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 Attorneys for Plaintiff

-----X	SUPERIOR COURT OF NEW JERSEY
DAVID MALTESE,	: LAW DIVISION: BERGEN COUNTY
	: DOCKET NO.:
Plaintiff:	:
	: Civil Action
v.	:
	:
NEW YORK FOOTBALL	: <u>COMPLAINT AND JURY DEMAND</u>
GIANTS, INC. and WILLIAM J.	:
HELLER,	:
	:
Defendants.	:
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Plaintiff, David Maltese, residing at 3 Briarcliff Terrace, in the Borough of Kinnelon, County of Morris, State of New Jersey, by way of complaint against the Defendants, alleges as follows:

COUNT ONE

(Retaliation in violation of the Conscientious Employee Protection Act, N.J.S.A. 34:19-1 et seq., hereinafter, "CEPA.")

1. For 30 years, the Plaintiff, David Maltese ("Maltese"), Video Director of the football Giants, was Defendants' "employee" within the definition of New Jersey's Conscientious Employee Protection Act, N.J.S.A. 34:19-1, et seq. ("CEPA") and performed at a high level of excellence. Since 2008, in recognition for the quality of his work, Plaintiff has been elected by his peers within the NFL to sit on the NFL's Video Director Committee, an

organization that works in conjunction with NFL Football Operations, NFL Officiating, the NCAA, and NFL Films. In addition, because of the high quality of his work, the NFL, in coordination with Microsoft, repeatedly invited Plaintiff to participate in the testing and development of new sideline technology at the Pro Bowl, creating a technology that is currently used by the entire NFL.

2. Defendants are the New Jersey-based football team, the New York Football Giants, Inc. (“the Giants”) and its Senior Vice President and General Counsel, William J. Heller (“Heller”). During all times relevant to this cause of action, Defendants were Plaintiff’s “employers” as that term is defined by CEPA. Defendants are headquartered and located at 1925 Giants Drive, East Rutherford, New Jersey in the County of Bergen,

3. During all times relevant to this cause of action, Plaintiff was Video Director of the Giants charged with managing employees who generated video of football players during games and practice sessions for use by Giants’ coaches and other personnel.

4. On March 8, 2021, Defendant Heller, acting within the scope of his employment by the Defendant Giants as an upper level executive, told Maltese that the Giants were terminating his employment effective March 15, 2021. When Plaintiff asked Defendant Heller the reason for the termination, Heller refused to give him any reason. Immediately thereafter, the Giants’ Vice President of Security, Jerry Meade, escorted Plaintiff to his office to collect his personal belongings and then escorted him out of the Giants’ premises.

5. The Defendants terminated the Plaintiff for retaliatory purposes in violation of CEPA, New Jersey’s whistleblower statute. CEPA prohibits an employer from terminating an employee because he objects to, complains about or reports, internally or externally, conduct he reasonably believes violates the law. In this case, Plaintiff raised objections with,

complained about and reported to Defendants about his immediate supervisor, Tyseer Siam (“Siam”), physically attacking and assaulting one of Plaintiff’s subordinates, Steven Venditti (“Venditti”), on September 12, 2020.

6. When Plaintiff complained to Defendants about this incident, which he witnessed, Plaintiff pointed out that Siam had engaged in threatening behavior toward Plaintiff as well and that Siam’s violence was just a recent example of a pervasive and continuing pattern and culture of violence in the workplace by Giants’ management toward subordinates.

7. When the Plaintiff objected to, reported and complained of Siam’s attack on Venditti, Plaintiff reminded Defendant Heller that in the course of Plaintiff’s career he had been physically attacked by John Mancuso, the Giants’ former Video Director.

8. Additionally, at the time Plaintiff objected to the attack by Siam on Venditti, Defendants had knowledge of and were fully aware of other physical assaults by Giants’ management on the Plaintiff. By way of example and without limitation, Plaintiff had told Defendants of an incident in December 2004 when assistant coach Dave DeGuglielmo ragefully tackled the Plaintiff, driving him into a table while screaming, “I am going to kill you.” Defendants’ Defensive Line Coach Mike Waffle and three Giants players had to restrain DeGuglielmo. The attack happened in front of players, coaches, and Giants’ Owner Chris Mara. The incident was reported to Giants’ General Manager Accorsi by Giants’ Senior Vice President of Medical Services, Ronnie Barnes. Defendants took no disciplinary action against DeGuglielmo and thereby endorsed and condoned a culture of violence in the Giants’ workplace.

9. That same day, Plaintiff promptly reported the September 12, 2020 assault by Siam on Venditti to Edward Triggs, the Giants’ Director of Football Operations, and Kevin

Abrams, the Giants' Assistant General Manager. Thereafter, he reported the incident to Debra Agosta, Vice President of Human Resources.

10. Only after a delay of three days, on September 15, 2020, did the Defendants temporarily remove Siam from supervision of Plaintiff and his two subordinates, including Venditti, but the Giants did not suspend or terminate Siam's employment.

11. On September 15, 2020, Defendant Heller and VP Agosta conducted an interview of Plaintiff wherein they probed the details of the assault, heard Plaintiff complain about the delay in removing Siam from supervision of him and Venditti, and listened to him describe the intimidating, threatening and violent prone work environment created by Siam, including his past intimidating and threatening behavior towards the Plaintiff himself.

12. On September 18, 2020, Defendant Heller and Ms. Agosta conducted another meeting with the Plaintiff, this time joined by the assault victim Venditti.

13. During this meeting, Defendant Heller, acting within the scope of his authority and employment as an upper-level executive of the Defendant Giants, adopted a tone that was threatening and retaliatory and strongly suggested he was developing a "performance issue" as a pretext for terminating the Plaintiff. In retaliation for Plaintiff's having complained about Siam's assaultive conduct as well as the long-term culture of violence at the Giants' workplace, and in order to keep Plaintiff and his subordinates in fear, Defendant Heller stated that there was "no way" the Giants would shield Plaintiff or Venditti from being in the vicinity of the violent Siam.

14. In further retaliation against Plaintiff, during the aforesaid September 18, 2020 meeting, Heller excoriated Plaintiff for having further engaged in protected activity under CEPA by writing an email to Defendants concerning an upcoming team flight to Chicago for

the September 20, 2020 Giants game against the Bears. In that email, Plaintiff had complained that pursuant to Defendants' assigned seating plan on the airplane Siam would be seated in close physical proximity to Venditti and Plaintiff.

15. At the September 18, 2020 meeting, Defendant Heller, acting within the scope of his executive authority as a Giants upper-level manager, angrily accused Plaintiff of "writing for the record." Heller accused the Plaintiff of "trying to set us [the Giants] up." Heller characterized Plaintiff's email about the seating arrangements on the plane as being "unacceptable on a professional level." In retaliation for Plaintiff's complaints about workplace violence, Heller then raised the issue of the quality of Plaintiff's job performance stating twice that he and Venditti "still needed to do their jobs," and Plaintiff—who had done an excellent job for 30 years—had to defend himself by saying, "We have been doing our jobs."

16. On September 30, 2020, Defendant Heller and VP Agosta met with Plaintiff and his two subordinates, Venditti and Carmen Pizzano, as well as his superior Tyseer Siam and Kevin Abrams, the Giants' Vice President of Football Operations and Assistant General Manager.

17. During this September 30, 2020 meeting, Heller indicated that he and Ms. Agosta had completed their investigation and that Siam would henceforth have a different position within the Giants organization. Heller referred again to Plaintiff's email about the flight to Chicago and specifically threatened Plaintiff for his whistleblowing, condemning Plaintiff for, "writ[ing] emails, or say[ing] things that might cause friction, that might cause problems, that might be considered less than fully professional." Heller then said that "no one gets to hide behind interpersonal problems when it comes to performance at the Giants. It's no

excuse for coming down on people. It's no excuse for throwing people under the bus. It's no excuse for non-performance and getting up to speed." By so stating, Heller knowingly attempted to mis-portray Plaintiff's protected whistleblowing of complaining about Siam's violence as a scheme to cover up alleged "non-performance" of the Plaintiff.

18. At that meeting, Defendant Heller then specifically addressed the Plaintiff in the presence of the others, again threatening, in effect, to generate a false "performance" issue in response to Plaintiff's protected activity: "It is my understanding that Kevin [Abrams, Vice President and Assistant General Manager] had communicated the need for top performance at all times." Heller then added, "I will say very, very clearly to all four of you, your jobs depend on your performance and your conduct..."

19. At another meeting on September 30, 2020, Heller and VP Agosta met with Plaintiff alone. In this meeting, Heller repeated a threat he had made at the earlier meeting that day about the requirement that the issue of Siam's violence "not leave the room," *i.e.* not be conveyed to anyone outside the group, presumably such as a lawyer or the state or local law enforcement agencies.

20. In the meeting with Plaintiff, Agosta, and Heller, Defendant Heller, acting within the scope of his employment and for purposes of retaliating in violation of CEPA, stated that if Plaintiff conveyed the substance of the aforesaid meetings to persons not present at such meeting, **"I will personally go into your office and strangle you until you can no longer breathe, ok? Ok?"** At the time Defendant Heller made that threat of physical violence, he was well aware that Plaintiff had a history of traumatization having being subject over the years to violent attacks by Giants' managers and executives.

21. Defendant Heller made the aforesaid threat in order to retaliate in violation of CEPA and in order to chill and frighten Plaintiff so that he would not further complain, object to, nor externally report about the culture of violence in the Giants' workplace and about the Giants' continued retention of a violent employee, Tyseer Siam.

22. Assault and battery are prohibited by New Jersey criminal law.

23. Thus, Plaintiff's objections to and internal reporting of workplace violence by Siam as well as his objections to and internal reporting of a history of violence in the Giants' workplace fell within CEPA's protection. Moreover, Plaintiff's belief that the criminal laws were violated was factually "reasonable" because he personally witnessed the assault and battery against Venditti and had personally been victimized by the culture of violence in the Giants' workplace.

24. Because Plaintiff's aforesaid objections constituted protected activity under CEPA, Defendants were prohibited by CEPA from taking any adverse job actions against him because of his objections.

25. In violation of CEPA, Defendants took adverse action against the Plaintiff in retaliation for his complaining about assault and battery in the Giants' workplace by threatening him, as detailed herein, and then by firing him on March 8, 2021, less than 6 months after he objected to, complained about and internally reported the above-described workplace violence. Defendants thus ended Plaintiff's outstanding 30 year career with the Giants.

26. As a direct and proximate result of Defendants' aforesaid retaliatory actions including termination of employment, continued exposure to a violent superior, and direct threats of violence, Plaintiff has suffered and continues to suffer financial hardship, economic

loss, personal physical injury and physical sickness/illness, severe emotional distress and loss of his career.

WHEREFORE, cause having been shown, Plaintiff demands entry of judgment against Defendants jointly and severally, and the following relief:

(a) Economic damages for all back and future lost wages, compensation, lost income, fringe benefits, retirement and pension plans;

(b) Compensatory damages for pain, suffering, stress, humiliation, mental anguish, emotional harm and personal physical injury and physical sickness, medical expenses, as well as damage to his reputation and loss of income stemming therefrom;

(c) Punitive damages;

(d) Attorneys' fees, pre-and post-judgment interest, reimbursement for the negative tax consequences of a judgment and costs of suit; and

(e) Such other relief as the Court may deem equitable and just.

SMITH MULLIN, P.C.
Attorneys for Plaintiff

BY: 

NEIL MULLIN, ESQ.

Dated: May 19, 2021

JURY DEMAND

Plaintiff demands trial by jury with respect to all issues that are so triable.

SMITH MULLIN, P.C.
Attorneys for Plaintiff

BY: 
NEIL MULLIN, ESQ.

Dated: May 19, 2021

DESIGNATION OF TRIAL COUNSEL

Plaintiff designates Neil Mullin, Esq. as trial counsel of record in this matter.

SMITH MULLIN, P.C.
Attorneys for Plaintiff

BY: 
NEIL MULLIN, ESQ.

Dated: May 19, 2021

CERTIFICATION

Pursuant to New Jersey Court Rule 4:5-1, I hereby certify that to my knowledge, the matter in controversy is not and will not be the subject of any other litigation or arbitration in any court or before any body nor do I know of any other party who should be joined in this action.

SMITH MULLIN, P.C.
Attorneys for Plaintiff

BY: 
NEIL MULLIN, ESQ.

Dated: May 19, 2021

Civil Case Information Statement

Case Details: BERGEN | Civil Part Docket# L-003317-21

Case Caption: MALTESE DAVID VS NEW YORK
FOOTBALL GIANTS, INC

Case Initiation Date: 05/20/2021

Attorney Name: NEIL M MULLIN

Firm Name: SMITH MULLIN, PC

Address: 240 CLAREMONT AVENUE
MONTCLAIR NJ 07042

Phone: 9737837607

Name of Party: PLAINTIFF : Maltese, David

Name of Defendant's Primary Insurance Company
(if known): Unknown

Case Type: WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE
PROTECTION ACT (CEPA)

Document Type: Complaint with Jury Demand

Jury Demand: YES - 6 JURORS

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

**Do you anticipate adding any parties (arising out of same
transaction or occurrence)?** NO

Are sexual abuse claims alleged by: David Maltese? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? YES

If yes, is that relationship: Employer/Employee

Does the statute governing this case provide for payment of fees by the losing party? YES

**Use this space to alert the court to any special case characteristics that may warrant individual
management or accelerated disposition:**

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO Title 59? NO Consumer Fraud? NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

05/20/2021
Dated

/s/ NEIL M MULLIN
Signed