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Nancy K. Rutigliano, Ph.D.

v.

PSEG, [REDACTED] et al

Plaintiff, Nancy K. Rutigliano, Ph.D. [REDACTED]

[REDACTED] by way of Complaint against defendants hereby says:

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FACTS

1. At all times relevant herein plaintiff was employed by defendant PSEG Nuclear LLC (hereinafter "Nuclear") as Principal Organization Development Consultant and was known as Manager, Culture Transformation. As a direct report of the [REDACTED] (hereinafter [REDACTED]), her duties and responsibilities included inter alia: to support high performance through teamwork and strong leadership within work groups and between organizations; to act as Leadership Coach to Vice Presidents, Directors, Managers, select Union leaders, outage leadership teams, and Operations Leadership Teams; to support partnership between Management and Union employees; and to bring to management's attention issues and barriers to excellence in performance, including nuclear, industrial, and radiological safety issues, leadership weaknesses, and other concerns.
2. At all times relevant herein Defendant Nuclear was in the business of operating the Salem and Hope Creek Nuclear Generating Stations located in Lower Alloways Creek, New Jersey. [The Salem and Hope Creek Nuclear Generating Stations have nuclear power reactors licensed by the Nuclear Regulatory Commission.] Nuclear is a subsidiary of PSEG Power LLC with a principle place of business located in Newark, New Jersey.
3. At all times relevant herein Defendant PSEG Power LLC was a corporate entity of which "Nuclear" was a subsidiary.
4. At all times relevant herein Defendant [REDACTED] of "Nuclear."
5. On or about September 24, 2002, plaintiff attended a meeting with various members of the Salem Operations Leadership Team at the Salem Nuclear Generating Station. At that meeting plaintiff received certain information from an Operations Superintendent, who is a Nuclear Regulatory Commission-licensed Senior Reactor Operator, causing plaintiff great concern with respect to nuclear, plant and personnel safety.
6. At the Operations Superintendent's request, plaintiff spoke with his

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subordinate employees who were “up in arms” over an unsafe act performed by a high-ranking member of management several days prior. The nuclear equipment operators reported the manager had refused to support the safe shut down of the unit per procedures and safe operating standards and, instead, went into the plant and manipulated equipment to save production. They reported he did so inappropriately, without taking customary safety precautions and without the consent of the in-charge Operations Superintendent. The act was viewed by the employees and the Operations Superintendent who was in charge as a blatant disregard of policies, procedures, and management’s “Safety First” messages and by-passed the command and control essential for safe operation of nuclear power plants.

7. That evening and the following day, plaintiff advised members of the Operations Leadership Team of the concerns voiced by the nuclear equipment operators and her view that the manager’s actions were “inappropriate.” Plaintiff was accused of “siding with the Union” and not sufficiently defending management. Plaintiff voiced concerns that the Operations Superintendent was so upset over the incident he was thinking of quitting because he felt his management team was saying one thing and doing another regarding industrial and nuclear safety matters.
8. Discussion on this issue ensued in the following weeks without effectively addressing the safety concerns raised. Nuclear’s Employee Concerns manager was called in to investigate the matter. His confidential report substantiates Plaintiff’s allegations.
9. Plaintiff received various e-mail messages from Salem employees addressing additional safety concerns that management had “stonewalled.” In the words chosen it was clear that employees viewed Plaintiff as “Ear” (defendant) and they expected her to convey these concerns allowing them to be free from any possible reprisals. 76
10. On or about October 2, 2002, plaintiff advised defendant of the aforementioned concerns. Defendant made disparaging remarks about the Operations Superintendent on duty that shift and appeared to be annoyed that Plaintiff would believe that the Union workers had a genuine concern about plant safety or the safety of the manager involved. Defendant responded that they (union workers) just did not want to do the work themselves. Plaintiff further advised he needed to intervene to insure Salem Operations leadership was addressing these concerns. In response, Defendant indicated that the “Union” was the problem, not management.
11. Thereafter the Union filed a grievance relative to the incident described above. At the Third Step Grievance meeting (with the Operations Vice President and

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Human Resources representatives), which the Plaintiff attended, the Union Business Agent made the case that "management rewards unsafe behavior in the name of production and [creating] heroes." He cited numerous incidents in support of his claim. Plaintiff publicly supported his claim, saying "Management is not doing enough to keep people and the plant safe. We say one thing and do another. The workers no longer believe what we say. We have lost their trust."

12. Plaintiff met with defendant [REDACTED] again to request assistance in having the safety concerns addressed. This time she stressed that it was not only Union workers who were concerned about management's lack of attention to safety issues. Plaintiff cited conversations by NRC-licensed Senior Reactor Operators at both Salem and Hope Creek plants who felt that management was inconsistent in promoting conservative decision making regarding nuclear safety. She reported at times they felt pressured to make production-over-safety decisions. In addition, Plaintiff cited that only one of three Directors was fully engaged and doing his job. This left top-level decision making to two people (Vice President and a Director) instead of four people for three units. Plaintiff expressed concern that tolerating this was "inappropriate" and jeopardized the site. TK
13. On February 24, 2003 Plaintiff was called by Defendant [REDACTED]'s secretary to meet with Defendant [REDACTED] to "go over your bonus." Plaintiff met with Defendant [REDACTED] on February 26, 2003. Defendant [REDACTED] asked for an update and Plaintiff described, once again, concerns about lack of high level management engagement at Salem, concerns about operational decision-making, and concerns about the Salem Nuclear Equipment Operators still not feeling their nuclear and industrial safety and work environment issues were being addressed. At the end of this verbal report, Defendant [REDACTED] said, "Anything else?" Plaintiff replied, "Not right now," expecting to move into the discussion of her "bonus." Defendant [REDACTED] then told Plaintiff her employment was being terminated as a result of position elimination effective April 16, 2003. TK
14. Thereafter Plaintiff met with [REDACTED] who expressed surprise at her termination, said he did not have input into the decision, had expected Plaintiff to report to him once Defendant [REDACTED] retired as was expected shortly. [REDACTED] supported Plaintiff's intention to keep doing her job up until the last day and possibly be chosen by the new President and CNO to remain. Plaintiff took his advice and continued performing her duties and responsibilities. TC
15. During the week of March 17, 2003, numerous high level management employees at Nuclear spoke with Plaintiff about their concerns about how the

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plants were being run, who was "in charge" and how decisions were being made. Plaintiff urged these employees to voice their concerns but they expressed fear about doing so. Following the formal announcement of Defendant's retirement, [REDACTED] reported that he had been stripped of all authority and that PSEG Power [REDACTED] was "calling the shots." [REDACTED] reported to Plaintiff that he was under considerable pressure from [REDACTED] and [REDACTED] to return the Hope Creek Unit to service prematurely from its forced outage since the company was losing \$3 million a day in lost revenues. In addition to [REDACTED] others in management and in the Hope Creek Operations organization, including those licensed by the NRC to run the facility safely, expressed concern about this production-at-the-expense-of-safety pressure being exerted by the highest ranking officers of the company. One executive called the situation "dangerous" and said, "The fact that we were even there means 'We don't come from safety.' They [REDACTED] don't trust any of us...It's ludicrous. The people who want to be part of the solution get marginalized." He further expressed the viewpoint that this could be grounds for the NRC "taking the keys away." 7C

16. Hearing this, Plaintiff went to see Defendant [REDACTED] unannounced. She voiced concerns about "what's going on behind the fence," about pressures to start the Hope Creek Nuclear Generating Unit before it was safe to do so, about the message being sent that "production and getting the Hope Creek unit back on line is more important than nuclear safety." Defendant [REDACTED] said he did not believe it. Plaintiff expressed that she was worried, that other people [REDACTED] trusted were worried, people were afraid to come and tell him directly. Plaintiff reported that "the word that got spoken to me this morning is 'dangerous.' Plaintiff asked Defendant [REDACTED] "What do we do?" Defendant [REDACTED] responded, "We don't do anything, because you know, it's everything you'd expect to see. It's a bunch of bullshit." Defendant [REDACTED] went on to make disparaging comments about operators, cursing and accusing them of using safety concerns to be unproductive. Plaintiff stressed that the people with concerns that she had quoted minutes earlier were management people, superintendents and above, at every level. Plaintiff said she urged them to come speak with Defendant [REDACTED] directly but they likely would not. "I could not sit in my office and not come and tell you," Plaintiff said to Defendant [REDACTED]. While Defendant [REDACTED] said, "I appreciate you coming over" it was clear he was angered by the conversation. 7C
17. During this meeting, Plaintiff also inquired as to why her position had been eliminated, especially when others were being hired to do her responsibilities. Defendant [REDACTED] told Plaintiff that the "issues are toe to toe, knock down drag out with the Union." Defendant [REDACTED] indicated that Plaintiff could "not help in that area" and that she was "actually a detriment in that arena." Defendant 7C

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[REDACTED] clearly was referring to her support of employee voiced nuclear safety and personnel safety issues with which defendant [REDACTED] took exception. It was clear [REDACTED] did not want Plaintiff to be in a position to continue voicing concerns about management's lack of attention to nuclear and industrial safety issues.

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18. After Plaintiff left Defendant [REDACTED]'s office, according to the [REDACTED] [REDACTED] called [REDACTED] and told him to "accelerate" Plaintiff's departure and to be sure Plaintiff left site by March 28, before the new President and CNO took over on April 1, 2003. [REDACTED] met with Plaintiff on March 24 and conveyed this information. Plaintiff clearly saw this as further retaliation for voicing the nuclear safety concerns to Defendant [REDACTED] days before. Plaintiff voiced her objections to this "acceleration," said she wanted to work as planned until April 16 and possibly win over the new President, but [REDACTED] said she had no choice. However, [REDACTED] said she would be permitted to retain her company badge until April 16, making it possible for Plaintiff to complete her work at another company site.
19. Thereafter Plaintiff forwarded a three (3) page letter to [REDACTED] Defendant [REDACTED] superior and [REDACTED] of the parent company and conveyed her letter in person to the Nuclear Employee Concerns Manager, outlining her attempts at raising nuclear safety issues and the unlawful reprisals directed at her.
20. The next day, March 26, 2003, Plaintiff was contacted again by [REDACTED] [REDACTED] who told her [REDACTED] "want you out by Friday" and the company badge would need to be turned in on Friday, March 28, not April 16 as previously granted. Once again Plaintiff saw this as further retaliation for her actions of reporting nuclear safety concerns to [REDACTED] and the Nuclear Employee Concerns Department.
21. The following day, March 27, 2003, Plaintiff met with [REDACTED] [REDACTED] acknowledged that Defendant [REDACTED] determined to move the Plaintiff's last day up to March, 28, 2003. [REDACTED] also acknowledged that "they are after you and they are after others." Plaintiff clearly understood this to refer to reprisals for her continually reporting nuclear safety issues as put forth by the Union members and management. [REDACTED] voiced he could not do anything about it and had to follow orders. "You don't want to find yourself caught up into it and being crucified."
22. On March 28, 2003, Plaintiff worked her final day for PSEG Nuclear.
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FIRST COUNT

1. Plaintiff repeats the allegations of the Facts as set forth above.
2. Plaintiff, as set forth above, disclosed to a supervisor an activity, policy or practice of Defendant that she reasonably believed was in violation of a law, rule or regulation. Further, Plaintiff objected to an activity, policy or practice of Defendant which she reasonably believed was in violation of a law, rule or regulation and which was incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment.
3. Plaintiff's aforementioned conduct is protected by the Conscientious Employee Protection Act, N.J.S.A. 34:19-1 to 8 (CEPA).
4. Defendants, as set forth above, retaliated against Plaintiff because of her protected conduct which is in violation of CEPA.
5. As a result of Defendants' wrongful conduct, Plaintiff has suffered economic loss, emotional distress, and has been otherwise injured.

SECOND COUNT

1. Plaintiff repeats each and every allegation for the First Count as is set forth at length herein.
2. Plaintiff's discharge was contrary to a clear mandate of public policy, in violation of *Pierce vs. Ortho Pharmaceutical Corp.*, 84 N.J. 58 (1980).
3. As a result of Defendants' wrongful conduct, Plaintiff has been injured.

WHEREFORE, Plaintiff demands judgment against defendants for front pay, back pay, compensatory damages, punitive damages, attorneys' fees and litigation costs, interest and any other relief the Court deems fair and equitable.

DEMAND FOR JURY

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

DESIGNATION of TRIAL COUNSEL

Pursuant to the provisions of R.4:25-4, the Court is hereby advised that Robert B. Woodruff and John McDonnell, of the firm Algeier Woodruff, P.C., is hereby designated as trial counsel in the above captioned matter.

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CERTIFICATION

I certify that to the best of my knowledge, information and belief, as follows:
there are no parties who should be joined in this action. Additionally, there are no other
pending or contemplated proceedings that pertain to this matter.

ALGEIER WOODRUFF, P.C.

ROBERT B. WOODRUFF, ESQUIRE

JOHN MCDONNELL, ESQUIRE

DATED:

NANCY KYMN HARVIN, Ph.D.



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A seasoned business executive, communicator, and organization effectiveness consultant with a track record for organizational and individual breakthrough results and sustained high performance through leadership, accountability, personal and team empowerment initiatives. Special skills include creating performance-focused learning environments, championing large-scale change efforts, causing executive/management teams to lead more effectively, and innovative coaching to catalyze strong bottom-line results and accomplishments. A respected role model who wins the trust and partnership of others.

PUBLIC AND PRIVATE SECTOR EXPERIENCE

Duke Energy, Charlotte, NC, 2003-Present Organizational Effectiveness Consultant

Providing ground-breaking management, leadership, and communications effectiveness evaluations of the Operations organizations at three top-rated nuclear plants—Oconee, Catawba, McGuire. Creating recommendations to move Duke Energy from industry leader to industry innovator. Inspiring management teams to adopt new paradigms for leadership, accountability, and human performance to strengthen bottom-line results and job satisfaction. Acting as on-site executive Leadership Coach at Oconee Nuclear Generating Station.

PSEG Nuclear, Hancocks Bridge, NJ, 1998-2003 Manager, Culture Transformation

As a member of the senior leadership team reporting to the President and Chief Nuclear Officer, generated five "Best Year Evers" at this nuclear power plant employing 1800 people. Caused a targeted focus on long-standing people issues that were contributing to mediocre performance for the previous 20 years. Won the respect of union and industry experts and is currently advising top-rated nuclear plants on how to sustain performance in the competitive marketplace. Received awards for innovative leadership, coaching, and contributions to the business that resulted in millions of dollars in cost savings and revenues.

KYMN & COMPANY, INC., Watchung, NJ, 1990-1998**President**

Created, designed and delivered corporate culture change programs for Fortune 100 clients including AT&T, GE, software and entrepreneurial firms. Focused on improving work environment, bottom-line results, customer satisfaction and employee morale through individual and team empowerment. Worked with top executives to ascertain and overcome barriers to breakthrough results. Conducted experiential team-building, interpersonal skills, and communications programs. Generated new futures with client organizations and provided coaching in committed action.

AT&T, New Jersey, 1980-1990**Culture Change Manager, 1989-1990**

Created strategy for shifting the culture of a global telecommunications organization with over 80,000 people worldwide from being manufacturing-oriented to market-driven. Reported directly to the Human Resources Vice President and Sales Vice President. Acted as executive coach for top management.

Management and Leadership Curriculum Manager, 1988-1989

Designed and managed competency-based process to implement, oversee and evaluate executive and general management and leadership courses support AT&T strategic intent. Acted as liaison with business units and training organizations. Worked with other HR professionals to build a network of culture change champions.

"Project Miracles" Training Manager, 1985-1988

Sourced, designed and managed AT&T's most successful culture change program to date. Multi-phase initiative called "Project Miracles" involved 13,000 people worldwide in Consumer Products division and later extended to 30,000 additional people in other business units. Enlisted support of 100+ executives and obtained non-budgeted funding for multi-million dollar training program focusing on individual and team empowerment. Selected and managed consultants and on-site delivery staff. Trained and certified facilitators. Managed program throughout U.S. and Far East.

Employee and Media Relations Manager, 1983-1985

Created and managed employee information programs for 40,000 people nationwide. Designed multi-faceted communications plan which explained Divestiture to employees. Initiated and produced biweekly publication. Managed national media beat including *Wall Street Journal*, *New York Times*.

Executive Speechwriter and Special Projects, 1980-1983

Wrote speeches for Bell Laboratories and AT&T executives. Produced award-winning annual report. Headed various employee drives. Acted as key liaison with community, government, and education institutions.

PENNSYLVANIA STATE GOVERNMENT, Harrisburg, PA, 1977-1980**Speechwriter to the Secretary of Education and Governor, 1979-1980**

Wrote speeches, policy statements, and articles for the Education Secretary and Governor. Acted as key aide in developing policies and programs. Toured schools with Secretary and met with various professional groups and citizens. Designed effective school image-building campaign.

Director of Information, PA Commission for Women, 1978

Planned, organized, directed and coordinated a statewide, extensive public relations program to inform women of their rights. Wrote speeches, newsletters, newspaper columns and legislative reports. Advised Governor on policy matters involving women and represented Governor to a variety of women's groups.

Legislative Information Specialist, 1978

Gathered, analyzed and produced information about legislative matters to media throughout Pennsylvania. Provided public relations expertise to legislators and advised campaign managers. Wrote issue papers, special reports, weekly summaries.

Assistant Director, Training on Aging, 1977

Developed, promoted and administered a comprehensive staff enrichment program for personnel working with the elderly in a 23 county area. Developed and executed a public relations campaign. Selected and managed consultants.

Higher Education Information Specialist, 1977

Researched values and enduring effects of higher education. Developed strategies to improve the image of Pennsylvania colleges and universities.

ACADEMIC EXPERIENCE**University of Delaware, Executive MBA Program
Thomas Edison State University
2002-Present**

Provide support to PSEG business leaders and managers who are choosing to return to higher education mid-career. Provide academic program reviews, course selection guidance, assessments of work experience for lifelong learning credit applications, and liaison with institutions of higher education.

**Union Institute and University, Adjunct Professor
Center for Distance Learning
1995-1997**

Mentored, advised, and created collaborative for-credit learning experiences with students in the undergraduate Center for Distance Learning program. Proficient at providing on-line and classroom learning environments that inspire excellent scholarship, mutual support, and real-world applications of academic theories. Areas of expertise include business administration, management/leadership, organization development, political science, human resources, communications, journalism, English, public speaking, and writing.

EDUCATION

Ph.D., The Union Institute and University, Organization Development and Spirituality. 1996.

"Building a Breakthrough Enterprise," Year-long Executive Leadership Development Program. 1999.

Executive Excellence Program, The Center for Management Design, 1992-1993.

MBA Candidate, Wharton School of Business and Fairleigh Dickinson University, 1978-1985.

B.A. Indiana University of Pennsylvania, Journalism and Political Science,

Over 210 management, personal growth and business seminars, 1980-Present.

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PUBLICATIONS

"Industry Follower or Industry Innovator: The Choice is Yours," Duke Energy (internal publication only), 2003.

"The Power of Words," PSEG Nuclear, 2002.

"Keiser's Korner," PSEG Outlook, 2001-2002.

"The Intuitive Organization," Intuition At Work, Stone & Sterling, 1997.

"Bringing LOVE Back into Business," The New Bottom Line: Heart and Spirit at Work, New Leaders Press, 1996.

Bringing LOVE Back into Business, Doctoral Dissertation, UMI, 1996.

Small Miracles, Kymn & Company, Inc., 1989.

Excellence in Performance: A Desk-Top Companion, AT&T, 1987.

1000+ corporate and freelance articles and speeches, 1974-present.