continue to experience retaliation because of my complaints regarding her actions and the inaction of others. Initially, I was simply ignored, which progressed to being denied an increase in pay despite the countless hours I worked to run the GI division without an attending or any other in person provider. Coopers "fix" was giving me a onetime bonus payment. If I am not mistaken, paying a bonus payment instead of the time actually worked is illegal. Regardless, I was told to stop doing "anything extra" but at the same time, reprimanded for "not seeing patients enough." I was advised that once an attending was hired, I would need to increase patient hours. It was completely illogical.

I continued to provide the best possible care for my patients and put in many extra hours despite being told I would not be compensated for my time. After realizing the absurdity of this, I again requested a salary increase because I was the sole provider keeping the GI program running as an advanced practice nurse. While I couldn't possibly do this without working overtime, which was known, I was expected to do it anyway. How else was a division expected to continue to operate? Finally, it was agreed upon that I would be compensated for 4 hours extra a week which began mid November. This was 2+ months after receipt of the "onetime bonus." I was told however, that this additional compensation would be rescinded upon hiring of a new attending.

Most recently, in February 2022, I emailed Dr. Goodman voicing my frustration about the pay issue and others. I did not receive a response so I again voiced my concerns about 2 months ago with Cooper's Co-CEOs. I discussed Cooper's failures regarding Kim's conduct and how I was told I could have gone higher within Cooper. I went to every individual and governing body I thought possible. I went to the administration, the medical board, DOH, Joint Commission—where else could I have gone? Even since [REDACTED] death, we have received zero guidance or training to prevent this from ever happening again. Cooper has done nothing except penalize me for speaking up.

Lastly, I received a review about 2 weeks ago that does not comport with my performance level. Nora Vizzachero verbalized that I could not get "top performer" designation because of my decision to bring extremely important issues to the attention of senior leadership. She expressed with certainty that Dr. Goodman would not sign off on top performer designation. It was quite obviously retaliatory and honestly, I am exhausted from my efforts. My actions have consistently been to maintain the health and safety of my patients in addition to the health and safety of my colleagues, both before and after Kim's death.

That being said, I am willing to discuss whatever anyone wishes to discuss so the boxes can continue to be checked enabling all to move forward while making no significant changes to protect patients and/or employees.

Allison Stec, APN

Pediatric GI

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iOS<<https://link.edgепilot.com/s/a2b3ea62/5N6U97OSxUyNgDetmBySpg?u=https://aka.ms/o0ukef>>

147. Defendant Hunter responded and coordinated the meeting but made no mention of Plaintiff's complaints.

From: Hunter, Nechole
Sent: Thursday, May 19, 2022 4:14 PM
To: Stec, Allison
Cc: Campbell, Eileen; Fox, Nicole
Subject: RE: Compliance Issue

Hi Allison,

Thanks for getting back to me. We would like to schedule a meeting to discuss this matter with you. Lisa Bariana from Dr. Fox's office is going to reach out to you to coordinate this meeting next week.

Thanks,
Nechole
Nechole Hunter
Sr. Human Resources Business Partner
Cooper University Health Care
101 Haddon Avenue, Suite 301
Camden, New Jersey 08103
Office Phone: (856) 342-3082
Mobile Phone: (856) 701-4882

[CUHC.jpg]

148. Approximately two weeks later, Plaintiff received a notification that she was being “audited.” This was no coincidence. The “audit” was supposed to be completed within the first 3-6 months of a new provider seeing Plaintiff’s patients. Importantly, this was the first “audit” in her entire nine-year career with Defendant Cooper.



149. On June 1, 2022, Plaintiff attended the meeting regarding her May 2022 compliance report. The meeting was more of the same—no action was taken. Even worse, Defendant Fox attempted to justify Defendant Cooper’s non-compliant and illegal conduct, which was the exact opposite of what Defendant Fox told Plaintiff nearly a year earlier in June 2021 (Defendant Fox previously expressed how Defendant Cooper failed Plaintiff and Dr. Doe).

150. Defendant Cooper’s motive was transparent—this meeting was nothing more than a “check” on Defendant Cooper’s list that they “investigated.” It was a sham designed to bury Plaintiff’s complaints, especially her most recent complaint of retaliation.

151. In fact, Defendant Hunter told Plaintiff she did not receive the top performer designation due to her lack of professionalism, her lack of being a team player, and her lack of communication and following the chain of command. This was blatant retaliation and pretext, particularly as Defendant Vizzachero did not express any of these purported justifications in Plaintiff's performance review meeting (only Plaintiff's complaints to the Co-CEO's).

152. Thus, when Plaintiff requested examples of Defendant Vizzachero's purported justifications, Defendant Hunter could not provide a single one. She also admitted to not requesting any specifics from Defendant Vizzachero and blindly accepted the purported performance issues as fact.

153. Plaintiff sternly reiterated that she has been "gaslighted for 2 and a half years by this institution." And while Defendant Fox apologized, she strongly disagreed with Plaintiff's assertion and said Defendant Cooper stood by its actions.

154. For example, Defendant Fox assured Plaintiff they instituted training for high-level executives regarding impaired physicians and put a more formalized process in place to combat the issue.

155. Plaintiff explained that such training was inadequate and should include training for nurses, staff, and other physicians who treat patients on a daily basis.

156. Defendant Fox also admitted there were gaps in Defendant Cooper's complaint and investigation channels that needed to be addressed.

157. Yet, in the same breath, Defendant Fox justified Defendant Cooper's inaction with respect to Dr. Doe, explaining when she was accused of being impaired, someone "immediately went out to assess and did not feel that way." Defendant Fox also admitted Defendant Cooper's investigation was at best flawed and at worst non-existent.

158. In any event, Defendants attempted to redirect the meeting towards Plaintiff, condemning her for not being able to move on from the past.

159. At this point Plaintiff realized the meeting was just another way of discerning if Plaintiff ultimately wanted to remain at Defendant Cooper. Defendants explained the impaired physician issue is a non-issue due to Dr. Doe's death.

160. Plaintiff refocused the meeting to her most recent complaint of retaliation and her alleged performance issues.

161. Suffice to say, the meeting that was purportedly to address Plaintiff's concerns was the exact opposite.

162. The constant derailment away from the real issues at hand: Defendant Cooper knowingly allowing an impaired physician to treat pediatric patients on a regular basis for years; Defendant Cooper allowing Defendant Goodman to cover-up Dr. Doe's actions and falsely report to state investigators; and Defendant Vizzachero and Defendant Fox's retaliation of Plaintiff for fighting for safe patient care.

163. Defendants collectively joined forces in a retaliatory campaign to push Plaintiff out of employment to silence her by way of retaliatory performance reviews and audits.

164. Paradoxically, Defendants did same while also attributing her review to her complaints—evidencing the pretextual nature of Defendant Fox's after-the-fact justifications for Plaintiff not receiving a top-performer designation.

165. Defendants Vizzachero and Fox aided and abetted Defendant Goodman's retaliatory acts toward Plaintiff in violation of their supervisory duty to halt or prevent harassment and retaliation.

COUNT ONE

RETALIATION IN VIOLATION OF CEPA N.J.S.A. 34:19-1 to -14

166. Plaintiff repeats each and every allegation set forth above as if set forth fully herein at length.

167. CEPA's legislative purpose "is to protect and encourage employees to report illegal or unethical workplace activities and to discourage . . . employers from engaging in such conduct." Lippman v. Ethicon, Inc., 222 N.J. 362, 378 (2015) (quoting Abbamont v. Piscataway Twp. Bd. of Educ., 138 N.J. 405, 431 (1994)).

168. CEPA specifically provides:

An employer shall not take any retaliatory action against an employee because the employee does any of the following:

- a. Discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer, or another employer, with whom there is a business relationship, that the employee reasonably believes:
 - (1) is in violation of a law, or a rule or regulation promulgated pursuant to law, including any violation involving deception of, or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity, or, in the case of an employee who is a licensed or certified health care professional, reasonably believes constitutes improper quality of patient care; or
 - (2) is fraudulent or criminal, including any activity, policy or practice of deception or misrepresentation which the employee reasonably believes may defraud any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity;
- b. Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation promulgated pursuant to law by the employer, or another employer, with whom

there is a business relationship, including any violation involving deception of, or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity, or, in the case of an employee who is a licensed or certified health care professional, provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into the quality of patient care; or

- c. Objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes:
- (1) is in violation of a law, or a rule or regulation promulgated pursuant to law, including any violation involving deception of, or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity, or, if the employee is a licensed or certified health care professional, constitutes improper quality of patient care;
 - (2) is fraudulent or criminal, including any activity, policy or practice of deception or misrepresentation which the employee reasonably believes may defraud any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity; or
 - (3) is incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment.

[N.J.S.A. 34:19-3 (emphases added).]

169. In the course of her employment with Defendant Cooper, Plaintiff reasonably believed that Defendant Cooper's actions constituted a "violation of a law, or a rule or regulation promulgated pursuant to law." N.J.S.A. 34:19-3(a)(1), (c)(1).

170. In the course of her employment with Defendant Cooper, Plaintiff's objections to – and refusal to participate in – the aforementioned activities or practices commissioned by

Defendant Cooper were on matters which Plaintiff reasonably believed were incompatible with a clear mandate of State and national public policy concerning the public health, safety and/or welfare. See N.J.S.A. 34:19-3(c)(3).

171. More specifically, Defendants failure to report Dr. Doe's impairment nearly every single week for two years violates New Jersey law and regulations, including but not limited to:

- (i) N.J.S.A. 45:1-37 requiring colleague reporting if they have "information that reasonably indicates that another practitioner has demonstrated impairment, gross incompetence or unprofessional conduct that would present imminent danger to a patient";
- (ii) N.J.S.A. § 26:2H-12.2b requiring Defendant Cooper "notify the division in writing if it is in possession of information that indicates that a health care professional has failed to comply with a request to seek assistance from a professional assistance or intervention program approved or designated by the division...or has failed to follow the treatment regimen or monitoring program required by that program to assure that the health care professional's physical, mental, or emotional condition or drug or alcohol use does not impair the health care professional's ability to practice with reasonable skill and safety";
- (iii) AMA Code of Ethics Op. 9.031 "Physicians have an ethical obligation to report impaired, incompetent, and/or unethical colleagues in accordance with the legal requirements in each state."

172. Furthermore, Defendants not reporting Dr. Doe's failure to (i) verify patient identity before treating; (ii) lying about treating a patient; (iii) prescribing medication without actually

seeing the patient; and (iv) billing for a telehealth visit without seeing the patient violates the State of New Jersey's DOH patient rights.

173. Defendant Goodman, Defendant Fox, Defendant Vizzachero and Defendant Cooper's violations of New Jersey law, namely allowing Dr. Doe to treat and operate on patients for two years while knowingly impaired, put Defendant Cooper's pediatric patients' health and safety at grave risk.

174. As a direct result of the foregoing, Defendant Cooper took retaliatory action against Plaintiff by, among other things, (i) ignoring her complaints; (ii) denying her compensation; (iii) issuing her a performance review that did not comport with her actual performance; (iv) overloading her workload; (v) ignoring her emails; and (vi) holding meetings to blame and disparage Plaintiff for her reports to the BME, DOH, Joint Commission and the Co-CEO's.

175. Defendants Vizzachero and Fox aided, abetted, incited, compelled and/or coerced and/or attempted to aid, abet, incite, compel and/or coerce Defendant Cooper and/or Defendant Goodman to commit acts and omissions that were in violation of CEPA by committing affirmative retaliatory acts towards Plaintiff in violation of the supervisory duty to halt or prevent harassment and retaliation rendering Individual Defendants vicariously, strictly, and/or directly liable to Plaintiff in violation of CEPA, pursuant to N.J.S.A. 34:19-1, et seq.

176. As a proximate result of the aforementioned acts and omissions set forth herein, Plaintiff has sustained damages.

WHEREFORE, Plaintiff demands judgment in her favor and against Defendant on this Count, together with compensatory and equitable relief, all remedies available under CEPA, punitive damages, pre-and post-judgment interest, attorney's fees and costs of suit, and for such other relief that the Court deems equitable and just.

DEMAND FOR DISCOVERY OF INSURANCE COVERAGE

Pursuant to *Rule 4:10-2(b)*, demand is made that Defendant discloses to Plaintiff's attorney whether or not there are any insurance agreements or policies under which any person or firm carrying on an insurance business may be liable to satisfy part or all the judgment which may be entered in this action or indemnify or reimburse for payments made to satisfy the judgement and provide Plaintiff's attorney with true copies of those insurance agreements or policies, including, but not limited to, any and all declaration sheets. This demand shall include and cover not only primary insurance coverage, but also any excess, catastrophe, and umbrella policies.

DEMAND FOR TRIAL BY JURY

Plaintiff demands a trial by jury on all issues.

McOMBER McOMBER & LUBER, P.C.
Attorneys for Plaintiff, Allison Stec

By: /s/ Matthew A. Lubner
Matthew A. Lubner, Esq.

Dated: June 10, 2022

DESIGNATION OF TRIAL COUNSEL

Pursuant to *Rule 4:25-4*, MATTHEW A. LUBER, ESQUIRE is hereby designated as trial counsel for Plaintiff.

CERTIFICATION

Pursuant to *Rule 4:5-1*, it is hereby certified that, to the best of my knowledge, there are no other civil actions or arbitration proceedings involving this matter with respect to this matter

and no other parties need to be joined at this time. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

McOMBER McOMBER & LUBER, P.C.
Attorneys for Plaintiff, Allison Stec

By: /s/ Matthew A. Lubner
Matthew A. Lubner, Esq.

Dated: June 10, 2022