		E-FILED IN COUNTY CLERK	
		PIERCE COUNTY, W	ASHINGTON
1		April 05 2018 11	:09 AM
-			
2		COUNTY CL NO: 18-2-07	083-5
3			
4			
5			
6	SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR PIERCE COUNTY		
7			
8	JON S. HARDY, individually; CONNIE HARDY, his wife; and their marital community;	No.	
9	Plaintiffs,	COMPLAINT	
10	v.		
11	STATE OF WASHINGTON;		
12	Defendant.		

COME NOW, the above-named Plaintiffs, by and through their attorneys of record, Samuel J. Daheim, Jackson R. Pahlke, and John R. Connelly, Jr. of Connelly Law Offices, PLLC and by way of claim aver and allege on personal knowledge as to their own actions, and on information and belief as to all other matters, as follows:

I. **INTRODUCTION**

1.1 Plaintiff, Jon S. Hardy was hired by the State of Washington as a Supervisor of maintenance operations on McNeil Island by the State of Washington, Department of Social and Health Services, in January 2016. At the time he was hired he was recruited away from a position that he had held for over 30 years at Sysco, Inc. in Arizona based on representations made by the Defendant as to work that they wanted him to come to Washington and perform. He was asked to actively manage the existing situation and "problems" on McNeil Island and

COMPLAINT - 1 of 9

н

13

14

15

16

17

18

19

20

21

22

23

CONNELLY LAW OFFICES, PLLC 2301 North 30th Street Tacoma, WA 98403 (253) 593-5100 Phone - (253) 593-0380 Fax

т

told that he would have full supervisory authority to do so. He and his family left his position, in Arizona and moved to Washington in reliance on the request.

1.2 When Mr. Hardy arrived at McNeil Island he found that the "situation" was extremely concerning, that state workers were getting paid for work they were not doing, that they had established a practice of doing very little work, getting paid for work that was not being done, abusing alcohol while on the job and that state workers were engaging in ongoing fraud. Maintenance staff were actively defrauding Washington taxpayers by systematically avoiding their work, abusing alcohol and other substances, and being paid for full days of work when in reality they weren't working or weren't even at the jobsite on days they were claiming wages for working.

1.3 As he had been specifically requested, Mr. Hardy began working to end the fraud and to require workers to do the work they were being paid to do. His work was initially rewarded with excellent reviews, until the extent of the employee fraud began becoming increasingly clear and higher-level employees at McNeil Island began to realize that his work in ending the fraudulent activities, and doing what he had been requested to do, was disturbing an ongoing boondoggle and jeopardizing the McNeil Island workers and supervisors' ability to receive taxpayer funds for doing little to no work. He was told not to try to stop the practices. Ultimately, he was terminated from his job because he would not agree to "look the other way," while the fraud continued. It was not until he was wrongfully terminated for his work toward putting an end to these corrupt practices, that he discovered how high up in the ranks this fraud reached.

23

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

1.4 Mr. Hardy brings this claim for wrongful termination, retaliation, loss of wages, breach of contract, negligence, negligent infliction of emotional distress, negligent

COMPLAINT - 2 of 9

CONNELLY LAW OFFICES, PLLC 2301 North 30th Street Tacoma, WA 98403 (253) 593-5100 Phone - (253) 593-0380 Fax misrepresentation, fraud, and all other causes of action under Washington law applicable to the factual scenario set forth below.

II. PARTIES

2.1 PLAINTIFF JON S. HARDY was wrongfully terminated from his position as Supervisor with the Consolidated Maintenance Operations (CMO) for the Special Commitment Center (SCC) on McNeil Island. He was fired for his efforts to stop the staff's exploitation of Washington state taxpayers in a workplace that lacked oversight and accountability, and had allowed significant fraudulent workplace practices to develop. PLAINTIFF CONNIE HARDY is Jon's wife and partner. As a result of his wrongful termination, Plaintiffs and their family experienced substantial stress, anxiety about Jon's employment, emotional anguish, humiliation, reputational damage, and other general and special damages to be proven at trial.

13 2.2 DEFENDANT STATE OF WASHINGTON through its employees at the State 14 Department of Social and Health Services ("DSHS"), including its Consolidated Maintenance 15 Operations ("CMO") employees, control and operate the McNeil Island Special Commitment 16 Center ("SCC"). Defendant has ignored a workplace on McNeil Island that allows, even 17 encourages, workers to defraud Washington taxpayers by engaging in ongoing fraud and 18 neglecting their duties while still being paid as if they were doing their jobs. The State 19 purportedly brought Jon Hardy in to help solve this problem and put an end to this deception. 20 After moving his family from Arizona, however, Mr. Hardy was wrongfully discharged for 21 doing exactly what he had been requested to do.

22

//

 \parallel

1

2

3

4

5

6

7

8

9

10

11

12

23

COMPLAINT - 3 of 9

CONNELLY LAW OFFICES, PLLC

2301 North 30th Street Tacoma, WA 98403 (253) 593-5100 Phone - (253) 593-0380 Fax

III. JURISDICTION & VENUE

3.1 A tort claim has been duly filed with the Defendant pursuant to RCW4.92.100. Defendant has not timely responded to the claim and more than 60 days haveelapsed. This claim is timely filed under Washington law.

3.2 This Court has original subject matter jurisdiction pursuant to the Constitution of the State of Washington, Art. 4, § 6.

3.3 Venue is proper in this court pursuant to RCW 4.12.020 because the culpable conduct resulting in Plaintiff's harm and giving rise to these claims took place in Pierce County.

IV. STATEMENT OF FACTS

4.1 This case involves the wrongful termination of a state supervisor who was hired to supervise maintenance operations on McNeil Island. Mr. Hardy was purportedly brought in to address the staff's notorious practice of refusing to perform work for which they were being paid and for collecting paychecks for doing little to no work.

4.2 Jon Hardy left a Director position at a company he had been with, Sysco Inc., for over 30 years to take the position as supervisor of maintenance operations on McNeil Island with the State of Washington. When he was hired, he was told that someone was needed in the position who could help address persistent and ongoing work performance issues with CMO staff on the Island. When he accepted the supervisor position, he did so with the understanding that he would be confronted with problems involving attendance, personnel drug and alcohol abuse, failures to carry out job duties, and a general attitude of laziness, complacency, and inactivity.

23

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

4.3 Mr. Hardy began his new job on January 11, 2016, and was, as he had been

COMPLAINT - 4 of 9

CONNELLY LAW OFFICES, PLLC 2301 North 30th Street Tacoma, WA 98403 (253) 593-5100 Phone - (253) 593-0380 Fax told, confronted with these issues. He found that the employees were taking advantage of the system and receiving taxpayer funds for little or no work. He learned that his bus drivers had obvious and severe problems with attendance and substance abuse, often on the job. His construction and maintenance staff members were not only consistently failing to complete any work, but they were taking extremely long meal breaks, often as long as 2-3 hours, in violation of CMO work schedule policies. The situation was so bad with this group of employees that there were outstanding and unfilled work orders dating several years back, but that staff were still not bothering to fill them. He also found that some workers were being paid for time they weren't working and weren't even on the island when they said they were or when they were required to be according to the job requirements for the job they were being paid to do.

4.4 As instructed, Mr. Hardy began addressing these issues and seeing positive results. Less than a month into his new job, upper management personnel were already applauding Mr. Hardy because he was "actually assigning work and inspecting it once it is done" – a welcomed change for CMO. Praise for Mr. Hardy's persistence in dealing with the difficult staff continued. Shortly prior to his wrongful discharge, Jon was commended for the "great job" he had been doing in "holding [his staff] accountable and forcing them to do work they don't want to do."

4.5 However, the changes Mr. Hardy was implementing were not welcomed by all.A number of workers on McNeil Island felt that they had a good thing going and were furious that Mr. Hardy would take steps to try to prevent them from being paid for sitting around and not working. Then-Administrator of CMO and Jon's supervisor, Thomas Blume, met Mr.

COMPLAINT - 5 of 9

CONNELLY LAW OFFICES, PLLC 2301 North 30th Street Tacoma, WA 98403 (253) 593-5100 Phone - (253) 593-0380 Fax

Hardy's efforts with resistance. Mr. Hardy's employees complained to Blume about the disruption he had caused in their lazy, dishonest, and fraudulent work practices. Instead of supporting Mr. Hardy in his efforts to rid CMO of these sort of workplace behaviors and instill accountability in his staff, Blume began to work against Mr. Hardy and begin pressuring him to fall in line and accept that "this is how things are done on McNeil Island." Mr. Hardy, however, had been hired by the State to put an end to these practices and refused to do so.

4.6 Mr. Hardy and Blume met on April 14, 2016 for his mid-term feedback discussion. Blume mentioned to Mr. Hardy in a follow-up e-mail that their conversation had covered his "team's perception of [him] and how best to mitigate the non-positive ones." Finally, the two reviewed a Performance Development Action Plan, which was seemingly intended to set goals, objectives, and expectations on when certain things should be accomplished.

4.7 However, Mr. Hardy never had the opportunity to follow through with this Plan because the next morning he was met by with a letter notifying him of his termination of employment. The letter was hand-delivered by Thomas Blume.

4.8 Mr. Hardy's termination came as a shock. Less than two weeks earlier, his performance had been applauded by his superiors, who noted "a very marked difference in customer service from CMO since his arrival." And now he had been fired for just that – doing his job.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

V. FIRSTS CAUSE OF ACTION – WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY

5.1 There is a clear public policy that Washington tax dollars should not be paid

COMPLAINT - 6 of 9

CONNELLY LAW OFFICES, PLLC 2301 North 30th Street Tacoma, WA 98403 (253) 593-5100 Phone - (253) 593-0380 Fax out by means of systemic fraud and deception or for fraudulent activities including for employees who are not doing the job for which they are being paid.

5.2 Additionally, there is a clear public policy in Washington state that employees, especially public employees, should not be terminated for performing their jobs, for safeguarding public funds and for holding staff and other employees accountable to do the work for which they are being paid.

5.3 Terminating supervisors who are doing the job for which they were hired, and discouraging supervisors and managers who work for the State from policing lazy, fraudulent, and corrupt workplace practices jeopardizes these clear public policies. By discharging Mr. Hardy for cracking down on egregious workplace behaviors, the State has committed the intentional tort of wrongful termination in violation of public policy. Defendant State is liable for wrongful termination, for negligence and negligent infliction of emotional distress, and for breach of contract. Plaintiffs, and each of them, suffered significant emotional stress, mental anguish, physical and emotional harm, economic loss and other general and special damages which will be proven with specificity at the time of trial. Plaintiffs are entitled to their reasonable attorney fees and costs pursuant to RCW 49.48.030 and otherwise as well as damages allowed by Washington law.

VI. SECOND CAUSE OF ACTION – NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

6.1 Defendant Washington State DSHS has a duty to act with the same level of care as a reasonably prudent employer in the same or similar position and to treat its employees with the same level of care as a reasonably prudent employer in the same or similar position.

COMPLAINT - 7 of 9

CONNELLY LAW OFFICES, PLLC 2301 North 30th Street

Tacoma, WA 98403 (253) 593-5100 Phone - (253) 593-0380 Fax 6.2 Defendant Washington State breached its duty of care by offering Mr. Hardy a position as a supervisor on McNeil Island, upon which he relied, and then terminating him for dubious reasons. Defendant DSHS breached its duty of care by wrongfully terminating Mr. Hardy in violation and contradiction of public policy.

6.3 DSHS's breach of care proximately caused Mr. Hardy significant damages, including but not limited to stress, anxiety, mental anguish, emotional distress, physical and emotional damages, economic loss, and other special and general damages in an amount to be proven at trial.

VII. ADDITIONAL CAUSES OF ACTION

7.1 As noted previously, Plaintiffs brings this claim for wrongful termination, retaliation, loss of wages, breach of contract, negligence, negligent infliction of emotional distress, negligent misrepresentation, fraud, and all other causes of action under Washington law applicable to the factual scenario set forth herein. Mr. Hardy was wrongfully terminated and lost wages as a result of Defendant's misconduct by and through its agents and employees as aforesaid. The Defendant retaliated against Mr. Hardy for doing the precise job he was hired to do. The Defendant breached their agreement with Mr. Hardy, misrepresented the job and his job requirements to him, failed to act reasonably and inflicted substantial and ongoing emotional distress, turmoil and anguish as a result of improper, unreasonable and fraudulent conduct. The Defendant terminated Plaintiff for doing the precise job that they asked him to perform. The termination was improper, retaliatory and resulted in the deprivation of wages and harm to Mr. Hardy's career and reputation. Plaintiffs suffered significant wage loss, emotional anguish and distress and other general and special damages which will be proven with specificity at the time of trial.

COMPLAINT - 8 of 9

CONNELLY LAW OFFICES, PLLC 2301 North 30th Street Tacoma, WA 98403 (253) 593-5100 Phone - (253) 593-0380 Fax

1	VIII. PRAYER FOR RELIEF		
2	WHEREFORE, Plaintiffs request a judgment against Defendant Washington State:		
3 4	(a) Awarding general and special damages in an amount to be proven at trial;		
5	(b) Awarding reasonable attorneys' fees and costs; pursuant to RCW 49.48.030		
6	(c) Awarding any and all applicable interest on the judgment; and		
7	(d) Awarding such other and further relief as the Court deems just and proper.		
8	DATED this $\underline{\mathcal{U}}^{\text{th}}$ Day of April, 2018.		
9 10	DATED this $\underline{\neg}^{\text{ac}}$ Day of April, 2018.		
10	CONNELLY LAW OFFICES, PLLC		
12			
13	By John R. Connelly, Jr., WSBA No. 12183 Samuel J. Daheim, WSBA No. 52746		
14	Jackson R. Pahlke, WSBA No. 52812		
15			
16			
17			
18 19			
19 20			
20			
22			
23			
	COMPLAINT - 9 of 9 2301 North 30 th Street Tacoma, WA 98403 (253) 593-5100 Phone - (253) 593-0380 Fax		