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<p>JASON SAVAGE,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>TRINET USA, INC., DAVID SWERDLOFF, JANICE JOHNSON, DANIEL SUMME, SARAH LIEBERMAN, FARIHA JAFRI, ABC CORPORATIONS 1-5 (fictitious names describing presently unidentified business entities) and JOHN DOES 1-5 (fictitious names describing presently unidentified individuals),</p> <p style="text-align: center;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION MONMOUTH COUNTY</p> <p>DOCKET NO.:</p> <p style="text-align: center;"><u>Civil Action</u></p> <p style="text-align: center;">COMPLAINT & DEMAND FOR JURY TRIAL</p>
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Plaintiff Jason Savage (Plaintiff’), by way of Complaint against Defendant TriNet USA, Inc. (“Defendant TriNet” or “Corporate Defendant”), and Defendants David Swerdloff (“Defendant Swerdloff”), Janice Johnson (“Defendant Johnson”), Daniel Summe (“Defendant Summe”), Sarah Lieberman (“Defendant Lieberman”), and Fariha Jafri (“Defendant Jafri”) (“Individual Defendants”), (collectively “Defendants”), alleges as follows:

INTRODUCTION

1. This case involves a nightmare scenario. In July 2019, Plaintiff discovered that another TriNet employee not only surreptitiously placed a recording device in the workplace restroom, but deliberately positioned the device's small lens to record the genitalia of individuals, including Plaintiff, using the bathroom urinal:



2. Even more alarming, the rear of the device had a micro “Universal Serial Bus” port, a power button, and a digital memory card slot that allowed any footage to be stored, transferred, and shared. Plaintiff naturally feared the worst: a co-worker recorded him (and others) in the bathroom and widely disseminated the footage on the internet.

3. Despite being in a state of shock, it did not take long for Plaintiff to pinpoint the likely perpetrator. After hearing commotion in the men’s bathroom, Defendant Swerdloff entered and, curiously, took it upon himself to “handle” the situation. But Defendant Swerdloff did not immediately contact the police (as he had promised). Nor did he appropriately take any internal action to promptly address the matter. Defendant Swerdloff instead snatched the device and hastily

left the office. He then called the office minutes later to inform Plaintiff he “accidentally” smashed the device and hurled it (from inside his car) over the overpass located near the Middlesex/Essex Turnpike Exit on the Garden State Parkway. Another reality thus sunk in – Defendant Swerdloff, Plaintiff’s direct supervisor, secretly recorded employees using the bathroom. Plaintiff thus reported to Defendant TriNet that an egregious invasion of privacy (and likely criminal recording and dissemination of sensitive, personal, and intimate material) occurred at the workplace. He believed the company – a multi-billion-dollar organization specializing in human resources and risk mitigation – would be proficient in handling such a matter. Plaintiff was wrong.

4. Rather than obtaining justice or preventing additional irreparable harm to Plaintiff (and numerous other employees), Defendants were more concerned about “keeping the matter quiet.” Defendant TriNet failed to notify the authorities; failed to alert or warn employees of what occurred; failed to take steps to preserve data and documents relating to the incident; failed to conduct a proper investigation; and failed to implement a remedial plan actually designed to bring justice to those harmed or to ensure such conduct would not be tolerated. The company quietly terminated Defendant Swerdloff, lied to employees about the true reason for doing so (leaving employees in the dark), instructed Plaintiff to keep the incident confidential, failed to prevent Defendant Swerdloff (and his cohorts) from retaliating, and refused to assist Plaintiff in any way, shape, or form when repeatedly pleaded for help. Incredibly, rather than laud Plaintiff for stopping a predator in his tracks, the company turned the tables on him, subjecting him to a sham investigation into *Plaintiff’s conduct* and engaging in an orchestrated, retaliatory effort to force Plaintiff’s resignation or set up an otherwise unlawful termination of his employment.

5. Fortunately, New Jersey law provides redress for victims of such reprehensible conduct. Plaintiff accordingly brings this lawsuit.

PARTIES

6. Plaintiff is an individual residing in Ocean, New Jersey. At all relevant times hereto, Plaintiff was employed by Defendant TriNet as a Client Success Coordinator.

7. Defendant TriNet is a cloud-based professional employer organization for small and medium-sized businesses. Defendant TriNet is headquartered in California. At all times relevant hereto, Defendant TriNet is an “employer” as defined under the New Jersey Conscientious Employee Protection Act, N.J.S.A. 34:19-1 *et. seq.* (“CEPA”) and by the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 *et seq* (“NJLAD”).¹

8. Defendant Swerdloff, at all times relevant hereto, is an individual residing in New Jersey and was formerly employed by Defendant TriNet as a Client Success Manager. Defendant Swerdloff was, at all relevant times, Plaintiff’s direct supervisor. This claim is brought against Defendant Swerdloff in his individual capacity and/or as an agent or servant of Defendant TriNet during the course of his employment.

9. Defendant Johnson, at all times relevant hereto, is an individual employed by Defendant TriNet as a “Analyst, Business Conduct & Ethics, Legal- HR Compliance.” This claim is brought against Defendant Johnson in her individual capacity and/or as an agent or servant of Defendant TriNet during the course of her employment.

10. Defendant Lieberman, at all times relevant hereto, is an individual employed by Defendant TriNet as the Director of the company’s Human Capital Department. This claim is brought against Defendant Lieberman in her individual capacity and/or as an agent or servant of Defendant TriNet during the course of her employment.

¹ The New Jersey Legislature enacted the NJLAD and CEPA to shield those individuals from retaliation by their employers who report, oppose, and object to discrimination and illegal conduct in the workplace. Indeed, the clear and unequivocal intent to protect such employees is found in the very language of each statute.

11. Defendant Summe, at all times relevant hereto, is an individual employed by Defendant TriNet as a Human Resources Business Partner. This claim is brought against Defendant Summe in his individual capacity and/or as an agent or servant of Defendant TriNet during the course of his employment.

12. Defendant Jafri, at all times relevant hereto, is an individual residing in New Jersey and is employed by Defendant TriNet as a Client Success Coordinator. This claim is brought against Defendant Jafri in her individual capacity and/or as an agent or servant of Defendant TriNet during the course of her employment.

13. Defendant ABC Corporations 1 through 5 are currently unidentified business entities who have acted in concert with Corporate Defendant, and/or currently unidentified business entities responsible for the creation and/or implementation of harassment or anti-discrimination policies of Corporate Defendant, and/or currently unidentified business entities who have liability for the damages suffered by Plaintiff under any theory advanced therein.

14. Defendants John Does 1 through 5 are currently unidentified individuals who acted in concert with Defendants and/or currently unidentified individuals responsible for the creation and/or implementation of harassment or anti-discrimination policies of Corporate Defendant and are currently unidentified individuals who may have liability for the damages suffered by Plaintiff under any theory advanced herein.

FACTS COMMON TO ALL CLAIMS

A. BACKGROUND & PLAINTIFF'S EMPLOYMENT

15. Plaintiff repeats each and every allegation set forth above as if set forth fully herein at length.

16. Defendant TriNet provides human resources services to thousands of companies

across the globe. In March 2014, Defendant TriNet became a public company, with approximately \$3.5 Billion in annual revenues. Recently, Defendant TriNet was named by *Inc. Magazine* as one of the “100 Fastest-Growing Companies.”

17. The company markets itself as an expert in human resources and provides various “solutions” and “mitigation of risk” initiatives. Specifically:

HR SOLUTIONS FOR THE PEOPLE WHO MATTER

Let TriNet HR solutions take care of them, so they can take care of your business.

Access premium, big company benefit options—regardless of your size, with industry-tailored, full-service human resource solutions that help you grow. Incredible starts here.

PEOPLE MATTER

See how TriNet celebrates the unsung heroes of our customers' companies. By delivering access to full-service HR, we free them up to do incredible things.

Risk Mitigation

Protect your business and gain confidence that complex employment-related regulations and compliance are met and checked off.

Best Practices Guidance

It’s important to protect your business, but you’re not an expert on employment law. Get up-to-date expertise and guidance to relieve administrative burdens while helping your business stay on track with HR best practices.

Workplace Safety

Minimize risk through prevention. TriNet can assess your workplace risk, assist in identifying conditions that can lead to employee injury and provide recommendations to minimize hazards.

Compliance

Take control of compliance with help on a multitude of HR regulations from family leave to the Affordable Care Act, as well as

administrative and fiduciary responsibility for our sponsored health and retirement plans.

Employment Practices Liability Insurance

Get expert guidance on workplace policies and business risks including discrimination, wrongful termination, unlawful retaliation and harassment claims. Tap into a wealth of support in the event of a claim.

18. As discussed herein, apparently, Defendant TriNet's HR solutions and policies have no bearing on how it handles matters involving its own employees.

19. Plaintiff commenced employment with Defendant TriNet in April 2015. Plaintiff was originally as a temporary employee through Robert Half Technology. Plaintiff's original title was IT Helpdesk Coordinator and his contract was supposed to be for one year. However, due to the quality of Plaintiff's work, Plaintiff was hired as a full time Client Success Coordinator.

20. Plaintiff is currently employed by Defendant TriNet as a Client Success Coordinator. His responsibilities include but are not limited to:

- Providing timely assistance to employees and colleagues regarding benefit, payroll, 401(k), I-9, COBRA and Human Resources questions and issues;
- compiling written employment verifications; coordinating and scheduling the department wide new hire trainings and onboarding program;
- developing informational training guides and templates;
- implementing peer training sessions for new team members; prepare and auditing employee reports;
- ordering and tracking employee background checks; processing and verifying employee health plan enrollments/changes/cancellations, carrier site updates, while supporting document archival, and corresponding payroll deductions;
- creating presentation and meeting materials for Client Service Associates;
- assisting with form I-9 Processing, document archival, and system maintenance; overseeing the set-up and maintenance of detailed client procedures and access requests;
- troubleshooting basic IT issues with employees; and building upon TriNet capabilities and expand human resource knowledge and experience by participating in professional development, training and mentoring opportunities.

21. Throughout his tenure at Defendant TriNet, Plaintiff received the highest possible score – a “5” – on his performance reviews (except for his first review, which as new employee, the highest he could receive was a four out of five).

22. Plaintiff has never been disciplined or received negative feedback. Plaintiff received several raises (the maximum that was allowed pursuant to company policy) and bonuses on a semi-annual basis.

23. In addition, Plaintiff recently received a companywide “BZ award” for his outstanding knowledge of processes and his willingness to go above and beyond job duties or to help co-workers. Plaintiff is also an active peer mentor in the company’s mentorship program

24. In November 2018, Plaintiff and TriNet executed an agreement (“TriNet Agreement”) governing their relationship and, more germane here, whistleblower/retaliation matters. That agreement states, in relevant part:

The Company expects all of its colleagues to share its commitment to high ethical and legal standards and to avoid any activities that could involve the Company or its colleagues in any real or perceived unethical, improper, or unlawful act. As used in this policy, the terms “colleague” and “employee” shall refer to all colleagues (including all employees of the Company), as well as the officers and, as applicable, directors of the Company, unless otherwise indicated...

Careful review of this policy will provide colleagues with a better understanding of the Company’s expectations and of colleagues’ own obligations. Compliance with this policy is mandatory and it is the duty of all colleagues to familiarize themselves with the policy as well as the legal standards and policies specifically applicable to their assigned duties and to conduct themselves accordingly. ***Compliance with this policy will be a factor in each employee’s performance review. Violations of this policy are subject to discipline, up to and including termination of employment.***

....

The policy is not intended to be an exclusive set of guidelines or requirements governing the conduct of colleagues. The Company has adopted and may amend or adopt other corporate policies, procedures, personnel manuals or employee handbooks that also proscribe or specify conduct. Moreover, no single policy or set of policies can ever be totally comprehensive or serve as a substitute for the good judgment, common sense and proper, ethical and legal conduct we expect of all colleagues.

This policy does, however, supersede the Code of Business Ethics and Conduct section of the Employee Handbook. It also reinforces and adds to the requirements for conduct by colleagues set forth in other TriNet policies. To the extent that anything in this policy is in conflict with the provisions of these other sources, the provisions of this policy will govern. Collectively, this and other policies of conduct may be referred to as the policy or code of conduct at TriNet....

Officers and colleagues are required to cooperate fully with all investigations by the Corporate Compliance Officer, an authorized member of the Legal Department, the Company's outside legal counsel or an authorized member of Internal Audit or of the Corporate Human Resources Department. In particular, they are required to respond truthfully, completely, and promptly to all inquiries...

...

Violations of this policy will be grounds for discharge or other disciplinary action, based on the circumstances of the particular violation. Disciplinary action will be taken, not only against individuals who authorize or participate directly in a violation of the policy, but also against any of the violator's management, to the extent that the circumstances of the violation reflect inadequate supervision by the superior. Compliance with this policy will be a key factor in the evaluation of the individual's overall performance.

If any colleague believes that he or she has been retaliated against in the form of an adverse personnel action for disclosing information regarding misconduct under this policy, he or she may file a written complaint or a report to the Company's ethics service requesting an appropriate remedy. It is the Company policy to encourage colleagues to come forward with any safety, ethical, or legal concerns. Retaliation against those who bring forward these types of related concerns or complaints will not be tolerated.

The Company has partnered with a third-party provider to provide a safe, secure, and completely confidential reporting system for any suspected misconduct under this policy or applicable law, statutes or regulations. Anonymous reports can be made at any time to our provider by:

Web: <https://trinet.gan-compliance.com/report>
Phone: 1-800-307-3065

As an alternative to the third-party provider, the Company has internal procedures which are to be followed in the case of any issues, questions, interpretations, required approvals, reports of conduct suspected to be in violation of this policy, or other matters regarding this policy. If a colleague chooses not to contact the external provider, (i) the colleague should contact his or her supervisor, Corporate HR, the Corporate Compliance Officer, or ethics@trinet.com and (ii) in any matter involving any Chief Executive Officer direct report, such person should contact the Chief Executive Officer. All reported violations will be promptly investigated and treated confidentially to the extent reasonably possible.

This policy cannot provide answers to all possible questions. If colleagues have questions about the policies set forth in this policy or are in doubt about the best course of action in a particular situation, they should consult with their manager or email myhr@trinet.com.

Colleagues should understand that they have the right to:

- Report possible violations of state or federal law or regulation that have occurred, are occurring, or are about to occur to any governmental agency or entity, or self-regulatory organization;
- Cooperate voluntarily with, or respond to any inquiry from, or provide testimony before any self-regulatory organization or any other federal, state or local regulatory or law enforcement authority;
- Make reports or disclosures to law enforcement or a regulatory authority without prior notice to, or authorization from, the Company; and

- Respond truthfully to a valid subpoena.

Colleagues have the right to not be retaliated against for reporting, either internally to the Company or to any governmental agency or entity or self-regulatory organization, information which they reasonably believe relates to a possible violation of law. It is a violation of federal law to retaliate against anyone who has reported such potential misconduct either internally or to any governmental agency or entity or self-regulatory organization. Retaliatory conduct includes discharge, demotion, suspension, threats, harassment, and any other manner of discrimination in the terms and conditions of employment because of any lawful act. It is unlawful for the company to retaliate against you for reporting possible misconduct either internally or to any governmental agency or entity or self-regulatory organization.

Notwithstanding anything contained in this policy or otherwise, colleagues may disclose confidential Company information, including the existence and terms of any confidential agreements between the colleague and the Company (including employment or severance agreements), to any governmental agency or entity or self-regulatory organization.

The Company cannot require colleagues to withdraw reports or filings alleging possible violations of federal, state or local law or regulation, and the Company may not offer colleagues any kind of inducement, including payment, to do so.

Colleagues' rights and remedies as a whistleblower protected under applicable whistleblower laws, including the right to receive a monetary award, if any, may not be waived by any agreement, policy form, or condition of employment, including by a pre-dispute arbitration agreement.

Even if a colleague has participated in a possible violation of law, he or she may be eligible to participate in the confidentiality and retaliation protections afforded under applicable whistleblower laws, and he or she may also be eligible to receive a monetary award under such laws.

25. Plaintiff has fully performed his duties under the TriNet Agreement. Indeed, throughout the course of his career at Defendant TriNet, Plaintiff has provided nothing less than exceptional performance for the company (and its clients) and he has been nothing short of a consummate professional. Everything changed in July 2019, however.

B. PLAINTIFF DISCOVERS A HIDDEN CAMERA IN THE MEN'S BATHROOM.

26. On July 22, 2019, while using the men's restroom at Defendants TriNet's Iselin, New Jersey office, Plaintiff noticed black electrical tape wrapped around the urinal plumbing of the second-floor men's restroom.

27. Upon further inspection, Plaintiff was appalled to find a recording device had been installed on the urinal. The device was the approximate size of an iPhone power adapter with a small lens that was pointed to secretly record the genitalia of those using the urinal. The rear of the device had a micro "USB" port, a power button, and a SD card slot.

28. Naturally, Plaintiff was shocked to discover that some deeply disturbed individual had been secretly recording his genitalia (and that of many others) as he used the restroom.

29. In addition to the gross and unlawful invasion of his privacy, Plaintiff became panicked that the video footage of him using the bathroom may have been widely shared or disseminated on the internet.

30. Upon discovery of the camera, Plaintiff left the restroom and discussed the situation with his co-worker, Rami Salem and a company maintenance worker (Sammy). Plaintiff informed Rami and Sammy of his discovery of the recording device.

31. Plaintiff, Rami, and Sammy then entered the restroom to investigate the device.

32. Defendant Swerdloff then entered the restroom, after he already had seemingly left for the day.

33. Upon information and belief, Defendant Swerdloff overheard Plaintiff, Rami, and Sammy discussing the discovery of the recording device. As a result, Defendant Swerdloff decided to remain at work to ensure he (and no one else) addressed the matter.

34. Defendant Swerdloff nervously stated, "What is going on?" Plaintiff replied,

“There is a camera in the urinal”.

35. Without hesitation, Defendant Swerdloff reached and grabbed the device from the urinal and proceeded to walk out of the bathroom door. As Plaintiff and Rami began discussing how to report the matter and/or calling the police, Defendant Swerdloff turned back and stated, “No, don’t worry about it, I will handle it. I will go right to the police station and file a report.”

36. Defendant Swerdloff then hastily left the premises. Plaintiff and Rami went back to their office to gather their belongings. Plaintiff told co-workers to Defendant Jafri and Lisa Kowitski what he discovered and Defendant Swerdloff’s reaction. Ms. Kowitski stated, “If he didn’t put the camera there, why did he take it?”

37. Defendant Swerdloff did not go right to the police station as he had promised, nor did he appropriately take any action or promptly otherwise address the matter. Plaintiff and his co-worker began to suspect that Defendant Swerdloff, who oddly and eagerly took it upon himself to remove the device, was the actual perpetrator. Approximately fifteen minutes later, Defendant Swerdloff called back to the office to explain to employees that he did not file any report with the company or the authorities:

38. On the call, Defendant Swerdloff stated, in erratic fashion, that he accidentally smashed the camera and in a state of panic hurled the device from his car off the Garden State Parkway overpass on the Garden State Parkway (near the Metropark train station).^[1]

39. At this point, it became clear to Plaintiff and Rami that Defendant Swerdloff was the individual responsible for installing the device and had been engaged in secretly recording co-workers and others who used the bathroom.

^[1] Defendant Swerdloff’s account of events varied when he repeated the story to the other employees, claiming he smashed the camera outside and threw the pieces over the bridge, and then again to he smashed the camera in his car and the threw it out of his car sun roof over the bridge.

C. PLAINTIFF IS SUBJECTED TO RETALIATION.

40. The following day, or July 23, 2019, Plaintiff returned to work and noticed Defendant Swerdloff was visibly upset. Defendant Swerdloff explained he was “very mad” and needed to “talk after work.” Defendant Swerdloff then took Rami into a conference room. Approximately, ten minutes later, Rami called Plaintiff into the conference room. When Plaintiff walked in, Defendant Swerdloff stated, “[Defendant Jafri] told me that you guys think I did it.” In retaliation, Defendant Swerdloff began to yell and scream at Plaintiff, who suggested that the “right thing to do is call the police.”

41. In response, Defendant Swerdloff claimed everyone “will get fired because we did not report the incident when it happened.” Defendant Swerdloff also threatened, “You do not want to be fired; you have TriNet paying for your school, rent, and benefits.” He also claimed he already called a police officer who advised “[they] will all get fired for not reporting it if we say anything.” When Plaintiff and Rami asked to speak to the officer or to get him on the phone, Defendant Swerdloff abruptly left the room and claimed the officer was unavailable.

42. The very next day, or July 24, 2019, Defendant Swerdloff advised Plaintiff he is looking for another job at “Sequoia” (a TriNet competitor). Defendant Swerdloff explained he “no longer felt comfortable” working at Defendant TriNet.

43. Defendant Swerdloff’s course of wrongful and unlawful conduct did not end there. Defendant Swerdloff then undertook a pattern of targeted retaliation against Plaintiff other colleagues who expressed concerns about both the installation of the device and Defendant Swerdloff’s inexplicable conduct in personally seizing and destroying critical evidence of a crime. Defendant Swerdloff was highly concerned about Plaintiff’s knowledge of the hidden recording device and sought to intimidate Plaintiff from divulging further details about the incident

or further reporting it.

44. In addition to prolonged and systemic effort to chill further complaints by retaliating against Plaintiff, Defendant Swerdloff incessantly made odd jokes around the office with regard to the incident. For example, Defendant Swerdloff repeatedly taunted Plaintiff and others by stating, “Hey don’t go into that stall, there is a camera in there.”

D. PURSUANT TO THE TRINET AGREEMENT, PLAINTIFF REPORTS THE HIDDEN CAMERA AND RETALIATION INTERNALLY.

45. Realizing Defendant Swerdloff did not intend to report the incident and he was certainly the culprit who engaged in surreptitious recording in the bathroom, Plaintiff and Rami reported the matter to Defendant TriNet’s Ethics hotline. Specifically:

Please note this is a highly sensitive matter, we are requesting this stays completely confidential and anonymous.

On Monday, July 22, 2019 around 5:00pm

I was using the urinal in the men's bathroom at the Iselin-NJ office and noticed a camera in the left urinal facing me.

I immediately walked out to tell someone. My colleague and Sammy (the building maintenance man), were standing outside the bathroom door.

We walked into the bathroom and then our manager walked into the bathroom less than a minute later and we all examined the camera together.

The four of us agreed that we should call the police and report the camera. Our manager removed the camera from the urinal and volunteered to take the camera to the police station to file a report.

However, we have reason to believe the camera was never reported. we just wanted to make someone else aware of the situation.

I am worried if my manager finds out we said something he will retaliate against me and my colleague in or outside of the workplace, as we are his direct reports.

I would like to remind the reader that this is a very serious situation and we are frozen with fear.

If we are required to discuss this matter in person, we are requesting arrangements be made to meet outside the office to maintain anonymity.

46. Plaintiff's internal complaint was made pursuant to Defendant TriNet's "whistleblower" policy, which states in relevant part:

**Open Door Policy for Reporting Complaints Regarding
Accounting and Auditing Matters**

Statement of Policy

TriNet Group, Inc., and each of its subsidiaries (collectively, "we", "our" or the "Company"), is committed to providing a workplace that is conducive to open discussion of our business practices and to complying with the laws and regulations to which we are subject, including those that govern our accounting and auditing practices. Accordingly, the Company will not tolerate conduct that is in violation of such laws and regulations. This Open Door Policy for Reporting Complaints Regarding Accounting and Auditing Matters (this "Policy") supplements our Code of Business Conduct and Ethics (the "Code") and provides specific procedures for reporting complaints regarding Company accounting, internal accounting control or auditing practices or matters ("*Accounting Matters*").

Each Company employee is encouraged to promptly report any good faith complaint regarding Accounting Matters in accordance with the provisions of this Policy. Other third parties, such as consultants or vendors, also may report a good faith complaint regarding Accounting Matters under the procedures provided in this Policy. To facilitate the reporting of complaints regarding Accounting Matters, the Audit Committee of our Board of Directors (the "*Audit Committee*") has established the procedures set forth in this Policy, which permit the confidential, anonymous submission by Company employees. The Audit Committee may revise or amend this Policy as necessary or appropriate.

This Policy is a supplement to our Code and should be read in conjunction with the Code. Employees, and other third parties, may report complaints related to other potential Company violations of laws or regulations using the procedures set forth in our Code.

...

Policy of Non-Retaliation

It is the Company's policy to comply with all applicable laws and regulations that protect Company employees against unlawful discrimination or retaliation by us or our agents as a result of their lawfully reporting information regarding, or their participation in, investigations involving Accounting Matters.

The Company prohibits the direct or indirect harassment, threat, demotion, suspension, discharge, discrimination or retaliation against any employee in his or her terms and conditions of employment based upon any lawful complaint made by such employee in good faith with respect to Accounting Matters and otherwise as required by applicable law. If any employee believes he or she has been subjected to any harassment, threat, demotion, discharge, discrimination or any other form of retaliation by the Company or its agents for reporting complaints regarding Accounting Matters in accordance with this Policy or otherwise participating in any investigation involving Accounting Matters, he or she may file a complaint with our Corporate Compliance Officer, using the procedures described below. We will take appropriate corrective action, if we determine that an employee has experienced any improper employment action in violation of this Policy.

Compliance Officer

The Company's Corporate Compliance Officer is responsible for administering this Policy. Our Board has appointed our Chief Legal Officer as our Corporate Compliance Officer. The Corporate Compliance Officer is responsible for receiving, reviewing and investigating (under the direction and oversight of the Audit Committee) complaints under this Policy.

Reporting of Complaints

If an employee has a complaint regarding an Accounting Matter, he or she should report such matter to the Corporate Compliance Officer. Communications to our Corporate Compliance Officer may be sent by email to samantha.wellington@trinet.com. If the suspected violation involves the Whistleblower Open Door Policy – Corporate Compliance Officer, the employee should instead report the suspected violation to any member of the Audit Committee. Our Audit Committee members can be reached by sending a written letter to: TriNet Audit Committee, c/o Chief Executive Officer, TriNet Group, Inc., One Park Place, Suite 600, Dublin, California

94568.

Anonymous Reporting of Complaints

We have also established a procedure under which complaints regarding Accounting Matters may be reported anonymously. Employees may anonymously report these concerns by either (i) leaving an anonymous message via toll free telephone at (800) 307-3065, (ii) submitting a complaint via our completely anonymous, third-party complaint system, which can be accessed at <https://trinet.gan-compliance.com/report>, or (iii) mailing a written complaint anonymously to: Corporate Compliance Officer, TriNet Group, Inc., One Park Place, Suite 600, Dublin, California 94568. Employees should make every effort to report their concerns using one or more of the methods specified above. Our complaint procedure is specifically designed so that employees can bypass any supervisor he or she believes is engaged in the conduct giving rise to the employee's complaint. Anonymous reports should be factual, instead of speculative or conclusory, and should contain as much specific information as possible to allow the Corporate Compliance Officer and other persons investigating the report to adequately assess the nature, extent and urgency of the investigation.

Policy for Receiving and Investigating Accounting Matter Complaints

Upon receipt of a complaint regarding an Accounting Matter, the Corporate Compliance Officer will determine whether the information alleged in the complaint pertains to an Accounting Matter. The Audit Committee, or the Audit Committee Chairperson, on behalf of the Audit Committee, shall be notified promptly of all complaints determined to pertain to an Accounting Matter and shall determine the planned course of action with respect to the complaint, including determining that an adequate basis exists for commencing an investigation. The Corporate Compliance Officer will then appoint one or more internal and/or external investigators to promptly and fully investigate each viable claim under the direction and oversight of the Audit Committee, or such other persons as the Audit Committee determines to be appropriate under the circumstances. The Corporate Compliance Officer will confidentially inform the reporting person (if his or her identity is known or if communication is otherwise possible via our anonymous online reporting system) that the complaint has been received and provide him or her with the name of, and contact information for, the investigator assigned to the claim.

We will maintain the confidentiality of the employee submitting the complaint to the fullest extent possible, consistent with the need to conduct an adequate investigation. In the course of any investigation, the Company may find it necessary to share information on a “need to know” basis. If the investigation confirms that a violation has occurred, the Company will promptly take appropriate corrective action with respect to the persons involved, including discipline up to and including termination, and, in appropriate circumstances, referral to governmental authorities, and will also take appropriate steps to correct and remedy any violation.

Retention of Complaints

The Corporate Compliance Officer will maintain a log of all complaints, tracking their receipt, investigation and resolution, and shall prepare a periodic summary report thereof for each member of the Audit Committee. Each member of the Audit Committee and, at the discretion of the Corporate Compliance Officer, other personnel involved in the investigation of complaints, shall have access to the complaint log either directly or through request to the Corporate Compliance Officer. Copies of the complaint log and all documents obtained or created in connection with any investigation will be maintained in accordance with our document retention policy.

47. As a result of Plaintiff’s internal complaint, an internal investigation was commenced by TriNet’s corporate counsel and ethics committee.

48. While under investigation, Defendant Swerdloff repeatedly attempted to contact Plaintiff. Although the internal complaint was supposed to be confidential, Defendant Swerdloff quickly learned that Plaintiff and one or more of his co-workers had reported the incident.

49. When Plaintiff eventually answered, Defendant Swerdloff explained, in a panic, that he was “suspended” and believes he “going to get fired.” Defendant Swerdloff also accused Rami of “reporting him to HR.” Defendant Swerdloff further explained that “everyone” involved needed to “get their stories straight” about what happened – clearly asking Plaintiff to lie about what transpired and raising more red flags. Plaintiff asked “David, are you asking me to lie?” Defendant Swerdloff replied, “No, we just need to meet in person.” Plaintiff refused to do so.

50. Since Plaintiff's internal complaint, Defendant TriNet, too, has been fixated with limiting its own liability due to the outrageous conduct of its long-term manager, i.e., rather than protecting and assisting employees victimized by Defendant Swerdloff. Among other things, in violation of the TriNet Agreement and applicable law, the company has failed to provide Plaintiff with any information regarding the findings of their investigation and failed to explain what steps the company took to gather and sequester footage or inappropriate materials in the possession of Defendant Swerdloff.

51. In violation of the TriNet Agreement and other applicable law, the company has refused to even indicate whether anyone has contacted or intends to contact criminal authorities. To the contrary, in the middle of September 2019, Plaintiff's team was simply informed by Defendant Summe, that Defendant Swerdloff's employment has ended and a new interim manager would be assigned.

52. In addition, Plaintiff received the following letter confirming Defendant Swerdloff's termination for violating company policy, but which was devoid of information pertaining to the hidden camera or what evidence the company uncovered.



September 17, 2019

VIA CONFIDENTIAL EMAIL

Jason Savage
Via GAN Portal

Dear Jason:

This is to confirm that the Business Conduct and Ethics team completed an investigation of a complaint about David Swerdloff's conduct related to the July 22, 2019 discovery of a camera hidden in the men's bathroom on the second floor of 100 Wood Ave South, Iselin, NJ. Thank you for your participation in the investigation and patience with the process.

It was alleged that David violated TriNet policy by failing to report the discovery of the camera and instead David removed, destroyed, and disposed of the camera instead of properly alerting law enforcement and the police. It was further alleged that David discouraged you and Rami Salem from informing TriNet leadership or the Iselin police about the camera's discovery and disposal.

The investigation substantiated that David engaged in behavior that violated TriNet policy (as the preponderance of evidence support such a finding).

During the investigation, we emphasized to all involved TriNet's commitment to providing a professional environment free from retaliation. TriNet's policies strictly prohibit retaliation for raising concerns or participating in an investigation. Accordingly, if you have any concerns that you are experiencing retaliation for having participated in the investigation, please contact me immediately.

David's employment with TriNet has ended. If David contacts you or attempts to initiate interactions with you, we advise you not to speak with him and encourage you to report it immediately to me at 510.875.7178 or cara.panebianco@trinet.com and your HR Business Partner Dan Summe at 646.354.6412 or dan.summe@trinet.com. If at anytime you feel unsafe, your first step should be to contact local emergency services before contacting TriNet.

If you have questions, please do not hesitate to contact me. If I am absent from the office, please contact any member of the Business Conduct and Ethics team at ethics@trinet.com.

Sincerely,



Cara Panebianco
Sr. Corporate Counsel

Cc: Dan Summe, HRBP

One Park Place, Suite 600, Dublin, CA 94568 | t: 888.874.6388 | TriNet.com

53. No other explanation or information was provided. Plaintiff was informed privately that he was not permitted to speak about Defendant Swerdloff or discuss why Defendant Swerdloff was actually terminated.

54. Defendant Summe also refused to tell Plaintiff's team that Defendant Swerdloff was fired for misconduct, or even if it was an involuntary termination. This caused Plaintiff's team to believe Defendant Swerdloff had a "health" or some other "personal issue."

55. Plaintiff also explained to Defendant Summe he was worried about Defendant Jafri, who was in contact, and very friendly, with Defendant Swerdloff. Plaintiff was concerned that Defendant Swerdloff would incite Defendant Jafri to retaliate.

56. Plaintiff remained in a constant state of panic and fear, not knowing if Defendant Swerdloff would continue to retaliate, whether he had possession of videos individuals using the restroom or in other states of undress, or whether he was capable of physical harm.

E. DEFENDANT SWERDLOFF AND OTHER TRINET EMPLOYEES CONTINUE TO RETALIATE.

57. Defendant Swerdloff indeed continued to retaliate against Plaintiff by informing several Defendant TriNet employees that Plaintiff “got him fired.”

58. In fact, even during his suspension and after his termination, Defendant Swerdloff has been in constant contact with many Defendant TriNet employees, with whom he has close personal relationships. Those employees are not privy to the real reason that Defendant Swerdloff was fired and thus many blamed Plaintiff for Defendant Swerdloff’s seemingly unfair termination.

59. By the end of September 2019, Plaintiff and Rami began to receive phone calls from work colleagues stating Defendant Swerdloff told them to “watch out” for Plaintiff and Rami. Defendant Swerdloff referred to Plaintiff and Rami as “snakes” that “got [him] fired.”

60. Upon information and belief, Defendant Swerdloff called almost every employee in the Iselin, New Jersey office to slander Plaintiff and Rami, and to blame them for Defendant Swerdloff’s termination. Defendant Swerdloff’s conduct deliberately sowed tension on the team.

61. As a result of Defendant Swerdloff’s conduct and Defendant TriNet’s inaction, several employees, including Defendant Jafri, refused to speak to Plaintiff and Rami.

62. Plaintiff and Rami also feared that Defendant Swerdloff would attempt to harm them physically (either at their home residence or by showing up at work).

63. When Plaintiff brought this to the attention, Defendant Summe, Defendant Summe explained, “This is that fallout period, we cannot chase down every one that is talking to David.”

Plaintiff explained he did not “feel safe.”

64. Defendant Summe merely responded Plaintiff could attempt to obtain a restraining order against Defendant Swerdloff. Defendant Summe also refused to provide information as to what exactly Defendant Swerdloff did, what the company knew, or whether anyone at the company contacted the police.

65. Then, out of the blue and just a few weeks after Defendant Swerdloff was terminated, Plaintiff and Rami receive a confidential email stating that they are to be interviewed regarding a code of conduct violation.

66. Plaintiff immediately emailed the investigator, Defendant Johnson, explaining he is being victimized and retaliated against for reporting Defendant Swerdloff. Specifically:

From: Jason Savage
Sent: Monday, October 7, 2019 10:12 AM
To: Janice Johnson <Janice.Johnson@trinet.com>
Subject: RE: Confidential: Internal Investigation
Sensitivity: Confidential

Hi Janice,

I am not sure what my rights are in regards to the investigation that recently concluded. Am I allowed to talk to you about that investigation? The conclusion of that investigation resulted in my direct manager being terminated. After his termination, he started to call all of the colleagues I work with slandering my name and making up blatant lies about me. This has caused tension on my team and leads me to believe someone on my team is retaliating against me to help out my terminated manager.

Best Regards,

Jay Savage
Client Success Coordinator

Direct 646.356.8642



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From: Janice Johnson
Sent: Monday, October 7, 2019 10:08 AM
To: Jason Savage <Jason.Savage@trinet.com>
Subject: RE: Confidential: Internal Investigation
Sensitivity: Confidential

Hi Jason-
Unfortunately I am not available today. Could you give me details as to why you believe you are being victimized and retaliated against? Thank you.

Warm regards,
Janice

From: Jason Savage
Sent: Monday, October 7, 2019 9:50 AM
To: Janice Johnson <Janice.Johnson@trinet.com>
Subject: RE: Confidential: Internal Investigation
Sensitivity: Confidential

Hi Janice,

I believe I am being victimized and being retaliated against due to another investigation that has recently concluded. We need to speak as soon as possible, are you available to speak today?

Best Regards,

Jay Savage
Client Success Coordinator

Direct 646.356.8642



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From: Janice Johnson
Sent: Monday, October 7, 2019 9:41 AM
To: Jason Savage <Jason.Savage@trinet.com>
Subject: Confidential: Internal Investigation
Importance: High
Sensitivity: Confidential

Dear Jason:

I am conducting an investigation into the possibility that one or more TriNet policies have been violated. I need to interview you as part of the investigation. We will meet at 9:30am eastern on Tuesday, October 8, 2019 via Skype (invite to follow). Please be in a location appropriate for a confidential conversation. I expect the interview to take around one hour.

The goal of the investigation is to gather relevant facts through an impartial process so that objective findings can be made. Those findings will be carefully considered to determine whether any policy violation occurred and what steps, if any, are necessary to address the issues raised.

I will keep the investigation as confidential as possible. Accordingly, we will discuss the specifics of the issues only to the extent you need to know them to provide information when we meet.

You too are expected to maintain the confidentiality of the investigation. You are not to discuss or otherwise communicate with others regarding 1) the existence of the investigation, 2) the name of any person you know or believe to be participating in the investigation, 3) any factual allegations or 4) the information you provide in the investigation. No matter who initiates any communication with you, you are directed not to communicate

about any of the matters above with anyone other than me or another member of the Business Conduct and Ethics team.

TriNet has a strict policy prohibiting retaliation against any employee for participating in an investigation. This means that you should not be subjected to retaliation or threat of retaliation, and that you are prohibited from retaliating or threatening retaliation against anyone for participating in the investigation.

Please contact me or the Business Conduct and Ethics team, at ethics@trinet.com, in the event that:

- You have questions;
- Someone else is attempting to initiate communication with you about this investigation or the issues involved;
- You become aware of any breach of confidentiality – for example, if you hear others discussing the investigation; or
- You have any concerns about retaliation occurring.

Your time and cooperation is appreciated.

Warm regards,

Janice Johnson, NCCP

Analyst, Business Conduct & Ethics, Legal- HR Compliance

704.206.7505 (Direct)



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67. The following day, or October 8, 2019, Plaintiff was interviewed, but not for his complaints pertaining to Defendant Swerdloff or retaliation. To the contrary, Plaintiff was interviewed by Defendant Johnson in connection with Plaintiff's own purported conduct and allegations made by his co-workers. Suddenly, Plaintiff had a target on his back.

68. Inexplicably, Plaintiff was asked to identify each of his team member's ethnicity, color, sexual orientation, and religion. Plaintiff not only was flabbergasted by the line of

questioning, as Plaintiff did not know (nor did he care) of his member's religion, race, or sexual orientation, he had no idea why he was even being interviewed in the first place. It was clear that the company, through Defendant Johnson, had attempted to dig up dirt on Plaintiff to justify an otherwise retaliatory campaign. Plaintiff was being falsely accused of misconduct in the workplace regarding matters that never actually occurred and occurred months or even years ago (and never made an issue).

69. Plaintiff was interviewed again on October 9, 2019. During this interview, Plaintiff made it clear to Defendant Johnson that he was a victim of retaliation, which Defendant Johnson deflected and brushed off by claiming the investigation of Defendant Swerdloff, the retaliation, and the investigation into Plaintiff's conduct were all "separate."

70. Specifically, Defendant Johnson claimed, "...I wasn't involved in that investigation that doesn't really, although it gives us insight to this investigation it doesn't have bearing on this investigation." Defendant Johnson further stated that Defendant Summe and Defendant Lieberman can "give you more insight as to what you can and can't say about their investigation. I wasn't privy to that investigation, I mean I have the report but I wasn't involved in that one."

71. Plaintiff reiterated he did not even feel safe in his own home, let alone at work. Defendant Johnson claimed, "TriNet did a threat assessment on David" and to her understanding, "there was no threat found." When Plaintiff tried to explain that Defendant Swerdloff is manipulative and openly discussed how he would "wait years to get his perfect revenge," Defendant Johnson simply ignored Plaintiff's concerns and stated, "back to the issues that were in this complaint."

72. On October 16, 2019 Plaintiff and Rami were called to a meeting with Defendants Lieberman, Defendant Summe, and Alexander Lopez ("Mr. Lopez"), Defendant TriNet's Client

Success Manager.

73. Plaintiff and Rami were instructed not speak about “anything that’s not relevant to an investigation” and “retaliation is definitely outside the purview of the investigation, so if there’s anything of that that you want to talk about we are open to hear.”

74. In response, Plaintiff explained the investigation, in and of itself, is retaliation for his complaints surrounding the first investigation. Plaintiff was immediately belittled by Defendant Summe and Defendant Lieberman.

75. Indeed, they even accused Plaintiff and Rami of not understanding the legal definition of retaliation. Defendant Summe told Plaintiff, “just so were clear and maybe I’m confusing you, retaliation, my definition of retaliation is anything that changes your employment status due to power of authority or a power of spoken word that has directly impacted your employment status with the company.”

76. Defendant Lieberman jumped in stating, “there is only one legal definition of retaliation”

77. Defendant Summe and Defendant Lieberman advised Plaintiff and Rami that, what they were not understanding, is that the first investigation is entirely separate from this investigation. Again, this was a clear attempt to brush Plaintiff’s concerns under the rug and minimize Defendant Swerdloff’s conduct.

78. Indeed, during the investigation, Plaintiff was advised by Defendant Lieberman: “just keep doing what you’re doing because the reality is Rami and Jason, you guys have been here for a long time and nothing like this has every happened ... there has never been a peep, never been ever ever ever, there has never been an inkling of anything related to either one of you so your reputation from this perspective from leadership prospective on our team and from most of

our colleagues, because remember we have 50 some person team, everyone still things the world of you guys.... no one thinks anything negative at all.”

79. Thus, in violation of the TriNet Agreement and applicable law, the entire investigation was a charade to convince Plaintiff and Rami they were not being retaliated and to let go of the incident regarding Defendant Swerdloff. For example, Defendant Liberman and Defendant Summe stated:

- a. “I think there is a series of unfortunate events here because what happened with the first investigation, technically, has nothing to do with either of you, right, it’s not, right, David’s gone, other than you guys being witness to something, it had nothing to do with either of you at all.”
- b. “I think it’s important to understand and realize here... I need you guys to understand this and uncouple it. *It is hard to uncouple it because of the timing* of all of this but you need to uncouple it in your minds...because whatever is happening now, has nothing to do with what happened here, it doesn’t.”
- c. “Whatever happened in the first investigation, that’s over with, that’s done with”
- d. “Keep that in the back of your mind because that’s a completely separate issue.”
- e. They stated the “unfortunate consequence” of the previous investigation was that the decision to terminate David “broke the team” because “that was the link in the chain.”

80. Plaintiff reiterated they “don’t know who to talk to, we feel like we can’t speak about the other investigation because we’ll get terminated if it gets out if we talk about it, and like we can’t speak about the current investigation because its private so we just feel trapped.”

81. In response, Defendant Lieberman once again attempted to justify Defendant TriNet's sham investigative process, while giving Plaintiff and Rami suggestions on how to deal with the other coworkers in the workplace. For example, Lieberman stated:

- a. "At the end of the day it doesn't matter whatever their motivations are, you may never find out, the best you can do is say I'm going to take myself out of the situation...I'm not going to put myself in a situation where anything can be misinterpreted."
- b. "If you are put in a situation with this person make sure there is a lot of people around, don't go out with them individually..."
- c. "Let it run its course...when the whole thing went down one of the things that I was very concerned about was breaking up this team dynamic."
- d. "I know it's uncomfortable, I know it sucks because it feels like it's in succession, but one thing has nothing to do with the other."

82. Plaintiff explained he has been keeping everything on a "purely work level" but some of his co-workers clearly have different motives. That is, due to the manipulation and prodding of Defendant Swerdloff, Plaintiff co-workers are making false accusations, accusing him of being "power hungry," that he "controls people," and "forces people to do things." Plaintiff explained Defendant Swerdloff sowed friction as retaliation for Plaintiff reporting his conduct HR.

83. Defendant Lieberman elaborated about the motives of Plaintiff's coworkers and, amazingly, claimed they have minimal effect on the investigation. Specifically:

- a. "It's important but sort of not as important as whether these things are true or not true, believable or not believable and making sense because ultimately that's what's going to be the determinative factor in this investigation."

- b. “It’s a point, but it’s not sort of the biggest point. Someone could have motive but if what their saying makes no sense and there’s nothing to do with it, it’s not the motive in the investigation, it what is actually being investigated that’s important.”
- c. “Don’t spend too much mental energy on this, right, let it finish out, let it finish out.”
- d. “The most important thing from, I think for the both of you and from everyone that’s involved in all of this is, you keep a tight loop on it, you keep a tight handle on it whether it’s the first investigation or the second investigation, don’t talk about it, don’t talk about any of it with anyone, don’t give people facts, you know et cetera.”
- e. Co-workers gossiping around the office is “completely normal” just respond “not clued in, I don’t know.”

84. When Plaintiff stated, “so you want me to lie?”, neither Defendant Lieberman nor Defendant Summe responded.

85. Rami further explained that he being subject to retaliation and a hostile work environment, and the company needs to address it: “There is people in this office who have stopped speaking to us, they are not in a position of authority, but they are our co-workers. So, if they are acting differently towards us, we are trying to say, ‘hey that is retaliation’. You guys are saying it’s only retaliation if it someone from authority.”

86. It is apparent to Plaintiff that employees (namely, those with loyalty to Defendant Swerdloff) had made numerous false misrepresentations and lied about both Plaintiff’s conduct.

87. Plaintiff explained to the investigator that he had been given false information. He

told the investigator that the information he had received were lies and that they were misrepresenting information so that the investigation results would be to their liking.

88. Plaintiff instantly recognized the “investigation” was merely an attempt to shift the blame from Defendants’ inappropriate and unlawful behavior to him.

89. Clearly, in violation of the TriNet Agreement and applicable law, Defendants utilized HR to assist, aid, and abet in the mission to paint Plaintiff in the most unfavorable light as possible in retaliation for his prior reports of unlawful as noted above.

90. It became obvious to Plaintiff that HR was there to serve Defendants agenda. Instead of taking Plaintiff’s report seriously, however, the HR investigator dismissed his concerns

91. Finally, and perhaps most shocking, Defendant Summe explained that the is deliberately information about Defendant Swerdloff’s conduct and termination:

One thing you guys actually do not know, you know what you reported to us but that doesn’t mean that was exactly the reason why we let David go, we didn’t tell you the exact reason. There’s a reason for that, we want to keep you out of the loop so that you are not put in a position where you’re actually telling people what you know and then what happened because of that because that would be speculation so we want to make that very clear to you as well.

92. In sum, in violation of the TriNet Agreement and applicable law, instead of protecting Plaintiff from retaliation and mistreatment, Defendant TriNet has aided and abetted this egregious conduct, subjected Plaintiff to further and ongoing emotional suffering, and irreparably damaged Plaintiff’s prospects for professional success and advancement at Defendant TriNet.

93. Even worse, Plaintiff has been “gagged” so he cannot properly defend himself against the continuing retaliation and has been relegated to a professional “punching bag.”

94. Defendants’ course of conduct is reprehensible and a clear violation of law.

95. As direct result of Plaintiff’s objections, Plaintiff became the subject of retaliation

at the hands of Defendants.

96. Defendants responded to Plaintiff's various complaints and reports not by remediating or correcting the situation, but instead by subjected to him to continuous acts of retaliation, including but not limited to the following:

97. Notably, it was not until after Plaintiff opposed Defendants' retaliatory actions and blew the whistle on Defendants' other acts of illegal and deceptive conduct was his employment ever in jeopardy.

98. Since making that complaint, Plaintiff has suffered constant retaliation and threats by Defendant TriNet's employees and is now the subject a sham investigation designed to manufacture a reason for termination his employment.

99. As stated above, Plaintiff was an exemplary employee. It was only after Plaintiff blew the whistle that he was subjected to retaliation and Defendants' preferred justifications for doing so are pure pretext.

COUNT ONE

RETALIATION IN VIOLATION OF NEW JERSEY CONSCIENTIOUS EMPLOYEE PROTECTION ACT ("CEPA")

100. Plaintiff repeats each and every allegation set forth above as if set forth fully herein at length.

101. CEPA's purpose, as pronounced by the New Jersey Supreme Court, "is to protect and encourage employees to report illegal or unethical workplace activities and to discourage ... employers from engaging in such conduct."

102. CEPA specifically provides that:

An employer shall not take any retaliatory action against an employee because the employee does any of the following:

- a. Discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer, or another employer, with whom there is a business relationship, that the employee reasonably believes:
 - (1) is in violation of a law, or a rule or regulation promulgated pursuant to law, including any violation involving deception of, or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity, or, in the case of an employee who is a licensed or certified health care professional, reasonably believes constitutes improper quality of patient care; or
 - (2) is fraudulent or criminal, including any activity, policy or practice of deception or misrepresentation which the employee reasonably believes may defraud any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity;
- b. Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation promulgated pursuant to law by the employer, or another employer, with whom there is a business relationship, including any violation involving deception of, or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity, or, in the case of an employee who is a licensed or certified health care professional, provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into the quality of patient care; or
- c. Objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes:
 - (1) is in violation of a law, or a rule or regulation promulgated pursuant to law, including any violation involving deception of, or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity, or, if the employee is a licensed or certified health care professional, constitutes improper quality of patient care;
 - (2) is fraudulent or criminal, including any activity, policy or practice of deception or misrepresentation which the employee reasonably believes may defraud any shareholder, investor, client, patient, customer, employee, former

employee, retiree or pensioner of the employer or any governmental entity; or

- (3) is incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment.

N.J.S.A. 34:19-3.

103. Throughout the course of his employment, Plaintiff reported and complained of Defendants' unlawful behavior.

104. Defendants had knowledge of Plaintiff's complaints and/or protests.

105. As a direct result of Plaintiff raising complaints and/or threatening to disclose raising complaints, Defendants took retaliatory action against Plaintiff by subjecting him to a hostile work environment, altering his duties and responsibilities, and subjecting him to a sham investigation.

106. Defendants are vicariously, strictly, and/or directly liable to Plaintiff for an unlawful retaliation, pursuant to N.J.S.A. 34:19-1, et seq.

107. As a proximate result of the aforementioned acts and omissions set forth herein, Plaintiff has sustained damages.

WHEREFORE, Plaintiff demands judgment in his favor and against Defendants on this Count, together with compensatory and equitable relief, all remedies available under CEPA, punitive damages, pre-and post-judgment interest, attorney's fees and costs of suit, and for such other relief that the Court deems equitable and just.

COUNT TWO

NJLAD – DISPARATE TREATMENT, SEXUAL HARASSMENT, & HOSTILE WORK ENVIRONMENT DISCRIMINATION DUE TO GENDER/SEX

108. Plaintiff repeats each and every allegation set forth above as if set forth fully herein at length.

109. The pattern and practice of discrimination, harassment, and retaliation directed at Plaintiff is outlined above.

110. Plaintiff was subjected to repeated, pervasive, severe, and continuing instances of disparate treatment and harassment based on gender/sex.

111. The above-described conduct would not have occurred but for Plaintiff's gender/sex.

112. The harassing and discriminatory conduct was severe or pervasive enough to make a reasonable person and employee believe that the conditions of employment were altered and the working environment was hostile and discriminatory.

113. As the employer and/or supervisor of Plaintiff, Defendants are vicariously, strictly, and/or directly liable to Plaintiff pursuant to the New Jersey Law Against Discrimination, *N.J.S.A. 10:5-1, et seq.*, in that the affirmative acts of harassment, discrimination, and retaliation committed by Individual Defendants occurred within the scope of their employment; the creation of the hostile work environment was aided by Corporate Defendants in delegating power to Individual Defendants to control the day-to-day working environment; and/or Corporate Defendants were deliberately indifferent, reckless, negligent and/or tacitly approved the discrimination, hostile work environment, and/or retaliation; and/or Corporate Defendants and Individual Defendants failed to create and/or have in place well-publicized and enforced anti-harassment policies, effective formal and informal complaint structures, training, and/or monitoring mechanisms for

same despite the foreseeability of harassment, discrimination, and retaliation in the workplace; and/or by having actual knowledge of the harassment, discrimination, and retaliation of Plaintiff and failing to promptly and effectively act to stop it.

114. Defendants aided, abetted, incited, compelled and/or coerced, and/or attempted to aid, abet, incite, compel and/or coerce Individual Defendants to commit acts and omissions that were in violation of the NJLAD by committing affirmatively harassing, discriminatory, and retaliatory acts toward Plaintiff in violation of the supervisory duty to halt or prevent harassment, retaliation, and discrimination, rendering all Defendants individually and collectively liable to Plaintiff pursuant to *N.J.S.A. 10:5-12(e)*.

115. Individual Defendants and the managers and/or supervisors of Plaintiff aided, abetted, incited, compelled and/or coerced, and/or attempted to aid, abet, incite, compel and/or coerce Defendants to commit acts and omissions that were in violation of the NJLAD by committing affirmatively harassing, discriminatory, and retaliatory acts toward Plaintiff in violation of their supervisory duty to halt or prevent harassment, retaliation, and discrimination rendering Defendants individually and collectively liable to Plaintiff pursuant to *N.J.S.A. 10:5-12(e)*.

116. As a proximate result of the aforementioned acts and omissions set forth herein, Plaintiff has sustained damages.

WHEREFORE, Plaintiff demands judgment in his favor and against Defendants on this Count, together with compensatory and equitable relief, all remedies available under the law, punitive damages, pre-and post-judgment interest, and attorney's fees and costs of suit. More specifically, Plaintiff demands judgment against Defendants for harm suffered in violation of the NJLAD as follows:

- A. Reinstatement of employment and all benefits;
- B. Back pay and benefits;
- C. Front pay and benefits;
- D. Compensatory damages;
- E. Consequential damages;
- F. Reinstatement;
- G. Punitive damages;
- H. Prejudgment interest and enhancements to off-set negative tax consequences;
- I. Any and all attorneys' fees, expenses and/or costs, including, but not limited to, court costs, expert fees and all attorneys' fees incurred by Plaintiff in the prosecution of this suit (including enhancements thereof required to off-set negative tax consequences and/or enhancements otherwise permitted under law);
- J. Such other relief as may be available pursuant to the LAD and which the Court deems just and equitable;
- K. Ordering Defendants to take appropriate corrective action to stop and prevent retaliation at the workplace;
- L. Ordering Defendants to take appropriate corrective action to stop and prevent harassment at the workplace;
- M. Ordering Defendants to undergo anti-discrimination training;
- N. Ordering Defendants to undergo anti-retaliation training;
- O. Ordering Defendants to undergo anti-harassment training;
- P. Ordering Defendants to undergo workplace civility training;
- Q. Ordering Defendants to undergo bystander intervention training;
- R. Ordering Defendants to engage a research organization to assess the effectiveness of their anti-discrimination training;
- S. Ordering Defendants to engage a research organization to assess the effectiveness of their anti-retaliation training;
- T. Ordering Defendants to engage a research organization to assess the effectiveness of their anti-harassment training;
- U. Ordering Defendants to engage a research organization to assess the effectiveness of their workplace civility training;
- V. Ordering Defendants to engage a research organization to assess the effectiveness of their bystander intervention training;
- W. Ordering Defendants to identify an appropriate professional to investigate any future complaints of discrimination;
- X. Ordering Defendants to identify an appropriate professional to investigate any future complaints of harassment;
- Y. Ordering Defendants to identify an appropriate professional to investigate any future complaints of retaliation; and
- Z. Such other relief as may be available and which the Court deems just and equitable.

COUNT THREE

NJLAD – RETALIATION/IMPROPER REPRISAL

117. Plaintiff repeats each and every allegation set forth above as if set forth fully herein at length.

118. The NJLAD provides that it shall be unlawful for any person, including an employer, to “take reprisals against any person because that person has opposed any practices or acts forbidden under this act[.]” See N.J.S.A. 10:5-12(d).

119. Plaintiff complained and/or protested against the practices or acts forbidden under the NJLAD as set forth at length above. Defendants had knowledge about those complaints and/or protests.

120. As a direct result of Plaintiff raising complaints regarding Defendants’ conduct, Defendants took retaliatory action against Plaintiff, which is outlined above.

121. Defendants are vicariously, strictly and/or directly liable to Plaintiff for unlawful retaliatory conduct in violation of the NJLAD pursuant to *N.J.S.A. 10:5-12(d)*.

122. As a proximate result of the aforementioned acts and omissions set forth herein, Plaintiff has sustained emotional and pecuniary damages.

WHEREFORE, Plaintiff demands judgment in his favor and against Defendant on this Count, together with compensatory and equitable relief, all remedies available under the law, punitive damages, pre-and post-judgment interest, and attorney’s fees and costs of suit. More specifically, Plaintiff demands judgment against Defendants for harm suffered in violation of the NJLAD as follows:

- A. Reinstatement of employment and all benefits;
- B. Back pay and benefits;
- C. Front pay and benefits;
- D. Compensatory damages;

- E. Consequential damages;
- F. Reinstatement;
- G. Punitive damages;
- H. Prejudgment interest and enhancements to off-set negative tax consequences;
- I. Any and all attorneys' fees, expenses and/or costs, including, but not limited to, court costs, expert fees and all attorneys' fees incurred by Plaintiff in the prosecution of this suit (including enhancements thereof required to off-set negative tax consequences and/or enhancements otherwise permitted under law);
- J. Such other relief as may be available pursuant to the LAD and which the Court deems just and equitable;
- K. Ordering Defendants to take appropriate corrective action to stop and prevent retaliation at the workplace;
- L. Ordering Defendants to take appropriate corrective action to stop and prevent harassment at the workplace;
- M. Ordering Defendants to undergo anti-discrimination training;
- N. Ordering Defendants to undergo anti-retaliation training;
- O. Ordering Defendants to undergo anti-harassment training;
- P. Ordering Defendants to undergo workplace civility training;
- Q. Ordering Defendants to undergo bystander intervention training;
- R. Ordering Defendants to engage a research organization to assess the effectiveness of their anti-discrimination training;
- S. Ordering Defendants to engage a research organization to assess the effectiveness of their anti-retaliation training;
- T. Ordering Defendants to engage a research organization to assess the effectiveness of their anti-harassment training;
- U. Ordering Defendants to engage a research organization to assess the effectiveness of their workplace civility training;
- V. Ordering Defendants to engage a research organization to assess the effectiveness of their bystander intervention training;
- W. Ordering Defendants to identify an appropriate professional to investigate any future complaints of discrimination;
- X. Ordering Defendants to identify an appropriate professional to investigate any future complaints of harassment;
- Y. Ordering Defendants to identify an appropriate professional to investigate any future complaints of retaliation; and
- Z. Such other relief as may be available and which the Court deems just and equitable.

COUNT FOUR
NEGLIGENCE

123. Plaintiff alleges and asserts each of the preceding paragraphs as if fully set forth herein.

124. At all relevant times, Defendant owed a duty to Plaintiff to act with reasonable care. This duty arises by virtue of its employment, agency, or joint liability

125. Plaintiff prays that, following a verdict, all such damages asserted below be awarded against Defendants.

WHEREFORE, Plaintiff prays that the Court enter judgment in his favor and against Defendants, containing the following relief: (1) an award of damages in an amount to be determined at trial, plus prejudgment interest, to compensate Plaintiff for all physical, monetary and/or economic harm; for harm to his professional and personal reputations and loss of career fulfillment; for all non-monetary and/or compensatory harm, including, but not limited to, compensation for mental anguish and physical injuries; all other monetary and/or non-monetary losses suffered by Plaintiff; (2) an award of punitive damages; (3) an award of costs that Plaintiff have incurred in this action, as well as reasonable attorneys' fees and expenses to the fullest extent permitted by law; and (4) such other and further relief as the Court may deem just and proper

COUNT FIVE
NEGLIGENT UNDERTAKING

126. Plaintiff alleges and asserts each of the preceding paragraphs as if fully set forth herein.

127. Defendants undertook the duty to select, train, monitor, regulate, and control its employees.

128. Having assumed those duties, Defendants were negligent as set forth above.

129. The above acts or omissions by Defendants were a producing and/or proximate cause of Plaintiff's injuries and the resulting damages Plaintiff seeks in this suit.

WHEREFORE, Plaintiff prays that the Court enter judgment in his favor and against Defendants, containing the following relief: (1) an award of damages in an amount to be determined at trial, plus prejudgment interest, to compensate Plaintiff for all physical, monetary and/or economic harm; for harm to his professional and personal reputations and loss of career fulfillment; for all non-monetary and/or compensatory harm, including, but not limited to, compensation for mental anguish and physical injuries; all other monetary and/or non-monetary losses suffered by Plaintiff; (2) an award of punitive damages; (3) an award of costs that Plaintiff have incurred in this action, as well as reasonable attorneys' fees and expenses to the fullest extent permitted by law; and (4) such other and further relief as the Court may deem just and proper

COUNT SIX
NEGLIGENT HIRING, SUPERVISION, AND RETENTION

130. Plaintiff alleges and asserts each of the preceding paragraphs as if fully set forth herein.

131. Defendants Plaintiff a duty of reasonable care in the hiring, training and supervision of their employees.

132. Defendants breached that duty of care in the hiring, retention and/or supervision of Defendant Swerdloff, who was unfit and who was not adequately trained or supervised.

133. Defendants knew or should have known that Defendant Swerdloff would be a danger to employees and other individuals.

134. As a direct and proximate result of the negligence, carelessness, recklessness, and unlawfulness of the Defendants, Plaintiff sustained serious emotional distress.

135. Defendants knew or should have known that its negligence and breach of duty of care would cause or had a substantial probability of causing severe emotional distress to Plaintiff, and in fact did cause Plaintiff severe emotional distress.

136. Accordingly, Plaintiff is entitled to recovery in an amount to be determined at trial.

WHEREFORE, Plaintiff prays that the Court enter judgment in his favor and against Defendants, containing the following relief: (1) an award of damages in an amount to be determined at trial, plus prejudgment interest, to compensate Plaintiff for all physical, monetary and/or economic harm; for harm to his professional and personal reputations and loss of career fulfillment; for all non-monetary and/or compensatory harm, including, but not limited to, compensation for mental anguish and physical injuries; all other monetary and/or non-monetary losses suffered by Plaintiff; (2) an award of punitive damages; (3) an award of costs that Plaintiff have incurred in this action, as well as reasonable attorneys' fees and expenses to the fullest extent permitted by law; and (4) such other and further relief as the Court may deem just and proper

COUNT SEVEN
NEW JERSEY COMPUTER-RELATED OFFENSES ACT

137. Plaintiff repeats each and every allegation set forth above as if set forth fully herein at length.

138. As set forth herein, Defendant Swerdloff violated the New Jersey Computer-Related Offenses Act (“CROA”), N.J.S.A. 2A:38a-1 *et seq.*

139. As a direct and proximate result of Defendants CROA, violations, Plaintiff has suffered and continues to suffer damages.

COUNT EIGHT
INVASION OF PRIVACY

140. Plaintiff repeats each and every allegation set forth above as if set forth fully herein at length.

141. As set forth herein at length, Defendants Swerdloff knowingly, voluntarily and intentionally invaded Plaintiff's privacy by recording Plaintiff (and others) without permission.

142. The intrusion upon Plaintiff's privacy was such that it would be highly offensive to the ordinary reasonable person.

143. As a result of the invasion of privacy, Plaintiff has suffered and continues to suffer damages.

WHEREFORE, Plaintiff demands judgment in his favor and against Defendants on this Count, together with compensatory and equitable relief, all remedies available under the law, punitive damages, pre- and post-judgment interest, attorney's fees and costs of suit, and for such other relief that the Court deems equitable and just.

COUNT NINE
BREACH OF CONTRACT

144. Plaintiff repeats each and every allegation set forth above as if set forth fully herein at length.

145. By and through the conduct stated above, Defendants breached their contractual obligations to Plaintiff, including the TriNet Agreement.

146. The actions of Defendants were intentional and constituted a breach of the implied covenant of good faith and fair dealing between Defendants and Plaintiff.

147. Plaintiff was injured as a direct, proximate, and foreseeable result of Defendants' breach of their contractual obligations to Plaintiff.

WHEREFORE, Plaintiff demands judgment in his favor and against Defendants, together with compensatory and equitable relief, all remedies available under the law, punitive damages, pre- and post-judgment interest, attorney's fees and costs of suit, and for such other relief that the Court deems equitable and just.

DEMAND FOR TRIAL BY JURY

Plaintiff demands a trial by jury on all issues.

McOMBER & McOMBER, P.C.
Attorneys for Plaintiff

By: /s/ Matthew A. Luber
Matthew A. Luber, Esq.

Dated: November 22, 2019

DESIGNATION OF TRIAL COUNSEL

Pursuant to *Rule 4:25-4*, MATTHEW A. LUBER, ESQUIRE is hereby designated as trial counsel for Plaintiff.

CERTIFICATION

Pursuant to *Rule 4:5-1*, it is hereby certified that, to the best of my knowledge, there are no other civil actions or arbitration proceedings involving this matter with respect to this matter and no other parties need to be joined at this time. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

McOMBER & McOMBER, P.C.
Attorneys for Plaintiff

By: /s/ Matthew A. Luber
Matthew A. Luber, Esq.

Dated: November 22, 2019

Civil Case Information Statement

Case Details: MONMOUTH | Civil Part Docket# L-004157-19

Case Caption: SAVAGE JASON VS TRINET USA, INC

Case Initiation Date: 11/22/2019

Attorney Name: MATTHEW ALLEN LUBER

Firm Name: MC OMBER & MC OMBER, PC

Address: 54 SHREWSBURY AVENUE

RED BANK NJ 07701

Phone: 7328426500

Name of Party: PLAINTIFF : SAVAGE, JASON

Name of Defendant's Primary Insurance Company

(if known): None

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

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

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)*

11/22/2019

Dated

/s/ MATTHEW ALLEN LUBER

Signed