

I. NATURE OF CASE

1. The basis of this case is civil rights violation as it relates to MR. PETRICEVIC's employment at the NAN INC. [hereinafter referred to as "NAN"].

II. JURISDICTION

2. MR. PETRICEVIC brings this action pursuant, including, but not limited to, Hawai'i Whistleblower Protection Act (HRS Chapter 378) to obtain full and complete relief and to redress the tortious conduct described herein.

3. At all times relevant herein, MR. PETRICEVIC was an employee of NAN and a resident of the City and County of Honolulu, State of Hawaii.

4. At all times relevant herein, Defendant NAN is an employer within the meaning of HRS 378. NAN's principal place of business is in Honolulu, Hawai'i.

5. Upon information and belief, and at all times relevant herein, NAN's employees, agents and/or representatives, were acting within the course and scope of their duties as employees, agents and/or representatives of NAN; therefore, NAN is liable for the intentional and/or tortious and/or wrongful conduct of said employees, agents and/or representatives pursuant to the doctrine of Respondeat Superior and/or principles of Agency.

6. All events done by Defendants described herein occurred within the City and County of Honolulu, State of Hawaii, and within the jurisdiction and venue of First Circuit Court.

III. STATEMENT OF FACTS

7. MR. PETRICEVIC is a thirty-one (39) year old Serbian man who speaks with a slight accent when speaking in English.

8. MR. PETRICEVIC is a licensed attorney who has been practicing in the

area of employment law and other general civil litigation for many years.

9. MR. PETRICEVIC was hired by NAN on March 18, 2019 as an In-House Litigation Counsel.

10. During his very short, less than three (3) month employment with NAN, MR. PETRICEVIC complained of, reported and refused to participate in illegal activities at NAN.

11. These reports of illegal activities at NAN and MR. PETRICEVIC's refusal to engage in illegal activities was reported to NAN's owner and upper managers.

12. On or about April 10, 2019, Nick Flores (Vice President of NAN) physically attacked MR. PETRICEVIC and grabbed MR. PETRICEVIC's hand in front of Patrick Shin (Owner of NAN), Wyeth Matsubara (Vice President of NAN) and Trevor Tamashiro (another NAN In-House counsel). They all witnessed this.

13. Mr. Flores attacked MR. PETRICEVIC because he didn't like a legal opinion MR. PETRICEVIC was giving NAN in warning Mr. Shin not to engage in blackmail.

14. Mr. Petricevic warned Mr. Shin not to engage in a blackmail scheme against Thomson Metal Fabrics (TMF) for the sole purpose of obtaining leverage in civil litigation against TMF.

15. Mr. Shin and Mr. Flores came up with a scheme to try to blackmail TMF and threaten to report TMF to the federal authorities unless TMF was willing to pay monetary damages to Nan Inc.

16. When Mr. Petricevic explained the highly illegal nature of such a scheme, Mr. Flores physically grabbed Mr. Petricevic and told him to shut up.

17. When Mr. Petricevic complained of the physically aggressive behavior to

Mr. Shin, as owner of the company, who witnessed this physical act (other witness were Mr. Matsubara and other in-house counsel, Trever Tamashiro) Mr. Shin doubled down and engaged in further hostile behavior that included making insults about Mr. Petricevic's national origin.

18. Mr. Shin told Mr. Petricevic that he is "too sensitive" and "worse than the Americans."

19. Nothing was done to either rectify this physical assault, reprimand Mr. Flores or offer any sort of apology for the physical assault that Mr. Petricevic just suffered at the hands of one of the executives of the company.

20. Things only got worse from there.

21. This incident happened in Mr. Matsubara's office.

22. MR. PETRICEVIC had to physically free himself from Mr. Flores.

23. MR. PETRICEVIC immediately complained to Mr. Shin and Mr. Matsubara that this was beyond inappropriate.

24. Mr. Shin told MR. PETRICEVIC that he was weaker, more sensitive and worse than Americans and that MR. PETRICEVIC should shut up and get over it.

25. Later that day, Mr. Matsubara sent MR. PETRICEVIC an email stating that MR. PETRICEVIC should not give Mr. Flores reasons to attack MR. PETRICEVIC.

26. Nothing was done as a result of MR. PETRICEVIC's complaint against Mr. Flores.

27. MR. PETRICEVIC was forced to continue working alongside Mr. Flores.

28. Mr. Flores was not disciplined and MR. PETRICEVIC's complaint was not investigated.

29. In MR. PETRICEVIC's less than three (3) months with NAN, MR.

PETRICEVIC had at least four (4) private conversations with Mr. Shin where MR.

PETRICEVIC either reported illegal behavior at NAN or refused to participate as NAN's attorney in illegal actions at NAN.

30. The following are the concerns MR. PETRICEVIC raised with Mr. Shin from April 2019 to June 2019:

- a. MR. PETRICEVIC told Mr. Shin not to try and cheat HART by trying to double dip and collect against HART and then turn run around and collect against the subcontractor. Mr. Shin had asked Mr. Petricevic to do this and make these claims against the subcontractor and not disclose the claims to HART.
- b. MR. PETRICEVIC also expressed concerns that Nan Inc. and Mr. Shin were engaging in expressing inconsistent and dishonest positions in making claims against both TMF and HART for the sole purpose of monetary gain. On one hand, Nan Inc. took the position of blaming TMF for canopies not being fabricated according to the proper specs while on the other hand Nan Inc. and Mr. Shin made a claim against HART that the designs were the problem. When MR. PETRICEVIC expressed his concerns regarding the, at minimum unethical behavior and attempt at double dipping at the expense of taxpayers, once again he was faced with verbal abuse, retaliation and his job security was threatened.
- c. MR. PETRICEVIC told Mr. Shin not to cheat on the section 801 of the federal contracting law where small business is favored by NAN trying to set up a shell company and then trying to use the shell company to gain a federal contract. Mr. Shin had been cheating section 801 and when MR. PETRICEVIC found out he repeatedly warned Mr. Shin to stop, but Mr. Shin continued.
- d. MR. PETRICEVIC also openly complained about Mr. Shin's illegal schemes in obtaining federal government contracts. MR. PETRICEVIC expressed concerns to Mr. Matsubara and Mr. Shin that their mentor-protégé program for the purposes of obtaining federal contracts might be illegal and might result in the violation of federal laws since MR. PETRICEVIC believed that this mentor-protégé program was *not* an arms-length transaction. After MR. PETRICEVIC expressed his concerns, MR. PETRICEVIC suffered *additional* verbal abuse at the hands of Mr. Shin that involved being called stupid, simple and ignorant. MR. PETRICEVIC was also threatened by Mr. Shin that he would be fired.
- e. MR. PETRICEVIC expressed to Mr. Shin MR. PETRICEVIC's concerns regarding FBI interviewing our employees. MR. PETRICEVIC found out from Trevor Tamashiro – Nan Inc.'s other in-house counsel that several employees were approached by FBI. When MR. PETRICEVIC asked Mr.

- Shin and Mr. Matsubara what was going on, he was threatened and told to mind his own business.
- f. MR. PETRICEVIC told Mr. Shin that it's illegal to blackmail NAN's subcontractors by threatening to report them to the FBI if they do not pay.
 - g. MR. PETRICEVIC told Mr. Shin that MR. PETRICEVIC could not represent Mr. Shin's friends who were just released from prison since that would be a conflict with the company since he was planning to hire these ex-prisoners. Mr. Shin personally asked MR. PETRICEVIC to do this.
 - h. Further, on several occasions, Mr. Shin blatantly lied and expressed facts to MR. PETRICEVIC about certain legal matters that were simply not true. When MR. PETRICEVIC told Mr. Matsubara that he would not be comfortable allowing Mr. Shin to testify untruthfully in any legal proceedings, MR. PETRICEVIC once again suffered verbal abuse, retaliation and more threats regarding his job security by Mr. Shin and Mr. Matsubara.
 - i. MR. PETRICEVIC also complained and expressed his concerns that Nan Inc. was taking a dishonest and purposely deceitful position towards their surety bond representatives. MR. PETRICEVIC advised Mr. Matsubara to be honest with Nan Inc.'s bond surety representatives and ask them for clarification as to who Nan Inc will be using to represent them in their legal proceedings. Seeing compliance as a major issue regardless of the company's bottom line, was the foremost concern to MR. PETRICEVIC. However, MR. PETRICEVIC was retaliated against...again.

31. Every time MR. PETRICEVIC would tell Mr. Shin any of the above, Mr. Shin would get angry, verbally abusive, told MR. PETRICEVIC he was stupid, threaten to fire MR. PETRICEVIC if he didn't do what he was told by Mr. Shin, told MR. PETRICEVIC he was useless and then specifically order MR. PETRICEVIC not to write an email about Mr. Shin's warnings.

32. MR. PETRICEVIC offered to document this.

33. Mr. Shin ordered MR. PETRICEVIC not to document this.

34. MR. PETRICEVIC had these same exact conversations with the vice president Matsubara who would tell MR. PETRICEVIC to mind his own business, not document it and then Mr. Matsubara would also threaten MR. PETRICEVIC's employment by saying that Mr. Shin is not happy with MR. PETRICEVIC and that he is useless.

35. There was one specific incident one week before MR. PETRICEVIC was fired where he was on a conference call with Mr. Shin and present with MR. PETRICEVIC in the room were Mr. Matsubara and Mr. Okimoto.

36. During this phone call, Mr. Shin was calling MR. PETRICEVIC stupid and simple and basically verbally abusing MR. PETRICEVIC.

37. When MR. PETRICEVIC asked Mr. Shin to stop it, he got really angry, started cursing and threatening MR. PETRICEVIC's employment if he don't shut up and stop complaining.

38. Once they got off the phone, MR. PETRICEVIC told Mr. Matsubara and Mr. Okimoto that this behavior was not acceptable.

39. They told MR. PETRICEVIC to either take it or he would be fired.

40. From March 18, 2019 until June 10, 2019, MR. PETRICEVIC complained many times to executive officers of NAN (Wyeth Matsubara and Frank Okimoto and Patrick Shin) about Mr. Shin's hostile behavior towards MR. PETRICEVIC.

41. Mr. Shin regularly cursed at MR. PETRICEVIC, called him stupid, ignorant and simple.

42. When MR. PETRICEVIC objected to this behavior, Mr. Shim told MR. PETRICEVIC to shut up or Mr. Shin would fire MR. PETRICEVIC.

43. Mr. Matsubara and Frank Okimoto (President of NAN0 told MR. PETRICEVIC on several occasions that MR. PETRICEVIC must accept Mr. Shin's violent and hostile behavior and if MR. PETRICEVIC didn't NAN would fire him.

44. MR. PETRICEVIC regularly complained and requested that Mr. Shin refrain from insulting him, cursing at him, and to refrain from calling him stupid, ignorant or

simple.

45. Thus, from the very beginning of MR. PETRICEVIC's employment with NAN, Mr. Shin has engaged in what one could only describe as extremely hostile and bullying behavior directed at MR. PETRICEVIC.

46. A few days before June 10, 2019, MR. PETRICEVIC sent an email to Mr. Matsubara complaining about the hostile work environment at NAN.

47. As a result, few days later, on June 10, 2019, MR. PETRICEVIC was fired without cause or any explanation.

48. When MR. PETRICEVIC applied for unemployment insurance a week later, NAN only said that MR. PETRICEVIC was laid off and not fired for any cause.

**COUNT I
VIOLATION OF HRS 378 PART V WHISTLEBLOWERS' PROTECTION ACT**

49. MR. PETRICEVIC incorporates paragraphs 1 through 48 as though fully set forth herein.

50. The treatment of MR. PETRICEVIC, as described aforesaid, evidences retaliation against MR. PETRICEVIC at NAN for reporting illegal practices at NAN.

51. An employer shall not retaliate against an employee based on their whistleblowing under HRS, § 378-62 which states in pertinent part as follows:

§ 378-62: An employer shall not discharge, threaten or otherwise discriminate against an employee...because:

- (1) The employee... reports or is about to report to the employer...verbally or in writing, a violation or suspected violation of:
 - (A) A law, rule, ordinance, or regulation, adopted pursuant to the law of this State, a political subdivision of the State or the United States;

52. NAN's conduct as described above is a violation of HRS § 378-62(1)(A).

53. These aforementioned acts and/or conduct of NAN entitle MR. PETRICEVIC to damages as provided by law. As a direct and proximate result of said unlawful employment practices MR. PETRICEVIC has suffered extreme mental anguish, outrage, depression, great humiliation, severe anxiety about his future and his ability to support himself, as well as painful embarrassment among his relatives and friends, damage to his good reputation, disruption of his personal life, loss of enjoyment of the ordinary pleasures of everyday life and other general damages in an amount which meets the minimal jurisdictional limits of this Court.

**COUNT II
VIOLATION OF PUBLIC POLICY**

54. Plaintiffs incorporates paragraphs 1 through 53 as though fully set forth herein.

55. MR. PETRICEVIC's termination as described herein is actionable in tort and constitutes a violation of clear mandates of public policies, pursuant to *Parnar v. Americana Hotels*, 65 Haw. 370 (1982), including but not limited to the following:

- a. Extortion
- b. Violations of the Hawai'i Rules of Professional Conduct for Attorneys

56. These aforementioned acts and/or conduct of NAN entitle MR. PETRICEVIC to damages as provided by law. As a direct and proximate result of said unlawful employment practices MR. PETRICEVIC has suffered extreme mental anguish, outrage, depression, great humiliation, severe anxiety about his future and his ability to support himself, as well as painful embarrassment among his relatives and friends, damage to his good reputation, disruption of his personal life, loss of enjoyment of the ordinary pleasures of everyday life and

other general damages in an amount which meets the minimal jurisdictional limits of this Court.

PRAYER FOR RELIEF

WHEREFORE, MR. PETRICEVIC respectfully prays that this Court enter judgment granting the following relief on all causes of action:

A. That this Court enter a declaratory judgment that NAN has violated the rights of MR. PETRICEVIC;

B. That this Court award MR. PETRICEVIC special damages for the aforementioned Counts including but not limited to back pay, front pay, and all employee benefits that would have been enjoyed by him, in amounts which shall be shown at trial;

C. That this Court award MR. PETRICEVIC compensatory damages, proximately caused by NAN's tortious and abusive conduct, including, but not limited to, general damages for intentional infliction of mental or emotional distress, assessed against NAN, all in an amount to be proven at trial;

D. That this Court award MR. PETRICEVIC exemplary or punitive damages in an amount to be proven at trial, as the facts aforesaid, constitutes extreme and outrageous behavior which exceeds all bounds usually tolerated by decent society. In committing the above acts and omissions, NAN acted wantonly and/or oppressively and/or with such malice as implies a spirit of mischief or criminal indifference to civil obligations and/or there has been some willful misconduct that demonstrates that entire want of care which would raise the presumption of a conscious indifference to consequences, justifying an award of punitive or exemplary damages in an amount to be proven at trial;


E. That this Court award MR. PETRICEVIC reasonable attorney's fees and costs of suit herein as well as prejudgment and post-judgment interest;

F. That this Court order appropriate injunctive relief.

G. That this Court retain jurisdiction over this action until the NAN has fully complied with the order of this Court and that this Court require the Defendants to file such reports as may be necessary to secure compliance;

H. That this Court award MR. PETRICEVIC such other and further relief both legal and equitable as this Court deems just, necessary and proper under the circumstances.

DATED: Honolulu, Hawaii, October 23, 2019.



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