

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

-----x  
SHEILA EVERLY,

Index No.

Plaintiff,

**Verified Complaint**

-against-

LEGAL SEA FOODS, INC.,  
DARLEEN McNERNEY,  
and JAMAL WASHINGTON

Defendants.  
-----x

**FILED**  
NOV 25 2009  
TIMOTHY C. IDONI  
COUNTY CLERK  
COUNTY OF WESTCHESTER

Plaintiff, complaining of the defendants by her attorneys, Curran, Ahlers, Fiden & Norris

LLP respectfully allege the following upon information and belief:

**Parties**

1. At all relevant times, plaintiff is and remains a resident of the County of Westchester, State of New York, residing at 9 Paulding Street, Elmsford, NY.
2. At all relevant times, defendant LEGAL SEA FOODS, INC. is a foreign corporation authorized to do business in the State of New York, with principal place of business at One SeaFood Way, Boston, MA.
3. At all relevant times, defendant LEGAL SEA FOODS, INC. was doing business as a restaurant located at 5 Mamaroneck Avenue, White Plains, New York.
4. At all relevant times, defendant DARLEEN McNERNEY was an employee of LEGAL SEA FOODS, INC., employed as general manager of the LEGAL SEA FOODS, INC. restaurant located at 5 Mamaroneck Avenue, White Plains, New York
5. At all relevant times, defendant JAMAL WASHINGTON was an employee of LEGAL SEA FOODS, INC., employed as kitchen manager of the LEGAL SEA FOODS, INC. restaurant located at 5 Mamaroneck Avenue, White Plains, New York

### Facts

6. At all relevant times prior to and on November 28, 2008, plaintiff was employed as a server at the LEGAL SEA FOODS, INC. restaurant located at 5 Mamaroneck Avenue, White Plains, New York.

7. Plaintiff had been so employed for several years prior thereto.

8. Plaintiff's job performance was at all time satisfactory.

9. Beginning in early October, 2008 defendant JAMAL WASHINGTON began harassing plaintiff to provide him with the social security number of plaintiff's adult son, and to allow all defendants to use that social security number for wages paid to an illegal alien who was working in the restaurant kitchen for LEGAL SEA FOODS, INC under the supervision of defendants WASHINGTON and McNERNEY.

10. Defendants WASHINGTON and McNERNEY promised plaintiff that she would be paid extra money on a weekly basis from defendant LEGAL SEA FOODS, INC. and receive other benefits in return for allowing them to use her son's social security number for the illegal alien.

11. Plaintiff declined to comply with this request.

12. Throughout October 2008, Defendants WASHINGTON and McNERNEY repeatedly pressured plaintiff to comply with their request.

13. In November 2008, defendants WASHINGTON and McNERNEY continued to repeatedly pressure plaintiff to comply, and began making it clear to plaintiff that it was not a request but a demand, and that refusal would result in severely adverse job consequences.

14. Plaintiff continued to refuse to comply.

15. In November, 2008, plaintiff called the corporate employee relations department of defendant LEGAL SEA FOODS, INC. in Boston, and notified them of the demands and threats being made to her by defendants WASHINGTON and McNERNEY, and requested their assistance.

16. Shortly after plaintiff gave notice to the corporate employee relations department of defendant LEGAL SEA FOODS, INC., plaintiff was fired by defendant McNERNEY.

17. Plaintiff was fired by defendant McNERNEY on or about November 28, 2008.

18. At the time that McNERNEY fired plaintiff, McNERNEY told plaintiff that she knew of plaintiff's call to the corporate employee relations department of defendant LEGAL SEA FOODS, INC.

19. At the time that McNERNEY fired plaintiff, McNERNEY told plaintiff that plaintiff was being fired because of her call to the corporate employee relations department of defendant LEGAL SEA FOODS, INC., and because of her refusal to comply with the demand to provide her son's social security number.

20. At the time that McNERNEY fired plaintiff, McNERNEY warned plaintiff that all defendants would claim a pretext basis for the firing and would deny the real reason.

#### **First Cause of Action**

21. Plaintiff repeats the allegations contained in paragraphs "1" through "20".

22. Defendants wrongfully terminated plaintiff's employment in retaliation for her refusal to comply with the demand to provide her son's social security number, and her giving notice to the corporate employee relations department of defendant LEGAL SEA FOODS, INC.

23. Defendants' wrongful and retaliatory termination of plaintiff's employment violated New York State law and federal law.

24. Defendants' wrongful discharge of plaintiff caused plaintiff to sustain economic losses including lost wages and other employment benefits, and damage to her work history which will make it more difficult to obtain future employment.

25. Plaintiff continues to sustain such losses.

26. By reason of the foregoing, plaintiff seeks monetary damages in an amount which exceeds the jurisdiction limits of all lower courts.

#### **Second Cause of Action**

27. Plaintiff repeats the allegations contained in paragraphs "1" through "26".

28. As a result of being wrongfully discharged, plaintiff was caused to sustain physical, mental, and emotional anguish, and the loss of enjoyment of life, and upon information and belief, plaintiff will continue to so suffer in the future.

29. By reason of the foregoing, plaintiffs seek monetary damages in an amount which exceeds the jurisdiction limits of all lower courts.

#### **Statement Regarding Exceptions In CPLR Article 16**

One or more of the exceptions in CPLR 1602 are applicable to all causes of action and defendants are jointly and severally liable with any other tortfeasors whether parties to this action or not.

WHEREFORE, plaintiff demands judgment against each of the defendants on the First Cause of Action, and separately on the Second Cause of Action, for damages in a sum that exceeds the jurisdiction of all lower courts, together with the costs and disbursements of this action.

Dated: White Plains, NY  
November 25, 2009

Respectfully yours,

CURAN, AHLERS, FIDEN & NORRIS LLP

A handwritten signature in black ink that reads "William F. Costello". The signature is written in a cursive style and is positioned above a horizontal line.

William F. Costello  
Attorneys for Plaintiff(s)  
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