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Attorneys for Plaintiff

KEVIN O'ROURKE,
Plaintiff,

vs.

HOLTEC INTERNATIONAL
CORPORATION, HOLTEC
INTERNATIONAL POWER DIVISION,
INC., KRISHNA SINGH, and JOHN DOES
1-5 AND 6-10,
Defendants.

SUPERIOR COURT OF NEW JERSEY
CAMDEN COUNTY - LAW DIVISION
DOCKET NO: CAM-L-1585-23
CIVIL ACTION

**PLAINTIFF'S NOTICE OF MOTION
TO COMPEL DISCOVERY
ANSWERS**

PLEASE TAKE NOTICE that on the 1st day of March, 2024, at 9:00 AM in the forenoon or as soon thereafter as Counsel may be heard, the undersigned Attorneys for Plaintiff shall apply before the above-named Court at the Camden County Court House, Camden, New Jersey, for an Order to compel discovery answers.

PLEASE TAKE FURTHER NOTICE that Plaintiff shall rely upon the attached Certification of Counsel, exhibits and brief in support of Plaintiff's Motion.

PLEASE TAKE FURTHER NOTICE Plaintiff requests oral argument on the Motion to the extent Plaintiff's Motion is opposed.

PLEASE TAKE FURTHER NOTICE that pursuant the current discovery end date is November 6, 2024, having not been extended previously.

PLEASE TAKE FURTHER NOTICE that there is currently no trial date in this matter.

**JAVERBAUM WURGAFT HICKS KAHN
WIKSTROM & SININS, P.C.**

By: */s/ Drake P. Bearden, Jr.*
Drake P. Bearden, Jr.

Dated: February 13, 2024

**JAVERBAUM WURGAFT HICKS
KAHN WIKSTROM & SININS, P.C.**

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SUPERIOR COURT OF NEW JERSEY
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ORDER

This matter having come before the Court upon the application of Javerbaum Wurgafit Hicks Kahn Wikstrom & Sinins, P.C., attorneys for Plaintiff, for an Order to Compel Discovery, and the Court having read the moving papers, and any papers filed in opposition thereto, and for good cause shown;

IT IS on this ____ day of _____, 2024;

1. ORDERED that Plaintiff's Motion is hereby GRANTED.
2. It is further ORDERED that Defendant shall provide complete responses to discovery which will include all the information and documents requested by Plaintiff in Plaintiff's January 11, 2024, deficiency letters, within fourteen (14) days of the date of this Order.
3. ORDERED that service of this Order shall be deemed effectuated upon all parties

upon its upload to eCourts. Pursuant to Rule 1:5-1(a), movant shall serve a copy of this Order on all parties not served electronically within seven days of the date of this Order.

J.S.C.

 OPPOSED

 UNOPPOSED

**JAVERBAUM WURGAFT HICKS
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**CERTIFICATION OF DRAKE P.
BEARDEN, JR.**

Drake P. Bearden, Jr., Esq. hereby certifies that:

1. I am an attorney licensed to practice law in the State of New Jersey and am a partner at the law firm of Javerbaum Wurgafit Hicks Kahn Wikstrom & Sinins, P.C., attorneys for Plaintiff, in the above matter.
2. On June 1, 2023, Plaintiff filed a Complaint alleging that Defendants retaliated against him in violation of the Conscientious Employee Protection Act (“CEPA”). (See attached as Exhibit A, a copy of Plaintiff’s Complaint.)
3. Plaintiff served the Complaint, along with Plaintiff’s First Set of Interrogatories (“FSI”) and Requests for Production of Documents (“RPD”) on Defendants June 8, 2023. (See attached as Exhibit B, Affidavit of Service); (see also attached as Exhibit C, Plaintiff’s FSI); (see also attached as Exhibit D, Plaintiff’s RPD).

4. On September 14, 2023, Defendants filed an Answer to Plaintiff's Complaint and brought Counterclaims for Breach of Contract and Tortious Interference with Contractual Relations, alleging they were financially harmed by Plaintiff's conduct. (See attached as Exhibit E, Defendants' Answer and Counterclaims, pp 17-21.)

5. On January 4, 2024, Defendants served answers to Plaintiff's discovery requests. (See attached as Exhibit F, Defendants' Answers to Plaintiff's FSI); (see also attached as Exhibit G, Defendants' Answers to Plaintiff's RPD.)

6. On January 11, 2024, Plaintiff sent Defendants a letter pursuant to Rule 1:6-2(c) outlining deficiencies in Defendants' discovery answers. (See attached as Exhibit H, Jan. 11, 2024, letter.)

7. Plaintiff identified the following deficiencies in Defendants' discovery answers:

- a. Interrogatory number 3: Defendants failed to provide addresses for the individuals identified as having relevant information. (*Id.* at pp 2-3.)
- b. Interrogatory number 6: Defendants failed to state the actual reasons for Plaintiff's termination. (*Id.* at p 3.)
- c. Interrogatory number 9: Defendants refused to state if any retaliation claims were brought against Defendants in the past five years. (*Id.* at pp 3-4.)
- d. Interrogatory number 10: Defendants refused to state whether any employees identified in Plaintiff's complaint have been disciplined for retaliating against another employee. (*Id.* at p 4.)
- e. Interrogatory numbers 20-25: These interrogatories asked for financial information about Defendants, which they refused to answer claiming the information was irrelevant and confidential. However, Defendants brought

several counterclaims in which they claimed they were financially harmed by Plaintiff's actions. (*Id.*)

- f. Interrogatory numbers 43-44: Plaintiff asked Defendants if the document identified in the complaint as the "prospectus," or which Defendants have identified as CD-38 was provided to Hyundai, and asked Defendants to provide a copy of the document provided to Hyundai. Defendants refused to answer the question and did not provide the document. (*Id.*)
- g. Interrogatory numbers 11, 13, 15, 34, 35, 40 and 41: Defendants answered these interrogatories by generally referring Plaintiff to its document production, but failed to identify which Bates numbers were responsive to the interrogatories. (*Id.*)
- h. Document request numbers 1, 2, 3 and 4: Plaintiff asked Defendants to provide documents relevant to Plaintiff's claims, Defendants' Answer and their defenses. Defendants refused to provide documents based on confidentiality. (*Id.* at p 5.)
- i. Document request number 6: Plaintiff asked for documents in any way related to Defendants' Counterclaims. Defendants referred to documents 001-022, which were a confidentiality agreement between Plaintiff and Defendants. However, Defendants failed to provide any documents related to the financial harm Defendants claimed they suffered in relation to their Counterclaims. (*Id.*)
- j. Document request numbers 8 and 9: These document requests asked for documents referred to or relied upon by Defendants in answering Plaintiff's interrogatories and document requests. Defendants refused to provide any documents based on confidentiality. (*Id.*)

- k. Document request 15: Plaintiff asked for documents related to communications between Plaintiff and employees at Defendants. Defendants refused to provide any documents, claiming this information was not relevant. (*Id.*)
 - l. Document request 16: Plaintiff asked for documents related to complaints made by Plaintiff. Defendants refused to answer this request claiming Plaintiff asked for “confidential business documents.” (*Id.* at p 6.)
 - m. Document request number 20: Plaintiff asked Defendants to provide documents regarding any complaints made against Defendants within the past five years which allege the same or similar theories that have been alleged by the Plaintiff. Defendants refused to provide documents. (*Id.*)
 - n. Document request number 21: Plaintiff asked Defendants for redacted personnel records of individuals other than Plaintiff named in the Complaint. Defendants refused to provide the personnel records. (*Id.*)
 - o. Document request number 24: Plaintiff asked for documents related to contact Defendants and their counsel and agent had with any witnesses. Defendants refused to provide these documents, claiming they were privileged. (*Id.* at p 7.)
 - p. Defendants also withheld a number of documents on the basis of privilege but failed to provide any explanation or privilege log regarding the basis for withholding documents. (*Id.* at pp 1-2.)
 8. Plaintiff’s deficiency letter stated, “Pursuant to N.J.R. 1:6-2(c) if we do not receive responses correcting these deficiencies within ten (10) days of the date of this letter, Plaintiff will file a Motion to Compel without further correspondence.” (*Id.* at p 1.)
 9. Defendants did not provide a response within ten days.

10. On January 22, 2024, Defendants sent a correspondence asking for an extension until February 5, 2024, to respond to Plaintiff's deficiency letter. (See attached as Exhibit I, Jan. 22, 2024, email.)

11. As of today, Defendants still have not responded to Plaintiff's deficiency letter.

12. Accordingly, Plaintiff respectfully requests that this Honorable Court order Defendants to provide the information and documents requested by Plaintiff in his deficiency letter.

I hereby certify that the foregoing statements made by me are true and that I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

**JAVERBAUM WURGAFT HICKS KAHN
WIKSTROM & SININS, P.C.**

By: */s/ Drake P. Bearden, Jr.*
Drake P. Bearden, Jr.

Dated: February 13, 2024

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**PLAINTIFF'S BRIEF IN SUPPORT
OF PLAINTIFF'S MOTION TO
COMPEL**

I. INTRODUCTION

The Court should require Defendants to provide full responses to Plaintiff's discovery requests. Plaintiff served Defendants with discovery requests over eight months ago. Defendants provided answers but failed to provide substantive responses to many of Plaintiff's requests and improperly withheld certain documents. Plaintiff sent a deficiency letter and allowed Defendants additional time to respond to the letter and provide outstanding discovery, but Defendants still have not provided full responses.

Accordingly, for all of the reasons outlined in Plaintiff's brief and supporting documents, Plaintiff respectfully requests this Honorable Court rule in his favor and grant Plaintiff's Motion in its entirety.

II. STATEMENT OF FACTS

Plaintiff will rely upon the Certification of Drake P. Bearden, Jr., and the attached exhibits in support of this brief.

III. LEGAL ARGUMENT

A. **Plaintiff Has Given Defendants The Opportunity To Cure Defendants' Deficiencies Prior To Filing Plaintiff's Motion To Compel**

Plaintiff served discovery on Defendants over eight months ago, on June 8, 2023. (See Certification of Drake P. Bearden, Jr., ¶ 3.) When Defendants responded to discovery, they failed to provide substantive responses to many of the discovery requests and improperly withheld documents. (*Id.* at ¶¶ 6-7.) Plaintiff sent a deficiency letter on January 11, 2024, and gave Defendants additional time to respond to the letter. (*Id.* at ¶¶ 6-10.) Despite Plaintiff providing Defendants with additional time to answer the deficiency letter, Defendants to date failed to provide any response to the letter.

B. **All Of The Information Requested By Plaintiff Is Reasonably Calculated To Lead To The Discovery Of Admissible Evidence**

New Jersey Court Rule 4:10-2(a) provides that:

Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, electronically stored information, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence; nor is it ground for objection that the examining party has knowledge of the matters as to which discovery is sought.

Id.

The New Jersey Supreme Court has held that “New Jersey’s discovery rules are to be construed liberally in favor of broad pre-trial discovery.” *Payton v. New Jersey Turnpike*

Authority, 148 N.J. 524, 534 (1997). Under the rules, “parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action.” *Id.* “Relevant evidence, although not defined in the discovery rules, is defined elsewhere as evidence having a tendency and reason to prove or disprove any fact of consequence to the determination of the action.” *Id.*

1. Confidential Documents

Defendants withheld documents on the basis of privilege but failed to provide a privilege log or basis for the privilege. (Bearden Cert., ¶ 7(p).) The New Jersey Court Rules state that:

When a party withholds information otherwise discoverable under these rules by claiming that it is privileged or subject to protection as trial preparation material, the party shall make the claim expressly and shall describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.

N.J.R. 4:10-2(e)(1). New Jersey Courts have held that “When a party asserts a privilege, it must provide a specific explanation of why each document is privileged or immune from discovery which must include a comprehensive presentation of all factual grounds and legal analyses in a non-conclusory fashion.” *See Rivard v. Am. Home Prod., Inc.*, 391 N.J. Super. 129, 152–53 (App. Div. 2007); (citing *Seacoast Builders Corp. v. Rutgers*, 358 N.J. Super. 524, 541–42 (App. Div. 2003)). Accordingly, for any claims of privilege, confidentiality, work product or any redactions made in Defendants’ responses to Plaintiff’s First Set of Interrogatories and Document Requests, Defendants are required to provide a specific explanation of why each piece of information and/or document is privileged, immune from discovery, or redacted, and include a comprehensive presentation of all factual grounds and legal analyses in a non-conclusory fashion.

2. Interrogatory number 3

In response to interrogatory number 3, Defendants failed to provide addresses for the individuals identified in response to the interrogatory. (Bearden Cert., ¶ 7(a).) The Court Rules state that “Parties may obtain discovery regarding any matter, not privileged . . . including . . . the identity and location of persons having knowledge of any discoverable matter.” R. 4:10-2(a). Therefore, the rule is clear that parties must provide the address of individuals identified with knowledge.

New Jersey Courts have held that by “location of the persons having knowledge,” the rule refers to the address of those persons. *See Abbatemarco v. Colton*, 31 N.J. Super. 181, 184–85 (App. Div. 1954); *see also Burke v. Cent. R. Co. of N. J.*, 42 N.J. Super. 387, 393-94 (App. Div. 1956). The Court in *Abbatemarco* held as follows:

The right of a party to discovery of the identity and location of persons having knowledge of relevant facts is specifically granted by R.R. 4:16—2, which is substantially the same as Federal Rule 26(b), 28 U.S.C.A. This rule is ‘designed to eliminate, as far as possible, concealment and surprise in the trial of law suits to the end that judgments therein be rested upon the real merits of the causes and not upon the skill and maneuvering of counsel.

31 N.J. Super. at 184. The Court held that, “Failure to disclose the names and addresses of witnesses in response to interrogatories constitutes failure to comply with the rule and a deprivation of substantial rights.” *Id.* at 185. The Federal Court Rule referenced in *Abbatemarco* states that parties must “provide to the other parties: (i) the name and, if known, the address and telephone number of each individual likely to have discoverable information.” Fed. R. Civ. P 26(a)(1)(A)(i)

In *Burke*, the Court held that parties are required to provide the addresses of persons with knowledge. 42 N.J. Super. 387 at 393-94. The Court held that information was required for the following reasons:

divulgence of the names and addresses of witnesses having knowledge of the relevant facts gives the inquiring party an opportunity before trial (1) to investigate the witnesses' background in order to discover any discrediting matter which might exist, (2) to learn their version of the matters involved in the controversy, and (3) to ascertain from them the names and addresses of any other witnesses known to them.

Id... The Court held that “Failure to disclose the names and addresses of witnesses in response to interrogatories constitutes a deprivation of the substantial rights of the propounding party. In such a case the trial court is free to apply sanctions, subject only to the requirement that they be just and reasonable in the circumstances.” *Id.* at 395; *see also Wagi v. Silver Ridge Park W.*, 243 N.J. Super. 547, 551 (Law. Div. 1989) (holding that parties must disclose the “names and addresses” of witnesses).

Even if Defendants are going to produce certain witnesses, the witnesses’ last known addresses may be relevant for several reasons. First, a witnesses’ address is one way for Plaintiff to verify a person’s identity. Furthermore, in the event Defendants cannot produce a witness for any reason, such as the employee leaves employment with Defendants, Plaintiff should have the opportunity to contact that witness independently if the witness is no longer under Defendants’ control.

Accordingly, Defendants are required to provide last known addresses for all of the individuals identified as people with relevant information.

3. Interrogatory number 6

This interrogatory asked for Defendants to state “in as much detail as possible” all reasons Plaintiff’s employment ended. (Bearden Cert., ¶ 7(b).) Defendants stated they “lost confidence in Plaintiff for a number of reasons” but failed to state any of those reasons. (Ex H, Jan. 11, 2024, letter, p b.) Defendants are required to state the actual reasons they “lost confidence” in Plaintiff and fired Plaintiff.

4. Interrogatory number 9 and RPD 20

Plaintiff asked if Defendants were named in a complaint in the past five years related to allegations similar to Plaintiff's, which would be a retaliation claim. RPD 20 asked for documents related to retaliation complaints made by other employees in the past five years. (Bearden Cert., ¶ 7(c) and (m).) Defendants refused to answer these requests. (*Id.*)

Evidence of other complaints is relevant to establishing other wrongful acts, which establish motive and intent. *See Rendine v. Pantzer*, 276 N.J. Super. 398, 428 (App. Div. 1995), 141 N.J. 292 (1995) ("evidence of other acts of discrimination, or fair treatment, was properly admitted on the issue of defendant's motive and intent"); *see also Connolly v. Burger King Corp.*, 306 N.J. Super. 344, 348–49 (App. Div. 1997) (holding that other complaints of wrongdoing are relevant in employment cases).

In *Connolly*, the court stated other complaints about retaliation were discoverable because, "the discovery may provide evidence that the employment of other complainants had been terminated, which may lead to probative evidence regarding plaintiff's contention that she was the victim of a retaliatory discharge." 306 N.J. Super. at 349; *see also Hurley v. Atl. City Police Dep't*, 174 F.3d 95, 110 (3d Cir. 1999) (holding that other complaints of retaliation are relevant because they go to intent).

Accordingly, Defendants are required to identify any individuals who made complaints about retaliation in the past five years and provide any documents related to those complaints.

5. Interrogatory number 10

Plaintiff asked Defendants to state whether any employees identified in Plaintiff's complaint have been disciplined for retaliating against another employee. Defendants refused to answer this interrogatory. (Bearden Cert., ¶ 7(d).) If another employee was accused of

retaliation, that information is relevant to Plaintiff's claim. *See Connolly*, 306 N.J. Super. at 348–49. Therefore, Defendants are required to provide this information.

6. Interrogatory numbers 20-25

Plaintiff asked for financial information about Defendants, which they refused to answer claiming the information was irrelevant and confidential. (Bearden Cert., ¶ 7(e).) Defendants brought several counterclaims in which they claim they were financially harmed by Plaintiff's actions. (*Id.* at ¶ 4.) Accordingly, this information is relevant and must be disclosed. *See Parkinson v. Diamond Chem. Co., Inc.*, 469 N.J. Super. 396, 413 (App. Div. 2021) (holding that a company's financial information is relevant and discoverable to defend against counterclaims).

7. Interrogatory number 43-44

Plaintiff asked Defendants if the document identified in the complaint as the “prospectus,” or which Defendants have identified as CD-38 was provided to Hyundai, and asked Defendants to provide a copy of the document provided to Hyundai. (Bearden Cert., ¶ 7(f).) Defendants refused to answer the question and did not provide the document. (*Id.*) Given Plaintiff's allegations that Defendants fired him for objecting to including false financial information in CD-38, the information and documents requested are discoverable.

8. Interrogatory numbers 11, 13, 15, 34, 35, 40 and 41

For these interrogatories Defendants stated, “see Defendants' Responses to Plaintiff's First Set of Requests for Documents.” (Ex H, Jan. 11, 2024, letter, p 4.) However, Defendants failed to identify which of the 255 documents it produced are responsive to each interrogatory. (*Id.*) When a party answers an interrogatory by referring to business records, the party must identify the document with sufficient detail to allow the party to readily identify the document. N.J.R. 4:17-4(d). Defendants' general reference to all the documents Defendants produced is not

sufficient. Accordingly, Defendants are required to state with specificity by Bates label which documents are responsive to each interrogatory.

9. Document request numbers 1, 2, 3 and 4

Plaintiff asked Defendants to provide documents relevant to Plaintiff's claims, Defendants' Answer and their defenses. (Bearden Cert., ¶ 7(h).) Defendants refused to provide documents based on confidentiality. (*Id.*) If Defendants believe any responsive documents are privileged or confidential, Defendants are required to provide a specific explanation of why each piece of information and/or document is privileged, immune from discovery, or redacted, and include a comprehensive presentation of all factual grounds and legal analyses in a non-conclusory fashion. R. 4:10-2(e)(1). For any documents that are not privileged or confidential, Defendants are required to provide those documents.

10. Document request number 6

Plaintiff asked for documents in any way related to Defendants' Counterclaims. Defendants referred to documents 001-022. (Bearden Cert., ¶ 7(i).) These documents included a confidentiality agreement between Plaintiff and Defendants. (*Id.*) Defendants made counterclaims that Plaintiff engaged in conduct that financially damaged Defendants. (*Id.* at ¶ 4.) Accordingly, Defendants are required to provide documents related to Defendants' financial condition, documents related to any actual damage done to Defendants as a result of Plaintiff's conduct, documents related to any business Defendants lost and/or did not receive as a result of Plaintiff's conduct and any documents that relate in any way to damage either Defendants suffered because of Plaintiff's alleged conduct.

11. Document request numbers 8 and 9

Plaintiff asked for documents referred to or relied upon by Defendants in answering

Plaintiff's interrogatories and document requests. (Bearden Cert., ¶ 7(j).) Defendants refused to provide any documents based on confidentiality. (*Id.*) To the extent Defendants believe any responsive documents are privileged or confidential, Defendants are required to provide a specific explanation of why each piece of information and/or document is privileged, immune from discovery, or redacted, and include a comprehensive presentation of all factual grounds and legal analyses in a non-conclusory fashion. R. 4:10-2(e)(1). For any documents that are not privileged or confidential, Defendants are required to provide those documents.

12. Document request 15

This request asked for documents related to communications between Plaintiff and employees at Defendants. (Bearden Cert., ¶ 7(k).) Defendants refused to provide any documents, claiming this information was not relevant. (*Id.*) Documents related to Plaintiff's communications with his coworkers are relevant to Plaintiff's claim. They are also relevant to Defendants' defense that Plaintiff was fired because Defendants lost confidence in Plaintiff. Accordingly, Defendants are required to provide responsive documents.

13. Document request 16

This request asked for documents related to complaints made by Plaintiff. (*Id.* at ¶ 7(l).) Defendants refused to answer this request claiming Plaintiff asked for "confidential business documents." (*Id.*) Documents about Plaintiff's complaints are relevant to Plaintiff's whistleblower claim. To the extent Defendants believe any responsive documents are privileged or confidential, Defendants are required to provide a specific explanation of why each piece of information and/or document is privileged, immune from discovery, or redacted, and include a comprehensive presentation of all factual grounds and legal analyses in a non-conclusory fashion. R. 4:10-2(e)(1). For any documents that are not privileged or confidential, Defendants

are required to provide those documents.

Document request number 21

Plaintiff asked Defendants for the personnel files of individuals other than Plaintiff named in the Complaint. (Bearden Cert., ¶ 7(n).) Defendants refused to provide the personnel files. (*Id.*)

New Jersey Courts have held that in LAD cases, personnel files of other employees, including alleged wrongdoers, may be relevant to establish the individuals engaged in the same or similar conduct toward other employees. *See e.g. Dixon v. Rutgers, The State University of New Jersey*, 110 N.J. 432, 460 (1988). Personnel records, including disciplinary records, are also discoverable in retaliation cases for use as comparator evidence. *See, e.g., Dixon*, 110 N.J. 432, 443-444 (1988); *Peper v. Princeton Univ. Bd. of Trustees*, 77 N.J. 55, 79 (1978); *Coleman v. Donahoe*, 667 F.3d 835, 841-842 (7th Cir. 2012); *Bobo v. United Parcel Service, Inc.*, 665 F.3d 741, 751 (6th Cir. 2012).

Plaintiff asked for personnel files with any confidential information redacted, so there is no issue with confidentiality. Furthermore, as was stated above, New Jersey Courts have held that any privacy concerns are outweighed by “plaintiff’s paramount interest in obtaining relevant materials.” *See Connolly*, 306 N.J. Super. at 350. The parties signed a Confidentiality Stipulation, which allows the parties to mark documents “Confidential” to limit their disclosure. *See Llerena v. J.B. Hanauer & Co.*, 368 N.J. Super. 256, 268 (Law. Div. 2002) (holding that confidentiality concerns were addressed by limiting disclosure of the documents to plaintiff, his attorney and his experts).

Plaintiff’s request is narrowly tailored to obtain information relevant to his claims.

Plaintiff requested:

The “redacted” (see definition of redacted below) employment file for any individual aside from Plaintiff who is named in the Complaint by name or whose position or identity was described by the Plaintiff in the Complaint, and current or former employee identified by Defendant as a person with knowledge relevant to Plaintiff’s claims or Defendant’s defenses. The term “redacted” involves a removal of all medical and financial information relating to such persons. Responsive documents should include, but not be limited to trainings, instructions, seminars, disciplines, reviews or warnings.

(See Ex D, Plaintiff’s RPDs, number 21.) Plaintiff’s request asked for confidential information to be redacted and only asked for files of individuals relevant to his claim. (*Id.*) Furthermore, Plaintiff identified the information he was requesting from the personnel file: “trainings, instructions, seminars, disciplines, reviews or warnings.” (*Id.*)

This request is reasonably calculated to lead to the discovery of admissible evidence. Documents related to training, instructions or seminars may be relevant to establish if Defendants had an anti-retaliation policy, what the policy stated and if the employees received training or instructions regarding that policy. If Defendants had such policies and the individuals received training on the policies, Plaintiff is entitled to know if the employees’ actions were in accordance or in contradiction with the policies.

Documents related to disciplines, warnings or reviews are relevant because such documents may reveal if the employees at issue ever received disciplines or warnings related to retaliation or if any conduct related to retaliation was contained in a review. This information can be relevant if it pertains to Plaintiff’s claims or similar complaints made by other individuals.

See Connolly, 306 N.J. Super. at 349. Furthermore, documents related to disciplines, warnings or reviews may be relevant as comparator evidence to determine if other employees engaged in certain conduct, and if those employees received the same level of discipline and ultimately termination Plaintiff received. *See, Dixon*, 110 N.J. 432, 443-444 (1988)

Accordingly, Defendants are required to provide all documents responsive to document

request number 21.

Document request number 24

Plaintiff asked for documents related to contact Defendants and their counsel and agent had with any witnesses. Defendants refused to provide these documents, claiming they are privileged. (Bearden Cert., ¶ 7(o).) Witness statements are not automatically subject to privilege. *See Paladino v. Auletto Enters., Inc.*, 459 N.J. Super. 365, 374-75 (App. Div. 2019). Furthermore, if such documents exist and Defendants are withholding the documents based on privilege, Defendants are required to “provide a specific explanation of why each document is privileged or immune from discovery which must include a comprehensive presentation of all factual grounds and legal analyses in a non-conclusory fashion.” *See Rivard*, 391 N.J. Super. at 152–53. Accordingly, if Defendants are in possession of such documents, Defendants must state so, and if Defendants believe the documents are privileged, Defendants must provide a specific explanation of why each document is privileged or immune from discovery which must include a comprehensive presentation of all factual grounds and legal analyses in a non-conclusory fashion.

IV. CONCLUSION

For all of the reasons outlined in Plaintiff’s brief and supporting documents, Plaintiff respectfully requests this Honorable Court rule in his favor and grant Plaintiff’s Motion to Compel in its entirety.

**JAVERBAUM WURGAFT HICKS KAHN
WIKSTROM & SININS, P.C.**

By: /s/ *Drake P. Bearden, Jr.*
Drake P. Bearden, Jr.

Dated: February 13, 2024

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Defendants.

SUPERIOR COURT OF NEW JERSEY
CAMDEN COUNTY - LAW DIVISION
DOCKET NO: CAM-L-1585-23
CIVIL ACTION

CERTIFICATION OF SERVICE

CERTIFICATION

I hereby certify that the original of the within Motion was electronically filed with the Motions Clerk of the CAMDEN County Superior Court; and a courtesy copy has been forwarded to the Court, by regular mail, and a copy served on parties of record by ECF filing.

/s/ Drake P. Bearden, Jr.

Drake P. Bearden, Jr., Esq.

Dated: February 13, 2024

EXHIBIT A

JAVERBAUM WURGAFT HICKS KAHN

WIKSTROM & SININS, P.C.

By: Drake P. Bearden, Jr., Esquire

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Attorneys for Plaintiff

KEVIN O'ROURKE, : SUPERIOR COURT OF NEW JERSEY
Plaintiff, : LAW DIVISION, CAMDEN COUNTY
: DOCKET NO: CAM-L 001585-23

v. :
: **COMPLAINT WITH JURY DEMAND**

HOLTEC INTERNATIONAL :
CORPORATION, HOLTEC :
INTERNATIONAL POWER :
DIVISION, INC., KRISHNA SINGH, :
JOHN DOES (1-5) and JOHN DOES :
(6-10), :
:

Defendant(s).

Plaintiff Kevin O'Rourke, residing in the State of Florida, by way of Complaint against the Defendants, says:

Introduction

Plaintiff brings this suit against Defendants Holtec International Corporation (hereinafter referred to as "HIC") and Holtec International Power Division, Inc., (hereinafter referred to as "HIPD") alleging Defendants and their employees retaliated against Plaintiff for whistleblowing in violation of the New Jersey Conscientious Employee Protection Act ("CEPA"). Plaintiff further alleges individual Defendant Krishna Singh retaliated against Plaintiff for whistleblowing in violation of the CEPA.

Parties

1. Plaintiff, Kevin O'Rourke, is a resident of Florida, and is a former employee of Defendant Holtec.
2. Defendant HIC was, at all times relevant herein, a private corporation operating in the State of New Jersey with its main business address at 1 Holtec Boulevard, Camden, New Jersey 08104.
3. Defendant HIPD was, at all times relevant herein, a private corporation operating in the State of New Jersey with its main business address at 1 Holtec Boulevard, Camden, New Jersey 08104. HIPD was, at all times relevant herein, a wholly owned subsidiary of Defendant HIC.
4. Defendant Krishna Singh was, at all times relevant herein, a resident of the State of New Jersey, and a person liable for the reasons stated below.

5. Defendant John Does 1-5 and John Does 6-10, currently unidentified, are individuals or entities who, are liable on the basis of their conduct and are answerable to the Plaintiff for the acts set forth herein.

Factual Allegations

6. Defendants HIC and HIPD (hereinafter referred to together as "Defendants") hired Plaintiff on May 21, 2021, as the Chief Financial Officer ("CFO").
7. Defendants terminated Plaintiff on August 30, 2022.
8. Kelly Trice was Plaintiff's direct supervisor, and was the Executive Oversight of the Accounting & Finance Department at Defendants.

9. Trice's supervisor was Defendant Singh, who was the President and Chief Executive Officer ("CEO") of Defendants.

10. On Sunday August 21, 2022, Defendant Singh sent Plaintiff and other executives of Defendants, including Trice, a draft of an Investment Prospectus (document hereinafter referred to as the "Prospectus") that included financial projections for Defendants which were intended to be sent to a potential investor, Hyundai Engineering and Construction Co., Ltd. (hereinafter referred to as "Hyundai").

11. Defendant Singh wrote the Prospectus, however it listed Plaintiff as the "Document Sponsor".

12. Defendant Singh stated he wanted the Prospectus, including financial projections, to be finalized and completed by Friday August 26, 2022, which was five days later.

13. Plaintiff forwarded Defendant Singh's communication to Trice with a comment that the two of them needed to discuss this matter.

14. The next day, August 22, 2022, Trice sent Plaintiff financial projections for entities of Defendants which he was responsible for, to be included in the Prospectus.

15. Plaintiff responded to Trice and stated they needed to discuss the Prospectus because the financial projections could not possibly be completed accurately in the timeframe demanded by Defendant Singh, the document included numerous false and misleading statements, and legally the document could not contain "make believe" or unsupported financial projections.

16. Plaintiff had a meeting with Trice later that day and stated he wanted to be removed as the "Document Sponsor", he would not participate in compiling rushed financial

projections due to the likelihood of material errors, and he would not present the Prospectus to Hyundai if it included what he believed to be materially false or fraudulent data or information.

17. The next day, August 23, 2022, Plaintiff marked up the Prospectus with notes about statements in the document that he thought were materially false or misleading.

18. Plaintiff sent the marked-up Prospectus to Defendants' Senior Business Development Engineer, Kaylyn Roucher and Singh's Executive Assistant, Erika Grandrimo.

19. Later that day, at the request of Singh, Plaintiff had a meeting with Singh, Roucher and the Vice President of Finance, Martin Babos, to discuss the Prospectus.

20. During the meeting, Plaintiff expressed his concerns about several aspects of the Prospectus.

21. Plaintiff's objections to the Prospectus included, but were not limited to:

a. There was a statement that Holtec never violated any covenant. Plaintiff was aware that Defendants were currently in violation of a debt covenant.

b. There was a statement that Defendants never had any long-term debt. This statement was repeated several times in the document, and Plaintiff believed it to be untrue.

c. There was a statement that not more than 10 percent of Defendants' annual revenue was derived from any one customer and Plaintiff knew it to be untrue.

d. There was a statement that Defendants had internally developed software worth in excess of \$225 million. Plaintiff believed that evaluation of the software was both arbitrary and grossly exaggerated and that in his opinion the software had a market value of near zero dollars.

e. The Prospectus grossly overvalued Defendants' manufacturing facilities.

- f. The Prospectus grossly overstated the amount of money spent annually on research and development costs.
- g. The Prospectus misrepresented a statement about self-financing a \$300 million manufacturing facility build, when in fact Defendants raised the money by selling state tax credits.
- h. The entirety of part two of the Prospectus contained projections that were materially false and/or were completely unattainable and unrealistic.

22. One example of the misleading projections related to the Consolidated Interim Storage Facility (“CISF”).

23. According to Defendants’ own internal projection, the CISF would lose \$150 million per year for the next five years.

24. However, Singh stated he wanted to represent in the Prospectus that the CISF would “break even” during that period of time and asked that Plaintiff do so.

25. Another example of misleading projections involved a business venture, Applied Photonix.

26. The deal involving Applied Photonix was not even finished, and the entity did not have any sales.

27. However, Singh stated the Prospectus should represent that Applied Photonix would have projected annual sales of \$100 million within five years, a projection not based on any factual information.

28. After Plaintiff objected to portions of the Prospectus, Singh stated, “Oh Kevin, you are just an Accountant, you don’t know anything about business and finance.”

29. Singh said that it was clear Plaintiff was not going to be useful for the Prospectus.

30. Singh dismissed Plaintiff from working on the Prospectus and asked Plaintiff to leave the meeting.

31. Plaintiff stated he understood and got up and left the meeting.

32. Later that day, Singh called Plaintiff and left a voice message wherein he stated there was no need for Plaintiff to be involved in the Prospectus going forward.

33. Defendant Singh stated: "As far as the financial transactions with third parties is concerned, I will not, as I said in the meeting, I will not involve you. You can focus on the big challenges you have in accounting and the statements and so on."

34. Despite this statement by Singh, Plaintiff was later included in discussions regarding the Prospectus.

35. On Saturday August 27, 2022, Babos sent an email correspondence to Plaintiff, stating he wanted to add Hyundai to the Share Vault maintained by the Defendants, which would allow Hyundai to view certain documents added by Defendants.

36. Those documents included the Prospectus.

37. Babos requested that Plaintiff tell him which employee under Plaintiff's supervision could provide Hyundai access to the Prospectus via Share Vault.

38. The next day, on Sunday August 28, 2022, Plaintiff responded to Babos, copying Trice, that he believed submitting the Prospectus as currently drafted to the Share Vault for Hyundai to view could violate the law, and he would not direct any employee of Defendants to submit the Prospectus.

39. Plaintiff made this statement because the Prospectus included false information about the company as outlined above.

40. Plaintiff was included on a group email from Defendant Singh's Executive Assistant dated August 28, 2022, regarding the Prospectus.

41. The email participants included, but were not limited to, Plaintiff, Singh, Trice, Babos and Ron Gillette, Defendants' Chief Accounting Officer.

42. The same day, Plaintiff sent an email to Trice wherein he stated he believed numerous statements in the Prospectus were false and misleading and that there was a high likelihood the financial projections included in the Prospectus were materially inaccurate.

43. Shortly thereafter, Trice responded via email to Plaintiff wherein he stated that he would have Babos handle providing the Prospectus to Hyundai via Share Vault.

44. Trice further stated since Plaintiff raised concerns regarding the legality of Prospectus, he would refer that matter to Scott Thompson, Defendants' Chief Governance Officer, to perform an independent review.

45. Shortly thereafter, Will Gill, Defendants' Corporate Counsel, responded to Trice wherein he stated that he thought outside securities counsel should review the Prospectus to give an assessment and that he had someone in mind to do it and would be happy to coordinate doing so.

46. Despite this representation, Plaintiff was never contacted by Defendants' Governance Officer nor outside counsel about the legal concerns he reported about the Prospectus.

47. Furthermore, Plaintiff was never informed of any review conducted by Defendants' Governance Officer nor outside counsel about the Prospectus, after Trice's comments.

48. Later that day, Plaintiff noticed Trice and then Babos had removed Plaintiff from a meeting to discuss the Prospectus and a meeting scheduled to meet with representatives from Hyundai, both of which were scheduled for the morning of Monday August 29, 2022.

49. Defendant Singh also cancelled his weekly accounting/finance call that included Plaintiff, which was scheduled for August 30, 2022.

50. On August 30, 2022, Plaintiff worked remotely.

51. Plaintiff noticed that day he was locked out of his emails on his work computer and phone.

52. Plaintiff called Jack Johnson, Defendants' Corporate Director of Human Resources, who notified Plaintiff that Defendants fired Plaintiff as of that day.

53. Plaintiff told Johnson he would come to Defendants' facility to return any of Defendants' property in his possession.

54. When Plaintiff arrived, Plaintiff provided Johnson with documents, his computer and his security pass and asked Johnson why Defendants terminated him.

55. Johnson stated Defendant Singh had a loss of confidence in Plaintiff.

56. Plaintiff responded by asking Johnson if Defendants lost confidence in him because Plaintiff told them they were violating the law.

57. Plaintiff then stated that he did not want to start a debate with Johnson, said goodbye and left.

Legal Claims

58. In objecting to false statements included in the Prospectus, Plaintiff engaged in protected activity pursuant to CEPA by objecting to and refusing to participate in activities,

policies and practices which he reasonably believed were in violation of a law, a rule or regulation promulgated pursuant to law or were criminal or fraudulent activity.

59. In particular, the Securities Act of 1933 makes it unlawful for a company to sell or offer a security by means of a prospectus that includes an untrue statement of material fact or omits a material fact necessary to make such statements not misleading.

60. Furthermore, New Jersey criminal law, N.J. Stat. § 2C:21-7, makes it unlawful to make a false or misleading written statement for the purpose of promoting the sale of securities, or omit information required by law to be disclosed in written documents relating to securities.

61. As such, Plaintiff engaged whistle blower conduct when he objected to, reported and refused to participate in providing a Prospectus to a prospective investor that included false and misleading statements and financial projections.

62. Subsequent to Plaintiff engaging in this whistle blower conduct, Plaintiff was subjected to adverse employment actions including, but not limited to, being terminated from his employment.

63. A determinative or motivating factor in the adverse employment actions taken against Plaintiff was the fact that Plaintiff disclosed, objected to and refused to participate in the activities outlined above.

64. Defendants' conduct was intentional, purposeful, willful and egregious retaliation which was either directly performed by members of upper management or members of upper management were willfully indifferent to the conduct, making punitive damages warranted.

65. The fact that Plaintiff was directly retaliated against as a result of having engaged in protected conduct under CEPA entitles Plaintiff to claim compensatory and punitive damages under CEPA as set forth below.

66. As a result of Defendants' conduct, Plaintiff has been made to suffer both economic and non-economic harm.

67. Individual Defendant Singh is liable as the individual who made the decision to terminate Plaintiff from his employment.

COUNT I

CEPA RETALIATION

68. Plaintiff hereby repeats and realleges the above paragraphs as though fully set forth herein.

69. Plaintiff engaged in protected whistleblower conduct as outlined above.

70. Subsequent to Plaintiff engaging in whistleblower conduct, Defendant terminated Plaintiff's employment because of his whistleblower conduct.

WHEREFORE, Plaintiff demands judgment against the Defendants jointly, severally and in the alternative, together with compensatory damages, including emotional pain and suffering, punitive damages, interest, cost of suit, attorneys' fees, enhanced attorneys' fees, equitable back pay, equitable front pay, equitable reinstated, equitable reinstatement or promotion, and any other relief the Court deems equitable and just.

COUNT II

CEPA RETALIATION as to SINGH

71. Plaintiff hereby repeats and realleges the above paragraphs as though fully set forth herein.

72. Plaintiff engaged in protected whistleblower conduct as outlined above.

73. Subsequent to Plaintiff engaging in whistleblower conduct, Defendant terminated Plaintiff's employment because of his whistleblower conduct.

74. Defendant Singh is individually liable as the individual who retaliated against Plaintiff because he engaged in whistleblower conduct.

WHEREFORE, Plaintiff demands judgment against the Defendants jointly, severally and in the alternative, together with compensatory damages, including emotional pain and suffering, punitive damages, interest, cost of suit, attorneys' fees, enhanced attorneys' fees, equitable back pay, equitable front pay, equitable reinstated, equitable reinstatement or promotion, and any other relief the Court deems equitable and just.

75. Plaintiff requests the following equitable remedies and relief in this matter:

- a. Plaintiff requests a declaration by this Court that the practices contested herein violate New Jersey law as set forth herein.
- b. Plaintiff requests that this Court order the Defendant to cease and desist all conduct inconsistent with the claims made herein going forward, both as to the specific Plaintiff and as to all other individuals similarly situated.
- c. Plaintiff requests, that in the event that equitable reinstatement and/or equitable back pay and equitable front pay is ordered to the Plaintiff, that all lost wages, benefits, fringe benefits and other remuneration is also equitably restored to the Plaintiff.
- d. Plaintiff requests that the Court order the Defendant to alter its files so as to expunge any reference to which the Court finds violates the statutes implicated herein.
- e. Plaintiff requests that the Court do such other equity as is reasonable, appropriate and just.

**JAVERBAUM WURGAFT HICKS KAHN
WIKSTROM & SININS, P.C.**

s/ Drake P. Bearden, Jr.
Drake P. Bearden Jr.

Dated: June 1, 2023

DEMAND TO PRESERVE EVIDENCE

1. All Defendants are hereby directed and demanded to preserve all physical and electronic information pertaining in any way to Plaintiff's employment, to Plaintiff's cause of action and/or prayers for relief, to any defenses to same, and pertaining to any party, including, but not limited to, electronic data storage, closed circuit TV footages, digital images, computer images, cache memory, searchable data, emails, spread sheets, employment files, memos, text messages and any and all online social or work related websites, entries on social networking sites (including, but not limited to, Facebook, twitter, MySpace, etc.), and any other information and/or data and/or things and/or documents which may be relevant to any claim or defense in this litigation.

2. Failure to do so will result in separate claims for spoliation of evidence and/or for appropriate adverse inferences.

**JAVERBAUM WURGAFT HICKS KAHN
WIKSTROM & SININS, P.C.**

s/ Drake P. Bearden, Jr.
Drake P. Bearden Jr.
Attorney for Plaintiff

Dated: June 1, 2023

JURY DEMAND

Plaintiff hereby demands a trial by jury.

**JAVERBAUM WURGAFT HICKS
KAHN WIKSTROM & SININS, P.C.**

s/ Drake P. Bearden, Jr.
Drake P. Bearden Jr.

RULE 4:5-1 CERTIFICATION

1. I am licensed to practice law in New Jersey and am responsible for the captioned matter.
2. I am aware of no other matter currently filed or pending in any court in any jurisdiction which may affect the parties or matters described herein.

**JAVERBAUM WURGAFT HICKS
KAHN WIKSTROM & SININS, P.C.**

s/ Drake P. Bearden, Jr.
Drake P. Bearden Jr.

DESIGNATION OF TRIAL COUNSEL

Drake P. Bearden, Jr., Esquire, of the law firm of Javerbaum Wurgafit Hicks Kahn Wikstrom & Sinins, P.C. is hereby designated trial counsel.

**JAVERBAUM WURGAFT HICKS
KAHN WIKSTROM & SININS, P.C.**

s/ Drake P. Bearden, Jr.
Drake P. Bearden Jr.

Dated: June 1, 2023

Civil Case Information Statement

Case Details: CAMDEN | Civil Part Docket# L-001585-23

Case Caption: O'ROURKE KEVIN VS HOLTEC INTERNATIONAL CORP

Case Initiation Date: 06/01/2023

Attorney Name: DRAKE P BEARDEN JR

Firm Name: JAVERBAUM WURGAFT HICKS KAHN WIKSTROM & SININS

Address: 1000 HADDONFIELD-BERLIN RD STE 203 VOORHEES NJ 08043

Phone: 8565964100

Name of Party: PLAINTIFF : O'ROURKE, KEVIN

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

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

Document Type: Complaint with Jury Demand

Jury Demand: YES - 6 JURORS

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:
Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Does this case involve claims related to COVID-19? NO

Are sexual abuse claims alleged by: KEVIN O'ROURKE? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

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

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

If yes, is that relationship: Employer/Employee

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

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

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

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

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

06/01/2023

Dated

/s/ DRAKE P BEARDEN JR

Signed

EXHIBIT B

KEVIN O'ROURKE
vs.
HOLTEC INTERNATIONAL
CORPORATION et al

Plaintiff
Defendant

Superior Court of New Jersey
Law Division
Camden County
Docket Number: CAM-L-1585-23

Person to be served (Name & Address):
HOLTEC INTERNATIONAL CORPORATION
1 HOLTEC BLVD
CAMDEN, NJ 08104

AFFIDAVIT OF SERVICE

(For Use by Private Service)

Attorney:
JAVERBAUM WURGAFT HICKS KAHN WIKSTROM &
SINNIS, P.C.
1000 Haddonfield-Berlin Rd.
Suite 203
Voorhees, NJ 08043

Papers Served: SUMMONS AND COMPLAINT, TAN, CIS, DISCOVERY REQUESTS

Service Data:

Served Successfully Not Served _____ Date: 6/8/2023 Time: 11:53 am Attempts: _____

_____ Delivered a copy to him / her personally Name of Person Served and relationship / title:
_____ Left a copy with a competent household member over 14 years of age residing therein CHERYL THOMAS
_____ Left a copy with a person authorized to accept service, e.g. managing agent, registered agent, etc. HOLTEC SECURITY/AUTHORIZED

Description of Person Accepting Service:

Sex: F Age: 50 Height: 5'3 Weight: 150 Skin Color: BLACK Hair Color: BROWN/BLACK

Unserved:

- Defendant is unknown at the address furnished by the attorney
- All reasonable inquiries suggest defendant moved to an undetermined address
- No such street in municipality
- No response on: _____ Date _____ Time

Date _____ Time
- Other: _____

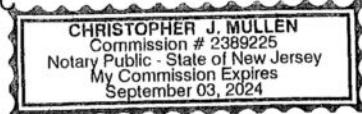
Comments or Remarks:

WILLIAM GILL (V.P. GENERAL COUNSEL) AUTHORIZED CHERYL THOMAS TO SIGN AND ACCEPT THE DOCUMENTS

Server Data:

Subscribed and Sworn to before me on the 9th day of June, 2023 by the affiant who is personally known to me.

NOTARY PUBLIC



I, Joshua Baum, was at the time of service a competent adult not having a direct interest in the litigation. I declare under penalty of perjury that the foregoing is true and correct.


Signature of Process Server

6/9/23
Date

COURT HOUSE LEGAL SERVICES, INC.
112 Haddontowne Ct, Ste. 304
Cherry Hill, NJ 08034
(856) 428-4700
Our Job Serial Number: CHL-2023005981
Ref: O'ROURKE/HOLTEC

EXHIBIT C

**JAVERBAUM WURGAFT HICKS
KAHN WIKSTROM & SININS, P.C.**

By: Drake P. Bearden, Jr., Esquire
Attorney I.D. No. 039202009
1000 Haddonfield-Berlin Rd, Suite 203
Voorhees, NJ 08043
Telephone: 856-596-4100 x 3050
Email: dbearden@lawjw.com
Attorneys for Plaintiff

KEVIN O'ROURKE,
Plaintiff,

vs.

HOLTEC INTERNATIONAL
CORPORATION, HOLTEC
INTERNATIONAL POWER DIVISION,
INC., KRISHNA SINGH, and JOHN DOES
1-5 AND 6-10,
Defendants.

SUPERIOR COURT OF NEW JERSEY
CAMDEN COUNTY - LAW DIVISION
DOCKET NO: CAM-L-1585-23
CIVIL ACTION

**PLAINTIFF'S FIRST SET OF
INTERROGATORIES DIRECTED TO
DEFENDANTS**

Kindly respond to the attached interrogatories and requests for production of documents within the time prescribed by Court Rule.

**JAVERBAUM WURGAFT HICKS KAHN
WIKSTROM & SININS, P.C.**

s/ Drake P. Bearden, Jr.
Drake P. Bearden, Jr.

Dated: June 6, 2023

DEFINITIONS

Unless otherwise clearly indicated, the following words, as used herein, shall have the meaning shown:

1. "Person" or "persons" means all individuals and entities, including without limitation individuals, representative persons, associations, companies, corporations, partnerships, estates, public agencies, departments, divisions, bureaus and boards.
2. "Document" includes, without limitation, the original and each copy of each and any writing, email, entry on a social networking site, text message, data file, evidence of indebtedness, memorandum, letter, correspondence, telegram, note, minutes, contract, agreement, inter-office communication, bulletin, circular procedure, pamphlet, photograph, study, notice, summary, invoice, diagram, plan, drawing, diary, record, telephone message, chart, schedule, entry, print, representation, report and any tangible items or thing of written, readable, graphic, audible, or visual material, of any kind or character, whether handwritten, typed, Xeroxed, photographed, copied, microfilmed, microcarded, or transcribed by any means, including, without limitation, each interim as well as final draft.
3. "Communication" means any and all written and non-written forms of expression or communication whether face-to-face, by telephone, in email, on or through a website, in text mail, on a social networking site, in conference, by document, or otherwise. "Oral communication" means every communication other than written communication.
4. "Identify," when referring to a natural person, means to provide the following information:
 - (a) his/her full name and date of birth;
 - (b) present or last known address;

- (c) the last date when such address was known or believed to be correct;
- (d) his/her present or last known business affiliation, title and occupation;
- (e) the extent to which, and the foundational information for, the claim that the person is part of the litigation control group, or is represented by any attorney or law firm representing any Defendant.

5. "Identify," when referring to a corporation, partnership, limited partnership or any other business or organization means to provide the corporation's full name, each state in which it is incorporated, and the address of its principal place of business.

6. "Identify," when referring to any document means to describe the document and its contents in as much detail as possible, state the date the document was created, identify who created the document, state how Defendant came into possession of the document and state in what way the document is responsive to the request.

7. "Identify," when referring to an oral communication means to describe the oral communication in as much detail as possible, state the date the communication occurred, identify every individual who was part and/or participated in the oral communication, identify every person who was present during the oral communication, state how Defendant was made aware of the oral communication and state in what way the oral communication is responsive to the request.

8. "Identify," when referring to any written communication means to describe the written communication and its contents in as much detail as possible, state the date the written communication was created, state the date the written communication was communicated, identify who created the written communication, identify every person who was involved in the process of creating the written communication, identify every person to whom the written communication was communicated to and who communicated it to each person, state how Defendant came into

possession of the written communication and state in what way the written communication is responsive to the request.

11. “Defendant” means each and any of the Defendants in this action, including every individual Defendant, whether acting in his/her individual capacity or as agent for another, and every predecessor and successor in interest to every corporate Defendant, and every director, officer, employee, and agent and any other representative acting on behalf of any Defendant.

12. “Plaintiff” means any and/or all Plaintiffs in this action, and every director, officer, employee, and agent and any other representative acting on its behalf.

13. “Relevant time period” means the period from one year prior to any event alleged in the Complaint filed herein to the date these interrogatories are answered.

14. When using the term “employment,” “employer,” or “employee” regarding Plaintiff’s relationship with Defendant that includes any employment relationship, independent contractor relationship, job assignment (whether temporary or permanent), or any other relationship between Plaintiff and Defendant wherein Plaintiff performed work for Defendant or any agent of Defendant.

INSTRUCTIONS

1. All answers should be based upon all information available to the answering party, including its agents, within the meaning of R.4:17-4.
2. All answers should be supplemented or amended in accordance with the requirements of R. 4:17-7.
3. If any information or document is omitted or withheld from an answer by reason of a claim of privilege, the answer should describe such information or document with sufficient specificity to establish the basis of the privilege and should state all factual and legal bases for the allegation that such information or document is privileged.
4. Unless otherwise clearly specified, all interrogatories refer to the relevant time period as defined above. If an answer varies during the relevant time period, all the various answers for the relevant time period should be given, with a specification of the portion of the relevant time period to which each such answer applies.

INTERROGATORIES

1. Please identify any and all individuals who were involved in the process of answering these interrogatories. For each individual identified, please provide the following: (1) the individual's name; (2) what, if any, affiliation the individual has with Defendant; (3) what specific information the individual was responsible for providing.

2. Please provide a complete job history for Plaintiff. This should include, but not be limited to when Defendant hired Plaintiff to work for Defendant, what was Plaintiff's job title, whether Plaintiff's job title changed, and if so what did the job title change to.

3. Identify each person who has knowledge or relevant information concerning any claims made by the Plaintiff, any defenses the Defendant may assert and any documents Defendant may request or may produce during the course of this litigation. For each individual, identified please provide the last known address and phone number for that person.

4. For each individual identified in response to interrogatory number 2, please state in detail the relevant information Defendant believes each individual possesses.

5. If Defendant is alleging anyone, whether or not they were identified in response to interrogatory number 2, is part of the litigation control group and cannot be contacted directly by Plaintiff's counsel, identify that individual and state in detail why Defendant believes that individual is part of the litigation control group.

6. If Plaintiff is no longer employed with Defendant, please state in as much detail as possible any and all reasons why Plaintiff's employment ended. This should include, but not be limited to, the date the decision was made to end Plaintiff's employment, the date Plaintiff's employment actually ended and the identity of any and all individuals who were involved in the decision to end Plaintiff's employment.

7. If Defendant is aware of any information that Defendant contends was false or misleading in the application materials or application or hiring process Plaintiff, identify and attach all documents relating to same and supply a complete factual recitation of the information.

8. Please state whether Defendant believes Plaintiff performed Plaintiff's job in a less than satisfactory manner, committed an act of misconduct or negligence associated with Plaintiff's job, or performed Plaintiff's job in a manner necessitating any formal or informal discipline, set forth in complete factual detail all such facts and information relating to that contention, and identify each person who possesses knowledge of each such fact or information.

9. Has Defendant been named in any administrative complaint in the New Jersey Division of Civil Rights (or any other state civil rights agency), in the EEOC, or in any state court or any federal court in which it was alleged that the answering Defendant violated any of the statutes or doctrines set forth in Plaintiff's complaint in this action, during the five-year period preceding the filing of this action? If so, please identify the individual who made the complaint, state the date on which the complaint was made and state in detail any conclusion that were reached as a result of the complaint. Please also attach any and all documents responsive to this interrogatory.

10. For each individual identified in Plaintiff's Complaint who either is a current or former employee of Defendant, please state whether that individual has ever been disciplined for engaging in retaliatory conduct against any employees of Defendant. Please also attach any and all documents responsive to this interrogatory.

11. State whether or not the answering Defendant has any insurance which may cover any part or all of the loss attributable to any theory or claim that Plaintiff has advanced. If so, set forth the agency, the policy number and any claims numbers attendant to any claim the Plaintiff

has advanced. Identify and attach any declarations or other coverage documents, as well as any letters or reservation of rights or any other correspondence concerning the invocation of the policy and/or a response to said invocation. Please identify any excess or other policies attached to the policy.

12. If Defendant has insurance that covers any part of Plaintiff's claim, please state whether any insurance adjuster has had any communications with Defendant or any other individuals regarding Plaintiff's claims. If the adjuster has, please identify the following: (1) the individual with whom the adjuster had a conversation; (2) the date of the conversation; (3) what, if anything was said during that conversation. Please also provide any and all documents related to the information requested in this interrogatory, including, but not limited to, information contained within the claims file.

13. Identify and attach any documents relating to any statements, summaries of notes of conversations regarding statements, or other information which pertains in any way to any communications with nonparties concerning the facts alleged in Plaintiff's complaint or any defense.

14. For each individual with whom any servant, agent, employee or representative of answering Defendant has had communication regarding the Plaintiff after Plaintiff's employment ended, identify the individuals concerned on both ends of the communication, including names, addresses and telephone numbers, present relationship to Defendant, and set forth in detail the nature and extent of the communication, why it occurred, when it occurred, how it occurred and the substance of each communication.

15. Identify and attach any information and/or documents in Defendant's possession which represents any communications made by Plaintiff in any form that Defendant believes

may be relevant to any of Plaintiff's claims, Defendant's defenses or any other issues in this case.

16. Does Defendant or any employees on behalf of Defendant maintain any social media or social networking accounts? If so, please identify the account by username and/or website or any other means.

17. Has Defendant retained an expert witness as to any issue in this case for the purpose of providing an expert opinion and/or report or giving testimony at trial? If so, provide the expert's name and area of putative expertise, attach the expert's CV and any report from the expert.

18. Please identify the proper and full name of the corporate employer of Plaintiff and/or each and every Plaintiff in this matter. Provide its address, the address out of which Plaintiff was employed if different and provide detailed information about its relationship to any and all other known Defendants.

19. Set forth the name, address, job title (if any), Social Security number, date of birth and driver's license identification number of any and all parties to this case and of any and all individuals contributing to the answers to these interrogatories.

20. If Defendant is a business, set forth the names of any and all businesses of which the Defendant either owns an interest of stock or which own an interest of stock of the Defendant.

21. Attach the profit and loss statements and/or corporate or business tax returns with all schedules and attachments of the Defendant for the last five (5) years.

22. Set forth the name and address of any and all tax preparers, accounting firms, financial planners, financial advisors, or other financial professionals with whom the Defendant

has consulted in the last five years and if a business name was given, give the particular names of the individuals at that business with whom the Defendant has dealt, individually.

23. For any individual Defendant, attach and include personal tax returns and/or joint tax returns if the individual is married, for the last five (5) years, along with all schedules and attachments.

24. Set forth any judgments entered against you, the date they were entered, the docket number for the judgment, the creditor and the amount of the judgment.

25. Specify the gross income and net worth of the Defendant for each year for the last five years and including year to date. Attach all annual reports and tax returns for the Defendants, as well as all profit and loss statements for each of the last five years. Attach also a list of all monetary and physical assets owned by the Defendants and whether or not they are encumbered and to what degree.

26. Did Plaintiff or any other employee complain that Plaintiff was subjected to retaliation in the workplace? By "complain" Plaintiff is referring to any formal or informal complaints made by any employee of Defendant to any employee of Defendant, made verbally, in writing or otherwise. For each individual identified, please identify the date on which the individual made the complaint, the nature of the complaint, and what if anything was done as a result of the complaint. Please identify any and all employees at Defendant who were responsible for receiving the complaint, investigating the complaint and taking any other action involving the complaint. Please also attach any and all documents that document or relate in any way to any complaints that were made during that period of time, including, but not limited to, any and all documents regarding the complaint itself, any and all investigations that were conducted as a result of the complaint, any and all interviews that were conducted as a result of

the complaint, any and all conclusions that were reached by Defendant and its employees as a result of the complaint, and any and all actions taken by Defendant as a result of the complaint and subsequent investigation.

27. To the extent Defendant has retained or in the future retains an expert, please state the expert's name, practice address, home address, date of birth and attach a copy of his or her most recent curriculum vitae or resume.

28. Supply a list of each and every matter in which the expert has authored an expert report in the last five years, including the name of the case and docket number. State whether the expert provided deposition testimony in each of the matters. Please attach a copy of that report, and attach any transcripts related to any deposition testimony or court testimony given in each and every matter.

29. Provide a complete copy of the expert's file including, but not limited to, any documents used by the expert and preparing the report, any raw data used or created by the expert in preparing the report, any tests conducted by the expert in preparing the report and any other documents or other information used by the expert in creating the report.

30. Set forth a breakdown of income derived from expert witness work in the last five years as follows:

- (a) The amount received by either the answering witness or the answering witness' business if witness' income is not divisible from the income of the business, to the extent that such amounts were received from parties, their attorneys, insurance companies or other agents for the purpose of authoring expert reports for each year in the last five years;
- (b) The amount received by the answering expert and/or their business if the

expert's income is not divisible from the business from parties, their attorneys, insurance companies or other agents for the purpose of deposition testimony in the last five years;

- (c) The amount received by the answering expert and/or their business if the expert's income is not divisible from the parties, their attorneys, insurance companies or other agents for the purpose of in-court, videotaped or live testimony in the last ten years;
- (d) Attach a true and correct copy of all schedules and/or tax returns substantiating the income derived from expert witness work in the last ten years.

31. Set forth in percentages the approximate number of occasions that the expert has served in the capacity of an expert for Plaintiff and in the capacity of an expert for Defendant for the last ten years.

32. Set forth for each publication authored or co-authored in the last twenty years;

- (a) The publication, issue number, year, edition or volume in which the article appears;
- (b) The names of any co-authors applicable;
- (c) The subject area concerned with the authored pieces via description of the authored piece (i.e., chapter in a treatise, article in a journal, etc.)

33. Set forth in detail any professional standards, charts, laws, regulations, ordinances, statutes or other authorities upon which you rely in whole or in part in rendering your opinions. Set forth each in detail, citing its source.

34. Does Defendant have a policy that prohibits retaliation in the workplace? If so,

identify and attach each such policy maintained by the Defendant in the last five years.

35. Do the employees receive formal or informal training regarding any of the policies identified in response to the proceeding interrogatory? If so, please explain in as much detail as possible the type of training the employees receive, how often that training has been conducted, and attached any and all documents related to each training and documents establishing such training occurred and employees attended the training.

36. Please designate one or, if necessary, more than one representative of your company by name and job title who is in the best position to discuss and testify at deposition about your company's electronic data storage practices.

37. State whether or not any electronic data has been erased or deleted respecting the Plaintiff in this lawsuit, the Plaintiff's claim, the Plaintiff's employment, the Plaintiff's contractual interactions with you or any other information relating to the Plaintiff or the Plaintiff's claim since you became aware of the intention of the Plaintiff to make a claim (either having received a letter from the Plaintiff stating such claim, having received a letter from counsel stating such claim, having received word that charges had been filed with a state or federal agency, a regulatory body or that suit had been filed in a Court of law).

38. If the last Interrogatory is in the affirmative, specify exactly what data has been erased, deleted or altered from what electronic medium the data was deleted, altered and/or erased. On what date(s) these changes took place and the reason for these changes.

39. Does Defendant maintain a written standard operating procedure or policy for the purposes of data retention of any kind? If so, identify each and every document, its date of creation, how many pages, who maintains custody and control of the document and include a copy of each such document to your Answers to these Interrogatories.

40. Please explain in as much detail as possible the manner in which Plaintiff was compensated during the time he worked for Defendant. This should include any and all salary and wages Plaintiff earned, the amount of those salary and wages, plus any and all commissions, bonuses, overtime, or any other income or compensation Plaintiff earned during the time he worked for Defendant. This should also include any and all benefits Plaintiff received while working for Defendant, including, but not limited to, healthcare, retirement or any union benefits, and value of any and all benefits Plaintiff received. By “value” Plaintiff is referring to the amount of money Defendant contributed to any and all benefits and the amount of money Plaintiff contributed to any and all benefits.

Please also attach any and all documents that relate in any way to any compensation Plaintiff received during the time he worked for Defendant. This includes, but is not limited to, any and all timecards, W2s, paychecks, earning statements, 1099s, or other documents that document or relate in any way to any and all compensation Plaintiff received during the time he worked for Defendant.

41. Did Defendant use any workplace collaboration tools (“WCTs”), such as Slack, Microsoft Teams, Google Hangout, or any other WCTs during the time Plaintiff worked for Defendant? If yes, please identify any WCT the Defendant used. Produce any WCT communications Plaintiff participated in, any WCT communications in which employees of Defendant discussed Plaintiff in any way, and any WCT communications that are in any way relevant to Plaintiff’s claims or Defendant’s defenses.

42. Does Defendant use any automated employment decision tool (“AEDT”) in making and decisions regarding hiring, firing, promotions, discipline or pay of employees? If so please identify the AEDT and state in as much detail as possible the means by which the AEDT

is used to make decisions regarding hiring, firing, promotions, discipline or pay. For the purpose of this interrogatory, an AEDT means any system the function of which is governed by statistical theory, or systems the parameters of which are defined by systems, including inferential methodologies, linear regression, neural networks, decision trees, random forests, and other learning algorithms, which automatically filters candidates or prospective candidates for hire or for any term, condition or privilege of employment in a way that establishes a preferred candidate or candidates.

43. Did Defendant provide the Prospectus identified in Plaintiff's Complaint to the entity identified in the Complaint as Hyundai? If yes, please state who made the decision to provide the Prospectus to Hyundai; when the Prospectus was provided to Hyundai; and produce a copy of the Prospectus Defendant provided to Hyundai.

44. Did Defendant have Corporate Counsel, its Governance Office, Outside Counsel or any other legal counsel review the Prospectus identified in Plaintiff's Complaint. If yes, please state when that review occurred and provide any and all documents related to the review and correspondences related to the review.

CERTIFICATION

I certify that the foregoing statements made by me are true. I am aware that I am subject to punishment by law for any statements made by me that are willfully false.

I further certify that all copies of reports, documents and other tangible items which are attached to these Interrogatories are true copies of said reports. I certify that I do not know of the existence of any other reports. I further certify that I will immediately serve upon the propounding attorney copies of any requested reports, documents and other tangible items of evidence which become known to me, but in no case later than twenty days prior to the first date fixed for trial.

Signature

Printed Name

EXHIBIT D

**JAVERBAUM WURGAFT HICKS
KAHN WIKSTROM & SININS, P.C.**

By: Drake P. Bearden, Jr., Esquire
Attorney I.D. No. 039202009
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Voorhees, NJ 08043
Telephone: 856-596-4100 x 3050
Email: dbearden@lawjw.com
Attorneys for Plaintiff

KEVIN O'ROURKE,
Plaintiff,

vs.

HOLTEC INTERNATIONAL
CORPORATION, HOLTEC INTERNAL
POWER DIVISION, INC., KRISHNA
SINGH, and JOHN DOES 1-5 AND 6-10,

Defendants.

SUPERIOR COURT OF NEW JERSEY
CAMDEN COUNTY -LAW DIVISION
DOCKET NO: CAM-L-1585-23
CIVIL ACTION

**PLAINTIFF'S FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS**

PLEASE TAKE NOTICE that Plaintiff(s) demands, pursuant to Rule 4:18-1, that Defendant(s) produce the following documents for inspection and copying to the offices of Javerbaum Wurgافت Hicks Kahn Wikstrom & Sinins, P.C. at 1000 Haddonfield-Berlin Road, Voorhees, NJ 08043.

For the purpose of these document requests, "Document" includes, without limitation, the original and each copy of each and any writing, email, entry on a social networking site, text message, data file, evidence of indebtedness, memorandum, letter, correspondence, telegram, note, minutes, contract, agreement, inter-office communication, bulletin, circular procedure, pamphlet, photograph, study, notice, summary, invoice, diagram, plan, drawing, diary, record, telephone message, chart, schedule, entry, print, representation, report and any tangible items or thing of written, readable, graphic, audible, or visual material, of any kind or character, whether

handwritten, typed, Xeroxed, photographed, copied, microfilmed, microcarded, or transcribed by any means, including, without limitation, each interim as well as final draft.

When using the term “employment,” “employer,” or “employee” regarding Plaintiff’s relationship with Defendant that includes any employment relationship, independent contractor relationship, job assignment (whether temporary or permanent), or any other relationship between Plaintiff and Defendant wherein Plaintiff performed work for Defendant or any agent of Defendant.

1. Any and all documents that are relevant to any of Plaintiff’s claims including but not limited to all issues related to liability or damages.
2. Any and all documents that are relevant to any of Defendant’s defenses including but not limited to all issues related to liability, damages or affirmative defenses.
3. Any and all documents that are related in any way to any of the admissions, denials or other claims made in Defendant’s Answer.
4. Any and all documents related in any way to each affirmative or separate defense in Defendant’s Answer.
5. Any and all documents related in any way to each and every Crossclaim in Defendant’s Answer.
6. Any and all documents related in any way to every Counterclaim in Defendant’s Answer.
7. Any and all documents related in any way to every Third Party Complaint Defendant has filed.
8. Any and all documents referred to or relied upon by Defendant in the preparation of any Answers to Interrogatories.

9. Any and all documents referred to or relied upon by Defendant in the preparation of any Responses to Request for Production of Documents.

10. Any and all documents related to the employment and/or independent contractor relationship between Defendant and any other parties to this matter.

11. Any and all documents related in any way to the end of Plaintiff's employment with Defendant. This includes, but is not limited to, any documents related in any way to the end of Plaintiff's employment including discussions about the end of Plaintiff's employment, the reasons why Plaintiff's employment ended and who was responsible for making the decision to end Plaintiff's employment.

12. Any and all documents related to any change in Plaintiff's job title, job status or responsibilities at any time while employed by any party to this suit.

13. Any and all documents related to any discipline, whether formal or informal, whether oral or written, Plaintiff received during the time Plaintiff was employed by Defendant.

14. Any and all documents related to job application materials pertaining in any way to Plaintiff for employment answering Defendant's company or at any other past or present employer of which the defense or any servant or agent or employer of the Defendant has awareness of knowledge.

15. Any and all documents related to any communications, whether oral or written, between Plaintiff and any current or former employee, agent, servant or representative of the Defendant.

16. Any and all documents related to any grievance or complaint, formal or informal, internal or external filed by the Plaintiff during Plaintiff's employment with the Defendant.

17. Any and all copies of all audiotapes, videotapes, recordings or other media devices related to any of Plaintiff's claims or Defendant's defenses.

18. Any and all documents related to Plaintiff's employment with Defendant including, but not limited to, promotions, transfers, positions, demotions, reviews or other changes in assignments with the Defendant.

19. Any and all job descriptions related to any position held by the Plaintiff or any position held by an individual named or described in the Complaint.

20. Any and all documents related to any complaints filed by any current or former employee of Defendant in the last five years since Plaintiff filed Plaintiff's complaint wherein the employee claimed they were subjected to the same or similar conduct Plaintiff alleged she was subjected to in his complaint. By "complaints" Plaintiff is referring to any formal or informal complaints made by any employee of Defendant to any employee of Defendant, made verbally, in writing or otherwise, and any complaints filed with any administrative agency of the State or Federal Government (i.e. DCR or EEOC) or any lawsuit filed with the State or Federal Court. The production should include any and all documents that document or relate in any way to any complaints that were made during that period of time, including, but not limited to, any and all documents regarding the complaint itself, any and all investigations that were conducted as a result of the complaint, any and all interviews that were conducted as a result of the complaint, any and all conclusions that were reached by Defendant and its employees as a result of the complaint, and any and all actions taken by Defendant as a result of the complaint and subsequent investigation.

21. The "redacted" (see definition of redacted below) employment file for any individual aside from Plaintiff who is named in the Complaint by name or whose position or

identity was described by the Plaintiff in the Complaint, and current or former employee identified by Defendant as a person with knowledge relevant to Plaintiff's claims or Defendant's defenses. The term "redacted" involves a removal of *all medical and financial information* relating to such persons. Responsive documents should include, but not be limited to trainings, instructions, seminars, disciplines, reviews or warnings.

22. Any and all related to any policy, standard or procedure prohibiting or speaking to the rights concerning discrimination, harassment or retaliation of any kind, that Defendant had in place during the five years since Plaintiff filed Plaintiff's complaint.

23. Any and all documents relating in any way to Plaintiff's medical status.

24. Any and all documents related to any contact defense counsel or other agents, servants or representatives of Defendant had with any witness.

25. Any and all documents related to work-related calendars or diaries maintained by any individual identified by Plaintiff in Plaintiff's complaint or identified by Defendant as individuals have knowledge relevant to Plaintiff's claim.

26. Any and all documents in the Defendant's possession, which have not been otherwise provided pursuant to a preceding request and which refers in any way to the Plaintiff.

27. Any and all documents obtained by Defendant or which will be obtained by Defendant by way of subpoena power.

28. Any and all documents referring to any policy of insurance, whether worker's compensation, general liability maintained by the Defendant for the benefit of the Defendant entity, or maintained by any other entity for the benefit of Answering Defendant, or for the benefit of any individual named in Plaintiff's Complaint, that is alleged to possibly cover one or

more of the losses claimed in Plaintiff's Complaint (NOTE: include declarations pages, correspondence with insurance entities, etc.).

29. Any documents related to any meeting wherein the Plaintiff's employment relationship or termination of employment was discussed.

30. For each and every document that Defendant claims is not suppliable pursuant to interrogatories asked by the Plaintiff or a request for production of documents by Plaintiff because the document is privileged, set forth for each and every such document the nature of the document with enough particularity that it can be discussed between the parties and/or the Court and the basis for the objection.

31. If the Defendant company files or sends annual reports to shareholders, produce the last ten such reports filed and continue to supply reports filed during the pendency of this litigation.

32. Any and all documents not specifically requested in the foregoing requests that Defendant believes will in any way relate to the claims in this matter.

33. Any and all documents provided by Answering Defendant to the New Jersey Department of Labor and Workforce Development or any other state agency or department in regards to or in response to any claim for unemployment benefits initiated by Plaintiff.

**JAVERBAUM WURGAFT HICKS KAHN
WIKSTROM & SININS, P.C.**

s/ Drake P. Bearden, Jr.
Drake P. Bearden, Jr.

Dated: June 6, 2023

CERTIFICATION

I hereby certify that I have reviewed the document production request and that I have made or caused to be made a good faith search for documents responsive to the request. I further certify that as of this date, to the best of my knowledge and information, the production is complete and accurate based on my personal knowledge.

I acknowledge my continuing obligation to make a good faith effort to identify additional documents that are responsive to the request and to promptly serve a supplemental written response and production of such documents, as appropriate, as I become aware of them. The following is a list of the identity and source of knowledge of those who provided information to me:

Signature

Printed Name

EXHIBIT E

WHITE AND WILLIAMS LLP

James P. Anelli (NJ ID 031071984)

Ryan T. Warden (NJ ID 044322006)

One Gateway Center, Suite 910

Newark, NJ 07102-4200

(201) 368-7200

*Attorneys for Defendants Holtec International,
Holtec International Power Division, Inc.,
and Krishna Singh*

KEVIN O'ROURKE,

Plaintiff,

v.

HOLTEC INTERNATIONAL CORPORATION,
HOLTEC INTERNATIONAL POWER
DIVISION, INC., KRISHNA SINGH, and JOHN
DOES 1-10.

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: CAMDEN COUNTY

Docket No.: CAM-L- 1585-23

Civil Action

**DEFENDANTS' ANSWER TO
PLAINTIFF'S COMPLAINT WITH
SEPARATE DEFENSES,
COUNTERCLAIMS, DESIGNATION
OF TRIAL COUNSEL, DEMAND FOR
JURY TRIAL, DEMAND FOR
STATEMENT OF DAMAGES,
DEMAND FOR STATEMENTS,
DEMAND FOR DOCUMENTS, AND
CERTIFICATION PURUSANT TO
RULE 4:5-1**

Defendants, Holtec International (“Holtec”),¹ Holtec International Power Division, Inc. (“Holtec Power Division”), and Krishna Singh (“Singh”) (collectively “Defendants”), by and through their attorneys, White and Williams LLP, hereby answer Plaintiff’s Complaint and assert the following Separate Defenses as follows:

Introduction

The allegations in Plaintiff’s “Introduction” are not accurate and denied. For almost a year, Plaintiff oversaw the creation of investor materials and projections, and presented same to

¹ Improperly pleaded as “Holtec International Corporation.”

potential investors. Twice, Plaintiff certified the accuracy of Holtec's financial statements to Holtec's Board of Directors during the relevant timeframe in the Complaint and certified to Holtec's auditors in writing that he was unaware of any concerns of fraud or inaccurate information that could impact Holtec's business.

Parties

1. The allegations contained within paragraph 1 of the Complaint are admitted in part and denied in part. It is only admitted that Plaintiff is a former employee of Holtec. After reasonable inquiry, Defendants lack sufficient knowledge or information to form a belief as to the truth of Plaintiff's residence and therefore that allegation is denied.

2. After reasonable inquiry, Defendants lack sufficient understanding of what is meant by the assertion relating to Holtec's "main business address," as Holtec has many business addresses, and therefore the allegations in this paragraph are denied. By way of further answer, Holtec's headquarters are located in Jupiter, Florida.

3. Defendants admit that Holtec Power Division is a Delaware corporation operating in Camden, New Jersey.

4. Defendants deny the allegations contained within paragraph 4 of the Complaint. By way of further answer, Defendants aver that Singh is a resident of the State of Florida.

5. The allegations contained within paragraph 5 of the Complaint are not directed to Defendants and therefore no response is required. To the extent this paragraph contains allegations directed to Defendants, they are denied.

Factual Allegations

6. Defendants deny the allegations contained within paragraph 6 of the Complaint as stated. By way of further answer, Plaintiff was hired by Holtec on or around May 21, 2021 as the

Chief Financial Officer (“CFO”). Shortly after starting as CFO, Plaintiff routinely refused assignments, complained about his pay, threatened to quit twice, and displayed erratic and hostile behavior to co-workers and third-parties.

7. Defendants deny the allegations contained within paragraph 7 of the Complaint as stated. By way of further answer, Plaintiff was terminated by Holtec on or around August 30, 2022, approximately one year and three months after he was hired.

8. Defendants deny the allegations contained within paragraph 8 of the Complaint as stated. By way of further answer, Kelly Trice (“Trice”) is the President of Holtec Decommissioning International and the President of SMR, Inc., as well as having several other titles. At all relevant times, Trice was the Executive Supervisor for the Accounting & Finance Department at Holtec and, in that role, had direct supervision over Plaintiff.

9. Defendants admit the allegations contained within paragraph 9 of the Complaint. By way of further answer, Singh is the Chief Executive Officer of Holtec, which includes the Holtec Power Division.

10. The document characterized by Plaintiff as a “draft Prospectus” is a draft confidential writing that speaks for itself, and no response is required. To the extent paragraph 10 of the Complaint contains factual allegations, they are denied as alleged. By way of further answer, Defendants aver that CD-38 was not a “draft Prospectus.”² Instead, CD-38 was an internal draft document that contained a general explanation of Holtec’s business operations and

² The Corporate Finance Institute defines a “prospectus” as “a legal disclosure document that provides information about an investment offering to the public, and that is required to be filed with the Securities and Exchange Commission (SEC) or local regulator. [A] prospectus contains information about the company, its management team, recent financial performance, and other related information that investors would like to know.” CFI Team, *Prospectus*, CORPORATE FINANCE INSTITUTE (Aug. 20, 2019 updated May 3, 2023), <https://corporatefinanceinstitute.com/resources/valuation/prospectus/>.

did not contain the necessary information to even be considered a “prospectus.” The version of CD-38 Plaintiff received contained a large “DRAFT” watermark across the first page. Plaintiff was aware that before CD-38 would be provided to any potential investor, it would be reviewed in its entirety by a national investment banking firm.

11. CD-38 is a draft writing that speaks for itself, and no response is required. To the extent paragraph 11 of the Complaint contains factual allegations, they are denied. By way of further answer, Defendants aver that CD-38 was drafted by multiple individuals over multiple months; however, it was primarily based off an earlier version drafted by Plaintiff that Plaintiff provided to an investment firm.

12. Defendants deny that CD-38 was a “prospectus” and therefore the entire premise of the allegations contained in paragraph 12 of the Complaint is denied as stated.

13. Defendants admit the allegation contained within paragraph 13 of the Complaint.

14. Defendants deny the allegations contained within paragraph 14 of the Complaint as stated and by way of further answer state that Trice sent this email to executive team members with a copy to Plaintiff. Plaintiff was not responsible for financial projections and indicated that he was too busy to work on this assignment.

15. Defendants deny the allegations contained within paragraph 15 of the Complaint and state by way of further answer that Trice stated to Plaintiff that Plaintiff already had these projections because they were the same projections that Plaintiff provided to a previous investment firm just months before.

16. Defendants deny the allegations contained within paragraph 16 of the Complaint as stated and state by way of further answer that CD-38 did not contain “materially false or fraudulent data or information” and deny that the projections were rushed. Defendants further

aver that at this meeting between Trice and Plaintiff, Plaintiff agreed that CD-38 did not contain false information and the meeting ended with Plaintiff's concerns seemingly resolved.

17. Defendants deny the allegations contained within paragraph 17 of the Complaint as stated, and aver that Plaintiff only highlighted certain sections of CD-38 to which he had some unspecified concerns.

18. Defendants deny the allegations contained within paragraph 18 of the Complaint as stated.

19. Defendants deny the allegations contained within paragraph 19 of the Complaint as stated.

20. Defendants deny the allegations contained in paragraph 20 of the Complaint as stated as CD-38 was not a "prospectus."

21. Defendants deny the allegations contained within paragraph 21 of the Complaint in that Plaintiff merely expressed concerns about the draft information in CD-38, which Plaintiff had already presented to other investors in a similar format just months before and in a PowerPoint presentation in November of 2021. Plaintiff's concerns were unwarranted, and largely derived from Plaintiff's lack of knowledge and experience in the areas in which he expressed concerns. Moreover, most of Plaintiff's concerns were based on his erroneous opinions without factual support. Notwithstanding all of this, Plaintiff agreed with Trice on the day before that CD-38 did not contain false information. Defendants further state that CD-38 was not a "prospectus" and therefore the entire premise of paragraph 21 of the Complaint is denied.

a. The allegations contained within paragraph 21(a) of the Complaint are specifically denied.

- b. The allegations contained within paragraph 21(b) of the Complaint are specifically denied. Defendants further aver that these allegations are inconsistent with a financial memorandum Plaintiff “sponsored” as an author and presented to Holtec’s management on August 29, 2022 – after his purported “objections.”
- c. After reasonable inquiry, Defendants lack sufficient knowledge or information to form a belief as to what Plaintiff “knew” and therefore the allegations contained within paragraph 21(c) of the Complaint are denied.
- d. After reasonable inquiry, Defendants lack sufficient knowledge or information to form a belief as to what Plaintiff “believed” or what his belief may have been based upon, and therefore Defendants deny the allegations contained within paragraph 21(d).
- e. The allegations contained within paragraph 21(e) of the Complaint are specifically denied.
- f. The allegations contained within paragraph 21(f) of the Complaint are specifically denied.
- g. The allegations contained within paragraph 21(g) of the Complaint are specifically denied.
- h. Defendants deny the allegations in paragraph 21(h) of the Complaint and aver that no financial projections were contained in CD-38. Defendants further aver that on August 29, 2022, less than one week after Plaintiff’s purported “objections” to CD-38 alleged in the Complaint, Plaintiff certified to the Holtec Board of Directors that he had “no knowledge of any fraud or suspected fraud that affects [Holtec]” and “no knowledge of any allegations of fraud or suspected fraud

affecting [Holtec's] financial statements." Plaintiff also certified these findings to Holtec's auditors.

22. Defendants deny the allegations contained in paragraph 22 of the Complaint and aver that Plaintiff would not even have been in a position to express an opinion on this point.

23. Defendants deny the allegations contained in paragraph 23 of the Complaint, and further aver that Plaintiff's assertions are unsupported by any evidence and simply represent his uninformed opinions.

24. Defendants deny the allegations contained within paragraph 24 of the Complaint as stated.

25. Defendants deny the allegations contained within paragraph 25 of the Complaint.

26. Defendants deny the allegations contained with paragraph 26 of the Complaint as stated.

27. Defendants deny the allegations contained within paragraph 27 of the Complaint.

28. Defendants deny the allegations contained in paragraph 28 of the Complaint as stated as CD-38 was not a "prospectus."

29. Defendants deny the allegations contained in paragraph 29 of the Complaint as stated as CD-38 was not a "prospectus."

30. Defendants deny the allegations contained in paragraph 30 of the Complaint as stated as CD-38 was not a "prospectus."

31. Defendants deny the allegations contained within paragraph 31 of the Complaint as stated.

32. Defendants deny the allegations contained within paragraph 32 of the Complaint as stated and aver that Singh did not leave a voicemail for Plaintiff on August 23, 2022.

33. Defendants deny the allegations contained within paragraph 33 of the Complaint as stated and aver that Singh did not leave a voicemail for Plaintiff on August 23, 2022.

34. Defendants deny the allegations contained within paragraph 34 of the Complaint as stated.

35. Defendants deny the allegations contained within paragraph 35 of the Complaint, as stated, and aver that Vice President of Finance, Martin Babos (“Babos”), asked Plaintiff who on the team could provide ShareVault³ access because a potential investor requested a new member be given ShareVault account access permission.

36. Defendants deny the allegations contained within paragraph 36 of the Complaint, as CD-38 is not a “prospectus.”

37. Defendants deny the allegations contained within paragraph 37 of the Complaint, as stated, and aver that Babos also asked if the same person who could provide ShareVault access could assist with uploading documents to ShareVault.

38. Defendants admit and deny the allegations contained in paragraph 38. Defendants admit only that Plaintiff responded to Babos with a copy to Trice. Defendants deny that Plaintiff believed submitting CD-38 as drafted could violate the law and further aver that in response to Plaintiff’s email, Trice stated to Plaintiff that the potential investor was aware that CD-38 was in draft form, and that the potential investor had made it clear they were a sophisticated investor and would perform their own assessment regarding CD-38, and the other documents contained in the ShareVault.

³ ShareVault provides simple, secure virtual data rooms for sharing sensitive documents with third parties during due diligence and other business processes. See generally SHAREVAULT, <https://www.sharevault.com/> (last visited July 25, 2023).

39. Defendants deny the allegations contained within paragraph 39 of the Complaint.

There was no false information in CD-38.

40. Defendants deny the allegations contained within paragraph 40 of the Complaint, and further aver that Plaintiff's Holtec email was not included on the August 28, 2022 group email regarding CD-38.

41. Defendants deny the allegations contained within paragraph 41 of the Complaint insofar as the allegations do not address what specific email is addressed.

42. Defendants deny the allegations contained in paragraph 42 of the Complaint as CD-38 is not a "prospectus" and therefore the entire premise of paragraph 42 of the Complaint is denied as stated. To the extent this paragraph contains assertions pertaining to Plaintiff's beliefs, Defendants lack sufficient knowledge or information as to Plaintiff's "beliefs" and therefore those allegations are denied. Further, nowhere in the e-mail does Plaintiff state that there are "numerous" statements that he believed were false and misleading, as alleged in paragraph 42 of the Complaint.

43. Defendants deny the allegations contained in paragraph 43 as CD-38 is not a "prospectus." Defendants further aver that on August 29, 2022, Plaintiff requested a Holtec employee to provide the potential investor with ShareVault access, including CD-38.

44. Defendants deny the allegations contained in paragraph 44 in that CD-38 is not a "prospectus."

45. Defendants deny the allegations contained in paragraph 45 in that CD-38 is not a "prospectus."

46. Defendants deny the allegations contained in paragraph 46 in that CD-38 is not a "prospectus."

47. Defendants deny the allegations contained in paragraph 47 in that CD-38 is not a “prospectus” and aver by further answer that Defendants were not obligated to inform Plaintiff of any review.

48. After reasonable inquiry, Defendants lack sufficient knowledge or information to form a belief as to what Plaintiff “noticed” and therefore paragraph 48 of the Complaint is denied.

49. Defendants admit the allegations contained within paragraph 49 of the Complaint.

50. Upon information and belief, Defendants admit the allegations contained within paragraph 50 of the Complaint.

51. Defendants lack sufficient knowledge or information to form a belief as to the truth of what Plaintiff “noticed” and therefore paragraph 51 of the Complaint is denied.

52. Defendants admit the allegations contained within paragraph 52 of the Complaint and aver by way of further answer that Jack Johnson (“Johnson”) informed Plaintiff that Holtec lost confidence in him as CFO.

53. Defendants deny the allegations contained within paragraph 53 of the Complaint as stated and state by way of further answer that Johnson requested Plaintiff return all Holtec material by meeting him at the Holtec security gate.

54. Upon information and belief, Defendants admit the allegations contained within paragraph 54 of the Complaint. Defendants state by way of further answer that Johnson repeated the reason for Plaintiff’s termination, i.e., that Holtec lost confidence in him as CFO.

55. Defendants deny the allegations contained within paragraph 55 of the Complaint and aver by further answer that Johnson informed Plaintiff that Holtec lost confidence in him as CFO.

56. Defendants deny the allegations contained within paragraph 56 of the Complaint as stated and aver that Plaintiff stated unspecified concerns to Johnson.

57. Defendants deny the allegations contained within paragraph 57 of the Complaint as stated.

Legal Claims

58. The allegations in paragraph 58 of the Complaint assert only legal conclusions to which no response is required. To the extent an answer is deemed necessary, Defendants deny each and every allegation contained in paragraph 58 of the Complaint.

59. The allegations in paragraph 59 of the Complaint assert legal conclusions to which no response is required. To the extent an answer is deemed necessary, Defendants deny each and every allegation contained in paragraph 59 of the Complaint.

60. The allegations in paragraph 60 of the Complaint assert legal conclusions to which no response is required. To the extent an answer is deemed necessary, Defendants deny each and every allegation contained in paragraph 60 of the Complaint.

61. The allegations in paragraph 61 of the Complaint assert legal conclusions to which no response is required. To the extent an answer is deemed necessary, Defendants deny each and every allegation contained in paragraph 61 of the Complaint.

62. The allegations in paragraph 62 of the Complaint assert legal conclusions to which no response is required. To the extent an answer is deemed necessary, Defendants deny each and every allegation contained in paragraph 62 of the Complaint.

63. The allegations in paragraph 63 of the Complaint assert legal conclusions to which no response is required. To the extent an answer is deemed necessary, Defendants deny each and every allegation contained in paragraph 63 of the Complaint.

64. The allegations in paragraph 64 of the Complaint assert legal conclusions to which no response is required. To the extent an answer is deemed necessary, Defendants deny each and every allegation contained in paragraph 64 of the Complaint.

65. The allegations in paragraph 65 of the Complaint assert legal conclusions to which no response is required. To the extent an answer is deemed necessary, Defendants deny each and every allegation contained in paragraph 65 of the Complaint.

66. The allegations in paragraph 66 of the Complaint assert legal conclusions to which no response is required. To the extent an answer is deemed necessary, Defendants deny each and every allegation contained in paragraph 66 of the Complaint.

67. The allegations in paragraph 67 of the Complaint assert legal conclusions to which no response is required. To the extent an answer is deemed necessary, Defendants deny each and every allegation contained in paragraph 67 of the Complaint.

COUNT I
CEPA Retaliation

68. Defendants incorporate herein by reference their responses to all of the foregoing paragraphs as if set forth in full.

69. The allegations in paragraph 69 of the Complaint assert legal conclusions to which no response is required. To the extent an answer is deemed necessary, Defendants deny each and every allegation contained in paragraph 69 of the Complaint.

70. The allegations in paragraph 70 of the Complaint assert legal conclusions to which no response is required. To the extent an answer is deemed necessary, Defendants deny each and every allegation contained in paragraph 70 of the Complaint.

WHEREFORE, Defendants demand judgment be entered in their favor and against Plaintiff, dismissing Plaintiff's Complaint, awarding Defendants their costs, including reasonable attorneys' fees, and such other and further relief as this Court in its discretion deems appropriate.

COUNT II

CEPA Retaliation as to Singh

71. Defendants incorporate herein by reference their responses to all of the foregoing paragraphs as if set forth in full.

72. The allegations in paragraph 72 of the Complaint assert legal conclusions to which no response is required. To the extent an answer is deemed necessary, Singh denies each and every allegation contained in paragraph 72 of the Complaint.

73. The allegations in paragraph 73 of the Complaint assert legal conclusions to which no response is required. To the extent an answer is deemed necessary, Singh denies each and every allegation contained in paragraph 73 of the Complaint.

74. The allegations in paragraph 74 of the Complaint assert legal conclusions to which no response is required. To the extent an answer is deemed necessary, Singh denies each and every allegation contained in paragraph 74 of the Complaint.

75. The allegations in paragraph 75 and its subsections of the Complaint assert legal conclusions to which no response is required. To the extent an answer is deemed necessary, Defendants deny each and every allegation contained in paragraph 75 and its subsections the Complaint.

WHEREFORE, Defendants demand judgment be entered in their favor and against Plaintiff, dismissing Plaintiff's Complaint, awarding Defendants their costs, including reasonable attorneys' fees, and such other and further relief as this Court in its discretion deems appropriate.

SEPARATE DEFENSES

Defendants, by and through their attorneys, assert the following Separate Defenses without assuming the burden of proof on such defenses that would otherwise rest with Plaintiff.

FIRST SEPARATE DEFENSE

Plaintiff's Complaint and each Count thereof fails to state a claim upon which relief can be granted.

SECOND SEPARATE DEFENSE

If Plaintiff suffered any damages or losses, such damage or losses were caused in whole or in part by Plaintiff's own acts, omissions, or conduct.

THIRD SEPARATE DEFENSE

Plaintiff is not entitled to equitable relief since Plaintiff has an adequate remedy at law.

FOURTH SEPARATE DEFENSE

Defendants are not liable for any damages, including punitive damages.

FIFTH SEPARATE DEFENSE

Plaintiff failed to mitigate his damages, if any.

SIXTH SEPARATE DEFENSE

Defendants at all times had legitimate, lawful reasons for its decisions regarding Plaintiff's employment and/or termination.

SEVENTH SEPARATE DEFENSE

Defendants acted reasonably and in good faith at all times.

EIGHTH SEPARATE DEFENSE

Plaintiff's cause of action may be barred by the doctrine of waiver, estoppel, laches, or unclean hands.

NINTH SEPARATE DEFENSE

Plaintiff's damages are limited or barred in their entirety by the doctrine of after-acquired evidence.

TENTH SEPARATE DEFENSE

Plaintiff cannot establish a *prima facie* case under the New Jersey Conscientious Employee Protection Act (CEPA) or any other federal, state, or local law or regulation.

ELEVENTH SEPARATE DEFENSE

None of Defendants' actions were malicious or were committed with reckless indifference to the protected rights of any employees.

TWELFTH SEPARATE DEFENSE

The claims in the Complaint are barred, in whole or in part, by the applicable statute of limitations.

THIRTEENTH SEPARATE DEFENSE

Even if Plaintiff could establish that retaliation was a motivating factor for any adverse employment action—which he cannot—his remedies are barred or diminished because Defendants would have taken the same action(s) in the absence of any impermissible motivating factor.

FOURTEENTH SEPARATE DEFENSE

Defendants assert all defenses available to them under the New Jersey Punitive Damages Act, N.J.S.A. § 2A:15-5.9.

FIFTEENTH SEPARATE DEFENSE

This Court lacks jurisdiction over Defendants because of improper and insufficient service.

SIXTEENTH SEPARATE DEFENSE

This Court lacks *in personam* jurisdiction over Defendants, and Defendants reserve the right to quash service of the Summons and Complaint.

SEVENTEENTH SEPARATE DEFENSE

Defendants reserves the right to assert additional defenses as they may become known through the course of discovery.

COUNTERCLAIMS

COUNT I

Breach of Contract

1. Counter-Plaintiff Holtec International (“Holtec” or “Counter-Plaintiff”) has its headquarters in Jupiter, Florida and its principal place of business in Camden, New Jersey.

2. Upon information and belief, Counter-Defendant Kevin O’Rourke (“Counter-Defendant”) is a resident of the State of Florida.

3. On or about May 19, 2021, Holtec offered, and Counter-Defendant accepted an offer of employment.

4. Counter-Defendant’s employment with Holtec was contingent on, *inter alia*, executing and returning to Holtec any and all documentation and policies required to be signed by Holtec, including the Holtec International Confidentiality, Non-Compete, and Non-Solicitation Agreement (“Agreement”), a copy of which is attached hereto and marked as Exhibit A.

5. Counter-Defendant’s position was Chief Financial Officer (“CFO”) of Holtec.

6. On or around May 19, 2021, Holtec and Counter-Defendant executed the Agreement.

7. Section 1 of the Agreement, At-Will Employment, Counter-Defendant acknowledged that his employment at Holtec was at-will.

8. In Section 2 of the Agreement, Non-Disclosure of Holtec’s Confidential Information, Counter-Defendant acknowledged that:

Holtec is in the business of supplying mechanical, nuclear, and other engineering products and services. In the course of performing such activities, Holtec acquires and develops trade secrets and confidential and proprietary information which is not generally known in the industry.

You recognize that the knowledge and information acquired by you concerning Holtec's engineering designs, technological analyses, mechanical and nuclear industry reports, licensing, manufacturing, site construction services, hardware components, product and other designs, general research, business plans, software, formatting, programs, customer prospects, customer lists, other customer information, supplier and vendor lists and information, marketing plans, data processing systems and information contained therein, proposals to customers and potential customers, reports, plans, studies, price lists, financial statements, catalogs, and other trade secrets, inventions, designs, know-how, or other private, confidential or proprietary information of or about Holtec which is not already available to the public (collectively, "Holtec Confidential Information") are valuable, special and unique aspects of Holtec's business. You recognize that such Holtec Confidential Information would not be provided to you by Holtec in the absence of this signed Agreement because of the risks that valuable Holtec Confidential Information might otherwise be divulged and thereby damage Holtec's competitive position in the marketplace.

You agree that you will not, during or after your employment with Holtec, (i) disclose or allow the publication of, in whole or in part, any Holtec Confidential Information to any person, firm, corporation, association or other entity for any reason or purpose whatsoever unless authorized in writing to do so by Holtec, (ii) use any Holtec Confidential Information for your own purpose or for the benefit of any person, firm, corporation, association or other entity other than Holtec; except in the proper performance of your duties as instructed by Holtec, or (iii) disclose Holtec Confidential Information as it relates to the status of employment including, but not limited to, employee private information for others at Holtec. It is a violation of policy to obtain, possess, and/or distribute confidential personnel information. After the term of your employment, the restrictions set forth in this paragraph will not apply to confidential information which is then in the public domain (unless you are responsible, directly or indirectly, for such Holtec Confidential Information entering the public domain without Holtec's consent). (emphasis added).

9. In Section 6 of the Agreement, Return of Holtec Documents and Obligation to Advise Holtec of New Employment, Counter-Defendant agreed that:

Upon the cessation of your employment with Holtec or at any other time upon request of Holtec, you shall immediately deliver to Holtec all software, programs, correspondence, memoranda, notes, records, reports, plans, product and other designs, studies, price lists, customer lists and information, customer contracts, financial statements, catalogs, programs, disks, tapes, other papers, as well as any medium on or by which information is stored, received or made by you in connection with your employment by Holtec, regardless of whether or not such information is Holtec confidential information. You further agree to immediately return to Holtec all Holtec equipment, computers, electronic and communications

devices, files, USB and/or other data storage devices, and any other Holtec property in your possession, custody or control.

In the event of a cessation of your employment with Holtec, and during the Restricted Period described in Paragraph 4 above, you agree to disclose to Holtec, the name and address of any new employer or business affiliation within ten (10) days of your accepting such position. In the event that you fail to notify Holtec of such new employment or business affiliation as required above, the Restricted Period shall be extended by a period equal to the period of nondisclosure.

10. In Section 7 of the Agreement, Enforcement and Remedies in Event of Breach,

Counter-Defendant agreed that:

... If you violate the covenants and agreements set forth above (including paragraphs 2, 3, 4 and/or 5), Holtec would suffer irreparable harm, and that such harm to Holtec may be impossible to measure in monetary damages. Accordingly, in addition to any other remedies which Holtec may have at law or in equity, Holtec shall have the right to have all obligations, undertakings, agreements, covenants and other provisions of this Agreement specifically performed by you, and Holtec shall have the right to obtain temporary, preliminary and/or permanent injunctive relief to secure specific performance, and to prevent a breach or contemplated breach, of this Agreement. In such event, Holtec shall be entitled to monetary damages including, but not limited to, an accounting and repayment of all profits, compensation, remunerations or benefits which you, directly or indirectly, have realized or may realize as a result of, growing out of, or in conjunction with any violation of any partial or justified liquidated damages, such remedies shall be an addition to and not in limitation of any injunctive relief or other rights or remedies to which Holtec is or may be entitled at law or in equity under this Agreement and that, in the event Holtec is required to enforce the terms of this Agreement through court proceedings, Holtec shall be entitled to reimbursement for all legal fees, costs and expenses incident to enforcement.

11. Holtec relied on the terms of the Agreement and provided Holtec's Confidential Information to Counter-Defendant.

12. Throughout his employment, Counter-Defendant received and was privy to Holtec's highest levels of Confidential Information.

13. For example, in his role as CFO, Counter-Defendant was privy to financial data of Holtec that was not publicly available.

14. Also, in his role as CFO, Counter-Defendant was privy to Holtec's sales and financial projections that were not publicly available.

15. In his role as CFO, Counter-Defendant was privy to information about Holtec's potential collaborations with other companies that was not publicly available.

16. In his role as CFO, Counter-Defendant was privy to information about Holtec's research and development that was not publicly available.

17. In his role as CFO, Counter-Defendant was privy to information about Holtec's future plans, which was not publicly available.

18. In his role as CFO, Counter-Defendant was privy to certain legal strategies, which were not publicly available.

19. Counter-Defendant's employment ended on or around August 30, 2022.

20. Upon information and belief, Counter-Defendant did not return all Holtec Confidential Information in his possession.

21. On or around June 1, 2023, Counter-Defendant filed a Complaint (the "Complaint") in the Superior Court of New Jersey – Law Division, Camden County at docket number CAM-L-1585-23 alleging violations of the New Jersey Conscientious Employee Protection Act ("CEPA").

22. Despite still being bound by the Agreement to keep Holtec Confidential Information secret, Counter-Defendant failed to file the Complaint under seal.

23. Filing documents under seal is permitted in New Jersey courts to allow litigants to utilize the courts and maintain the secrecy of confidential information.

24. Counter-Defendant's Complaint was filed on the public docket and included several categories of Holtec's confidential information, including: financial data, information on

potential collaboration with another company, sales projections, research and development costs, and Holtec's future plans.

25. The information included in Counter-Defendant's Complaint was not in the public domain at the time of the filing.

26. Counter-Defendant did not seek, nor did Holtec provide, authorization in writing for the disclosure of such Holtec Confidential Information, as required by terms of the Agreement.

27. Counter-Defendant was not privileged to disclose Holtec's Confidential Information.

28. By filing his Complaint on the public docket, Counter-Defendant has violated the Agreement and caused Holtec's Confidential Information to become public.

29. Due to Counter-Defendant's breach of the Agreement, Holtec has suffered significant actual damages.

WHEREFORE, Holtec demands judgment against Counter-Defendant together with actual and compensatory damages, plus interest, costs, and attorneys' fees.

COUNT II

Tortious Interference with Contractual Relations

30. Holtec incorporates herein by reference the above paragraphs and allegations as if set forth in full.

31. Holtec had a contract with a potential investor.

32. Under the terms of a non-disclosure agreement ("NDA") between Holtec and the potential investor, Holtec agreed to keep certain information confidential with respect to the possible transaction with the potential investor.

33. Counter-Defendant knew about the NDA between Holtec and the potential investor.

34. By filing the Complaint publicly, Counter-Defendant intentionally and improperly interfered with the performance of the NDA between Holtec and the potential investor.

35. Counter-Defendant's conduct was with malice and done without justification or excuse.

36. Following the filing of the Complaint, numerous media outlets across the country published articles repeating the false allegations that make up Counter-Defendant's Complaint and specifically named the potential investor and were assisted in the disclosure through Plaintiff's actions.

37. Due to Counter-Defendant's intentional and improper interference, Holtec has suffered significant actual damages.

WHEREFORE, Holtec demands judgment against Counter-Defendant together with actual compensatory damages, plus interest, costs, attorneys' fees, and other relief as the Court may deem just and proper.

DESIGNATION OF TRIAL COUNSEL

Pursuant to New Jersey Civil Court Rule 4:5-1(c), Defendants designate James P. Anelli, Esquire and Ryan T. Warden, Esquire of White and Williams LLP as trial counsel.

DEMAND FOR STATEMENT OF DAMAGES

Pursuant to New Jersey Civil Court Rule 4:5-2, Defendants hereby demand a written statement of all of Plaintiff's alleged damages within five (5) days of service hereof.

DEMAND FOR STATEMENTS

Pursuant to New Jersey Civil Court Rule 4:10-2(c), demand is hereby made for any statement made by any servant, agent, employee, or representative of any party to this action concerning this action or the subject matter of this action.

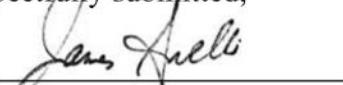
DEMAND FOR DOCUMENTS

Pursuant to New Jersey Civil Court Rule 4:18-2, Defendants hereby demand that Plaintiff produce any and all documents or papers referred to in Plaintiff's Complaint to be served upon Defendants within five (5) days of the date of this demand.

CERTIFICATION PURSUANT TO RULE 4:5-1

I hereby certify that I am not aware that the within action is the subject to any other action pending in any court or of a pending arbitration proceeding and am unaware as to whether any other action or arbitration proceeding is contemplated. I further certify that I am not aware of any additional parties that should be joined in this matter at this time. I certify that the foregoing statements made by me are true. I am aware that any of the foregoing standards made by me is willingly false, I may be subject to punishment.

Respectfully submitted,

By: 

James P. Anelli, Esq.

White and Williams LLP

One Gateway Center, Suite 910

Newark, NJ 07102

(201) 368-7200

anelli.j@whiteandwilliams.com

Attorneys for Defendants Holtec

International, Holtec International Power

Division, Inc., and Krishna Singh

Date: August 14, 2023

Civil Case Information Statement

Case Details: CAMDEN | Civil Part Docket# L-001585-23

Case Caption: O'ROURKE KEVIN VS HOLTEC INTERNATIONAL CORP

Case Initiation Date: 06/01/2023

Attorney Name: JAMES P ANELLI

Firm Name: WHITE AND WILLIAMS LLP

Address: ONE GATEWAY CENTER SUITE 910

NEWARK NJ 07102

Phone: 2013687200

Name of Party: DEFENDANT : HOLTEC INTERNATIONALCORP

Name of Defendant's Primary Insurance Company

(if known): RSUI

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

Document Type: Answer W/CounterClaim W/Jury Demand

Jury Demand: YES - 6 JURORS

Is this a professional malpractice case? NO

Related cases pending: NO

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

Does this case involve claims related to COVID-19? NO

Are sexual abuse claims alleged by: KEVIN O'ROURKE? 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? NO

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

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

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

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

08/14/2023

Dated

/s/ JAMES P ANELLI

Signed

EXHIBIT F

WHITE AND WILLIAMS LLP

James P. Anelli (NJ ID 031071984)
Ryan T. Warden (NJ ID 044322006)
One Gateway Center, Suite 910
Newark, NJ 07102-4200
(201) 368-7200

*Attorneys for Defendants, Holtec International,
Holtec International Power Division, Inc.,
and Krishna Singh*

KEVIN O'ROURKE,

Plaintiff,

v.

HOLTEC INTERNATIONAL CORPORATION,
HOLTEC INTERNATIONAL POWER
DIVISION, KRISHNA SINGH, and JOHN DOES
1-10.

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: CAMDEN COUNTY

Docket No.: CAM-L- 1585-23

Civil Action

**DEFENDANTS' ANSWERS AND
OBJECTIONS TO PLAINTIFF'S FIRST
SET OF INTERROGATORIES**

TO: Drake P. Bearden, Esq.
Javerbaum Wurgaft Hicks
Kahn Wikstrom & Sinins, P.C.
1000 Haddonfield-Berlin Road, Suite 203
Voorhees, NJ 08043

Defendants, Holtec International (“Holtec”),¹ Holtec International Power Division, Inc. (“Holtec Power Division”), and Krishna Singh (“Singh”) (collectively “Defendants”), by and through their attorneys, hereby timely provide the following answers and objections to Plaintiff Kevin O’Rourke’s (“Plaintiff”) First Set of Interrogatories.

¹ Improperly pleaded as “Holtec International Corporation.”

GENERAL OBJECTIONS

The following General Objections are incorporated by reference to each answer to the interrogatory as though fully set forth at length in each response. The absence of a reference to any of the following objections in any numbered response should not be construed as a waiver of such objection.

1. Defendants object to the First Set of Interrogatories, including the "Definitions" and "Instructions" sections, insofar as they purport to impose obligations upon the Defendants beyond the requirements of the New Jersey Rules of Court and applicable case law.
2. Defendants object to the interrogatory to the extent it is unduly vague, over broad, and burdensome.
3. Defendants object to the interrogatory to the extent it is indefinite and lacking in reasonable particularity.
4. Defendants object to the interrogatory to the extent it is irrelevant, immaterial, or seeks information or documents that are not reasonably calculated to lead to the discovery of admissible evidence.
5. Defendants object to the interrogatory to the extent that it calls for information protected by any applicable privilege, including but not limited to, the attorney-client privilege and attorney work product doctrine. Any document inadvertently produced in response to any interrogatory does not constitute waiver of any such privilege, and Defendants reserve the right to have any such document returned.
6. Defendants object to the interrogatory to the extent it seeks documents or information that contain trade secrets, confidential information and/or personal or proprietary information, or information related to non-parties to this litigation.

7. Defendants object to the interrogatory to the extent it is not confined to the relevant timeframe.

8. Defendants object to the interrogatory to the extent it utilizes words or phrases that: (i) assume facts not established; (ii) constitute, form, imply, require, or call for a legal conclusion; or (iii) incorporate a characterization based upon a legal conclusion. Defendants further object generally to the interrogatory to the extent it contains incomplete, inaccurate or misleading descriptions or characterizations of facts, events and pleadings underlying or relating to this action. Any response by Defendants does not constitute any agreement with, or acceptance of, any such assumptions, implications, conclusions, descriptions or characterizations.

9. Defendants object to the interrogatory to the extent it is premature.

10. Defendants object to the interrogatory to the extent it seeks documents or information that are not in the Defendants' possession, custody, or control.

11. Defendants object to the interrogatory to the extent it seeks documents or information already produced in this case or already in Plaintiff's possession.

12. Defendants object to the interrogatory to the extent it seeks documents that are in the public domain or equally available to Plaintiff.

13. Defendants object to the interrogatory to the extent it is duplicative of one another.

Defendants reserve the right to amend, modify and/or supplement its answers and objections as discovery progresses in this action and/or new information becomes available to Defendants.

ANSWERS AND OBJECTIONS

1. Please identify any and all individuals who were involved in the process of answering these interrogatories. For each individual identified, please provide the following: (1) the individual's name; (2) what, if any, affiliation the individual has with Defendant; (3) what specific information the individual was responsible for providing.

Answer: Subject to and without waiving the General Objections above, Krishna Singh, Kelly Trice, Ronald Gillett, Martin Babos, Jack Johnston, and William Gill.

2. Please provide a complete job history for Plaintiff. This should include, but not be limited to when Defendant hired Plaintiff to work for Defendant, what was Plaintiff's job title, whether Plaintiff's job title changed, and if so what did the job title change to.

Answer: Objection. Defendants object to this interrogatory because it seeks information in Plaintiff's possession. Subject to and without waiving this objection and the General Objections above, Holtec hired Plaintiff as its Chief Financial Officer in May 2021. Holtec terminated Plaintiff on or around August 30, 2022.

3. Identify each person who has knowledge or relevant information concerning any claims made by the Plaintiff, any defenses the Defendant may assert and any documents Defendant may request or may produce during the course of this litigation. For each individual, identified please provide the last known address and phone number for that person.

Answer: Objection. Defendants object to this interrogatory on the basis that it is vague, ambiguous, unintelligible, and premature. Defendants further object to this interrogatory on the basis that it is overly broad in terms of the subject matter and time for which it seeks an answer. Defendants further object to this interrogatory to the extent it seeks information that may be protected from disclosure by the work product doctrine. Subject to and without waiving these objections and the General Objections above:

- **Krishna Singh;**
- **Kelly Trice;**
- **Kaylyn Rocher;**
- **Martin Babos;**
- **Ronald Gillett;**
- **Scott Thompson;**
- **William Gill;**

- **Jack Johnston;**
- **Brandon Maves (RSM US);**
- **Kiwon Lee (Hyundai); and**
- **Changhee Yun (Hyundai).**

4. For each individual identified in response to interrogatory number 3, please state in detail the relevant information Defendant believes each individual possesses.

Answer: Objection. Subject to and without waiving the General Objections above: Krishna Singh, information related to CD-38, Plaintiff's employment at Holtec, including failure of Plaintiff to perform his duties; Kelly Trice, information related to CD-38, Plaintiff's employment at Holtec, including failure of Plaintiff to perform his duties, and the fact that the decision to terminate Plaintiff's employment was made before any alleged protected activity by Plaintiff; Kaylyn Rocher, information related to CD-38; Martin Babos, information related to CD-38; Ron Gillett, information related to CD-38, and Plaintiff's employment at Holtec, including failure of Plaintiff to perform his duties; Scott Thompson, information related to CD-38 and the fact that the decision to terminate Plaintiff's employment was made before any alleged protected activity by Plaintiff; William Gill, information related to CD-38; Jack Johnston, information related to CD-38, Plaintiff's employment at Holtec, and the fact that the decision to terminate Plaintiff's employment was made before any alleged protected activity by Plaintiff; Brandon Maves, information related to 2021 audit, his interactions with Plaintiff related to same, and Plaintiff's role in delaying the finalization of same; and Kiwon Lee and Changhee Yun, information related to CD-38. Defendants reserve the right to amend this answer.

5. If Defendant is alleging anyone, whether or not they were identified in response to interrogatory number 2, is part of the litigation control group and cannot be contacted directly by Plaintiff's counsel, identify that individual and state in detail why Defendant believes that individual is part of the litigation control group.

Answer: Subject to and without waiving the General Objections above:

- **Krishna Singh;**
- **Kelly Trice;**
- **Martin Babos;**
- **Ron Gillett;**
- **Scott Thompson;**
- **William Gill; and**
- **Jack Johnston.**

In addition, Plaintiff's counsel should not directly contact Kaylyn Rocher, who is being represented by Defendants' counsel in the event her deposition is noticed.

6. If Plaintiff is no longer employed with Defendant, please state in as much detail as possible any and all reasons why Plaintiff's employment ended. This should include, but not be limited to, the date the decision was made to end Plaintiff's employment, the date Plaintiff's employment actually ended and the identity of any and all individuals who were involved in the decision to end Plaintiff's employment.

Answer: Objection. Defendants object to this interrogatory because it seeks information in Plaintiff's possession. Subject to and without waiving these objections and the General Objections above, Holtec lost confidence in Plaintiff for a number of reasons related to his performance of his job duties. Plaintiff was terminated from his position as Chief Financial Officer on August 30, 2022.

7. If Defendant is aware of any information that Defendant contends was false or misleading in the application materials or application or hiring process Plaintiff, identify and attach all documents relating to same and supply a complete factual recitation of the information.

Answer: Subject to and without waiving the General Objections above, none.

8. Please state whether Defendant believes Plaintiff performed Plaintiff's job in a less than satisfactory manner, committed an act of misconduct or negligence associated with Plaintiff's job, or performed Plaintiff's job in a manner necessitating any formal or informal discipline, set forth in complete factual detail all such facts and information relating to that contention, and identify each person who possesses knowledge of each such fact or information.

Answer: Objection. Defendants object to this interrogatory on the grounds that it is unduly burdensome and seeks information in Plaintiff's possession. Subject to and without waiving these objections and the General Objections above, Plaintiff routinely refused assignments, threatened to quit twice, displayed erratic and hostile behavior to co-workers and third parties, and caused a three to four-month delay in Holtec's annual audit with respect to his actions in dealing with the outside auditor (actions, which were ultimately found not to be justified).

9. Has Defendant been named in any administrative complaint in the New Jersey Division of Civil Rights (or any other state civil rights agency), in the EEOC, or in any state court or any federal court in which it was alleged that the answering Defendant violated any of the

statutes or doctrines set forth in Plaintiffs complaint in this action, during the five-year period preceding the filing of this action? If so, please identify the individual who made the complaint, state the date on which the complaint was made and state in detail any conclusion that were reached as a result of the complaint. Please also attach any and all documents responsive to this interrogatory.

Answer: Objection. Defendants object to this interrogatory on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this interrogatory on the basis that it is overly broad in terms of the subject matter for which it seeks an answer. Defendants further object to this interrogatory on the basis that it is vague, ambiguous, and unintelligible. Defendants further object to this interrogatory to the extent it seeks confidential information that may be protected from disclosure by the attorney-client privilege and/or work product doctrine. Defendants further object to this interrogatory to the extent it seeks information related to non-parties to this litigation.

10. For each individual identified in Plaintiff's Complaint who either is a current or former employee of Defendant, please state whether that individual has ever been disciplined for engaging in retaliatory conduct against any employees of Defendant. Please also attached any and all documents responsive to this interrogatory.

Answer: Objection. Defendants object to this interrogatory on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this interrogatory on the basis that it is overly broad in terms of the time for which it seeks an answer. Defendants further object to this interrogatory on the basis that it is vague, ambiguous, and unintelligible. Defendants further object to this interrogatory to the extent it seeks privileged information that may be protected from disclosure by the attorney-client privilege and/or work product doctrine. Defendants further object to this interrogatory to the extent it seeks information related to non-parties to this litigation.

11. State whether or not the answering Defendant has any insurance which may cover any part or all of the loss attributable to any theory or claim that Plaintiff has advanced. If so, set forth the agency, the policy number and any claims numbers attendant to any claim the Plaintiff has advanced. Identify and attach any declarations or other coverage documents, as well as any letters or reservation of rights or any other correspondence concerning the invocation of the policy

and/or a response to said invocation. Please identify any excess or other policies attached to the policy.

Answer: Objection. Defendants object to this interrogatory on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this interrogatory as premature. Subject to and without waiving these objections and the General Objections above, see Defendants' Responses to Plaintiff's First Set of Requests for Documents.

12. If Defendant has insurance that covers any part of Plaintiff's claim, please state whether any insurance adjuster has had any communications with Defendant or any other individuals regarding Plaintiff's claims. If the adjuster has, please identify the following: (1) the individual with whom the adjuster had a conversation; (2) the date of the conversation; (3) what, if anything was said during that conversation. Please also provide any and all documents related to the information requested in this interrogatory, including, but not limited to, information contained within the claims file.

Answer: Objection. Defendants object to this interrogatory on the grounds that it is unduly burdensome and irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this interrogatory as premature. Defendants further object to this interrogatory to the extent it seeks privileged information that is protected from disclosure by the attorney-client privilege and/or work product doctrine.

13. Identify and attach any documents relating to any statements, summaries of notes of conversations regarding statements, or other information which pertains in any way to any communications with nonparties concerning the facts alleged in Plaintiff's complaint or any defense.

Answer: Objection. Defendants object to this interrogatory on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this interrogatory on the basis that it is overly broad and unduly burdensome. Defendants further object to this interrogatory to the extent it seeks confidential information that may be protected from disclosure by the attorney-client privilege and/or work product doctrine. Defendants further object to this interrogatory to the extent it seeks confidential information related to non-parties to this litigation. Subject

to and without waiving these objections and the General Objections above, see Defendants' Responses to Plaintiff's First Set of Requests for Documents.

14. For each individual with whom any servant, agent, employee or representative of answering Defendant has had communication regarding the Plaintiff after Plaintiff's employment ended, identify the individuals concerned on both ends of the communication, including names, addresses and telephone numbers, present relationship to Defendant, and set forth in detail the nature and extent of the communication, why it occurred, when it occurred, how it occurred and the substance of each communication.

Answer: Objection. Defendants object to this interrogatory on the basis that it is vague, unduly burdensome, and overly broad in terms of the subject matter and time for which it seeks an answer. Defendants further object to this interrogatory on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this interrogatory to the extent it seeks privileged information that may be protected from disclosure by the attorney-client privilege and/or work product doctrine. Defendants further object to this interrogatory to the extent it seeks confidential proprietary information and information related to non-parties to this litigation. Subject to and without waiving these objections and the General Objections above, none as we understand it.

15. Identify and attach any information and/or documents in Defendant's possession which represents any communications made by Plaintiff in any form that Defendant believes may be relevant to any of Plaintiff's claims, Defendant's defenses or any other issues in this case.

Answer: Objection. Defendants object on the basis that this interrogatory is vague, ambiguous, and unintelligible and overly broad. Subject to and without waiving these objections and the General Objections above, see Defendants' Responses to Plaintiff's First Set of Requests for Documents.

16. Does Defendant or any employees on behalf of Defendant maintain any social media or social networking accounts? If so, please identify the account by username and/or website or any other means.

Answer: Objection. Defendants object to this interrogatory on the grounds that it is ambiguous and irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request because it seeks information not in the possession of Defendants. Subject to these objections and the General Objections

above, no Defendant has posted anything related to this litigation on any social media platform. Defendants are unaware of social media or social networking accounts maintained by Holtec employees.

17. Has Defendant retained an expert witness as to any issue in this case for the purpose of providing an expert opinion and/or report or giving testimony at trial? If so, provide the expert's name and area of putative expertise, attach the expert's CV and any report from the expert.

Answer: Objection. Defendants object to this interrogatory as premature. Defendants have not determined if they will call an expert witness at trial at this time. Defendants further object to this interrogatory on that basis that it seeks information protected by the attorney work product doctrine. Defendants reserve the right to amend this answer.

18. Please identify the proper and full name of the corporate employer of Plaintiff and/or each and every Plaintiff in this matter. Provide its address, the address out of which Plaintiff was employed if different and provide detailed information about its relationship to any and all other known Defendants.

Answer: Objection. Defendants object to this interrogatory because it seeks information in Plaintiff's possession. Subject to and without waiving this objection and the General Objections above, Holtec International, 1001 N. US Highway 1, Jupiter, Florida 33477.

19. Set forth the name, address, job title (if any), Social Security number, date of birth and driver's license identification number of any and all parties to this case and of any and all individuals contributing to the answers to these interrogatories.

Answer: Objection. Defendants object to this interrogatory on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving this objection and the General Objections above, Holtec's address is 1001 N. US Highway 1, Jupiter, Florida, 33477. Defendant Singh is the Chief Executive Officer of Holtec.

20. If Defendant is a business, set forth the names of any and all businesses of which the Defendant either owns an interest of stock or which own an interest of stock of the Defendant.

Answer: Objection. Defendants object to this interrogatory Defendants further object to this interrogatory on the grounds that it is irrelevant and not reasonably

calculated to lead to the discovery of admissible evidence. Defendants further object to this interrogatory to the extent it seeks confidential and proprietary information.

21. Attach the profit and loss statements and/or corporate or business tax returns with all schedules and attachments of the Defendant for the last five (5) years.

Answer: Objection. Defendants object to this interrogatory as premature. Defendants further object to this interrogatory on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this interrogatory to the extent it seeks confidential and proprietary information.

22. Set forth the name and address of any and all tax preparers, accounting firms, financial planners, financial advisors, or other financial professionals with whom the Defendant has consulted in the last five years and if a business name was given, give the particular names of the individuals at that business with whom the Defendant has dealt, individually.

Answer: Objection. Defendants object to this interrogatory as premature. Defendants further object to this interrogatory on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this interrogatory to the extent it seeks confidential and proprietary information.

23. For any individual Defendant, attach and include personal tax returns and/or joint tax returns if the individual is married, for the last five (5) years, along with all schedules and attachments.

Answer: Objection. Defendants object to this interrogatory as premature. Defendants further object to this interrogatory on the basis that it is overly broad in terms of the subject matter for which it seeks an answer. Defendants further object to this interrogatory on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this interrogatory to the extent it seeks confidential information.

24. Set forth any judgments entered against you, the date they were entered, the docket number for the judgment, the creditor and the amount of the judgment.

Answer: Objection. Defendants object to this interrogatory on the basis that it is overly broad in terms of the subject matter and time for which it seeks an answer. Defendants further object to this interrogatory on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

25. Specify the gross income and net worth of the Defendant for each year for the last five years and including year to date. Attach all annual reports and tax returns for the Defendants, as well as all profit and loss statements for each of the last five years. Attach also a list of all monetary and physical assets owned by the Defendants and whether or not they are encumbered and to what degree.

Answer: Objection. Defendants object to this interrogatory as premature. Defendants further object to this interrogatory on the basis that it is overly broad in terms of the subject matter for which it seeks an answer. Defendants further object to this interrogatory on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this interrogatory to the extent it seeks confidential and proprietary information.

26. Did Plaintiff or any other employee complain that Plaintiff was subjected to retaliation in the workplace? By "complaint" Plaintiff is referring to any formal or informal complaints made by any employee of Defendant to any employee of Defendant, made verbally, in writing or otherwise. For each individual identified, please identify the date on which the individual made the complaint, the nature of the complaint, and what if anything was done as a result of the complaint. Please identify any and all employees at Defendant who were responsible for receiving the complaint, investigating the complaint and taking any other action involving the complaint. Please also attach any and all documents that document or relate in any way to any complaints that were made during that period of time, including, but not limited to, any and all documents regarding the complaint itself, any and all investigations that were conducted as a result of the complaint, any and all interviews that were conducted as a result of the complaint, any and all conclusions that were reached by Defendant and its employees as a result of the complaint, and any and all actions taken by Defendant as a result of the complaint and subsequent investigation.

Answer: Objection. Defendants object to this interrogatory on the basis that it is overly broad in terms of the time for which it seeks an answer. Defendants further object to this interrogatory to the extent it seeks confidential information related to non-parties to

this litigation. Defendants further object to this interrogatory to the extent it seeks information that may be protected from disclosure by the attorney-client privilege and/or work product doctrine. Subject to and without waiving these objections and the General Objections above, none.

27. To the extent Defendant has retained or in the future retains an expert, please state the expert's name, practice address, home address, date of birth and attach a copy of his or her most recent curriculum vitae or resume.

Answer: See objections and answer to interrogatory No. 17. Defendants reserve the right to amend and supplement this answer.

28. Supply a list of each and every matter in which the expert has authored an expert report in the last five years, including the name of the case and docket number. State whether the expert provided deposition testimony in each of the matters. Please attach a copy of that report, and attach any transcripts related to any deposition testimony or court testimony given in each and every matter.

Answer: See objections and answer to interrogatory No. 17. Defendants reserve the right to amend and supplement this answer.

29. Provide a complete copy of the expert's file including, but not limited to, any documents used by the expert and preparing the report, any raw data used or created by the expert in preparing the report, any tests conducted by the expert in preparing the report and any other documents or other information used by the expert in creating the report.

Answer: See objections and answer to interrogatory No. 17. Defendants reserve the right to amend and supplement this answer.

30. Set forth a breakdown of income derived from expert witness work in the last five years as follows:

a. The amount received by either the answering witness or the answering witness' business if witness' income is not divisible from the income of the business, to the extent

that such amounts were received from parties, their attorneys, insurance companies or other agents for the purpose of authoring expert reports for each year in the last five years;

b. The amount received by the answering expert and/or their business if the expert's income is not divisible from the business from parties, their attorneys, insurance companies or other agents for the purpose of deposition testimony in the last five years;

c. The amount received by the answering expert and/or their business if the expert's income is not divisible from the parties, their attorneys, insurance companies or other agents for the purpose of in-court, videotaped or live testimony in the last ten years;

d. Attach a true and correct copy of all schedules and/or tax returns substantiating the income derived from expert witness work in the last ten years.

Answer: See objections and answer to interrogatory No. 17. Defendants further object to this interrogatory on the grounds that it is unduly burdensome and irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendants reserve the right to amend this answer.

31. Set forth in percentages the approximate number of occasions that the expert has served in the capacity of an expert for Plaintiff and in the capacity of an expert for Defendant for the last ten years.

Answer: See objections and answer to interrogatory No. 30. Defendants reserve the right to amend this answer.

32. Set forth for each publication authored or co-authored in the last twenty years:

a. The publication, issue number, year, edition or volume in which the article appears;

b. The names of any co-authors applicable;

c. The subject area concerned with the authored pieces via description of the authored piece (i.e., chapter in a treatise, article in a journal, etc.).

Answer: See objections and answer to interrogatory No. 30. Defendants reserve the right to amend this answer.

33. Set forth in detail any professional standards, charts, laws, regulations, ordinances, statutes or other authorities upon which you rely in whole or in part in rendering your opinions. Set forth each in detail, citing its source.

Answer: Objection. Defendants object on the basis that this interrogatory is broad, vague, uncertain, unintelligible, and Defendants cannot determine the nature of the information requested. Defendants further object to this interrogatory as it is premature. Defendants have not determined which expert witnesses, if any, they intend to call at trial. Defendants reserve the right to amend and supplement this answer.

34. Does Defendant have a policy that prohibits retaliation in the workplace? If so identify and attach each such policy maintained by the Defendant in the last five years.

Answer: Objection. Defendants object to this interrogatory on the basis that is overly broad in terms of the time for which it seeks an answer. Subject to and without waiving this objection and the General Objections above, see Defendants' Responses to Plaintiff's First Set of Requests for Documents.

35. Do the employees receive formal or informal training regarding any of the policies identified in response to the proceeding interrogatory? If so, please explain in as much detail as possible the type of training the employees receive, how often that training has been conducted, and attached any and all documents related to each training and documents establishing such training occurred and employees attended the training.

Answer: Objection. Defendants object on the basis that this interrogatory is vague, ambiguous, and unintelligible. Defendants further object to this interrogatory on the basis that it is unduly burdensome and overly broad in terms of the subject matter and time for which it seeks an answer. Defendants further object to this interrogatory on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections and the General Objections above, see Defendants' Responses to Plaintiff's First Set of Requests for Documents.

36. Please designate one or, if necessary, more than one representative of your company by name and job title who is in the best position to discuss and testify at deposition about your company's electronic data storage practices.

Answer: Objection. Defendants object to this interrogatory as premature. Defendants further object to this interrogatory on the grounds that it is ambiguous and irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendants reserve the right to amend this answer.

37. State whether or not any electronic data has been erased or deleted respecting the Plaintiff in this lawsuit, the Plaintiff's claim, the Plaintiff's employment, the Plaintiff's contractual interactions with you or any other information relating to the Plaintiff or the Plaintiff's claim since you became aware of the intention of the Plaintiff to make a claim (either having received a letter from the Plaintiff stating such claim, having received a letter from counsel stating such claim, having received word that charges had been filed with a state or federal agency, a regulatory body or that suit had been filed in a Court of law).

Answer: Objection. Defendants object to this interrogatory as it is premature. Defendants further object to this interrogatory on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections and the General Objections above, after reasonable inquiry, none that is known.

38. If the last Interrogatory is in the affirmative, specify exactly what data has been erased, deleted or altered from what electronic medium the data was deleted, altered and/or erased. On what date(s) these changes took place and the reason for these changes.

Answer: See Answer to interrogatory No. 37.

39. Does Defendant maintain a written standard operating procedure or policy for the purposes of data retention of any kind? If so, identify each and every document, its date of creation, how many pages, who maintains custody and control of the document and include a copy of each such document to your Answers to these Interrogatories.

Answer: Objection. Defendants object to this interrogatory on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this interrogatory on the basis that it is vague and ambiguous. Defendants further object to this interrogatory to the extent it seeks confidential information that may be protected from disclosure by the attorney-client privilege and/or work product doctrine. Defendants reserve the right to amend this answer.

40. Please explain in as much detail as possible the manner in which Plaintiff was compensated during the time he worked for Defendant. This should include any and all salary and wages Plaintiff earned, the amount of those salary and wages, plus any and all commissions, bonuses, overtime, or any other income or compensation Plaintiff earned during the time he worked for Defendant. This should also include any and all benefits Plaintiff received while working for Defendant, including, but not limited to, healthcare, retirement or any union benefits, and value of any and all benefits Plaintiff received. By "value" Plaintiff is referring to the amount of money Defendant contributed to any and all benefits and the amount of money Plaintiff contributed to any and all benefits. Please also attach any and all documents that relate in any way to any compensation Plaintiff received during the time he worked for Defendant. This includes, but is not limited to, any and all timecards, W2s, paychecks, earning statements, 1099s, or other documents that document or relate in any way to any and all compensation Plaintiff received during the time he worked for Defendant.

Answer: Objection. Defendants object to this interrogatory because it seeks information in Plaintiff's possession and is unduly burdensome. Subject to and without waiving this objection and the General Objections above, see Defendants' Responses to Plaintiff's First Set of Requests for Documents.

41. Did Defendant use any workplace collaboration tools ("WCTs"), such as Slack, Microsoft Teams, Google Hangout, or any other WCTs during the time Plaintiff worked for Defendant? If yes, please identify any WCT the Defendant used. Produce any WCT communications Plaintiff participated in, any WCT communications in which employees of Defendant discussed Plaintiff in any way, and any WCT communications that are in any way relevant to Plaintiffs claims or Defendant's defenses.

Answer: Objection. Defendants object to this interrogatory on the grounds that it is unduly burdensome and irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this interrogatory on the basis

that it is overly broad in terms of the time for which it seeks an answer. Subject to and without waiving these objections and the General Objections above, Microsoft Teams was available to the employees of Holtec. By way of further answer, see Defendants' Responses to Plaintiff's First Set of Requests for Documents.

42. Does Defendant use any automated employment decision tool ("AEDT") in making and decisions regarding hiring, firing, promotions, discipline or pay of employees? If so please identify the AEDT and state in as much detail as possible the means by which the AEDT is used to make decisions regarding hiring, firing, promotions, discipline or pay. For the purpose of this interrogatory, an AEDT means any system the function of which is governed by statistical theory, or systems the parameters of which are defined by systems, including inferential methodologies, linear regression, neural networks, decision trees, random forests, and other learning algorithms, which automatically filters candidates or prospective candidates for hire or for any term, condition or privilege of employment in a way that establishes a preferred candidate or candidates.

Answer: Objection. Defendants object to this interrogatory on the basis that it is overly broad in terms of the time for which it seeks an answer. Defendants further object to this interrogatory on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections and the General Objections above, none.

43. Did Defendant provide the Prospectus identified in Plaintiff's Complaint to the entity identified in the Complaint as Hyundai? If yes, please state who made the decision to provide the Prospectus to Hyundai; when the Prospectus was provided to the Hyundai; and produce a copy of the Prospectus Defendant provided to Hyundai.

Answer: Objection. Defendants object to this interrogatory on the basis that the term "Prospectus" is vague, ambiguous, unintelligible, and not defined. Defendants further object to this interrogatory on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this interrogatory to the extent it seeks confidential proprietary information and information related to non-parties to this litigation. Subject to and without waiving these objections and the General Objections above, CD-38 was not a "prospectus."

44. Did Defendant have Corporate Counsel, its Governance Office, Outside Counsel or any other legal counsel review the Prospectus identified in Plaintiff's Complaint. If yes, please state when that review occurred and provide any and all documents related to the review and correspondences related to the review.

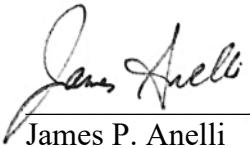
Answer: Objection. Defendants object to this interrogatory on the basis that the term "Prospectus" is vague, ambiguous, unintelligible, and not defined. Defendants further object to this interrogatory on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this interrogatory to the extent it seeks information that may be protected from disclosure by the attorney-client privilege and/or work product doctrine. Defendants further object to this interrogatory to the extent it seeks confidential proprietary information and information related to non-parties to this litigation. Subject to and without waiving these objections and the General Objections above, CD-38 was not a "prospectus."

Dated: January 4, 2024

Very truly yours,

WHITE AND WILLIAMS LLP

By:



James P. Anelli

One Gateway Center, Suite 910

Newark, NJ 07102-4200

(201) 368-7200

*Attorneys for Defendants, Holtec
International, Holtec International
Power Division, Inc., and Krishna
Singh*

CERTIFICATION

I, Kelly Trice, have read and know the content of Defendants' answers to Plaintiff's first set of interrogatories and state that the answers are based upon, and therefore limited by, the information which was available to and thus discovered by representatives of Holtec International. All such information contained herein is not within my personal knowledge. Defendants reserve the right to make changes to these answers if it appears at any time that omissions or errors have been made herein, or that more accurate information becomes available.

Subject to the foregoing limitation, however, these responses are true and accurate based on the information provided.

I am aware that if any of the foregoing statements by me are willfully false, I am subject to punishment.



Kelly Trice
President, Holtec Nuclear Generation
and Decommissioning

January 3, 2024

Date

KEVIN O'ROURKE,

Plaintiff,

v.

HOLTEC INTERNATIONAL CORPORATION,
HOLTEC INTERNATIONAL POWER
DIVISION, KRISHNA SINGH, and JOHN DOES
1-10.

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: CAMDEN COUNTY

Docket No.: CAM-L- 1585-23

Civil Action

CERTIFICATE OF SERVICE

I, James P. Anelli, Esquire, hereby certify that on January 4, 2024, I caused a true and correct copy of the foregoing Defendants' Answers and Objections to Plaintiff's First Set of Interrogatories to be served upon the following via email:

Drake P. Bearden, Esq.
Javerbaum Wurgaft Hicks
Kahn Wikstrom & Sinins, P.C.
1000 Haddonfield-Berlin Road, Suite 203
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By:



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Power Division, Inc., and Krishna
Singh*

EXHIBIT G

WHITE AND WILLIAMS LLP

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*Attorneys for Defendants, Holtec International,
Holtec International Power Division, Inc.,
and Krishna Singh*

KEVIN O'ROURKE,

Plaintiff,

v.

HOLTEC INTERNATIONAL CORPORATION,
HOLTEC INTERNATIONAL POWER
DIVISION, KRISHNA SINGH, and JOHN DOES
1-10.

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: CAMDEN COUNTY

Docket No.: CAM-L- 1585-23

Civil Action

**DEFENDANTS' RESPONSES AND
OBJECTIONS TO PLAINTIFF'S FIRST
REQUEST FOR PRODUCTION OF
DOCUMENTS**

TO: Drake P. Bearden, Esq.
Javerbaum Wurgaft Hicks
Kahn Wikstrom & Sinins, P.C.
1000 Haddonfield-Berlin Road, Suite 203
Voorhees, NJ 08043

Defendants, Holtec International (“Holtec”),¹ Holtec International Power Division, Inc. (“Holtec Power Division”), and Krishna Singh (“Singh”) (collectively “Defendants”), by and through their attorneys, hereby timely provide the following responses and objections to Plaintiff Kevin O’Rourke’s (“Plaintiff”) First Request for Production of Documents.

GENERAL OBJECTIONS

The following General Objections apply to each discovery request regardless of whether the General Objections are expressly referred to in the specific objection or response to a particular

¹ Improperly pleaded as “Holtec International Corporation.”

document demand. The specific objections set forth following particular document demands are intended to amplify the General Objections and neither limit the applicability of any of the General Objections nor waive any objections that may, in addition to those set forth, be applicable to each discovery request.

1. Defendants object to the document demand to the extent that it is overly broad, unduly burdensome, oppressive and not reasonably calculated to lead to the discovery of admissible evidence.
2. Defendants object to the document demand to the extent that it seeks information protected from disclosure by the attorney-client privilege, by the attorney work-product doctrine or by other privileges, doctrines or rules.
3. Defendants object to the document demand to the extent that it seeks confidential, sensitive or proprietary business information.
4. Defendants object to the document demand to the extent that it seeks to documents in Plaintiff's possession.
5. Defendants object to the document demand to the extent that it seeks to impose obligations upon defendant that are broader than those provided for under the applicable Rules of Court.
6. Defendants object to any document demand, including those posed hypothetically, that improperly seeks opinions, contentions and/or interpretations of available source data and/or material prepared for litigation and/or conclusions as to legal or other inappropriate matters.
7. Defendants' responses to the document demands are made notwithstanding these General Objections and/or specific objections and are in no way a waiver of those objections. Defendants specifically reserves their right to challenge the competency, relevance, materiality

and admissibility of such information in any subsequent proceeding or hearing, on any motion or at the trial in this or in any other action.

8. Defendants object to the document demands on the grounds that they are premised on an incorrect recitation of facts and therefore lack proper foundation.

9. Defendants reserve the right to supplement their responses in the continuing course of discovery.

RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Any and all documents that are relevant to any of Plaintiff's claims including but not limited to all issues related to liability or damages.

Response: Objection. Defendants object to this request to the extent it seeks documents that may be protected from disclosure by the attorney-client privilege and/or work product doctrine. Defendants further object to this request to the extent it seeks confidential business documents.

2. Any and all documents that are relevant to any of Defendant's defenses including but not limited to all issues related to liability, damages or affirmative defenses.

Response: Objection. Defendants object to this request to the extent it seeks documents that may be protected from disclosure by the attorney-client privilege and/or work product doctrine. Defendants further object to this request to the extent it seeks confidential business documents.

3. Any and all documents that are related in any way to any of the admissions, denials or other claims made in Defendant's Answer.

Response: Objection. Defendants object to this request on the basis that it is overly broad, vague, ambiguous, and unduly burdensome. Defendants further object to this request to the extent it seeks documents that may be protected from disclosure by the attorney-client privilege and/or work product doctrine. Defendants further object to this request to the extent it seeks confidential proprietary documents.

4. Any and all documents related in any way to each affirmative or separate defense in Defendant's Answer.

Response: Objection. Defendants object to this request on the basis that it is overly broad and unduly burdensome. Defendants further object to this request to the extent it seeks documents that may be protected from disclosure by the attorney-client privilege and/or work product doctrine. Defendants further object to this request to the extent it seeks confidential business documents.

5. Any and all documents related in any way to each and every Crossclaim in Defendant's Answer.

Response: Objection. As Plaintiff is aware, this request is not applicable.

6. Any and all documents related in any way to every Counterclaim in Defendant's Answer.

Response: Objection. Defendants object to this request on the basis that it is overly broad and unduly burdensome. Defendants further object to this request to the extent it seeks documents that may be protected from disclosure by the attorney-client privilege and/or work product doctrine. Defendants further object to this request to the extent it seeks confidential business information. Subject to and without these objections and the General Objections above, see HOLTEC INT'L 000001-000022.

7. Any and all documents related in any way to every Third-Party Complaint Defendant has filed.

Response: Objection. As Plaintiff is aware, this request is not applicable.

8. Any and all documents referred to or relied upon by Defendant in the preparation of any Answers to Interrogatories.

Response: Objection. Defendants object to this request to the extent it seeks documents that may be protected from disclosure by the attorney-client privilege and/or work product doctrine. Defendants further object to this request to the extent it seeks confidential business documents.

9. Any and all documents referred to or relied upon by Defendant in the preparation of Responses to Request for Production of Documents.

Response: Objection. Defendants object to this request to the extent it seeks documents that may be protected from disclosure by the attorney-client privilege and/or work product doctrine. Defendants further object to this request to the extent it seeks confidential business documents. Defendants further object to this request on the basis that is ambiguous and Defendants cannot determine the nature of the documents requested.

10. Any and all documents related to the employment and/or independent contractor relationship between Defendant and any other parties to this matter.

Response: Objection. Defendants object to this request on the basis that it is overly broad, vague, ambiguous, and unduly burdensome. Defendants further object to this request on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this request to the extent it seeks confidential business documents. Subject to and without waiving these objections and the General Objections above, see HOLTEC INT'L 000023-000035.

11. Any and all documents related in any way to the end of Plaintiff's employment with Defendant. This includes, but is not limited to, any documents related in any way to the end of Plaintiff's employment including discussions about the end of Plaintiff's employment, the reasons why Plaintiff's employment ended and who was responsible for making the decision to end Plaintiff's employment.

Response: Objection. Defendants object to this request on the basis that it is overly broad, vague, ambiguous, and unduly burdensome. Subject to and these objections and without waiving the General Objections above, none.

12. Any and all documents related to any change in Plaintiff's job title, job status or responsibilities at any time while employed by any party to this suit.

Response: Objection. Defendants object to this request on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving this objection and the General Objections above, none.

13. Any and all documents related to any discipline, whether formal or informal, whether oral or written, Plaintiff received during the time Plaintiff was employed by Defendant.

Response: Objection. Defendants object to this request because it seeks documents in Plaintiff's possession. Subject to and without waiving the General Objections above, none.

14. Any and all documents related to job application materials pertaining in any way to Plaintiff for employment at answering Defendant's company or at any other past or present

employer of which the defense or any servant or agent or employer of the Defendant has awareness of knowledge.

Response: Objection. Defendants object to this request because it seeks documents in Plaintiff's possession. Defendants further object to this request on the basis that it is overly broad in terms of the subject matter and time for which it seeks documents. Defendants further object to this request on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections and the General Objections above, see HOLTEC INT'L 000023-000035.

15. Any and all documents related to any communications, whether oral or written, between Plaintiff and any current or former employee, agent, servant or representative of the Defendant.

Response: Objection. Defendants object to this request because it seeks documents in Plaintiff's possession. Defendants further object to this request on the basis that it is overly broad in terms of the subject matter and time for which it seeks documents. Defendants further object to this request on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

16. Any and all documents related to any grievance or complaint, formal or informal, internal or external filed by the Plaintiff during Plaintiff's employment with the Defendant.

Response: Objection. Defendants object to this request on the basis that it is overly broad in terms of the subject matter and time for which it seeks documents. Defendants further object to this request to the extent it seeks confidential business documents.

17. Any and all copies of all audiotapes, videotapes, recordings or other media devices related to any of Plaintiff's claims or Defendant's defenses.

Response: Objection. Defendants object to this request on the basis that it is vague and ambiguous. Subject to and without waiving this objection and the General Objections above, see HOLTEC INT'L 000036.

18. Any and all documents related to Plaintiffs employment with Defendant including, but not limited to, promotions, transfers, positions, demotions, reviews or other changes in assignments with the Defendant.

Response: Objection. Defendants object to this request on the basis that it is overly broad in terms of the subject matter and time for which it seeks documents. Defendants further object to this request on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections and the General Objections above, see HOLTEC INT'L 000023-000035.

19. Any and all job descriptions related to any position held by the Plaintiff or any position held by an individual named or described in the Complaint.

Response: Objection. Defendants object to this request because it seeks documents in Plaintiff's possession. Subject to and without waiving this objection and the General Objections above, none.

20. Any and all documents related to any complaints filed by any current or former employee of Defendant in the last five years since Plaintiff filed Plaintiff's complaint wherein the employee claimed they were subjected to the same or similar conduct Plaintiff alleged she was subjected to in his complaint. By "complaints" Plaintiff is referring to any formal or informal complaints made by any employee of Defendant to any employee of Defendant, made verbally, in writing or otherwise, and any complaints filed with any administrative agency of the State or Federal Government (i.e. DCR or EEOC) or any lawsuit filed with the State or Federal Court. The production should include any and all documents that document or relate in any way to any complaints that were made during that period of time, including, but not limited to, any and all documents regarding the complaint itself, any and all investigations that were conducted as a result of the complaint, any and all interviews that were conducted as a result of the complaint, any and all conclusions that were reached by Defendant and its employees as a result of the complaint, and any and all actions taken by Defendant as a result of the complaint and subsequent investigation.

Response: Objection. Defendants object to this request on the basis that it is overly broad in terms of the subject matter and time for which it seeks documents. Defendants further object to this request on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this request to the extent it seeks documents that may be protected from disclosure

by the attorney-client privilege and/or work product doctrine. Defendants further object to this request to the extent it seeks confidential information related to non-parties.

21. The “redacted” (see definition of redacted below) employment file for any individual aside from Plaintiff who is named in the Complaint by name or whose position or identity was described by the Plaintiff in the Complaint, and current or former employee identified by Defendant as a person with knowledge relevant to Plaintiff’s claims or Defendant’s defenses. The term “redacted” involves a removal of *all medical and financial information* relating to such persons. Responsive documents should include, but not be limited to trainings, instructions, seminars, disciplines, reviews or warnings.

Response: Objection. Defendants object to this request on the basis that it is overly broad in terms of the subject matter and time for which it seeks documents. Defendants further object to this request on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this request to the extent it seeks confidential information related to non-parties.

22. Any and all related to any policy, standard or procedure prohibiting or speaking to the rights concerning discrimination, harassment or retaliation of any kind, that Defendant had in place during the five years since Plaintiff filed Plaintiff’s complaint.

Response: Objection. Defendants object to this request on the basis that it is vague, ambiguous, and to the extent it is harassing. Defendants further object to this request on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the General Objections above, see see HOLTEC INT’L 000037-000254.

23. Any and all documents relating in any way to Plaintiff’s medical status.

Response: Objection. Defendants object to this request on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

24. Any and all documents related to any contact defense counsel or other agents, servants or representatives of Defendant had with any witness.

Response: Objection. Defendants object to this request to the extent it seeks documents that may be protected from disclosure by the attorney-client privilege and/or work product doctrine.

25. Any and all documents related to work-related calendars or diaries maintained by any individual identified by Plaintiff in Plaintiff's complaint or identified by Defendant as individuals have knowledge relevant to Plaintiff's claim.

Response: Objection. Defendants object to this request on the basis that it is unduly burdensome and overly broad in terms of the subject matter and time for which it seeks documents. Defendants further object to this request on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

26. Any and all documents in the Defendant's possession, which have not been otherwise provided pursuant to a preceding request and which refers in any way to the Plaintiff.

Response: Objection. Defendants object to this request on the basis that it is unduly burdensome and overly broad in terms of the subject matter and time for which it seeks documents. Defendants further object to this request on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this request to the extent it seeks documents that may be protected from disclosure by the attorney-client privilege and/or work product doctrine.

27. Any and all documents obtained by Defendant or which will be obtained by Defendant by way of subpoena power.

Response: Objection. Defendants object to this request as it is premature. Subject to this objection and without waiving the General Objections, none. Defendants reserve the right to amend this response.

28. Any and all documents referring to any policy of insurance, whether worker's compensation, general liability maintained by the Defendant for the benefit of the Defendant entity, or maintained by any other entity for the benefit of Answering Defendant, or for the benefit of any individual named in Plaintiff's Complaint, that is alleged to possibly cover one or more of the losses claimed in Plaintiff's Complaint (NOTE: include declarations pages, correspondence with insurance entities, etc.).

Response: Objection. Defendants object to this request on the basis that it is vague, ambiguous, unduly burdensome, and overly broad. Defendants further object to this request on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this request to the extent it seeks documents that may be protected from disclosure by the attorney-client privilege

and/or work product doctrine. Subject to and without waiving these objections and the General Objections above, see HOLTEC INT'L 000255.

29. Any documents related to any meeting wherein the Plaintiff's employment relationship or termination of employment was discussed.

Response: Objection. Defendants object to this request on the basis that it is unduly burdensome and overly broad. Defendants further object to this request on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this request to the extent it seeks documents that may be protected from disclosure by the attorney-client privilege and/or work product doctrine. Subject to and without waiving the General Objections above, none.

30. For each and every document that Defendant claims is not suppleable pursuant to interrogatories asked by the Plaintiff or a request for production of documents by Plaintiff because the document is privileged, set forth for each and every such document the nature of the document with enough particularity that it can be discussed between the parties and/or the Court and the basis for the objection.

Response: Subject to and without waiving the General Objections above, Defendants will provide a privilege log.

31. If the Defendant company files or sends annual reports to shareholders, produce the last ten such reports filed and continue to supply reports filed during the pendency of this litigation.

Response: Objection. this request is not applicable.

32. Any and all documents not specifically requested in the foregoing requests that Defendant believes will in any way relate to the claims in this matter.

Response: Objection. Defendants object to this request on the basis that it is overly broad, vague, ambiguous, and unduly burdensome. Defendants further object to this request to the extent it seeks documents that may be protected from disclosure by the attorney-client privilege and/or work product doctrine.

33. Any and all documents provided by Answering Defendant to the New Jersey Department of Labor and Workforce Development or any other state agency or department in regard to or in response to any claim for unemployment benefits initiated by Plaintiff.

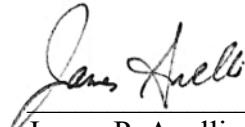
**Response: Objection. As Plaintiff is aware, this request is not applicable.
Defendants reserve the right to amend this response.**

Dated: January 4, 2024

Very truly yours,

WHITE AND WILLIAMS LLP

By:



James P. Anelli

One Gateway Center, Suite 910

Newark, NJ 07102-4200

(201) 368-7200

*Attorneys for Defendants, Holtec
International, Holtec International
Power Division, Inc., and Krishna
Singh*

KEVIN O'ROURKE,

Plaintiff,

v.

HOLTEC INTERNATIONAL CORPORATION,
HOLTEC INTERNATIONAL POWER
DIVISION, KRISHNA SINGH, and JOHN DOES
1-10.

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: CAMDEN COUNTY

Docket No.: CAM-L- 1585-23

Civil Action

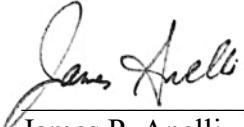
CERTIFICATE OF SERVICE

I, James P. Anelli, Esquire, hereby certify that on January 4, 2024, I caused a true and correct copy of the foregoing Defendants' Responses and Objections to Plaintiff's First Request for Production of Documents to be served upon the following via email:

Drake P. Bearden, Esq.
Javerbaum Wurgaft Hicks
Kahn Wikstrom & Sinins, P.C.
1000 Haddonfield-Berlin Road, Suite 203
Voorhees, NJ 08043
Attorneys for Plaintiff

WHITE AND WILLIAMS LLP

By:



James P. Anelli
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*Attorneys for Defendants, Holtec
International, Holtec International
Power Division, Inc., and
Krishna Singh*

EXHIBIT H



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January 11, 2024

Via Email

Ryan Warden, Esquire
James Anelli, Esquire
White and Williams, LLP
One Gateway Center, Suite 910
Newark, NJ 07102

**Re: Kevin O'Rourke v Holtec International
Docket No.: CAM L 1585 23**

Dear Mr. Warden:

As your office is aware, we represent the Plaintiff in the above-referenced matter. I have reviewed Defendants' discovery responses and find the responses to be deficient for the reasons identified below. Pursuant to N.J.R. 1:6-2(c) if we do not receive responses correcting these deficiencies within ten (10) days of the date of this letter, Plaintiff will file a Motion to Compel without further correspondence. To the extent Defendants believe Defendants believe the parties need to meet and confer further regarding the specifics of any request, please provide dates and times defense counsel is available to meet and confer to further discuss any of the issues.

A. Deficiencies in Multiple Response

1. Claims of privilege or confidentiality

In Defendants' answers to Plaintiff's interrogatories and document requests, Defendants refused to answer questions and produce documents because Defendants claimed certain information and/or documents were Work Product, Confidential Business or Personnel Records and/or Attorney-client Privileged.

Plaintiff's discovery requests stated, "If any information or document is omitted or withheld from an answer by reason of a claim of privilege, the answer should describe such information or document with sufficient specificity to establish the basis of the privilege and should state all factual and legal bases for the allegation that such information or document is privileged." The New Jersey Court Rules state that:

When a party withholds information otherwise discoverable under these rules by

claiming that it is privileged or subject to protection as trial preparation material, the party shall make the claim expressly and shall describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.

N.J.R. 4:10-2(e)(1). New Jersey Courts have held that “When a party asserts a privilege, it must provide a specific explanation of why each document is privileged or immune from discovery which must include a comprehensive presentation of all factual grounds and legal analyses in a non-conclusory fashion.” *See Rivard v. Am. Home Prod., Inc.*, 391 N.J. Super. 129, 152–53 (App. Div. 2007); (citing *Seacoast Builders Corp. v. Rutgers*, 358 N.J. Super. 524, 541–42 (App. Div. 2003)).

Defendants stated in their discovery answers they would provide a privilege log, but to my knowledge one has not been provided. Accordingly, for any claims of privilege, confidentiality, work product or any redactions made in Defendants’ responses to Plaintiff’s First Set of Interrogatories and Document Requests, provide a specific explanation of why each piece of information and/or document is privileged, immune from discovery, or redacted, and include a comprehensive presentation of all factual grounds and legal analyses in a non-conclusory fashion.

B. Specific Deficient Interrogatory Answers

Interrogatory number 3

In response to interrogatory number 3, Defendants failed to provide addresses for the individuals identified in response to this interrogatory. The Court Rules state that “Parties may obtain discovery regarding any matter, not privileged . . . including . . . the identity and location of persons having knowledge of any discoverable matter.” R. 4:10-2(a). Therefore, the rule is clear that parties must provide the address of individuals identified with knowledge.

New Jersey Courts have held that by “location of the persons having knowledge,” the rule refers to the address of those persons. *See Abbatemarco v. Colton*, 31 N.J. Super. 181, 184–85 (App. Div. 1954); *see also Burke v. Cent. R. Co. of N. J.*, 42 N.J. Super. 387, 393-94 (App. Div. 1956). The Court in *Abbatemarco* held as follows:

The right of a party to discovery of the identity and **location of persons having knowledge of relevant facts** is specifically granted by R.R. 4:16—2, which is **substantially the same** as Federal Rule 26(b), 28 U.S.C.A. This rule is ‘designed to eliminate, as far as possible, concealment and surprise in the trial of law suits to the end that judgments therein be rested upon the real merits of the causes and not upon the skill and maneuvering of counsel.

31 N.J. Super. at 184 (emphasis added). The Court held that, “Failure to disclose the names and addresses of witnesses in response to interrogatories constitutes failure to comply with the rule and a deprivation of substantial rights.” *Id.* at 185. The Federal Court Rule referenced in *Abbatemarco* states that parties must “provide to the other parties: (i) the name and, if known, the address and

telephone number of each individual likely to have discoverable information.” Fed. R. Civ. P 26(a)(1)(A)(i) (emphasis added).

In *Burke*, the Court held that parties are required to provide the addresses of persons with knowledge. 42 N.J. Super. 387 at 393-94. The Court held that information was required for the following reasons:

divulgence of the names **and addresses of witnesses** having knowledge of the relevant facts gives the inquiring party an opportunity before trial (1) **to investigate the witnesses' background** in order to discover any discrediting matter which might exist, (2) to learn their version of the matters involved in the controversy, and (3) to ascertain from them the names and addresses of any other witnesses known to them.

Id. (emphasis added). The Court held that “Failure to disclose the names and addresses of witnesses in response to interrogatories constitutes a deprivation of the substantial rights of the propounding party. In such a case the trial court is free to apply sanctions, subject only to the requirement that they be just and reasonable in the circumstances.” *Id.* at 395; *see also Wagi v. Silver Ridge Park W.*, 243 N.J. Super. 547, 551 (Law. Div. 1989) (holding that parties must disclose the “names and addresses” of witnesses).

Even if Defendants are going to produce certain witnesses, the witnesses’ last known addresses may be relevant for several reasons. First, a witnesses’ address is one way for Plaintiff to verify a person’s identity. Furthermore, in the event Defendants cannot produce a witness for any reason, such as the employee leaves employment with Defendants, Plaintiff should have the opportunity to contact that witness independently if the witness is no longer under Defendants’ control.

Accordingly, please provide last known addresses for all of the individuals identified as people with relevant information.

Interrogatory number 6

This interrogatory asked for Defendants to state “in as much detail as possible” any and all reasons Plaintiff’s employment ended. Defendants stated they “lost confidence in Plaintiff for a number of reasons” but failed to actually state any of those reasons. Please state in as much detail as possible all of the “reasons” Defendants “lost confidence in Plaintiff.”

Interrogatory number 9

This interrogatory asked if Defendants were named in a complaint in the past five years related to allegations similar to Plaintiff’s, which would be a retaliation claim. Defendants refused to answer this interrogatory.

As you know, evidence of other complaints, are relevant to establishing retaliation in New Jersey. *See Connolly v. Burger King Corp.*, 306 N.J. Super. 344, 348-49 (App. Div. 1997). In

Connolly, the Court specifically stated complaints even at other stores, even stores in other states, were discoverable. *Id.* Therefore, any complaints “which allege the same or similar theories as have been alleged by the plaintiff,” are reasonably calculated to lead to the discovery of relevant, admissible evidence. New Jersey Courts have held that any privacy concerns are outweighed by “plaintiff’s paramount interest in obtaining relevant materials.” *Id.* at 350. Accordingly, please provide an answer to this interrogatory regarding complaints filed against Defendants in the past five years.

Interrogatory number 10

This interrogatory asked Defendants to state whether any employees identified in Plaintiff’s complaint have been disciplined for retaliating against another employee. Defendants refused to answer this interrogatory. If another employee was accused of retaliation, that information is relevant to Plaintiff’s claim. *See Connolly*, 306 N.J. Super. at 348–49. Therefore, please provide the requested information.

Interrogatory numbers 20-25

These interrogatories asked for financial information about Defendants, which they refused to answer claiming the information was irrelevant and confidential. As you know, Defendants brought several counterclaims in which they claim they were financially harmed by Plaintiff’s actions. Accordingly, this information is relevant and must be disclosed. *See Parkinson v. Diamond Chem. Co., Inc.*, 469 N.J. Super. 396, 413 (App. Div. 2021) (holding that a company’s financial information is relevant and discoverable to defend against counterclaims).

Interrogatory number 43-44

Defendants refused to provide any substantive response to these interrogatories and instead answered that “CD-38 was not a ‘prospectus’”. This answer is not appropriate. First, as you know, Defendant Krishna Singh referred to the document in communications as a prospectus. Clearly Defendants know what document Plaintiff is referring to in the interrogatories because Defendants identified the document as CD-38. Accordingly, please provide full answers to these interrogatories in reference to CD-38.

Interrogatory numbers 11, 13, 15, 34, 35, 40 and 41

For each of these interrogatories Defendants stated, “see Defendants’ Responses to Plaintiff’s First Set of Requests for Documents.” However, Defendants failed to identify which of the 255 documents it produced are actually responsive to each interrogatory. As you know, when a party answers an interrogatory by referring to business records, the party must identify the document with sufficient detail to allow the party to readily identify the document. N.J.R. 4:17-4(d). Defendants’ general reference to all of the documents Defendants produced is not sufficient. Accordingly, please state with specificity by Bates label which documents are responsive to each interrogatory.

C. Specific Deficient Document Requests

Document request numbers 1, 2, 3 and 4

These document requests asked Defendants to provide documents relevant to Plaintiff's claims, Defendants' Answer and their defenses. Defendants refused to provide documents based on confidentiality. This answer is not appropriate. To the extent Defendants believe any responsive documents are privileged or confidential, please provide a specific explanation of why each piece of information and/or document is privileged, immune from discovery, or redacted, and include a comprehensive presentation of all factual grounds and legal analyses in a non-conclusory fashion. For any documents that are not privileged or confidential, please provide those documents.

Document request number 6

This document request asked for documents in any way related to Defendants' Counterclaims. Defendants referred to documents 001-022. These documents include a confidentiality agreement between Plaintiff and Defendants. As you know, Defendants made counterclaims that Plaintiff engaged in conduct that financially damaged Defendants' business. Accordingly, please provide any and all documents related to Defendants' financial condition for the past five years, any and all documents related to any actual damage done to Defendants as a result of Plaintiff's conduct, any and all documents related to any business Defendants lost and/or did not receive as a result of Plaintiff's conduct and any and all documents that relate in any way to damage either Defendants suffered because of Plaintiff's alleged conduct.

Document request numbers 8 and 9

These document requests asked for documents referred to or relied upon by Defendants in answering Plaintiff's interrogatories and document requests. Defendants refused to provide any documents based on confidentiality. This answer is not appropriate. To the extent Defendants believe any responsive documents are privileged or confidential, please provide a specific explanation of why each piece of information and/or document is privileged, immune from discovery, or redacted, and include a comprehensive presentation of all factual grounds and legal analyses in a non-conclusory fashion. For any documents that are not privileged or confidential, please provide those documents.

Document request 15

This request asked for documents related to communications between Plaintiff and employees at Defendants. Defendants refused to provide any documents, claiming this information was not relevant. Obviously documents related to Plaintiff's communications with his coworkers are relevant to Plaintiff's claim. Also, we know such documents exist because Plaintiff has produced documents related to communications with his coworkers. Accordingly, please provide responsive documents.

Document request 16

This request asked for documents related to complaints made by Plaintiff. Defendants refused to answer this request claiming Plaintiff asked for “confidential business documents.” This answer is not appropriate. Clearly documents about Plaintiff’s complaints are relevant to Plaintiff’s whistleblower claim. Therefore, to the extent Defendants believe any responsive documents are privileged or confidential, please provide a specific explanation of why each piece of information and/or document is privileged, immune from discovery, or redacted, and include a comprehensive presentation of all factual grounds and legal analyses in a non-conclusory fashion. For any documents that are not privileged or confidential, please provide those documents.

Document request number 20

In Document request number 20, Plaintiff asked Defendants to provide documents regarding any complaints made against Defendants within the past five years which allege the same or similar theories that have been alleged by the Plaintiff. Defendants objected to this request and refused to provide responsive documents.

Defendants’ refusal to provide these documents is improper. Evidence of other complaints, even at other facilities, are relevant to establishing retaliation in New Jersey. *See Connolly*, 306 N.J. Super. at 348–49. In *Connolly*, the Court specifically stated complaints at other stores, even stores in other states, were discoverable. *Id.* Therefore, any complaints “which allege the same or similar theories as have been alleged by the plaintiff,” are reasonably calculated to lead to the discovery of relevant, admissible evidence.

New Jersey Courts have held that any privacy concerns are outweighed by “plaintiff’s paramount interest in obtaining relevant materials.” *Id.* at 350. The parties signed a Confidentiality Stipulation, which would allow the parties to mark documents “Confidential” to limit their disclosure. *See Llerena v. J.B. Hanauer & Co.*, 368 N.J. Super. 256, 268 (Law. Div. 2002) (holding that confidentiality concerns were addressed by limiting disclosure of the documents to plaintiff, his attorney and his experts). Accordingly, please provide all documents responsive to document request number 20.

Document request number 21

Request for Production of Documents Number 21 asked Defendants for the employment records of individuals other than Plaintiff named in the Complaint. Defendants refused to provide the personnel files.

This response is improper for several reasons. Personnel files are not protected by privilege or work product. New Jersey Courts have consistently held that in LAD cases, personnel files of other employees, including alleged wrongdoers, may be relevant to establish the individuals engaged in the same or similar conduct toward other employees. *See e.g. Dixon v. Rutgers, The State University of New Jersey*, 110 N.J. 432, 460 (1988).

Plaintiff asked for personnel files with any confidential information redacted, so there is

no issue with confidentiality. Furthermore, as was stated above, New Jersey Courts have held that any privacy concerns are outweighed by “plaintiff’s paramount interest in obtaining relevant materials.” *See Connolly*, 306 N.J. Super. at 350. The parties signed a Confidentiality Stipulation, which allows the parties to mark documents “Confidential” to limit their disclosure. *See Llerena v. J.B. Hanauer & Co.*, 368 N.J. Super. 256, 268 (Law. Div. 2002) (holding that confidentiality concerns were addressed by limiting disclosure of the documents to plaintiff, his attorney and his experts). Accordingly, please provide all documents responsive to document request number 21.

Document request number 24

Plaintiff asked for documents related to contact Defendants and their counsel and agent had with any witnesses. Defendants refused to provide these documents, claiming they are privileged. Witness statements are not automatically subject to privilege. *See Paladino v. Auletto Enters., Inc.*, 459 N.J. Super. 365, 374-75 (App. Div. 2019). Furthermore, as was stated above, if such documents exist and Defendants are withholding the documents based on privilege, Defendants are required to “provide a specific explanation of why each document is privileged or immune from discovery which must include a comprehensive presentation of all factual grounds and legal analyses in a non-conclusory fashion.” *See Rivard*, 391 N.J. Super. at 152–53. Accordingly, if Defendants are in possession of such documents, please state so, and if Defendants believe the documents are privileged, please provide a specific explanation of why each document is privileged or immune from discovery which must include a comprehensive presentation of all factual grounds and legal analyses in a non-conclusory fashion.

I thank you for your anticipated cooperation in providing this information and these documents. Feel free to call me if you have any questions regarding this correspondence.

Very truly yours,

s/Drake P. Bearden, Jr.

Drake P. Bearden, Jr.

EXHIBIT I

From: Carr, Joseph <Carrj@whiteandwilliams.com>
Sent: Monday, January 22, 2024 12:12 PM
To: Drake Bearden; Warden, Ryan; Anelli, James
Cc: Mary Izganics; Pantalione, Jennifer
Subject: RE: O'Rourke v Holtec, et al. [WWLLP-PHLDMS1.FID3750958]

Categories: Neos

[EXTERNAL E-MAIL]

Hi Drake,

I hope you enjoyed the weekend. We are continuing to review the deficiency letter and request an extension until February 5, 2024 to provide a response. Thank you, we appreciate the courtesy.

Best,
Joe



Joseph M. Carr
3773 Corporate Parkway, Suite 180 | Center Valley, PA 18034-8233
Office Direct 610.782.4907 | Cell Direct 215.730.4749 | Fax 610.782.4933
carrj@whiteandwilliams.com | whiteandwilliams.com

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From: Drake Bearden <dbearden@lawjw.com>
Sent: Thursday, January 11, 2024 3:02 PM
To: Warden, Ryan <Wardenr@whiteandwilliams.com>; Anelli, James <Anellij@whiteandwilliams.com>; Carr, Joseph <Carrj@whiteandwilliams.com>
Cc: Mary Izganics <mizganics@lawjw.com>
Subject: O'Rourke v Holtec, et al.

CAUTION: This message originated outside of the firm. Use caution when opening attachments, clicking links or responding to requests for information.

See attached deficiency letter.

Thanks,

Drake P. Bearden, Jr., Esq.

Certified by the New Jersey Supreme Court as a Civil Trial Attorney

Partner

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