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**E-FILED**

**07-05-2018, 13:31**

**Scott G. Weber, Clerk  
Clark County**

**IN THE SUPERIOR COURT OF WASHINGTON  
COUNTY OF CLARK**

BRAD LEBOWSKY,

Plaintiff

v.

EDUCATIONAL OPPORTUNITIES FOR  
CHILDREN AND FAMILIES, WAYNE  
PURRETT, and CHERYL HAMILTON

Defendants.

NO. 18-2-05400-5

COMPLAINT

Wrongful Termination

Damages and Injunctive Relief

JURY TRIAL REQUESTED

Plaintiff alleges:

1. Plaintiff, Brad Lebowsky (hereafter "Plaintiff"), was employed by Defendant Educational Opportunities for Children and Families (hereafter "Defendant EOCF"), at its headquarters in Vancouver, Washington at all times relevant hereto.
2. Defendant EOCF is a Washington nonprofit corporation, with its principal executive office in Vancouver, Washington. Defendant EOCF provides comprehensive early childhood education and family support programs in Southwest Washington.
3. Defendant Wayne Purrett (hereafter referred to as "Defendant Purrett") was at all relevant times Defendant EOCF's Interim Executive Director. At all relevant times he was acting in his capacity as Interim Executive Director for Defendant EOCF, and

NO.; LEBOWSKY v. EDUCATION OPPORTUNITIES FOR CHILDREN  
AND FAMILIES, et al  
COMPLAINT - Page 1 of 8

The Good Law Clinic, PLLC  
WSBA#36036 / OSB#012636  
211 E. 11<sup>th</sup> Street, Suite 105  
Vancouver, WA 98660  
Phone: (360) 694-4530  
Facsimile: (360) 694-4659  
E-mail: [moloy@goodlawclinic.com](mailto:moloy@goodlawclinic.com)

1 with its authorization to act in that capacity. Defendant Purrett was, at all relevant  
2 times, a corporate officer of Defendant EOCF.

3 4. Defendant Cheryl Hamilton (hereafter referred to as "Defendant Hamilton") was at  
4 all relevant times Defendant EOCF's Director of Human Resources. At all relevant  
5 times she was acting in her capacity as Director of Human Resources for Defendant  
6 EOCF, and with its authorization to act in that capacity. Defendant Hamilton was, at  
7 all relevant times, a corporate officer of Defendant EOCF.

8 5. Defendant EOCF employed Plaintiff from April of 2017 until January of 2018, as  
9 Director of Operations.

10 6. Defendant EOCF operates Head Start and Early Head Start programs. It is required  
11 to follow applicable Head Start and Early Head Start laws and regulations.

12 7. In September of 2017, Plaintiff informed Defendant EOCF that the dishwashers in its  
13 facilities were not properly ventilated under Vancouver City Code.

14 8. The improper ventilation caused the dishwashers to reach and exceed 200 degrees.

15 9. One of these dishwashers was located in a classroom with children, and presented a  
16 hazard to their health and safety.

17 10. Despite Plaintiff's warning, Defendant EOCF did not fix the dishwashers.

18 11. In early November of 2017, Plaintiff also complained to Defendant EOCF that it was  
19 not obtaining written proof of custodianship for Defendant EOCF's students.

20 12. Head Start and Early Head Start programs are required by federal and state  
21 requirements to obtain written proof of a student's custodianship. Failure to obtain  
22 this proof puts children at risk of being released to a non-custodial person.

1 13. Despite Plaintiff's warning, Defendant EOCF did not obtain proof of custodianship.

2 14. After Defendant EOCF's failure to remedy these problems on its own, on or about  
3 November 19, 2017 Plaintiff sent a letter to both the Region 10 Head Start Child  
4 Development Director and the Pre-K Specialist at the Washington State Department  
5 of Early Learning. Plaintiff informed them that Defendant EOCF's dishwashers posed  
6 a risk to children because they were improperly ventilated, and that Defendant EOCF  
7 was not obtaining written proof of custodianship for its students.

8 15. On or about November 29, 2017 Defendant Purrett and Defendant Hamilton, acting in  
9 their capacities as Executive Director and HR Director respectively, summarily  
10 placed Plaintiff on paid administrative leave.

11 16. Defendant Purrett and Defendant Hamilton told Plaintiff he was being placed on  
12 administrative leave due to a grievance that had been filed against him by an  
13 employee of Defendant EOCF, despite the fact that Defendant EOCF had conducted  
14 investigations of grievances against other employees without putting such employees  
15 on administrative leave.

16 17. Defendants informed Plaintiff on or about January 4, 2018 that he would be  
17 terminated, and Plaintiff was terminated by Defendants on or about January 12, 2018.

18 18. Defendant Purrett knowingly participated in, cooperated in, and directed the wrongful  
19 discharge of Plaintiff for making health and safety complaints.

20 19. Defendant Hamilton knowingly participated in, and cooperated in, the wrongful  
21 discharge of Plaintiff for making health and safety complaints.

22 20. Plaintiff had a public obligation to report child abuse or neglect. RCW 26.44.030.

1 21. Plaintiff had, and has, a legal right to petition to his federal or state government for a  
2 redress of his grievances, or for the common good. U.S. Const. amend I; Wash.  
3 Const. Sect. 4.

4 22. By complaining about the safety risks to children posed by the improperly ventilated  
5 dishwashers, and the failure of Defendant EOCF to obtain proper written proof of  
6 custodianship, Plaintiff was reporting misconduct by his employer, Defendant EOCF.

7 23. The degree of wrongdoing by Defendant EOCF was great because its actions and  
8 inactions posed serious risks to the safety of the children for which it was responsible.

9 24. Plaintiff reported Defendant EOCF's wrongdoing in a reasonable manner.

10 25. Federal law and regulations require that a Head Start agency must meet or exceed  
11 state or local licensing requirements for its facilities. 42 U.S.C. § 9836A(a)(1)(D)(i);  
12 45 CFR 1302.21(d)(1) and 45 CFR 1302.47(b)(1)(i).

13 26. Federal regulations also require that a facility operated by a Head Start agency must  
14 be free from hazards posed by appliances. 45 CFR 1302.47(b)(1)(iv).

15 27. Washington state has a clear public policy requiring that child care and early  
16 childhood education programs maintain equipment in a safe manner that protects  
17 children from injury hazards.

18 28. Washington state has a clear public policy requiring that child care and early  
19 childhood education programs make sure that equipment capable of reaching 110  
20 degrees must be inaccessible to children.

21 29. Each of the foregoing policies is jeopardized if employees are terminated because  
22 they make complaints that their employer is acting in violation of these policies.

1 30. Defendants discharged Plaintiff because he complained about the health and safety  
2 risks posed to children by the high temperatures of the dishwashers.

3 31. Defendants discharged Plaintiff because he complained that Defendant EOCF was not  
4 obtaining written proof of custodianship which posed a risk to the safety of its  
5 students.

6 32. Defendants did not have an overriding justification for Plaintiff's dismissal that is  
7 unrelated to Plaintiff's public-policy-linked conduct.

8 33. Defendants unlawful conduct caused Plaintiff to suffer lost wages and injury, lost  
9 valuable eligibility for loan forgiveness under the Public Service Loan Forgiveness  
10 program, mental anguish, humiliation, embarrassment, exacerbation of his medical  
11 conditions, physical harm, insult, indignation, fear, anxiety and nervousness for  
12 which he should be compensated at trial.

#### 13 IV. CLAIMS FOR RELIEF

##### 14 PLAINTIFF'S FIRST CLAIM FOR RELIEF 15 (WRONGFUL TERMINATION)

16 34. Plaintiff reasserts and re-alleges the allegations set forth above.

17 35. Defendant EOCF wrongfully discharged Plaintiff because:

- 18 a. He performed his public obligation to report child abuse or neglect that  
19 Defendant EOCF was placing children at risk of harm from  
20 overheating dishwashers, and from failing to properly document  
21 children's custodianship;

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- b. He exercised his legal right to petition his government, by and through the Office of Head Start and the Department of Early Learning, to resolve the health and safety risks posed to children by the overheating dishwashers and the failure to properly document children's custodianship;
- c. He reporter misconduct by Defendant EOCF for allowing the overheating dishwashers to pose a health and safety risk to children, and for failing to properly document the custodianship of children.

36. Defendants do not have an overriding justification for Plaintiff's dismissal that is unrelated to Plaintiff's public-policy-linked conduct.

**PLAINTIFF'S SECOND CLAIM FOR RELIEF  
(VIOLATION OF WASHINGTON WAGE PAYMENT ACT)**

- 36. Plaintiff reasserts and re-alleges the allegations set forth above.
- 37. At all relevant times herein, Plaintiff was entitled to the rights, protections, and benefits provided under the Washington Wage Payment Act (WPA), RCW 49.48.
- 38. The WPA regulates, among other things, the payment of wages due to employees at the termination of their employment. RCW 49.48.010.
- 39. Defendant EOCF is subject to the WPA requirements because it employs employees in the state of Washington.
- 40. Plaintiff's employment was terminated with Defendants on January 12, 2018. Pursuant to RCW 49.48.010, Defendant EOCF was required to pay Plaintiff all wages owed to him by the end of the established pay period. Defendant EOCF

1 failed to pay the wages owed to Plaintiff by the end of the established pay period  
2 after his termination of employment on January 12, 2018.

3 41. Pursuant to RCW 49.48.030 Plaintiff is also entitled to costs and reasonable attorney  
4 fees.

5 **PLAINTIFF'S THIRD CLAIM FOR RELIEF**  
6 **(VIOLATION OF WASHINGTON WAGE REBATE ACT)**

7 42. Plaintiff reasserts and re-alleges the allegations set forth above.

8 43. At all relevant times herein, Plaintiff was entitled to the rights, protections, and  
9 benefits provided under the Washington Wage Rebate Act (WRA), RCW 49.52.

10 44. The WRA regulates, among other things, the payment of a wages an employer is  
11 obligated to pay an employee by any statute, ordinance or contract. RCW  
12 49.52.050(2).

13 45. The WRA also regulates, among other things, the entry of wage payments in an  
14 employer's records. RCW 52.050(3).

15 46. Defendant EOCF is subject to the WRA requirements because it employs employees  
16 in the state of Washington.

17 47. Plaintiff was entitled to compensation pursuant to his contract.

18 48. As alleged herein, Defendants willfully and intentionally failed to pay Plaintiff the  
19 wages he was owed.

20 49. Defendants have not acted in good faith. Pursuant to RCW 49.52.070, Plaintiff is  
21 entitled to recover an award for twice the amount of the wages unlawfully withheld.  
22

1 50. Pursuant to RCW 49.52.070 Plaintiff is also entitled to recover costs and a  
2 reasonable sum of attorney fees.

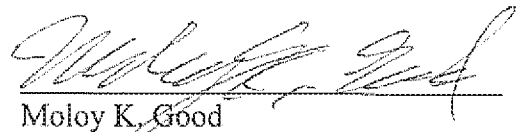
3 **V. PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff now asks the Court for the following relief:

- 5 37. To award Plaintiff compensatory damages, including but not limited to past and  
6 future wages and emotional distress, from Defendant in amounts to be determined at  
7 trial, plus interest from the date of judgment on his wrongful termination claim;
- 8 38. To award Plaintiff his costs and attorney fees; and
- 9 39. To grant such other relief as is just and appropriate.

10  
11 Dated this 5<sup>th</sup> day of July, 2018.

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13 GOOD LAW CLINIC, PLLC

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16 Moloy K. Good  
17 Washington State Bar No. 36036  
18 Email: [moloy@goodlawclinic.com](mailto:moloy@goodlawclinic.com)  
19 Attorney for Plaintiff  
20 Trial Attorney: Moloy K. Good