

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC.

SUPERIOR COURT

(FILED: APRIL 30, 2012)

PHILIP KACZOROWSKI	:	
	:	
v.	:	C.A. No. PC-2006-5769
	:	
TOWN OF NORTH SMITHFIELD, by	:	
and through its Finance Director, JILL	:	
GEMMA; ROBERT B. LOWE, in his	:	
capacity as North Smithfield Town	:	
Administrator and in his individual	:	
capacity; LINDA B. THIBAUT, in her	:	
capacity as Town Councilor and in her	:	
individual capacity; EDWARD F.	:	
YAZBAK, in his capacity as Town	:	
Councilor and in his individual capacity;	:	
PAUL ZWOLENSKI, in his capacity as	:	
Town Councilor and in his individual	:	
capacity	:	

DECISION

**GIBNEY, P.J.** This action stems from the alleged wrongful termination of the employment of Plaintiff Philip Kaczorowski (“Plaintiff”) on June 30, 2005, by Defendants Town of North Smithfield, Robert B. Lowe, Linda B. Thibault, Edward F. Yazbak, and Paul Zwolenski (“Defendants”). Plaintiff filed his complaint on November 20, 2006. In his original complaint, Plaintiff alleged that Defendants’ termination of his employment (1) violated the North Smithfield Town Charter and Code of Ordinances; (2) violated the Rhode Island Civil Rights Act of 1990 (“RICRA”); and (3) constituted intentional infliction of emotional distress (“IIED”). On April 6, 2012, Plaintiff moved to amend his complaint to further allege—pursuant to 42 U.S.C. § 1983 (2012)—that his termination violated the United States and Rhode Island Constitutions. Plaintiff also sought to add counts requesting attorney’s fees pursuant to G.L. § 9-1-45 (2011) and the

Equal Access to Justice Act, G.L. § 42-92-1 et seq. (2011). This Court grants Plaintiff's Motion.

Defendants contend that Plaintiff's Motion is improper because the counts he seeks to add do not relate back to the date of the original complaint under Mainella v. Staff Builders Industrial Services, Inc., 608 A.2d 1141, 1143 (R.I. 1992), and are therefore time-barred. This Court has considered Mainella and finds it readily distinguishable. In Mainella, our Supreme Court declined to permit the plaintiff to add a claim for negligent hiring to her original complaint, which alleged negligence imputed to the defendant employer on the basis of respondeat superior. Id. at 1144-1145. The Court reasoned that the new claim involved "a totally different occurrence" (negligence in hiring) from that alleged in the original complaint (respondeat superior liability resulting from a slip-and-fall). Id. at 1145. Here, to the contrary, Plaintiff's proposed claims arise from the same conduct as the Town Charter, RICRA, and IIED claims set forth in Plaintiff's original complaint: Defendants' alleged wrongful termination of Plaintiff. The proposed amendments therefore relate back to the date of the original complaint. Super. R. Civ. P. 15. Plaintiff may amend his complaint to add the counts he requested in his Motion to Amend Complaint of April 6, 2012. Counsel shall prepare an appropriate Order for entry.