



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

TRACEY CREWS,)	
)	
Plaintiff,)	
)	
v.)	C.A. No.:
)	TRIAL BY JURY DEMANDED
CONNECTIONS COMMUNITY,)	
SUPPORT PROGRAMS, INC.)	
)	
Defendant.)	

COMPLAINT

I. INTRODUCTION

Plaintiff, Tracey Crews, brings this action against her former employer, Defendant, Connections Community Support Programs, Inc. for retaliatory termination in violation of the Delaware Whistleblowers' Protection Act, 19 Del. C. §§ 1701-1708, and the Delaware Workers' Compensation Act, 19 Del. C. §§ 2301-2396. Plaintiff was employed as a Health Services Administrator at the infirmary of the Howard R. Young Correctional Institution when she witnessed the intense suffering of a seriously ill inmate during the final days of his life. After Plaintiff objected to the inhumane denial of proper medical treatment to the inmate, and Defendant's subsequent cover up of the sadistic maltreatment that led to his death, Defendant engaged in a concerted campaign of retaliation against Plaintiff that ultimately resulted in her termination.

II. PARTIES

1. Plaintiff, Tracey Crews, is an individual and a citizen of the State of Delaware. At all times relevant to this action, Plaintiff was employed by Defendant as a Health

Services Administrator at the Howard R. Young Correctional Institution in Wilmington, Delaware.

2. Defendant, Connections Community Support Programs, Inc. (hereinafter “Defendant” or “Connections”), is a non-profit organization operating under Section 501(c)(3) of the Internal Revenue Code, with its principal place of business located at 3821 Lancaster Pike, Wilmington, DE, 19805.

3. On March 6, 2014, the State of Delaware entered into a contract with Connections to provide health care services for offenders housed within the Delaware Department of Correction’s prison system. The original term of that contract expired on June 30, 2018. On July 1, 2018, the State of Delaware and Connections executed Addendum No. 6, which extended the term of the contract through June 30, 2020.

4. At all times relevant to this action, Defendant acted by and through its authorized agents, servants, workmen, and/or employees acting within the course and scope of their employment with Defendant, and in furtherance of Defendant’s business.

5. At all times relevant to this action, Plaintiff was an “Employee” as that term is defined under 19 Del. C. § 1702(1), 19 Del. C. § 2301(10), and all other statutes that form the basis of this matter.

6. At all times relevant to this action, Defendant was an “Employer” as that term is defined under 19 Del. C. § 1702(2), 19 Del. C. § 2301(11), and all other statutes that form the basis of this matter.

III. JURISDICTION AND VENUE

7. The cause of action that forms the basis of this Complaint are based on the Delaware Whistleblowers' Protection Act ("WPA"), 19 Del. C. §§ 1701-1708, and the Delaware Workers' Compensation Act, 19 Del. C. §§ 2301-2396 ("WCA").

8. This Court has original jurisdiction over Plaintiff's WPA claim pursuant to 19 Del. C. § 1704(b).

9. This Court has original jurisdiction over Plaintiff's WCA claim pursuant to 19 Del. C. § 2365.

10. Venue is proper pursuant to 19 Del. C. § 1704(b) because the complained of conduct and violations of the WPA occurred in New Castle County.

IV. FACTUAL ALLEGATIONS

11. Plaintiff was hired by Connections on August 4, 2014, as a Health Services Administrator to supervise the medical unit at Howard R. Young Correctional Institution ("HRYCI") in Wilmington, Delaware.

12. At all times relevant to this action, Plaintiff reported directly to Christine Claudio, Connections' Statewide Health Services Administrator.

13. Throughout her tenure with Connections, Plaintiff consistently performed her job with skill and dedication.

14. Although Plaintiff was responsible for the supervision of various healthcare practitioners employed by Connections, including nurses and physicians, she was not authorized to make medical decisions nor question the medical decisions of those she supervised.

A. The Death of Luis Cabrera

15. At all times relevant to this action, Luis Cabrera was an inmate designated as SBI#00257556 who was housed in Unit 2M at HRYCI.

16. In the late evening of November 5, 2008, HYRCI medical staff responded to a Code 4 medical emergency at the unit where Mr. Cabrera was housed. When the medical staff arrived, they found Mr. Cabrera on the floor, curled up in a fetal position, and complaining of severe abdominal pain.

17. The on-call Healthcare Provider at HYRCI, Kris Starr, Nurse Practitioner (“NP”), issued an order to bring Mr. Cabrera to the infirmary. Since he was unable to walk on his own, the medical staff helped Mr. Cabrera into a wheelchair to get him to the infirmary.

18. While at the infirmary, Henry Coffield, Registered Nurse (“RN”), assessed Mr. Cabrera. RN Coffield noted that Mr. Cabrera had hypoactive bowel sounds and had a rigid abdomen.

19. Throughout the evening of the November 5, 2018, and into the early morning hours of November 6, 2018, Mr. Cabrera screamed and banged from inside a cell within the infirmary.

20. The nightshift nurse, RN Erlease Freeman, asked Mr. Cabrera to come to the door. Mr. Cabrera cried out that he was unable to do so because his pain was too severe. As he was doubled over in his bunk, Mr. Cabrera reported to RN Freeman that he believed his appendix was the cause of his pain.

21. Mr. Cabrera was seen by NP Kathryn Stillman on November 6, 2018. Mr. Cabrera complained of a sharp and constant pain in his mid-abdomen, and told NP Stillman that the pain had been continuous throughout the night. When NP Stillman

attempted to place her hand on Mr. Cabrera's abdomen, he cried out in pain. NP Stillman noted that Mr. Cabrera's bowel sounds were normal.

22. Shortly thereafter, Plaintiff spoke to NP Stillman and instructed her to return Mr. Cabrera to his regularly-assigned housing unit when he felt better.

23. At approximately 9 a.m. on November 6, 2018, Plaintiff went to see NP Stillman to inquire about Mr. Cabrera's condition. NP Stillman reported to Plaintiff that Mr. Cabrera was still in the infirmary, and that lab tests were being performed on him. NP Stillman told Plaintiff that she believed Mr. Cabrera was being overly dramatic and faking his illness.

24. Upon hearing NP Stillman's accusations, Plaintiff immediately went to see Mr. Cabrera. Plaintiff found him squatting on the floor, rocking back and forth. Plaintiff helped Mr. Cabrera into his bed where he doubled over in pain. Mr. Cabrera told Plaintiff that he had been experiencing waves of sharp pain, as well as vomiting and diarrhea, since the prior day. Plaintiff attempted to palpate Mr. Cabrera's abdomen, but he was guarded and clearly in pain. Mr. Cabrera informed Plaintiff that two days prior, he had vomited after eating a meal.

25. Approximately one hour later, NP Stillman advised Plaintiff that a urine sample had to be collected from Mr. Cabrera via a straight catheter procedure. Since another nurse was unavailable, Plaintiff volunteered to obtain the urine specimen.

26. Shortly thereafter, Mr. Cabrera was brought to the infirmary treatment room in wheelchair for the collection of a urine specimen. Due to the obvious pain he was experiencing, Mr. Cabrera's whole body was shivering. Plaintiff asked one of the nurses to request that NP Stillman order pain medication for Mr. Cabrera. NP Stillman declined

to dispense the requested medication because she claimed that she did not want to mask Mr. Cabrera's symptoms. NP Stillman reiterated her suspicion that Mr. Cabrera was faking his symptoms.

27. NP Stillman eventually acceded to Plaintiff's repeated pleas for pain medication by ordering TUMS and Zofran, a non-narcotic medication used to prevent and treat nausea and vomiting.

28. Plaintiff had difficulty obtaining a urine specimen using a catheter. Mr. Cabrera was in extreme pain, and Plaintiff expended a considerable amount of time and patience to get him to relax and tolerate lying in a semi-flat position.

29. Despite the use of the catheter, Plaintiff was unable to obtain a urine specimen. Mr. Cabrera then told Plaintiff that he had urinated shortly before being catheterized.

30. Plaintiff later realized that NP Stillman's instruction to catheterize Mr. Cabrera was not based on medical necessity, but rather NP Stillman's vindictiveness. After further consideration, Plaintiff could not think of any reason why it was necessary to catheterize Mr. Cabrera in order to obtain a urine specimen.

31. Later that same day, Plaintiff called her supervisor, Christine Claudio, Connections' Statewide Health Services Administrator, and explained that Mr. Cabrera was in extreme pain and that NP Stillman refused to medicate him. Ms. Claudio responded that NP Stillman was the designated healthcare provider, and it was solely her decision to order pain medication. Ms. Claudio chuckled and added, "It's her license."

32. Ms. Claudio further advised Plaintiff that it was inappropriate to provide pain medication for abdominal pain prior to a diagnosis. Plaintiff, who had many years' experience working in emergency room observation and medical-surgical nursing,

responded with incredulity because she had never heard of such a practice. Plaintiff advised Ms. Claudio that, on numerous occasions in the past while working as a nurse, she had received orders for pain medication for abdominal pain before the patient had been diagnosed.

33. Following her phone conversation with Ms. Claudio, Plaintiff called NP Stillman and asked if she had spoken with her medical supervisor, Christopher Moen, MD, regarding Mr. Cabrera's condition. NP Stillman responded defensively and told Plaintiff that "she knew what she was doing." NP Stillman explained that she had spoken with Dr. Moen about Mr. Cabrera earlier that morning. NP Stillman told Plaintiff that Dr. Moen "rolled his eyes" during the conversation.

34. Later that same day, Mr. Cabrera was again brought to the infirmary treatment room in a wheelchair. Plaintiff asked the infirmary nurse to get an order for pain medication for Mr. Cabrera. When the nurse returned, she advised Plaintiff that NP Stillman had denied the request for pain medication. Mr. Cabrera, who was still shivering from abdominal pain, overheard the conversation, looked at Plaintiff, and lamented, "She said no, she said no," shaking his head from side to side in disbelief.

35. Plaintiff then confronted NP Stillman and asked why she would not order pain medication for Mr. Cabrera. NP Stillman replied, "I am running tests, and I don't want to mask his symptoms." When Plaintiff asked which tests were being run, NP Stillman advised that Mr. Cabrera was scheduled for an ultrasound on the following day.

36. Plaintiff vehemently objected over the prospect of Mr. Cabrera having to needlessly wait in extreme pain for another day without pain medication. NP Stillman responded, "I'm confused. Who is the provider, you or me?" After Plaintiff refused to

accept her unjustified response, NP Stillman ordered Toradol, a non-narcotic drug used for short-term treatment of moderate to severe pain. As she walked away, NP Stillman chided, “Now, he wins.”

37. Plaintiff again attempted to obtain a urine specimen from Mr. Cabrera with a straight catheter. NP Stillman appeared at the door of the treatment room and exclaimed, “This is some bulls__t, this is some bulls__t.” Plaintiff succeeded in obtaining a urine sample this time; however, Mr. Cabrera’s urine was dark brown in color. Plaintiff understood that the urine sample indicated the likelihood of a serious medical condition.

38. Plaintiff and the charge nurse, Felicia Littman, RN, brought the urine sample to NP Stillman. Since Plaintiff knew that dehydration can cause dark brown urine, she asked NP Stillman if she wanted to give intravenous fluids to Mr. Cabrera. NP Stillman rejected Plaintiff’s suggestion and said that Mr. Cabrera was able to drink on his own. RN Littman, who had witnessed NP Stillman’s skepticism, turned to Plaintiff and said, “This man is not faking, he is in pain.”

39. Upon returning to her office, Plaintiff spoke with Major Dorene Fields, Security Supervisor for HRYCI. Major Fields asked Plaintiff whether Mr. Cabrera needed to be sent to the hospital. Plaintiff told Major Fields that she would check with NP Stillman and report back with an answer.

40. Plaintiff called NP Stillman and advised that if Mr. Cabrera needed to go to the hospital, Major Fields recommended sending him during the dayshift because there were available security personnel to accompany him. NP Stillman responded, “I don’t need Fields to tell me about sending him out.” NP Stillman then declared that Mr. Cabrera would not be sent to the hospital.

41. After Plaintiff returned home for the evening, she called the infirmary to check on Mr. Cabrera's condition. RN Freeman, the nightshift nurse on duty, told Plaintiff that Mr. Cabrera said that the pain medication was no longer working.

42. On the following day, November 7, 2018, Plaintiff asked NP Stillman if there were any changes in Mr. Cabrera's condition. NP Stillman advised Plaintiff that there were no changes. NP Stillman again stated her belief that Mr. Cabrera was faking and malingering.

43. Later that same day, Mr. Cabrera was taken in a wheelchair for ultrasound imaging of his abdomen. NP Stillman later informed Plaintiff that the ultrasound technician observed some fluid in Mr. Cabrera's abdomen which could have been "ascites," an abnormal buildup of fluid in the abdomen.

44. The ultrasound technician was unable to visualize Mr. Cabrera's spleen or liver. Upon learning of the inconclusive test result, NP Stillman once again announced her belief that Mr. Cabrera was faking his symptoms.

45. Following the ultrasound imaging, NP Stillman and Mitchell White, Certified Physician Assistant, examined Mr. Cabrera. During the examination, Mr. Cabrera continued to complain of abdominal pain. He reported a 10 out of 10 on the pain scale and said that the Toradol was no longer reducing his pain.

46. On November 8, 2018, Plaintiff was at home and received a call from Shamika Griffin, RN, Director of Nursing, at approximately 4:35 a.m. Nurse Griffin informed Plaintiff that a Code 4 medical emergency was issued in the infirmary. Plaintiff immediately asked if it was Mr. Cabrera. Nurse Griffin replied affirmatively and said that Mr. Cabrera was found unresponsive in his cell. Plaintiff then attempted to call

Kolawole Akinbayo, Warden of HRYCI, but he did not answer. Plaintiff then left home and proceeded to the infirmary at HRYCI.

47. Mr. Cabrera was pronounced dead at 4:54 a.m. on November 8, 2018. Distraught and in tears over the news of Mr. Cabrera's death, Plaintiff went to Major Fields' office. Plaintiff repeatedly cried out, "She [NP Stillman] killed him [Mr. Cabrera]." Major Fields tried to console Plaintiff and said, "I know you wanted to send him out to the hospital."

48. As news of Mr. Cabrera's death spread, all of the HRYCI senior management arrived at the facility. NP Stillman arrived at HRYCI at 7 a.m. for her regularly-scheduled shift.

49. Plaintiff's supervisor, Christine Claudio, arrived at HRYCI later that day. Plaintiff was still very upset and started yelling, "She [NP Stillman] killed him [Mr. Cabrera]." Ms. Claudio attempted to calm Plaintiff.

50. Shortly thereafter, Plaintiff and Ms. Claudio watched the security camera footage of the hour prior to Mr. Cabrera's death. The video recording showed Cori Greene, RN, talking to Mr. Cabrera through a flap in the door of his cell. Mr. Cabrera was lying on the floor, face down.

51. After speaking with Mr. Cabrera for a few minutes, Nurse Greene moved on to the next patient. Fifteen minutes later, a security officer passed Mr. Cabrera's cell and noticed that he was still on the floor and not moving nor responding to verbal commands. A Code 4 Medical Emergency was called at approximately 4:30 a.m. HRYCI medical and security personnel arrived and immediately started CPR. Paramedics arrived on the

scene minutes later and continued resuscitation efforts. The paramedics pronounced Mr. Cabrera dead at 4:54 am.

B. The Aftermath of Luis Cabrera's Death and Defendant's Cover Up

52. On November 16, 2018, Plaintiff spoke with Misty May, Connections' Vice President. Plaintiff recounted every conversation she had with NP Stillman while Mr. Cabrera was in the infirmary. Ms. May informed Plaintiff that a "Root Cause Meeting" had been scheduled to address the issues involving Mr. Cabrera's death. Plaintiff told Ms. May that she did not want to participate in such a meeting unless everyone was going to be completely honest. Ms. May told Plaintiff that she could be honest, but cautioned against "finger pointing."

53. On November 20, 2018, Connections held a Root Cause Meeting at HRYCI. The following individuals, all of whom were Connections employees, attended the meeting:

- Christopher Devaney, Chief Operating Officer;
- Misty May, Vice President;
- Christopher Moen, MD, Statewide Medical Director;
- Christine Claudio, Statewide Health Services Administrator;
- Kathryn Stillman, NP;
- Felicia Littman, RN;
- Shamika Griffin, RN;
- Cori Greene, RN;
- Kris Starr, NP (by phone);
- Mitchell White, PA-C; and
- Plaintiff.

54. Although Plaintiff had previously experienced several inmate deaths during her tenure at HRYCI, this was the first time that she participated in a meeting with

Corrections senior management for the implied purpose of getting “the story straight” regarding the actions of Connections employees and the death of Luis Cabrera.

55. During the Root Cause Meeting, Christopher Devaney asked NP Stillman to list all the interventions she initiated for Mr. Cabrera. NP Stillman indicated that she performed lab work; took a “clean catch” urine sample; and ordered an ultrasound test. NP Stillman claimed there was no reason to send Mr. Cabrera out to the hospital because his vital signs were stable. She also asserted that all of the lab test results were unremarkable, with the exception of an elevated glucose level and an elevated white blood cell count of 14.1 billion cells/L.¹

56. When the issue of pain medication was raised during the meeting, NP Stillman announced that she was the first to medicate Mr. Cabrera. In a state of bewilderment, Plaintiff responded by repeating what NP Stillman had said at the time when Plaintiff requested pain medication for Mr. Cabrera, “I gave him an order for pain medication because [Plaintiff] badgered me.” Plaintiff responded, “Before I was a [Health Services Administrator], I was a [Registered Nurse], and what I did was advocate for a patient, not badger.” NP Stillman replied to Plaintiff, “You’ve been gunning after me ever since you brought me [Mr. Cabrera’s] urine.”

57. Rather than address the substance of the dialogue between Plaintiff and NP Stillman, Chief Operating Officer Devaney said, “There is a lack of respect between the two of you.” Mr. Devaney then asked Plaintiff if she thought that Mr. Cabrera needed to

¹ According to mayoclinic.org, a normal white blood cell count range for an adult is 3.4 - 9.6 billion cells/L. See www.mayoclinic.org/tests-procedures/complete-blood-count/about/pac-20384919, last accessed June 21, 2019.

go to the hospital. Plaintiff replied, “Yes, because of his presentation and his continuous complaints of pain.”

58. Mr. Devaney then turned to Dr. Moen and asked what he would have done first if Mr. Cabrera presented to the hospital emergency room. Dr. Moen responded that he would have ordered intravenous application of dilaudid, a narcotic analgesic used in the treatment of moderate to severe pain.

59. Dr. Moen further opined that an endoscope should have been used once the ultrasound results were deemed inconclusive. NP Stillman and Mitchell White, PA-C, countered that Mr. Cabrera’s vital signs were stable, and his lab results were unremarkable. Unable to control her frustration, Plaintiff angrily replied, “His white blood cell count was elevated, which means something was brewing, and he is now dead.”

C. Plaintiff’s First Anxiety-Related Incident & Treatment at the ER

60. Plaintiff’s participation at the Root Cause Meeting confirmed her suspicions that Connections’ management actively engaged in a cover-up and had no intention of admitting that any Connections’ employee engaged in misconduct attributable to the death of Luis Cabrera.

61. On November 23, 2018, Plaintiff was working at HRYCI when she started to experience a heaviness in her left arm felt heavy. She also noticed that her fingers were red and swollen. Plaintiff had not previously experienced any such symptoms.

62. Plaintiff took deep breaths to try to relieve tension while seated at her desk. The heaviness in her arm caused her to squeeze her left hand into a fist. Although Plaintiff was concerned about her symptoms, she was also afraid to talk to anyone at HRYCI

about what she her condition. The symptoms eventually subsided, and Plaintiff dismissed the incident as a transient event.

63. In the early evening hours of November 27, 2018, Plaintiff was working at HRYCI when she experienced the same symptoms that she had four days earlier - heaviness in her left arm and swelling in her fingers. Plaintiff also had difficulty clenching her left fist.

64. The symptoms persisted during Plaintiff's drive home from work. Plaintiff was on the phone with a friend as she was driving home and described the symptoms to her friend. Fearing that she might be having a stroke or transient ischemic attack, Plaintiff's friend implored her to stop at the emergency room for treatment.

65. Plaintiff decided to heed her friend's advice. She arrived at the Emergency Department of Christiana Hospital in Newark, Delaware, at approximately 9:30 p.m. on November 27, 2018.

66. Plaintiff reported her symptoms to the Emergency Department medical staff, which included: acute onset of left arm heaviness; weakness and swelling of the left hand; transient lip numbness; numbness in the toes; presence of significant hives; and elevated blood pressure. Because she had not yet made the connection between the trauma she experienced from Mr. Cabrera's death and her physical symptoms, Plaintiff did not report any of the psychological trauma to the medical staff at the Christiana Hospital Emergency Department.

67. After undergoing a series of medical imaging and diagnostic tests, Plaintiff was diagnosed with hyperlipidemia and macrocytosis with anemia. She was discharged from the emergency room at 9:04 a.m. on November 28, 2018.

68. Following her discharge, Plaintiff returned home and worked from home for the remainder of the day on November 28, 2018.

D. Plaintiff's Return to Work Following Treatment in the ER

69. Despite still struggling with the anguish over Mr. Cabrera's death, Plaintiff returned to work on November 30, 2018. Over the next several work days, the persistent feelings of anxiety and depression made it increasingly difficult for Plaintiff to perform her job responsibilities.

70. On December 5, 2018, a "Morbidity and Mortality" Meeting was held at HRYCI to address issues related to Luis Cabrera's death. Among those in attendance were: Nurse Practitioner Kathryn Stillman; Marc Richman, Chief of the Delaware Bureau of Correctional Healthcare Services; Awele Maduka-Ezeh, MD, Medical Director of the Delaware Division of Public Health; and Plaintiff.

71. During the meeting, NP Stillman was asked why Mr. Cabrera wasn't sent to the emergency room given the severity of his pain. It was noted that other offenders at HRYCI had been sent to the emergency room for symptoms far less serious than those presented by Mr. Cabrera.

72. During the meeting, it was also noted that Cori Greene, RN, who observed Mr. Cabrera on the floor of his cell, had a duty to enter the cell and render assistance to him, but failed to do so. Because of her failure to intervene, Nurse Greene was terminated immediately following the meeting.

E. Defendant's Complete Disregard of Plaintiff's Medical Condition and Retaliatory Measures

73. Immediately following the Morbidity and Mortality Meeting, Misty May and Christine Claudio met with Plaintiff and presented her with a document entitled,

“Performance Improvement Plan.” The document purported to “confirm expectations regarding fulfilling responsibilities in [Plaintiff’s] position with [Connections]” The Performance Improvement Plan included a “Plan of Action” designed to address “[Plaintiff’s] needed areas of growth, development, and progress”

74. The Plan of Action identified two broad categories of responsibilities: “Timeliness of reporting” and “Staffing/Human Resource Management.” Under each category was a list of boilerplate rules and policies that appeared to have been copied from an employment manual or job description posting. Nothing in the Performance Improvement Plan identified or explained how Plaintiff was allegedly deficient or otherwise violated any of the enumerated rules or policies.

75. Prior to the Performance Improvement Plan, Plaintiff had never received any type of negative performance review during her four and one-half years with Connections.²

76. Following a review of the Performance Review Plan, Misty May and Christine Claudio informed Plaintiff that she would be transferred to Baylor Women's Correctional Institution (“BWCI”).

77. Although the Performance Improvement Plan had been created prior to the Morbidity and Mortality Meeting, Misty May told Plaintiff that her transfer was completely unrelated to the death of Mr. Cabrera. Ms. May also claimed that a smaller

² Indeed, Defendant’s pretextual Performance Improvement Plan stands in sharp contrast to the commendations and recognitions that Plaintiff received for her superlative performance at HRYCI. Plaintiff was recognized by the Delaware Department of Correction for her role in three different Code 4 incidents while at HRYCI. She also received a Warden’s Award as well as a Citizen’s Lifesaving Award from the New Castle County Paramedics. In May 2016, a cardiologist at Christiana Hospital commended Plaintiff and the medical staff at HRYCI for their efforts in resuscitating a patient who was unresponsive, had no pulse, and required CPR.

facility would allow Plaintiff to “better understand” the human resources and management aspects of her position as Health Service Administrator.

78. Plaintiff explained that she had never received any management training in the more than four years that she had worked at Connections. Plaintiff then asked why she couldn’t complete her training at HRYCI instead of being transferred to a different facility. Ms. May dodged the question by simply stating that BWCI would be a better location.

79. Misty May then referenced Plaintiff’s visit to the Christiana Emergency Department on November 28, 2018, and suggested that Plaintiff’s need for treatment was the result of excessive stress caused by the recent events at HRYCI. Ms. May reiterated that the transfer was not a punishment, but rather an opportunity for Plaintiff to grow and gain experience.

80. Misty May concluded by noting that Plaintiff had more than one hundred hours of accumulated paid time off. Ms. May therefore directed that Plaintiff take time off from work, beginning the following day, December 6, 2018, until December 17, 2018, the date on which Plaintiff was scheduled to report to her newly-assigned facility at BWCI.

81. Although Plaintiff had already requested, and received approval, for time off for several days between November and the end of December 2018, she was nonetheless forced to use her accrued paid time off for time that she had not requested. Even though there was no legitimate reason for Plaintiff to take additional time off from work, she was given no other choice.

F. Plaintiff's Leave of Absence and Defendant's Bureaucratic Shell Game

82. During her forced leave of absence, Plaintiff was beset with memories of the events surrounding Luis Cabrera's death. Plaintiff continued to experience sleeplessness, anxiety, and depression as she recalled the purposeful withholding of proper medical attention to Mr. Cabrera during his final days. Plaintiff was also extremely troubled by what she reasonably believed was Defendant's intentional cover-up of the misconduct and repeated failures by certain members of Connections' medical staff at the HRYCI infirmary.

83. While on leave, Plaintiff spoke on the telephone with Dr. Maduka-Ezeh, Medical Director of the Delaware Division of Public Health, on December 7, 2018. Plaintiff recounted the events and circumstances surrounding Mr. Cabrera's death. During the call, Dr. Maduka scheduled a meeting with Plaintiff on December 13, 2018. The purpose of the meeting was to further discuss Plaintiff's concerns about the mistreatment of Luis Cabrera and Defendant's efforts to cover up the actions of certain employees.

84. On December 11, 2018, Dr. Maduka-Ezeh abruptly cancelled the meeting with Plaintiff. Upon information and belief, Dr. Maduka-Ezeh cancelled the meeting after learning that Plaintiff sent a detailed summary of the events surrounding Mr. Cabrera's death to Perry Phelps, Commissioner of the Delaware Department of Correction.

85. Plaintiff was scheduled to return to work at her newly-assigned facility, BWCI, on December 17, 2018. However, on the morning of December 17, Plaintiff was still distraught and experiencing anxiety and restlessness over the events surrounding the death of Luis Cabrera. Plaintiff therefore called her supervisor, Christine Claudio, to report that she was unable to report to work that day.

86. On December 18, 2018, Plaintiff again called Christine Claudio to advise of her medical status and her inability to return to work on that day.

87. Later that same day, Plaintiff voluntarily went to MeadowWood Behavioral Health Hospital in New Castle, Delaware. She completed the initial assessment and started in the outpatient program. Plaintiff participated in MeadowWood's outpatient program until January 9, 2019.

88. Plaintiff was diagnosed with major depression and post-traumatic stress disorder stemming from the events surrounding Luis Cabrera's death.

89. On December 19, 2018, Plaintiff again called Christine Claudio to apprise her of current condition and her inability to return to work. Ms. Claudio advised Plaintiff that she need not call and report her status on a daily basis. Ms. Claudio further directed Plaintiff to contact Gina Edwards, Connections' Director of Human Resources, with any further reports of her condition or ability to return to work. Pursuant to Ms. Claudio's directive, Plaintiff thereafter reported to Ms. Edwards and had no further contact with Christine Claudio.

90. On December 19, 2018, Gina Edwards, sent an email to Plaintiff with forms attached for seeking leave under the Family and Medical Leave Act ("FMLA") which Plaintiff had previously requested.

91. Plaintiff continued to call Gina Edwards on weekly basis to keep Ms. Edwards apprised of her condition and ability to return to work.

92. On December 27, 2018, Plaintiff sent an email to Debra Crosson, Connections' Vice President of Administrative Services, requesting the forms to complete an initial report of a work-related incident. In that same email, Plaintiff advised that although she

had completed the paperwork for FMLA, she subsequently learned that her claim should have been filed as a workers' compensation claim arising from a work-related incident that occurred on November 23, 2018. The work-related incident was the first manifestation of physical symptoms that caused Plaintiff to seek treatment four days later in the Christiana Hospital Emergency Department.

93. On December 28, 2018, Plaintiff emailed Gina Edwards and Debra Crosson advising that Plaintiff had sent in her initial report of a workers' compensation claim and requesting clarification of her medical treatment options.

94. On January 3, 2019, Gina Edwards emailed Plaintiff advising that she had not received Plaintiff's medical documentation. In the same email, Ms. Edwards again forwarded FMLA documentation to Plaintiff "to review if [she] need[ed] it." Approximately twenty minutes later, Ms. Edwards sent a follow up email to Plaintiff requesting that she send "FMLA Paperwork, Christiana ER documents and any other doctor notes."

95. On January 16, 2019, Plaintiff emailed Gina Edwards, with carbon-copies to Misty May and Christine Claudio, seeking an explanation as to why not all of her time was submitted during the previous pay period. Misty May replied that "[o]nce an employee is on FMLA or worker's compensation, management does not enter any time on the employee timecard." Ms. May further indicated that the payroll department had entered Plaintiff's time, and that she would forward Plaintiff's inquiry to the payroll department for a response.

96. Heather Janvier of Connections' Payroll Department responded to Plaintiff's inquiry several minutes later. Ms. Janvier responded that

[The Payroll Department] entered in the remainder of PTO that was available, which was 24 hours of vacation. I am seeing that there is [sic] 24 hours of sick showing now, but it was not there when we processed FMLA/LOA last week. This could be a direct result from the PTO balance issue that is currently being corrected by Paylocity and is projected to be completed by the end of the week. Once Paylocity is complete in correcting the PTO bucket balances, Payroll can conduct an audit of your Time off History. Please note that when an employee is out on leave, they do not accrue PTO during that time.

97. Plaintiff's Paid Time Off ("PTO") was an employment benefit that accrued in proportion to the amount of time that she worked. Despite the fact that Plaintiff was forced to take a leave of absence from work, Defendant nonetheless charged the time against Plaintiff's accumulated PTO. Under the circumstances, Defendant's unjustified appropriation of Plaintiff's PTO was tantamount to theft.

98. On January 31, 2019, Plaintiff sent a follow up email in which she explained that although her timesheet reflected 24.56 hours of sick time that was posted on January 16th, 17th, and 18th, she was not compensated for those hours. Plaintiff asked for an explanation as to why she had not been compensated for her sick time.

99. On February 1, 2019, Gina Edwards responded by email to Plaintiff's request. Ms. Edwards deferred the question about unpaid sick time to the Payroll Department, and then informed Plaintiff that Defendant required a recent doctor's note to substantiate her time off from work. Ms. Edwards further advised Plaintiff that she was not, at that time, covered by the FMLA.

100. On February 5, 2019, Plaintiff sent an email to Gina Edwards explaining that her claim for workers' compensation benefits had been approved. Plaintiff further advised that all of her medical records had been sent to the workers' compensation insurer, and that Ms. Edwards should contact the insurer if she needed any information. Plaintiff then

asked Ms. Edwards if she was implying that her job was not secure because of her workers' compensation claim.

101. On February 6, 2019, Gina Edwards sent Plaintiff an email purportedly responding to the question concerning her job security. Ms. Edwards wrote,

You are not required to file for FMLA. On December 19, 2018, I emailed you FMLA forms along with your rights as an employee, in order to make you aware of this option and protection. Your use of Worker's Compensation is separate from FMLA and does not preclude you from requesting FMLA. It is your decision if you choose to apply (or not) for FMLA. *Please understand the worker's compensation does not protect your position with Connections.* At this time, you do not have job protection under FMLA.

Emphasis added.

G. Plaintiff's Workers' Compensation Agreement

102. On February 14, 2019, Plaintiff sent an email to Nick Klissiaris, Claims Professional for Berkshire Hathaway Homestate Companies, Workers Compensation Division, requesting a letter confirming that her workers' compensation claim had been approved.

103. On February 15, 2019, Mr. Klissiaris sent an email reply in which he attached two documents evidencing the fact that Plaintiff's claim had been approved and verifying the amount of weekly compensation that Plaintiff would receive under the terms of the agreement.

104. One of the documents sent by Mr. Klissiaris was entitled, "State of Delaware Office of Workers' Compensation Agreement as to Compensation Paid," dated February 15, 2019 (the "Agreement"). The Agreement confirmed that Plaintiff's claim for workers' compensation had been approved.

105. The Agreement also provided that Plaintiff's injury resulted in total disability based on her "anxiety and mental stress after an inmate at her prison passed away." The date of injury was determined to be November 27, 2018, and the date on which Plaintiff's disability started was identified as December 12, 2018 in the Agreement.

H. Plaintiff's Unemployment Compensation Hearing and Subsequent Appeal

106. On February 14, 2019, Plaintiff filed a claim for unemployment insurance benefits with Delaware Department of Labor, Division of Unemployment Insurance. Defendant thereafter filed a response in which it claimed that Plaintiff was discharged for cause and therefore not entitled to unemployment benefits. Defendant asserted that Plaintiff was terminated for failing to take leave under the FMLA, and therefore, her position with Connections was not protected while she was out of work for medical reasons. Plaintiff acknowledged that Defendant had sent her forms for FMLA; however, she asserted that did not file for FMLA because she believed her job was secure due to the approval of her workers' compensation claim

107. On March 5, 2019, a Claims Deputy for the Delaware Division of Unemployment Insurance reviewed the submissions of both parties and made a finding that Plaintiff was discharged for cause. Based on that finding, the Claims Deputy concluded that Plaintiff was ineligible to receive unemployment benefits.

108. On March 15, 2019, Plaintiff filed an appeal of the Claims Deputy's decision. A hearing on Plaintiff's appeal was held on April 1, 2019. Following the hearing, the Appeals Referee concluded that Plaintiff involuntarily left her employment because of a medical condition; therefore, she was not disqualified from receiving unemployment

benefits. In her decision, the Appeals Referee specifically found that “there [was] no dispute that [Plaintiff] was and is suffering from mental health issues and that Employer was aware of same.” The Referee also noted that

[Plaintiff]'s treating medical provider completed a Department of Labor's Doctor's Certificate on February 21, 2019 indicating that [Plaintiff] is suffering from PTSD and a "Reaction to Severe Stress". [Plaintiff]'s provider advised that [Plaintiff] is totally disabled from January 10, 2019 to the present and not permitted to perform any work on a full-time basis.

109. The Appeals Referee remanded the matter to the Claims Deputy for a determination of whether Plaintiff was able and available for work, and the date when she became available.

110. On remand, Plaintiff submitted a Doctor's Certificate completed by her physician which indicated that Plaintiff was totally disabled from performing the duties required of her position, beginning on January 10, 2019 through April 10, 2019, the date of the Doctor's Certificate. Plaintiff's physician further indicated that she would allow to Plaintiff perform any other type work on a full-time basis given her condition.

I. Plaintiff's Wrongful Termination and Defendant's Vacillating Excuses

111. On February 12, 2019, Plaintiff received a call from Gina Edwards. Without any meaningful or substantive explanation, Ms. Edwards informed Plaintiff that she had been terminated. When Plaintiff inquired as to the reason for her termination, Ms. Edwards simply replied, “Upper management and leadership felt it best to terminate your employment.”

112. In an apparent attempt to deflect responsibility for Connections' wrongful conduct, Catherine McKay, President and CEO of Connections, upon information and

belief, inexplicably told Melissa Minor-Brown, former Connections' employee and member of the Delaware House of Representatives, that Plaintiff had been fired by the Delaware Department of Correction.

113. Connections thus offered at least three separate justifications for terminating Plaintiff's employment: 1) Connections upper management and leadership believed it was the "best" course of action; 2) Plaintiff was terminated for failing to seek leave under the FMLA; and 3) Plaintiff was terminated by the Delaware Department of Correction. Due to the complete absence of any legitimate justification for terminating Plaintiff, Defendant had to put forth contradictory pretextual explanations that fail to withstand even cursory scrutiny.

114. Prior to her termination, Plaintiff was an exemplary employee for more than four and one-half years who had never received a negative performance review prior to Defendant's pretextual Performance Improvement Plan. Plaintiff was widely respected by the medical staff and inmates at HRYCI for her knowledge and compassion and, as discussed above, was recognized on multiple occasions for her exceptional performance.

115. After failing to silence Plaintiff's protests over the lack of proper medical treatment provided to Luis Cabrera and the ensuing coverup of its employees' intentional misconduct, Defendant unjustifiably and improperly terminated Plaintiff in order to protect its lucrative contract with the State of Delaware.

116. The damages suffered by Plaintiff as a direct result of Defendant's retaliation are substantial. Plaintiff still receives extensive psychological counseling due to the severe emotional distress she continues to experience. Furthermore, Plaintiff is unable to secure

new employment because her healthcare provider has ordered that she not perform any work on a full-time basis.

V. Delaware Whistleblowers' Protection Act

117. Section 1703 of the Delaware Whistleblowers' Protection Act ("WPA"), 19 Del.

C. §§ 1701-08, provides, in relevant part:

An employer shall not discharge, threaten, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment:

(1) Because the employee, or a person acting on behalf of the employee, reports or is about to report to a public body, verbally or in writing, a violation which the employee knows or reasonably believes has occurred or is about to occur, unless the employee knows or has reason to know that the report is false; or

* * * *

(3) Because an employee refuses to commit or assist in the commission of a violation, as defined in this chapter; or

(4) Because the employee reports verbally or in writing to the employer or to the employee's supervisor a violation, which the employee knows or reasonably believes has occurred or is about to occur, unless the employee knows or has reason to know that the report is false. Provided, however that if the report is verbally made, the employee must establish by clear and convincing evidence that such report was made[.]

19 Del. C. § 1703(1), (3)-(4).

118. The WPA defines "violation," in relevant part, as:

(6) "Violation" means an act or omission by an employer, or an agent thereof, that is:

a. Materially inconsistent with, and a serious deviation from, standards implemented pursuant to a law, rule, or regulation promulgated under the laws of this State, a political subdivision of this State, or the United States, to protect employees or other persons from health, safety, or environmental hazards while on the employer's premises or elsewhere[.]

19 Del. C. § 1702(6)a.

119. Section 1704 of the WPA sets forth the procedures and remedies available to an employee for a “violation” by his or her employer:

(a) A person who alleges a violation of this chapter may bring a civil action for appropriate declaratory relief, or actual damages, or both within 3 years after the occurrence of the alleged violation of this chapter.

(b) An action commenced pursuant to subsection (a) of this section may be brought in Superior Court in the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides or has their principal place of business.

(c) As used in subsection (a) of this section, "damages" means damages for injury or loss caused by each violation of this chapter.

(d) A court, in rendering a judgment in an action brought under this chapter, shall order, as the court considers appropriate, reinstatement of the employee, the payment of back wages, full reinstatement of fringe benefits and seniority rights, expungement of records relating to the disciplinary action or discharge, actual damages, or any combination of these remedies. A court may also award, as part of a judgment in an action brought under this chapter, all or a portion of the costs of litigation, including attorneys' fees, if the court determines that such an award is appropriate

19 Del. C. § 1704(a)-(d).

120. Following Plaintiff's objections to the lack of medical care provided to Luis Cabrera during the final days of his life, and Defendant's subsequent cover up of its employees' failings and intentional misconduct, Defendant engaged in a systematic campaign of retaliation against Plaintiff including, but not limited to:

- a. The fabrication of a pretextual “Performance Improvement Plan;”
- b. the unilateral and unsolicited transfer of Plaintiff to a different facility;
- c. callous disregard of the emotional trauma suffered by Plaintiff;
- d. falsely advising Plaintiff of compliance requirements for FMLA, workers' compensation claims, and company policies involving paid time off; and
- e. shifting and false justifications for Plaintiff's wrongful termination.

VI. Delaware Workers' Compensation Act

121. The Delaware Workers' Compensation Act, 19 Del. C. §§ 2301-2397, protects an employee from, *inter alia*, employer retaliation for the employee's exercise of his or her rights with respect to workers' compensation benefits.

122. Section 2365 of the Workers' Compensation Act, 19 Del. C. § 2365, provides, in relevant part:

It shall be unlawful for any employer or the duly authorized agent of any employer to discharge or to retaliate or discriminate in any manner against an employee as to the employee's employment because such employee has claimed or attempted to claim workers' compensation benefits from such employer If the Court, after hearing, finds in favor of the employee, the employee shall be restored to employment or to the position, privilege, right or other condition of employment denied by such action and shall be compensated for any loss of compensation and damages caused thereby, as well as for all costs and attorney's fees, as fixed by the Court, except that if the employee shall cease to be qualified to perform the duties of employment, the employee shall not be entitled to such restoration and compensation. An employer who violates this section shall be liable to pay a penalty of not less than \$500 and not more than \$3,000, as may be determined by the Court and which shall be paid to the Workers' Compensation Fund. Any party shall have the right to appeal as in other cases before the Court, but if the employee's claim ultimately is sustained, the employer also shall be liable for all costs and attorney's fees on appeal.

19 Del. C. § 2365.

123. On February 6, 2019, Gina Edwards sent an email to Plaintiff in which Ms. Edwards advised Plaintiff that “worker’s compensation [did] not protect [her] position with Connections.”

124. Ms. Edward's February 6, 2019 email telegraphed Defendant's intentions to use Plaintiff's workers' compensation claim as a reason to terminate her despite the protections afforded to employees under the Delaware Workers' Compensation Act, 19 Del. C. §§ 2301-2397.

COUNT I
VIOLATION OF THE DELAWARE WHISTLEBLOWERS' PROTECTION ACT

125. Plaintiff incorporates by reference each of the foregoing paragraphs, as if set forth herein in their entirety.

126. By committing the above-described acts against Plaintiff, Defendant has violated Section 1703 of the Delaware Whistleblowers' Protection Act, 19 Del. C. § 1703(1), (3)-(4).

127. As a result of Defendant's conduct, Plaintiff has suffered and continues to suffer personal hardships, stigma, emotional distress, pain and suffering, humiliation, career impairment, family and social disruption, and other grievous harm, all to her considerable detriment and loss.

128. Defendant's retaliation and eventual termination of Plaintiff for speaking out against the inhumane and sadistic treatment of an inmate in extreme pain has created a chilling effect on other employees who might otherwise report on similar conduct that they witness.

129. Defendant's termination of Plaintiff is particularly egregious in light of the fact Defendant still employs Nurse Practitioner Stillman whose continued presence at HRYCI potentially endangers the health and welfare of other inmates in Defendant's care.

COUNT II
VIOLATION OF THE DELAWARE WORKERS' COMPENSATION ACT

130. Plaintiff incorporates by reference each of the foregoing paragraphs, as if set forth herein in their entirety.

131. Plaintiff suffered a work-related injury and exercised her lawful rights by filing a claim for benefits under the Delaware Workers' Compensation Act, 19 Del. C. §§ 2301-2397.

132. Plaintiff's claim for worker's compensation benefits was approved on or about February 5, 2019. The date of her injury was found to be November 27, 2018, and the date on which Plaintiff's disability started was determined to be December 12, 2018.

133. Plaintiff was notified by telephone call on February 12, 2019, that her employment with Defendant had been terminated. Despite Defendant's vacillating and contradictory justifications prior to, and following, Plaintiff's termination, Plaintiff was simply told, "they [management] decided it was the time."

134. Defendant terminated Plaintiff despite the fact that her claim for workers' compensation benefits had been approved.

135. By committing the above-described acts against Plaintiff, Defendant has violated Section 2365 of the Delaware Workers' Compensation Act, 19 Del. C. § 2365.

136. Plaintiff has suffered and continues to suffer as a result of Defendant's retaliatory conduct.

137. Plaintiff is entitled to all relief and remedies available under Section 2365 of the Delaware Workers' Compensation Act, 19 Del. C. § 2365, as a result of Defendant's retaliatory termination.

RELIEF REQUESTED

WHEREFORE, Plaintiff, Tracey Crews, demands judgment against Defendant, Connections Community Support Programs, Inc., and requests the following relief:

- a. Declaring that the above-described conduct of Defendant violated the Delaware Whistleblowers' Protection Act;
- b. Declaring that the above-described conduct of Defendant violated the Delaware Workers' Compensation Act;
- c. Entering judgment against the Defendant and awarding actual damages to Plaintiff in an amount to be determined;
- d. Ordering that Defendant make Plaintiff whole for the losses she has suffered, still suffers, and will continue to suffer for loss of wages; medical benefits; insurance coverage; pension or retirement benefits; and any other fringe benefits of her employment;
- e. Reinstatement of Plaintiff;
- f. Payment of all back wages;
- g. Full reinstatement of fringe benefits and seniority rights;
- h. Expungement of all records relating to Plaintiff's discharge;
- i. Awarding pre-judgment and post-judgment interest;
- j. Awarding all costs of litigation, including reasonable attorneys' fees and all related costs, expenses and disbursements associated with the prosecution of this action;
- k. Awarding any and all other relief and damages as authorized by the Delaware Whistleblowers' Protection Act and the Delaware Workers' Compensation Act; and
- l. granting Plaintiff any other relief that the Court deems just, proper, and equitable.

THE IGWE FIRM

/s/ Christofer C. Johnson
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DATED: July 11, 2019