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SUPERIOR COURT, STATE OF WASHINGTON, COUNTY OF SPOKANE

BURTON A. DEZIHAN,

Plaintiff,

vs.

STATE OF WASHINGTON,

Defendant.

NO.

18200146-8

**COMPLAINT FOR DAMAGES AND
DEMAND FOR JURY TRIAL**

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COMES NOW THE PLAINTIFF, by and through his attorneys of record, MATTHEW Z. CROTTY of CROTTY & SON LAW FIRM, PLLC and JONATHAN H. NEILL of EYMANN ALLISON HUNTER JONES P.S., and alleges as follows:

I. IDENTIFICATION OF PARTIES, JURISDICTION AND VENUE

1.1 Plaintiff Burton A. Dezihan (hereafter "Mr. Dezihan" or "plaintiff") is a resident of Pierce County, Washington. Mr. Dezihan brings a whistleblower retaliation claim pursuant to RCW 42.40 et seq. and RCW 49.60.210. Mr. Dezihan also brings a claim under the anti-blacklisting statute, RCW 49.44. Mr. Dezihan further brings a claim for invasion of privacy and negligence.

1 1.2 Defendant State of Washington is a State within the United States of America.

2 1.3 This Court has jurisdiction over this matter pursuant to RCW 4.28.020 and
3 RCW 4.92.010. Venue is proper in Spokane County, Washington because Defendant
4 maintains multiple places of business in Spokane County and because some of Defendant’s
5 retaliatory actions took place in Spokane County.

6 **II. FACTS**

7 2.1 Plaintiff hereby reincorporates each and every allegation contained in
8 paragraphs 1.1 through 1.3 above.

9 2.2 From January 2006 to May 31, 2014, the State of Washington’s Department
10 of Fish and Wildlife (hereafter “DFW”) employed Mr. Dezihan as the DFW’s Region 6
11 Advisor to the Commission for Persons with Disabilities.

12 2.3 On or about May 8, 2008, Mr. Dezihan filed a confidential whistleblower
13 complaint with the Washington State Auditor’s Office (hereafter “SAO”).

14 2.4 Identities or identifying characteristics of individuals filing whistleblower
15 complaints with the SAO are to be kept confidential.

16 2.5 Mr. Dezihan understood in filing the whistleblower complaint that his name
17 and identity would be kept confidential.

18 2.6 At no time did Mr. Dezihan give consent to the SAO for his name or identity
19 to be revealed.

20 2.7 At no time did Mr. Dezihan give consent to the SAO for his whistleblower
21 complaint to be disseminated outside the SAO.

22 2.8 At no time did Mr. Dezihan give consent to the SAO for his whistleblower
23 complaint, or his status as a whistleblower, to be disseminated to individuals outside the
24 SAO.

25 2.9 The whistleblower complaint form sets forth facts indicating that state
26 employee Jack Nannery was committing fraud by stealing time from the State by leaving

1 work early to coach a high school baseball team, and using an agency vehicle to attend
2 practices and ballgames. Jack Nannery worked within the Washington State Department of
3 Transportation.

4 2.10 The SAO investigated the whistleblower complaint. In May, 2009, the SAO
5 issued a report finding that Mr. Nannery had engaged in improper governmental action.

6 2.11 The whistleblower complaint was signed by Mr. Dezihan and contained his
7 name on the handwritten form that accompanied the complaint.

8 2.12 Management within Mr. Nannery's division of the Washington State Ferries
9 (WSF) of the Washington State Department of Transportation ("WSDOT") demoted Steve
10 Chaussee in September, 2009 after believing that he (Chaussee) was the individual who filed
11 the May, 2008 whistleblower complaint against Mr. Nannery. Mr. Chaussee filed a
12 whistleblower retaliation lawsuit against the state under RCW 42.40 as a "perceived"
13 whistleblower, and on March 26, 2015, a jury awarded him a \$1 million verdict against the
14 State of Washington for whistleblower retaliation.

15 2.13 During the March 2015 *Chaussee v. State of Washington* trial, Mr. Dezihan
16 learned for the first time that an unredacted copy of his whistleblower complaint had been
17 received by the WSDOT/WSF and had also been released on the State of Washington
18 computer interlink. Before March 2015 the Defendant intentionally and willfully concealed,
19 from Mr. Dezihan, that his un-redacted whistleblower complaint had been disclosed to
20 others. Moreover, the State of Washington knew that the disclosure of Mr. Dezihan's
21 unredacted whistleblower complaint violated Washington law yet the State of Washington
22 did not directly inform Mr. Dezihan that the complaint had been released in an unredacted
23 form.

24 2.14 The SAO released Mr. Dezihan's whistleblower complaint form. Mr.
25 Dezihan's whistleblower complaint form was received by the WSDOT/WSF.

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1 2.15 Mr. Dezihan's whistleblower complaint form was reviewed by individuals
2 within the WSDOT/WSF.

3 2.16 WSDOT employee Paul Brodeur received an un-redacted copy of Mr.
4 Dezihan's whistleblower complaint form and shared this with other employees of the State of
5 Washington.

6 2.17 Mr. Dezihan's whistleblower complaint form was reviewed by individuals
7 working for non-SAO agencies or offices.

8 2.18 Mr. Dezihan's un-redacted whistleblower complaint form was also released
9 on the State of Washington's computer interlink.

10 2.19 Other State of Washington agencies were aware that Mr. Dezihan was a
11 whistleblower.

12 2.20 The State of Washington produced to attorney Jack Sheridan, counsel for
13 Steve Chaussee, an unredacted copy of Mr. Dezihan's whistleblower complaint.

14 2.21 One of the many State of Washington positions for which Mr. Dezihan
15 applied for employment was with the Washington State Department of Transportation's
16 Keller Ferry Terminal. In interviewing for that position, Mr. Dezihan traveled to Spokane
17 and attended the interview at the WSDOT's Spokane office on 2714 N. Mayfair Street. Upon
18 information and belief, Mr. Dezihan, although qualified for that job, was not selected for it in
19 retaliation for his filing of the above-referenced whistleblower complaint. It was not until
20 March 2015 that Mr. Dezihan discovered that the reason for his non-selection for the above-
21 referenced position, as well as other State of Washington positions that he applied for
22 between the filing of his whistleblower complaint and his March 2015 attendance at the
23 *Chaussee* trial, was caused by the State of Washington's disclosure of the unredacted
24 whistleblower complaint.

25 2.22 Prior to the filing of this lawsuit, Mr. Dezihan timely filed an administrative
26 claim with the Office of Risk Management and waited the required time before filing in

1 Spokane County Superior Court. The content of the administrative claim met the
2 requirements of RCW 4.92.100.

3 **III. CAUSES OF ACTION**

4 3.1 Plaintiff hereby reincorporates each and every allegation set forth in
5 paragraphs 2.1 – 2.22 above.

6 3.2 The facts set forth above state a claim against defendant State of Washington
7 for whistleblower retaliation in violation of RCW 42.40, et seq. and RCW 49.60.

8 3.3 The facts set forth above state a claim against defendant State of Washington
9 under Washington’s anti-blacklisting statute, RCW 49.44.

10 3.4 The facts set forth above state a claim against the State of Washington for
11 invasion of privacy.

12 3.5 The facts set forth above state a negligence claim against the State of
13 Washington.

14 3.5.1 The State of Washington had a duty to ensure that Mr.
15 Dezihan’s identity as a whistleblower was not disclosed to individuals and/or
16 entities that lacked a legal need to know Mr. Dezihan’s whistleblower status.

17 3.5.2 The State of Washington breached its duty to Mr. Dezihan by
18 disclosing the unredacted copy of Mr. Dezihan’s whistleblower complaint.

19 3.5.3 The State of Washington’s breach of the above duty caused
20 Mr. Dezihan harm.

21 3.5.4 The State of Washington’s act of disclosing Mr. Dezihan’s
22 unredacted whistleblower complaint and/or its intentional failure to inform
23 Mr. Dezihan of the document’s disclosure resulted in Mr. Dezihan being
24 damaged in the form of, *inter alia*, lost employment opportunities.

25 3.6 The release and transmittal of whistleblower complaint forms by the SAO to
26 non-SAO state employees is a violation of state law, including common law negligence.

1 3.7 SAO's release and transmittal of Mr. Dezihan's whistleblower complaint form
2 to the WSDOT was a violation of state law, including common law negligence.

3 3.8 SAO's posting of Mr. Dezihan's whistleblower complaint form on the State of
4 Washington's computer interlink was a violation of state law, including common law
5 negligence.

6 3.9 The State of Washington's release and transmittal of Mr. Dezihan's
7 whistleblower complaint form to third-party individuals was a violation of state law,
8 including common law negligence.

9 3.10 As a result of the State of Washington's violation of state whistleblower laws,
10 Mr. Dezihan has been retaliated against by the State of Washington.

11 3.11 As a result of the State of Washington's violation of state whistleblower laws,
12 Mr. Dezihan has suffered injury and damages including but not limited to loss of enjoyment
13 of life, pain and suffering, mental anguish, emotional distress, injury to reputation, and
14 humiliation.

15 3.12 As a result of the State of Washington's violation of state whistleblower laws,
16 Mr. Dezihan has suffered lost wages in the form of front and back pay, and emotional harm
17 proximately caused by the acts of the defendant and its agents.

18 3.13 As a result of the State of Washington's violation of state anti-blacklisting
19 laws, Mr. Dezihan has suffered injury and damages.

20 3.14 As a result of the State of Washington's negligence, Mr. Dezihan has suffered
21 injury and damages.

22 3.15 As a result of the State of Washington's invasion of privacy, Mr. Dezihan has
23 suffered injury and damages.

24 3.16 Defendant is liable for the actions of its agents under the doctrines of
25 respondent superior and principal/agent.

26

1 **PRAYER FOR RELIEF**

2 WHEREFORE, plaintiff prays for relief as follows:

- 3 1. Special damages including but not limited to damages for back pay, front pay,
4 and lost benefits, in an amount to be proven at trial;
- 5 2. General damages including but not limited to damages for loss of enjoyment
6 of life, pain and suffering, mental anguish, frustration, inconvenience, anxiety,
7 emotional distress, injury to reputation, and humiliation;
- 8 3. Prejudgment interest in an amount to be proven at trial;
- 9 4. Reasonable attorneys' fees and costs;
- 10 5. Compensation for the tax penalty associated with any recovery; and
- 11 6. For such other and further relief as the Court may deem just and equitable.

12 **IV. JURY DEMAND**

13 4.1 The plaintiff elects to have all claims and all issues tried by a jury of twelve
14 (12) persons. Plaintiff has paid to the Clerk of the Court Spokane County the jury fee as
15 required by law.

16 DATED this 11th day of January, 2018.

17 **CROTTY & SON LAW FIRM, PLLC**

18
19 By: 

20 MATTHEW Z. CROTTY, WSBA #39284

21 **EYMANN ALLISON HUNTER JONES P.S.**

22
23 By: 

24 JONATHAN H. NEILL, WSBA #29406

25 Attorneys for Plaintiff

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