

STATE OF RHODE ISLAND
NEWPORT, S.C.

Hearing Date: March 2, 2027
SUPERIOR COURT

Heather J. Cook, CMC, Individually, and in her :
capacity as Town Clerk, Town of Little Compton :
Plaintiff, :

v. :

C.A. No.: NC-2026-0391

Patrick A. McHugh, Individually, and in his :
capacity as Town Council President, Town :
of Little Compton :
Defendant. :

DEFENDANT PATRICK A. MCHUGH'S MEMORANDUM OF LAW
IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS

NOW COMES the Defendant, Patrick A. McHugh, ("Defendant"), by and through counsel, and hereby files this Memorandum of Law in Support of Defendant's Motion to Dismiss. Plaintiff's Complaint glaringly fails to articulate any facts that would support the relief she purportedly seeks. As such, Defendant's Motion to Dismiss should be granted pursuant to R.I. Super. R. Civ. P. 12(b)(6) and 8(a), as Plaintiff failed to state a claim upon which relief may be granted, and additionally failed to place Defendant on notice of the claims asserted against him.

I. STATEMENT OF FACTS AND TRAVEL

Defendant Patrick McHugh has served as Town Council President of Little Compton for the past two years. *See Plaintiff's Complaint* attached hereto as "**Exhibit 1.**" Plaintiff Heather J. Cook has served in the Little Compton Town Clerk's Office since 2018. **Ex. 1** at ¶ 1. In 2021, Ms. Cook became Deputy Town Clerk. *Id.* On September 18, 2026, Plaintiff Heather J. Cook filed the aforementioned Complaint against Defendant. **Ex. 1.** In the Complaint, Ms. Cook alleges that Defendant has "undermined her for many months" and "belittled her." **Ex. 1** at ¶ 5-6.

The Complaint asserts two counts. Count I is a prayer for injunctive relief. Count II requests a temporary restraining order. As Plaintiff has failed to plead any predicate facts, her Complaint should be dismissed.

II. LEGAL STANDARD

“A motion under 12(b)(6) challenges the sufficiency of the complaint about whether it fails to state a claim upon which relief can be granted.” *Boyer v. Bedrosian*, 57 A.3d 259, 270, (R.I. 2012). “When ruling on a 12(b)(6) motion, the trial justice must look no further than the complaint, assume that all allegations in the complaint are true, and resolve any doubts in the plaintiff’s favor.” *Pontarelli v. Rhode Island Department of Elementary and Secondary Education*, 176 A.3d 472, 475 (2018) (quoting *Multi-State Restoration, Inc. v. DWS Properties, LLC*, 61 A.3d 414, 416 (2013)). “If it appears beyond a reasonable doubt that a plaintiff would not be entitled to relief under any conceivable set of facts, the motion [to dismiss] may be granted.” (internal quotations omitted). *Boyer*, 57 A.3d at 270 (quoting *Estate of Sherman vs. Almeida*, 747 A.2d 470, 473 (R.I. 2000)).

Pursuant to R.I. Super. R. Civ. P. 8(a), a complaint must contain: “(1) a short and plain statement of the claim showing that the pleader is entitled to relief, and (2) a demand for judgment for the relief the pleader seeks.” *Dellefratte v. Estate of Dellefratte*, 914 A.2d 797, 798 (R.I. 2007). “A plaintiff’s complaint need not set out the precise legal theory upon which his or her claim is based [but] the complaint must give the opposing party fair and adequate notice of the type of claim being asserted.” (internal quotations omitted). *Konar v. PFL Life Ins. Co.*, 840 A.2d 1115, 1118 (R.I. 2004) (quoting *Hendrick v. Hendrick*, 755 A.2d 784, 791 (R.I. 2000) (quoting *Bresnick v Baskin*, 650 A.2d 915, 916 (R.I. 1994))). Despite the liberal pleading standard, “the drafter of a complaint has responsibilities with respect to providing some degree

of clarity as to what is alleged; due process considerations are implicated, and [the court] requires that the complaint give the opposing party fair and adequate notice of the type of claim being asserted.” *Barnes v. Rhode Island Public Transit Authority*, 242 A.3d 32, 37 (R.I. 2020) (quoting *Hyatt v. Village House Convalescent Home, Inc.*, 880 A.2d 821, 824 (R.I. 2005) (quoting *Butera v. Boucher*, 798 A.2d 340, 353 (R.I. 2002))).

III. ARGUMENT

i. *Plaintiff has failed to state a claim.*

Plaintiff’s Complaint fails to state a claim, and as such, must be dismissed pursuant to R.I. Super. R. Civ. P. 12(b)(6). Plaintiff’s Complaint contains two counts: Count I – Injunctive Relief, and Count II – Temporary Restraining Order. **Ex. 1.** Rhode Island law clearly provides that, “injunctive relief is not a cause of action, it is a remedy.” *Long v. Dell, Inc.*, 93 A.3d 988, 1004 (2014) (quoting *Thompson v. JPMorgan Chase Bank, N.A.*, 563 Fed.Appx. 440, n.1, 2014 WL 1586992, at *1 n. 1 (6th Cir. 2014)). Further, “when [plaintiff] has no underlying cause of action, [plaintiff] has no right to seek the remedy of injunctive relief.” *Id.* As Superior Court Justice Silverstein astutely noted, “ absent controlling caselaw establishing that a request for injunctive relief constitutes an independent cause of action, **injunctive relief is a remedy, and can not, in itself, be recognized as a substantive claim.**” (emphasis added). *State v. Lead Ind. Assn., Inc.*, No. 99-5226, 2001 WL 345830 , at *14 (R.I. Super. April 2, 2001). Plaintiff’s Complaint requests relief, but fatally fails to allege an underlying claim for which the relief is sought. Therefore, Plaintiff has not only failed to state a claim upon which relief may be granted, but Plaintiff has failed to state a recognizable claim altogether. *See Ex. 1.* As such, Plaintiff’s Complaint is insufficient and must be dismissed pursuant to R.I. Super. R. Civ. P. 12(b)(6).

ii. ***Plaintiff has failed to adequately put Defendant on notice of the claims asserted against him.***

Plaintiff's Complaint has failed to place Defendant on notice of the claims to which he must defend against, and as such, must be dismissed. Rhode Island case law clearly holds that "a complaint that requires [the defendant] to read between the lines of [plaintiff's] hidden claim does not give the [defendant] fair and adequate notice of such a claim." *North Farm Home Owners Association, Inc. v. Bristol County Water Authority* 315 A.3d 933, 946 (R.I. 2024). Further, in *Guo v. Barrington Police Department*, the Rhode Island Supreme Court dismissed the plaintiff's complaint due to 1) vague and conclusory allegations and 2) plaintiff's failure to state a claim upon which relief may be granted. *Guo v. Barrington Police Department*, 327 A.3d 767, 768 (R.I. 2025). The Court determined that the plaintiff's allegations were too vague to satisfy the requirements of the Rules of Civil Procedure, given the complaint "[did] not contain factual allegations of sufficient clarity and specificity to provide a comprehensible context." *Id.*

In the present matter, as discussed *infra*, Plaintiff has failed to assert a proper claim, and as such, the Defendant is left to guess as to which claims he must defend against. Moreover, the Plaintiff has failed to assert allegations that provide a comprehensible context. The allegations in Plaintiff's Complaint state that Defendant "undermined," "belittled," and "harassed" Plaintiff, yet there are no dates, facts, or specific instances of this conduct alleged. The Complaint contains little to no factual context, which is made even more confusing given there are no properly pled claims in accordance with the requirements set forth by R.I. Super. R. Civ. P. 8(a). Therefore, Plaintiff has clearly failed to put Defendant on adequate notice of the claims against him, and Plaintiff's Complaint should be dismissed.

iii. ***The relief requested is not warranted based on the facts alleged in Plaintiff's Complaint.***

Assuming arguendo that Plaintiff has alleged recognizable claims, remedies in the form of a temporary restraining order and/or a protective order have not been justified. In Rhode Island,

“In deciding whether to issue a preliminary injunction, the hearing justice should determine whether the moving party (1) has a reasonable likelihood of success on the merits, (2) will suffer irreparable harm without the requested injunctive relief, (3) has the balance of the equities, including the possible hardships to each party and to the public interest, tip in its favor, and (4) has shown that the issuance of a preliminary injunction will preserve the status quo.”

DiDonato v. Kennedy, 822 A.2d 179, 181 (R.I. 2003) (quoting *Iggy's Doughboys, Inc. v. Giroux*, 729 A.2d 701, 705 (R.I. 1999) (citing *Fund for Community Progress v. United Way of Southeastern New England*, 695 A.2d 517, 521 (R.I. 1997))). In *DiDonato v. Kennedy*, the Court held that the hearing justice erred when, “she granted the preliminary injunction based merely on the existence of great hostilities between the parties.” *Id.* at 181-182. Further, in *Martin v. Lincoln Bar*, the plaintiff's request for a temporary restraining order was denied, given “plaintiff failed to prove that [plaintiff] will suffer irreparable harm in the absence of a temporary restraining order.” *Martin v. Lincoln Bar*, 622 A.2d 464, 470 (R.I. 1993). Here, Plaintiff alleges that “as a result of Defendant's unlawful acts, Plaintiff has been irreparably harmed.” **Ex. 1** at ¶ 9. This is just a conclusory statement glaringly lacking sufficient facts to support her conclusion. Despite these allegations, Plaintiff has failed to demonstrate a likelihood of success on the merits and has offered no evidence as to the irreparable harm she will suffer if a temporary restraining order is not granted.

Additionally, Plaintiff erroneously seeks a temporary restraining order pursuant to R.I. Gen. Laws § 28-52-2, Workplace Violence Protection. In pertinent part, § 28-52-2(a) states,

“ If an employer, or an employer's employee(s) or invitee(s), have:
(1) Suffered unlawful violence by an individual; or (2) Received a threat of violence by an individual that can reasonably be construed as a threat that may be carried out at the worksite; or (3) Been stalked or harassed at the worksite; **the employer may** (in addition to, or instead of, filing criminal charges against the individual) **seek a temporary restraining order, a preliminary injunction**, and an injunction pursuant to Rule 65 of the Superior Court Rules of Civil Procedure, prohibiting further unlawful acts by that individual at the worksite that shall include any place at which work is being performed on behalf of the employer.”
(emphasis added).

The clear language of R.I. Gen. Laws § 28-52-2(a) only permits an **employer** to seek a temporary restraining order, but the statute does not give an employee the right to seek a temporary restraining order against another employee. As such, Ms. Cook cannot seek injunctive relief in the form of a temporary restraining order pursuant to this statute, rather, the right belongs strictly to the employer.

Plaintiff also erroneously seeks a protective order pursuant to R.I. Gen. Laws § 8-8.1-3, Protective Orders- Penalty- Jurisdiction. Plaintiff has no right to seek a protective order under this chapter, as R.I. Gen. Laws § 8-8.1-3 applies only to cases involving domestic abuse. In the present matter, the parties have no dating relationship nor are they cohabitants. Additionally, Plaintiff has not alleged a domestic relationship with Defendant. As such, Plaintiff’s request for relief under this statute is wholly improper. *See Andrew v. Adorno*, 348 A.3d 805, 807 (R.I. 2026) (stating that chapter 8.1 of title 8 (Domestic Assault) requires specific criteria between the parties such as a substantive dating relationship).

IV. CONCLUSION

Plaintiff's Complaint is deficient in numerous ways; the Complaint fails to state a claim upon which relief may be granted, fails to place Defendant on notice of the claims against him, and seeks remedies that are unjustified based on the facts provided. As such, the dismissal of Plaintiff's Complaint is warranted pursuant to R.I. Super. R. Civ. P. 12(b)(6) and 8(a).

WHEREFORE, Defendant Patrick A. McHugh respectfully requests that this Honorable Court grant Defendant's Motion to Dismiss.

Defendant,
Patrick A. McHugh, Individually, and in his
capacity as Town Council President, Town of Little
Compton,
By his Attorneys,

/s/ Gil A. Bianchi, Jr.

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CERTIFICATION:

I hereby certify that on this 8th day of October, 2026, I filed and served this document through the electronic filing system to the following party:

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