

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
FOR THE THIRTEENTH JUDICIAL CIRCUIT
Case No. 2015-CP-23-

05386

James Brian Bishop,

Plaintiff,

vs.

Renewable Water Resources; James D. Martin, Jr., in his individual and official capacity; Ray Orvin, in his individual and official capacity; Barbara Wilson, in her individual and official capacity; and Greg Wright, in his individual and official capacity,

Defendants.

SUMMONS

ENTERED COMPUTER

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL D. WICKENSIMER
2015 AUG 31 PM 3 54

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is hereby served upon you, and to serve a copy of your Answer to the said Complaint on the subscribers at their office, located at 1612 Marion Street, Suite 312, Columbia, South Carolina, 29201, within thirty (30) days after service thereof exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

MOONEYHAM BERRY, LLC

By: 

Joseph D. Dickey, Jr.
S.C. Bar No. 100064
1612 Marion Street, Suite 312
Columbia, SC 29201
Phone: (803) 380-5575
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Attorneys for Plaintiff

Columbia, South Carolina
August 25, 2015

SCANNED

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

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FOR THE THIRTEENTH JUDICIAL CIRCUIT

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James Brian Bishop,

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Renewable Water Resources; James D. Martin, Jr., in his individual and official capacity; Ray Orvin, in his individual and official capacity; Barbara Wilson, in her individual and official capacity; and Greg Wright, in his individual and official capacity,

Defendants.

**COMPLAINT
(Jury Trial Demanded)**

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2015 AUG 31 PM 3 54

COMES NOW the Plaintiff, James Brian Bishop (hereinafter “Bishop” or “Plaintiff”) and alleges the following in his complaint against Defendants Renewable Water Resources, James D. Martin, in his individual and official capacity (hereinafter “Martin”), Ray Orvin, in his individual and official capacity (hereinafter “Orvin”), Barbara Wilson, in her individual and official capacity (hereinafter “Wilson”), and Greg Wright, in his individual and official capacity (hereinafter “Wright”) (collectively “Defendants”).

NATURE OF THE ACTION

1. This is an action seeking damages for Defendant Renewable Water Resources’ wrongful termination of Plaintiff in violation of public policy and Renewable Water Resources’ Personnel Policies and Procedures. In addition, this action seeks damages under common law claims of civil conspiracy and defamation.

2. This action arises from Defendant Renewable Water Resources' wrongful termination of Plaintiff from his position of Engineering Supervisor, and the actions taken against Plaintiff that led to his termination.

3. Plaintiff's termination from Renewable Water Resources is inconsistent with Renewable Water Resources' employee handbook and discipline procedures. Plaintiff's termination was the result of a civil conspiracy which, in turn, has defamed his personal and professional reputation.

PARTIES

4. Plaintiff is a citizen and resident of Greenville County, South Carolina, and has remained so at all times relevant to the allegations of this complaint.

5. Defendant Renewable Water Resources is a South Carolina special purpose district established pursuant to the provisions of Act 362 of 1925 as the Greater Greenville Sewer District empowered with responsibilities, which include, but are not limited to, acquiring, constructing, operating, maintaining, improving and extending facilities for the collection of sewage within the sub-district.. The special purpose district subsequently changed its name to the Western Carolina regional Sewer Authority in 1984. Pursuant to Act 103 of 2009, the state legislature changed the special purpose district's name to Renewable Water Resources (hereinafter "ReWa"). ReWa is organized and existing pursuant to the laws of the State of South Carolina and governed by a board of commissioners with its principal place of business located in Greenville, South Carolina.

6. Upon information and belief, Defendant Martin is a citizen and resident of Greenville County, South Carolina, and has remained so at all times relevant to the allegations of this Complaint. Defendant Martin served as a member of ReWa's board of commissioners during the time period alleged in this Complaint.

7. Upon information and belief, Defendant Ray Orvin is a citizen and resident of Greenville County, South Carolina, and has remained so at all times relevant to the allegations of this Complaint. Defendant Orvin served as the executive director of ReWa during the time period alleged in this Complaint.

8. Upon information and belief, Defendant Barbara Wilson is a citizen and resident of Greenville County, South Carolina, and has remained so at all times relevant to the allegations of this Complaint. Defendant Wilson served as the Director of Human Resources for ReWa during the time period alleged in this Complaint.

9. Upon information and belief, Defendant Greg Wright is a citizen and resident of Greenville County, South Carolina, and has remained so at all times relevant to the allegations of this Complaint. Defendant Wright served as Plaintiff's immediate supervisor at ReWa during the time period alleged in this Complaint.

JURISDICTION AND VENUE

10. This Court has subject matter and personal jurisdiction over this matter as the majority of the events giving rise to this action occurred in Greenville County, and each party has substantial connections to Greenville County making jurisdiction proper.

11. Venue is proper in this Court pursuant to S.C. Code Ann. § 15-7-30.

FACTUAL ALLEGATIONS

12. The allegations set forth above are re-alleged and incorporated herein by reference.

13. On or about September 18, 2001, Plaintiff began his career at ReWa as an Engineering Supervisor. At the time, ReWa was named Western Carolina Regional Sewer Authority.

14. Upon being hired, Plaintiff signed an acknowledgment of receipt of an employee brochure.

15. Upon information and belief, ReWa provides a Personnel Policies and Procedures handbook for managers and supervisors, which provides workplace policies and guidelines. The handbook also provides discipline procedures to be followed in regard to employees.

16. Plaintiff was an employee with ReWa for almost thirteen (13) years.

17. Upon information and belief, Plaintiff neither has been disciplined nor had other disparaging remarks placed in his personnel file concerning his integrity or ability throughout his career at ReWa.

18. From March 2002 to March 2005, Plaintiff worked without incident and received various accolades for his job performance such as the Blue Ridge Foothill District Engineer of the Year, the State Engineer of the Year, and was nominated for the National Engineer of the Year.

19. Throughout his employment with ReWa, Plaintiff always received above standard evaluations for his job performance.

20. At the time of his termination, Plaintiff was earning an annual salary of \$90,000.00, including state provided health and retirement benefits.

21. Upon information and belief, Defendant Orvin created a hostile work environment for employees, and many employees, including Plaintiff, were afraid of him. Upon information and belief, Orvin intimidated employees where no one would make a complaint with ReWa's human resources department in fear of retaliation.

22. In or around summer of 2006, Plaintiff was physically assaulted by Orvin after intervening in an argument between Orvin and Lauren Hilderbrand. Plaintiff agreed with Hilderbrand's position, which caused Orvin to slam Plaintiff against the wall holding Plaintiff by his neck and shoulders while yelling.

23. The attack on Plaintiff was witnessed by Lauren Hildebrand who advised Plaintiff “not to press the issue.”

24. Upon information and belief, Plaintiff was told he could not get Orvin fired and it was not in his best interest to try.

25. Plaintiff went to Wilson, who was the Director of Human Resources at ReWa, about the attack. Wilson interviewed Plaintiff and wrote a report.

26. Upon information and belief, Wilson told Plaintiff that the incident report would be placed in his personnel file and Orvin would apologize.

27. Upon information and belief, Wilson never placed any incident report about the Orvin altercation into Plaintiff's file.

28. Subsequently, Plaintiff contacted Wilson and requested a copy of his personnel file to confirm Wilson had placed a copy of the Orvin incident report in the file.

29. Upon information and belief, Plaintiff was told by Wilson that she had not placed the incident report in his personnel file but that she would soon.

30. Plaintiff reported bi-weekly to Wright the status of projects and requested that Wright act on the issues that were holding the Plaintiff up.

31. Upon information and belief, Wright was holding up projects on purpose so that the statement could be made that Plaintiff was not meeting deadlines.

32. On or about March 24, 2014, Plaintiff was terminated from his employment at ReWa. The Plaintiff was discharged allegedly for failing to perform assigned duties in the proper manner such as:

- a. Plaintiff approved sewer service to development outside of the employer's service area;

- b. Plaintiff failed to support the pre-treatment staff in a timely fashion;
- c. Plaintiff failed to correctly review developer applications submitted to the employer;
- d. Plaintiff demonstrated an overall lack of attention to details;
- e. Plaintiff has deferred all decisions on actions to his department manager and is not processing his work load.

33. In or around February 2014, Martin's engineering firm was in a business dispute with a developer. Defendants Wilson and Wright decided to investigate the allegations of coercion and manipulation of ReWa employees by Martin for his own personal gain when his firm was working alongside ReWa.

34. As part of Wilson and Wright's investigation, Plaintiff was called to attend a meeting with Wilson, Wright, and Charlie Logue, ReWa's former director of engineering. At this meeting, Plaintiff was asked if he had given Martin or his firm special treatment on projects. Plaintiff responded, "no," but that one of Martin's employees would attempt to coerce him to provide special treatment and threatened to tell Martin if Plaintiff would not comply.

35. In March 24, 2014, Plaintiff was terminated.

36. The South Carolina Department of Employment and Workforce ("SCDEW") originally found that Plaintiff was discharged for cause connected with employment.

37. Plaintiff appealed SCDEW's original decision and the Appeal Tribunal reversed. The Appeal Tribunal held that Plaintiff was discharged without cause connected with the employment. The Appeal Tribunal decision is attached as **Exhibit A**.

38. The reasons for Plaintiff's termination were unfounded and untrue as demonstrated by Plaintiff.

FOR A FIRST CAUSE OF ACTION
(Civil Conspiracy as to Defendants Martin, Orvin, Wilson, and Wright)

39. The allegations set forth above are re-alleged and incorporated herein by reference.

40. Defendants Martin, Orvin, Wilson, and Wright combined and conspired to have Plaintiff terminated from his job at ReWa.

41. Upon information and belief, Martin, Orvin, Wilson, and Wright decided that Plaintiff should be terminated because he told ReWa's human resources department that Defendant Martin would intimidate him in order to gain an advantage on projects with ReWa when asked about the situation.

42. Defendants Martin, Orvin, Wilson, and Wright combined and conspired for the purpose of getting Plaintiff terminated from ReWa and, upon information and belief, to protect Martin from any liability for using his position as a ReWa board member for personal gain.

43. In doing so, Defendants Martin, Orvin, Wilson, and Wright have caused Plaintiff to suffer special damages in the form of humiliation, embarrassment, loss of enjoyment of life, and loss of consortium, the dissolution of his marriage and family, as well as other special damages to be proven at trial.

FOR A SECOND CAUSE OF ACTION
(Defamation as to all Defendants)

44. The allegations set forth above are re-alleged and incorporated herein by reference.

45. Defendants Martin, Orvin, Wilson, and Wright caused Plaintiff's employment with ReWa to be terminated on allegations of poor work performance.

46. Defendants Martin, Orvin, Wilson, and Wright cited poor work performance for Plaintiff's termination, despite having actual knowledge that Plaintiff had nothing but high marks on his work performance reviews.

47. Plaintiff has never had a bad work performance review. Plaintiff consistently received above standard or higher marks on reviews.

48. Upon information and belief, other engineering firms or employers in related industries are intimidated by Orvin and would not hire Plaintiff because Orvin terminated him based on poor performance.

49. As a result, Plaintiff has been unable to obtain a comparable employment position with the same level of pay.

50. Defendants' false statements about Plaintiff have caused him to suffer damages in the form of lost wages, lost employment opportunities, damage to his reputation, and other damages to be proven at trial.

FOR A THIRD CAUSE OF ACTION

(Wrongful Discharge, Breach of Employee Handbook as to Defendant ReWa)

51. The allegations set forth above are re-alleged and incorporated herein by reference.

52. ReWa issues employee handbooks, and Personnel Policies and Procedures to its employees.

53. Upon information and belief, ReWa employee handbooks, and Personnel Policies and Procedures contain any and all policies and procedures related to an individual's employment with the company, including disciplinary and termination procedures.

54. Upon information and belief, ReWa supplements its employee handbooks, and Personnel Policies and Procedures with a Progressive Discipline plan which is attached as **Exhibit B**.

55. In terminating Plaintiff, ReWa, through its agents and employees, failed to adhere to the progressive discipline plan outlined in its policies.

56. ReWa's wrongful termination of Plaintiff has directly and proximately caused him to suffer actual damages in the form of lost earnings, lost future earnings capacity, damage to

professional reputation, lost job opportunities, job search expenses, and professional stigma, lost employment benefits, and emotional distress. Accordingly, Plaintiff is entitled to recover in this action actual damages from Defendant ReWa sufficient to compensate him for his economic and non-economic damages caused by ReWa's wrongful termination.

57. Upon further information and belief, ReWa's wrongful termination of Plaintiff was intentional and in reckless disregard of his rights to be free from such termination.

58. Therefore, Plaintiff is entitled to recover punitive damages against ReWa, in an amount to be determined by the jury, sufficient to deter ReWa and others from engaging in such unlawful actions in the future.

FOR A FOURTH CAUSE OF ACTION
(Wrongful Discharge, Violation of Public Policy as to Defendant ReWa)

59. The allegations set forth above are re-alleged and incorporated herein by reference.

60. In South Carolina, the following offenses are violations of public policy and state law:

- a. Use of official position or office for financial gain. *See* S.C. Code Ann. § 8-13-700, *et. seq.*;
- b. Fraud. *See* S.C. Code Ann. § 16-13-10;
- c. Slander/Libel. *See* S.C. Code Ann. § 16-7-150; and
- d. Conspiracy. *See* S.C. Code Ann. § 16-17-410.

61. Defendants engaged in fraud by making a false representation that Plaintiff had poor work performance. This is contrary to the evidence that shows Plaintiff had consistently good work performance reviews. Defendants continued to make this false representation even during Plaintiff's unemployment proceedings, and upon information and belief, made these statements to various prospective employers.

62. ReWa and its employees' false representation was confirmed as false in Plaintiff's work performance reviews during his employment where he consistently scored Above Standard or higher.

63. Defendants' false representation was material as the Defendants used Plaintiff's alleged poor work performance as the basis for his termination.

64. Defendants publicized these statements to other employees and the South Carolina Department of Workforce. While these parties may be privileged, Defendants should be stopped from asserting privilege as these statements were used to prevent Plaintiff from receiving unemployment benefits prior to appeal.

65. Upon information and belief, Defendants publicized these false representations to prospective employers or other engineering firms/companies which damaged Plaintiff's employment record, making it more difficult for him to pursue other employment opportunities.

66. In terminating Plaintiff, individual Defendants Martin, Orvin, Wilson, and Wright combined and conspired to terminate Plaintiff using the false statements about his poor work performance after learning he told ReWa's human resources department about Defendant Martin's use of his position to gain an advantage on ReWa projects for his engineering firm.

67. In doing so, the individual defendants and ReWa engaged in an overt act by terminating Plaintiff to further Defendant Martin's objectives.

68. In sum, ReWa wrongfully terminated Plaintiff in violation of public policy in the following ways:

- a. Fabricating poor work performance by Plaintiff and using that as the reason for termination;

- b. Conspiring to create false statements about Plaintiff's work performance and then publicizing false statements;
- c. Conspiring to terminate Plaintiff in order to protect Defendant Martin from potentially adverse testimony from Plaintiff; and
- d. Assisting Defendant Martin in using his position as ReWa commissioner for personal gain.

69. ReWa's wrongful termination of Plaintiff has directly and proximately caused him to suffer actual damages in the form of lost earnings, lost future earnings capacity, damage to professional reputation, lost job opportunities, job search expenses, and professional stigma, lost employment benefits, and emotional distress. Accordingly, Plaintiff is entitled to recover in this action actual damages from Defendant ReWa sufficient to compensate him for his economic and non-economic damages caused by Plaintiff's wrongful termination.

70. Upon further information and belief, ReWa's wrongful termination of Plaintiff was intentional and in reckless disregard of his rights to be free from such termination.

71. Therefore, Plaintiff is entitled to recover punitive damages against ReWa, in an amount to be determined by the jury, sufficient to deter ReWa and others from engaging in such unlawful actions in the future.

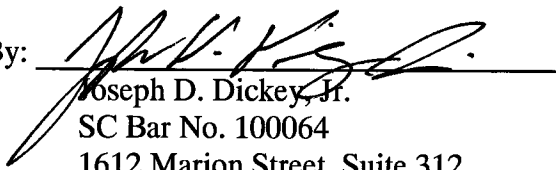
WHEREFORE, having fully set forth his allegations against Defendants, Plaintiff respectfully prays that this Court enter judgment against Defendants by:

- a. Awarding Plaintiff actual and compensatory damages for economic and non-economic injuries;
- b. Awarding Plaintiff his costs and disbursements in this action, including reasonable attorneys' fees and costs, and expert fees and costs;

- c. Awarding Plaintiff punitive damages, as permitted by law;
- d. Awarding Plaintiff prejudgment and other interest on all monetary damages, as permitted by law; and
- e. Granting Plaintiff such other further relief as this Court may deem just and proper.

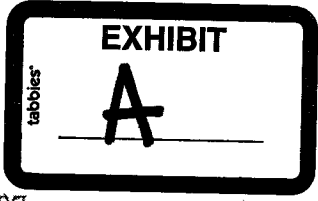
MOONEYHAM BERRY, LLC

By: _____


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Attorneys for Plaintiff

Columbia, South Carolina
August 25, 2015



FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL D. WICKENSIMPER

Appeal No: 1407904

DECISION NO: 2014-A-7507

2015 AUG 31 PM 3 54
SOUTH CAROLINA

DEPARTMENT OF EMPLOYMENT AND WORKFORCE

DECISION OF APPEAL TRIBUNAL

Hearing Date: May 15, 2014

JAMES B. BISHOP
606 BUTTERMILK CT
SIMPSONVILLE, SC 29681 5665

CLAIMANT

RENEWABLE WATER RESOURCES
C/O BARBARA WILSON
561 MAULDIN RD
GREENVILLE, SC 29607

EMPLOYER

APPELLANT: Claimant

SS NO: 248-47-3330

APPEARANCES

FOR THE Participated with
CLAIMANT: Attorney

FOR THE2 Witnesses
EMPLOYER: with Attorney

FINDINGS OF FACT

The issue in this case is whether the claimant was discharged for cause.

The claimant appealed the determination mailed April 11, 2014 which disqualified him sixteen (16) weeks and sixteen (16) times the weekly benefit amount from March 30, 2014 to July 19, 2014 upon finding the claimant was discharged for cause connected with the employment.

The claimant worked with the employer from September 18, 2001 to March 24, 2014 as an engineering supervisor. The claimant was discharged for failing to perform his assigned duties in the proper manner. Specifically the employer alleged that the claimant approved sewer service to development outside of the employer's service area; failed to support the pre-treatment staff in a timely fashion; failed to correctly review developer applications submitted to the employer; and demonstrated an overall lack of attention to details. As part of the employer's charter by the State General Assembly, the employer is designated to provide sewer service to a defined geographic area. One of the claimant's primary job duties was to approve or deny applications for service presented by various entities. In making this decision, the claimant was called upon to determine whether the entity was located within the designated service area. The final authority on this issue rested with the employer's board of directors; however, this authority in many cases had been delegated to the claimant. When making this determination the claimant relied on maps of the service area as defined by the employer's executive director, these maps were frequently inconsistent with each other. The claimant performed this function approximately 100 times per year. The employer took issue with the claimant's decision only after a developer who had been denied brought certain cases where permits had been granted to the employer's attention. Prior to this specific incident, the claimant's work had never been called into question by the employer nor had the claimant been warned that he was performing this task incorrectly. The employer's next allegation was that the claimant failed to support the pre-treatment staff adequately. The claimant was responsible for approving additional flow in to the employer's system as requested by existing users. The application process was managed by the pre-treatment staff. In the specific case raised by the employer, it was alleged that the claimant took too long in performing his function in the process and caused the existing user to violate compliance standards. However, the record demonstrates that the claimant was not adequately apprised as to the urgency of the user's situation until late in the project. The employer's representative, who was a member of the pre-treatment staff, indicated that the claimant's duties were carried out appropriately once the claimant was made aware of the urgency of the project. Next the employer alleged that the claimant admitted to performing an inadequate review of certain materials submitted by a developer. In the past the

claimant was responsible for reviewing these materials completely. However, approximately a year prior to the claimant's termination, a new employee had been hired to take over a portion of the review process. The claimant explained during his testimony that his remarks to the employer had been merely to state that he did not perform a detailed review of the information for which the new employee had been given review responsibility. Finally, the employer alleged that the claimant had failed to devote a sufficient level of attention to his work overall. The employer failed to present any evidence or specific examples of when this was the case. Rather, the record demonstrates that the claimant's work has been consistently reviewed as above standard and that the claimant has never been subject to any past disciplinary actions in regards to his work.

REASONS

S.C. Code Ann. §41-27-20 requires that unemployment benefits to be set aside for persons unemployed through no fault of their own.

S.C. Code Ann. §41-35-120(2)(b) requires disqualification from benefits for five (5) to nineteen (19) weeks, with a corresponding monetary reduction, when the Department finds that a claimant has been discharged for cause, other than misconduct, connected with the employment. "Cause" may include an unintentional disregard for the standards of behavior the employer can rightfully expect of his employee or the negligence of an employee that does not rise to the level of misconduct.

The claimant is not responsible for his separation. The record demonstrates that the claimant was afforded a high degree of discretion in performing his assigned functions. In many instances the claimant was called upon to utilize his own judgment in determining whether permits to use the employer's sewer system should be granted. At no point prior to his termination was the claimant instructed or provided with guidance by the employer that would serve to indicate to the claimant that he was performing his job incorrectly. Additionally, the nature of the employer's operation and the claimant's place within that operation required the claimant to rely heavily on the work of his co-workers. The claimant cannot be faulted for instances when he relied on his co-workers to perform their jobs correctly or when they failed to pass relevant information on to the claimant in a timely fashion. Finally, no evidence or testimony was presented by the employer that established that the claimant was not devoting sufficient attention to detail in performing his assigned tasks. To the contrary, the claimant's past performance reviews indicate that the claimant was carrying out his duties in a manner considered to exceed the standard set for him. The record demonstrates that the claimant was carrying out his assigned duties in an acceptable manner. Therefore, the claimant was not discharged for cause in connection with his employment and has become unemployed through no fault of his own.

DECISION

The Tribunal holds the claimant eligible for benefits without disqualification effective March 30, 2014 upon finding the claimant was discharged without cause connected with the employment. This decision reverses the determination mailed April 11, 2014.


This will be the final decision of the Agency, unless you file an appeal to the Appellate Panel setting forth in detail the grounds for appeal within ten (10) calendar days, including weekends and holidays, from the mailing date of this decision. If the tenth day falls on a Saturday, Sunday or holiday, the appeal period is extended to the next business day. Your appeal may be filed by mail addressed to "Appellate Panel, Post Office Box 1752, Columbia, South Carolina, 29202", or by fax at 803.737.3166. For additional information on filing an appeal, visit our web site at www.dew.sc.gov/appeals.asp.

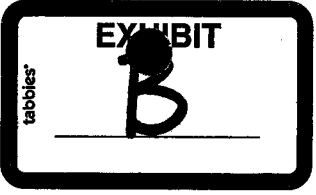


Timothy J. Plunkett
Administrative Hearing Officer

TJP: kbg

Decision Mailed: 05/16/14

Mailed on the above Date By: 



PROGRESSIVE


DISCIPLINE

- Progressive discipline is a process for dealing with job – related behavior that does not meet expected and communicated performance standards. The primary purpose for progressive discipline is to assist the employee to understand that a performance problem or opportunity for improvement exists.

Progressive Discipline /


- The process for progressive discipline features increasingly formal efforts to provide feedback to the employee so he or she can correct the problem.
- The goal of progressive discipline is to improve employee performance.
- The process of progressive discipline is not intended as a punishment for an employee, but to assist the employee overcome performance problems and satisfy job expectations.
- Progressive discipline is most successful when it assists an individual to become an effectively performing member of the organization.
- Failing that, progressive discipline enables the organization to fairly, and with substantial documentation, terminate the employment of employees who are ineffective and unwilling to improve.

Progressive Discipline


- 
- **1. Verbal Reprimand:**
 - As soon as a supervisor perceives an employee's performance problem, he or she should issue a verbal reprimand.
 - The supervisor and employee should discuss any long-term problems and skill deficiencies that need to be corrected. The supervisor should provide a detailed explanation of the problems and outline the improvements required to the employee.
 - The supervisor must keep detailed notes and prepare a memo to the file about the conversation, have the employee sign and place in personnel file.

Sent copy to HR

5 Step Model for Progressive Discipline

- 
- **2. Written Warning:**
 - If the problems persist or additional problems emerge, the supervisor should provide the employee with a written warning detailing the objectionable behavior, along with the consequences.
 - Explain the standards of performance and behaviors that are expected of the employee and will be used to evaluate the performance of the employee.
 - Specify the (timeframes) for performance improvements and state that continued failure could result in termination.
 - Have the employee sign the letter to acknowledge receipt and place in employee's personnel file and send a copy to HR.

5 Step Model for Progressive Discipline

- 
- **3. Final Written Warning and Performance Improvement Plan**
 - If performance does not improve, deliver a final written warning, accompanied by a Performance Improvement Plan.
 - Include copies of previous warnings
 - Indicate specific areas in which the employee must improve
 - Specify time period within which the employees behavior and or performance must be corrected.
 - Establish time periods, 30, 60, 90 days in which you will monitor and meet with employee to review progress or lack of progress and reiterate expectations for improvement.

5 Step Model for Progressive Discipline

- During any step in the process you must consult with your Division Manager, the Assistant County Administrator and Human Resources for review.
- You must have appropriate documentation, employee signed copies of all conversations and letters.
- All documentation shall be placed in the employees personnel file and a copy of each sent to HR.
- All letters and conversations with employees must specify the actions and performance expectations you are requiring.
- All documentation must include follow up conversations with the employees as you work towards improvements

5 Step Model for Progressive Discipline

• 4. Termination Review – Final Checklist

Yes/No Have we in the past and in this circumstance informed the employee of the expected, acceptable behavior and unacceptable behavior?

Yes/No Have we informed the employee of the consequences of the unacceptable behavior?

5 Step Model for Progressive Discipline



• 4. Termination Review – Final Checklist

- ⊙ Is the issue referenced in our employee handbook, in memos and letters to the employee?
- ⊙ Was the poor performance and issues accurately reflected on the written Performance Review Evaluations?
- ⊙ Is the documentation accurate?
- ⊙ Regarding the present matter, have we informed the employee of his or her unacceptable performance and the consequences of it continuing?

Need to match

5 Step Model for Progressive Discipline

** Performance evaluations are not verbal reprimands **



• **4. Termination Review – Final Checklist**

- Ⓐ Have we given the employee an opportunity to explain what he or she did or did not do, and the cause?
- Ⓐ Is this documented and is the documentation accurate. Are notes taken by the Supervisor included?
- Ⓐ Have you provided the employee with the assistance and training to achieve acceptable behavior?
- * Ⓐ Are we treating this employee in the same way we would treat any other employee in a similar circumstance?

5 Step Model for Progressive Discipline




- **4. Termination Review - Final Checklist**

- ② Are we treating this employee in a way that does not violate any of the employee's employee legal protections, such as:

5 Step Model for Progressive Discipline

- Protection from sexual harassment.
- The right to family and medical leave.
- Protection from age discrimination.
- Protection for discrimination because he or she is a member of a protected class (such as, age, gender, sex, race, color, national origin, religion, veteran status, disability).
- Minimum wage and overtime pay protection.
- * Protection from arbitrary and discriminatory drug and alcohol testing, and protection of privacy involving testing and test results.
- * Protection from defamation.
- * Protection from constructive discharge.
- * Protection from wrongful discharge.

Employee's Legal Protections

- 
- **4. Termination Review - Final Checklist**
 - Have we avoided abrupt, spur-of-the moment statements to the employee or action against the employee?
 - * • Have we followed our unwritten precedents and our written policies?
 - Have we kept all of these matters confidential, sharing information only with the persons who have a business related need to know?


5 Step Model for Progressive Discipline



- **4. Termination Review - Final Checklist**

- * Have we reviewed the employee's entire personnel records (from application and interview notes to performance appraisals and warnings) to assure that we are complying with the employee's legal rights and with our own policies?

5 Step Model for Progressive Discipline


- 
- **4. Termination Review – Final Checklist**
 - Have we considered the following questions:
 - Has the employee recently filed a worker's compensation claim?
 - Has the employee filed a claim with a governmental agency about alleged workplace violations or taken any other actions that might make a discharge look like unlawful retaliation on your part?

5 Step Model for Progressive Discipline




- **4. Termination Review**
- Have you reviewed all of the documentation in the file with HR, your Supervisor and Assistant County Administrator? Including the last evaluation?
- Provided documentation on the failure of the employee to perform and improve performance and meetings that you have held with employee?
- Provided a copy of the termination letter for review and approval by all parties before meeting with the employee?

5 Step Model for Progressive Discipline

- 
- **5. Termination**
 - Establish a meeting time and place. Notify the employee of the time and place
 - * • Include a witness to sit in on the termination.
 - During the termination explain why, listen to any questions or concerns the employee may have. Explain again if needed.
 - Take Notes during the discussion and termination.
 - Provide a letter of termination to the employee and require them to sign the letter.
 - Provide a copy of the County Of Greenville Grievance Policy and review the timeline with the employee.
 - Provide a copy of the signed termination to the employee.
 - Send a copy of the signed termination letter to HR and any notes taken.

5 Step Model for Progressive Discipline

- 
- **Annual Employee Performance Evaluations**
 - Did you accurately reflect the employee's performance in their evaluation?
 - Did you provide comments on what they are doing well and not doing well?
 - Did you outline and detail improvements needed/
 - Did you specifically state the expectations that are required to improve?


Progressive Discipline

- There are circumstances that arise that are cause or may be grounds for immediate termination. These circumstances all require documentation and consultation with appropriate supervisors and HR.
- Chapter 5, General Rules and Regulations
- Section 5.1 "If an employee fails to report to work without notification to his or her supervisor for a period of three days or more will be considered to have voluntarily resigned, absent extenuating circumstances."
- Chapter 5.23 Substance Abuse
 - "The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is not permitted in the workplace. Violations of this policy will result in disciplinary action, up to and including termination."

Potential Causes for Immediate Termination




- **Chapter 5.26 Workplace Violence**

- *  **Section 5.26.3** “Any employee found to be responsible for threats of or actual violence or other conduct that is in violation of these guidelines will be subject to prompt disciplinary action up to and including termination.


- **Chapter 6 Introductory Period, Promotions and Transfers**

- **Section 6.1.3 (b)** “That the employee be dismissed from his/her position with the County for failing to meet required standards of performance.”

Potential Causes for Immediate Termination

- 
- Alcohol and Drug Testing Policy
 - Any employee classified in a Safety Sensitive Position that fails a mandated Alcohol and Drug Test as determined by the MRO will be immediately terminated.
 - Those Positions is Public Works include: CDL's, Safety Sensitive Positions such as Animal Control and Animal Care Employees who have access to and administer drugs.
 - Those employees tested for reasonable suspicion who test positive for illegal substances.
 - Those employees tested after post accident are subject to immediate termination depending on test results.


Potential Causes for Immediate Termination

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- Any violation of 12.3 Disciplinary Actions that is found by the supervisors and HR to be detrimental to the health, safety and well being of the organization under Section 12.3.1.


(*)

- This is unusual and still requires documentation.


Potential Causes for Immediate Termination

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- Performance Improvement Plans – Two Sample templates are provided as handouts.
 - Templates for letters to use for verbal and written reprimands are provided as handouts.
 - Template for a letter of termination is provided for as a handout.
 - Disciplinary Action Checklist for Supervisors is provided as a handout.

Tools for Disciplining and Counseling Employee's

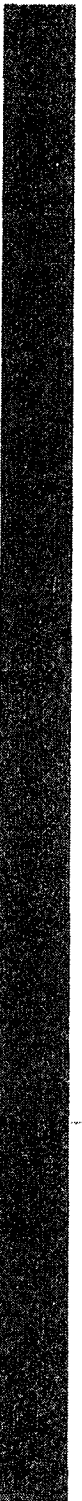
- 
- Questions to use when discussing the initial problems and need for correction with employee's.
 - Often times as supervisors we need to remember to communicate and ask questions or our employee when beginning the discipline process.
 - Conflict resolution is an acceptable way to get to the issues on both sides.
 - The following questions are helpful in determining issues and what actions and follow up are needed.

Tools for Disciplining and Counseling Employee's

- 
- **1. State the Problem**
 - a. “This is impacting both of us.”
 - b. “I realize that there are two sides to every story.”
 - **2. Ask questions to draw out the other side’s story, then wait.**
 - a. “I’d like to know how you see it.”
 - b. “What do you think?”
 - **3. Keep asking instead of jumping to conclusions and solutions.**
 - a. “I didn’t realize...”
 - b. “I want to make sure I fully understand the whole picture.”


Conflict Resolution

Questions & Counseling

- 
- 4. Listen to and paraphrase the other's point of view. Don't interrupt. Don't argue.
 - a. "So when we send the forms without the ... it causes backups for you."
 - b. "You don't agree with the third part of the new form?"
 - 5. Analyze specific situations rather than threatening or getting defensive.
 - a. "Let's take this one step at a time."
 - b. "Can you give me an example?"


Conflict Resolution

Questions & Counseling

- 
- 6. **Ask permission before telling your side of the story.**
 - a. “Could you help me with my situation?”
 - b. “How do you feel about working through these problem’s?”
 - 7. **Get agreement of the issues and value them.**
 - a. “So, it’s a problem for you when I”
 - b. “This is important to me because...”
 - 8. **Discuss specific solutions --- one at a time.**
 - a. “What if we tried....?”
 - b. “Perhaps we could....”


Conflict Resolution

Questions & Counseling


- 
- 9. Agree on the best actions and measures of progress.
 - a. “Actions we have discussed are...”
 - b. “Measures of progress are...”
 - 10. Take action and follow up as discussed.
 - a. “So from now on we will...., I will... you will....”
 - b. “We will check back with each other on...”

Conflict Resolution

Questions & Counseling

- 
- Templates and Documents
 - Verbal Reprimand
 - Written Reprimand
 - Performance Improvement Plan
 - Termination Letter
 - Disciplinary Checklist

Progressive Discipline

- 
- Questions ?
 - Thank you

Progressive Discipline

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

James Brian Bishop,

vs.

Renewable Water Resources, et al.

IN THE COURT OF COMMON PLEAS

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMMER

Plaintiff(s)

2015 AUG 31 PM 3 55

Defendant(s)

CIVIL ACTION COVERSHEET

2015-CP - 23- 05386

Submitted By: Joseph D. Dickey, Jr.
Address: Mooneyham Berry, LLC
1612 Marion Street, Suite 312
Columbia, SC 29201

SC Bar #: 100064
Telephone #: 803-380-5575
Fax #: 803-380-5576
Other:
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NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint. NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- Contracts**
 - Constructions (100)
 - Debt Collection (110)
 - Employment (120)
 - General (130)
 - Breach of Contract (140)
 - Other (199)
- Torts - Professional Malpractice**
 - Dental Malpractice (200)
 - Legal Malpractice (210)
 - Medical Malpractice (220)
 - Previous Notice of Intent Case #
20__-NI-____-____
 - Notice/ File Med Mal (230)
 - Other (299)
- Torts - Personal Injury**
 - Assault/Slander/Libel (300)
 - Conversion (310)
 - Motor Vehicle Accident (320)
 - Premises Liability (330)
 - Products Liability (340)
 - Personal Injury (350)
 - Wrongful Death (360)
 - Other (399)
- Real Property**
 - Claim & Delivery (400)
 - Condemnation (410)
 - Foreclosure (420)
 - Mechanic's Lien (430)
 - Partition (440)
 - Possession (450)
 - Building Code Violation (460)
 - Other (499)
- Inmate Petitions**
 - PCR (500)
 - Mandamus (520)
 - Habeas Corpus (530)
 - Other (599)
- Administrative Law/Relief**
 - Reinstate Drv. License (800)
 - Judicial Review (810)
 - Relief (820)
 - Permanent Injunction (830)
 - Forfeiture-Petition (840)
 - Forfeiture-Consent Order (850)
 - Other (899)
- Judgments/Settlements**
 - Death Settlement (700)
 - Foreign Judgment (710)
 - Magistrate's Judgment (720)
 - Minor Settlement (730)
 - Transcript Judgment (740)
 - Lis Pendens (750)
 - Transfer of Structured Settlement Payment Rights Application (760)
 - Confession of Judgment (770)
 - Petition for Workers Compensation Settlement Approval (780)
 - Other (799)
- Appeals**
 - Arbitration (900)
 - Magistrate-Civil (910)
 - Magistrate-Criminal (920)
 - Municipal (930)
 - Probate Court (940)
 - SCDOT (950)
 - Worker's Comp (960)
 - Zoning Board (970)
 - Public Service Comm. (990)
 - Employment Security Comm (991)
 - Other (999)
- Special/Complex /Other**
 - Environmental (600)
 - Automobile Arb. (610)
 - Medical (620)
 - Other (699)
 - Pharmaceuticals (630)
 - Unfair Trade Practices (640)
 - Out-of State Depositions (650)
 - Motion to Quash Subpoena in an Out-of-County Action (660)
 - Sexual Predator (510)

SCANNED

Submitting Party Signature:

Date: August 25, 2015

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY

Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Clarendon, Colleton, Darlington, Dorchester, Florence, Georgetown, Greenville, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marion, Oconee, Orangeburg, Pickens, Richland, Spartanburg, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.