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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-3153-09T2

KARI WHITE,

Plaintiff-Appellant,

v.

STARBUCKS CORPORATION and
JEFFREY PETERS,

Defendants-Respondents.

Argued January 26, 2011 - Decided December 9, 2011

Before Judges Fuentes, Ashrafi and Nugent.

On appeal from Superior Court of New Jersey,
Law Division, Essex County, Docket No. L-2422-08.

Jonathan I. Nirenberg argued the cause for
appellant (Resnick & Nirenberg, P.C., attorneys;
Mr. Nirenberg, on the brief).

David W. Garland argued the cause for respondents
(Epstein Becker & Green, P.C., attorneys;
Mr. Garland, of counsel; Mr. Garland and Jill
Barbarino, on the brief).

Mark A. Saloman and John J. Sarno argued the
cause for amicus curiae Employers Association
of New Jersey (Proskauer Rose L.L.P., attorneys;
Marvin M. Goldstein and Mr. Saloman, of counsel and
on the brief; Mr. Sarno, on the brief).

Bennet D. Zurofsky, attorney for amicus curiae
National Employment Lawyers Association/New Jersey.

PER CURIAM

Plaintiff Kari White, a former district manager for defendant Starbucks Corporation, appeals from the judgment of the Law Division granting defendant's motion for summary judgment and dismissing her complaint brought under the Conscientious Employee Protection Act (CEPA), N.J.S.A. 34:19-1 to -14. The trial court found plaintiff failed to establish she engaged in whistle-blowing activity. We affirm.

Because the court dismissed plaintiff's complaint as a matter of law, we will review the facts developed before the motion judge in the light most favorable to plaintiff, giving her the benefit of all reasonable inferences derived therefrom. R. 4:46-2. See also Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 529-30 (1995); Prudential Prop. & Cas. Ins. Co. v. Boylan, 307 N.J. Super. 162, 167 (App. Div. 1998).

I

A

Initial Training

On May 19, 2006, plaintiff formally accepted defendant's offer of employment as district manager in the Upper Mid-Atlantic Region. According to the job description for this position, plaintiff was

> required to regularly and customarily exercise discretion in managing the overall operation of the stores within [her]

> district[,] . . . [including] overseeing the district's store management workforce, making management staffing decisions, ensuring district-wide customer satisfaction and product quality, . . . and managing safety and security within the district.

She was also responsible for "ensur[ing] . . . [that employees] adhere to legal and operational compliance requirements." Plaintiff reported to defendant Jeffrey Peters, who was at the time Starbucks' Regional Director of Operations for the central and northern sections of New Jersey.

On July 10, 2006, plaintiff began training with Michael Lawniczak, a district coach manager. The training topics included customer care, communication, managing food and financial performance, store development, and delegation. Plaintiff was also trained in retail management and compliance with public health laws. She received and reviewed a manual titled "Starbucks Food Safety, Store Cleanliness and Store Condition Standards," which included a section on refrigeration and cold storage. That section instructed staff to replace "inaccurate or broken thermometers as needed."

Toward the end of her six-week training period, plaintiff noticed that, in the Hoboken store where she had been training, certain merchandise from "the four retail cabinets along the wall were missing merchandise," including coffee mugs and accessories, and that "the cabinets that were full were now

about [eighty] percent empty." Although, as a trainee, she was not required to take any action, she informed the Hoboken store manager, Tim Ilch, who in turn suggested that plaintiff double-check to confirm that the items were in fact missing. Plaintiff "shared . . . her . . . experience" regarding the missing merchandise with Marilyn Gaudioso, the district sales manager, Peters, and Lawniczak. According to plaintiff, Gaudioso "appreciated" that she told her about the missing merchandise, and said "that she would work with Tim . . . in resolving it."

At the end of September 2006, plaintiff met with Peters, as she usually did every two months, to discuss what had transpired during the month or the quarter, including matters involving employees, the stores, and even her career aspirations. At this particular meeting, plaintiff "reviewed" with Peters the problem with the missing merchandise at the Hoboken store. According to plaintiff, Peters seemed satisfied to learn that she reported the problem to Gaudioso.

In the beginning of October 2006, plaintiff met with Peters, Lawniczak, and others in management to review and recap her training. Plaintiff discussed at this meeting the positive experiences she had during training. She also told those present that she had witnessed a theft of merchandise at the Hoboken store.

B

Activities as District Manager

On October 8, 2006, plaintiff went "live," meaning that she formally assumed her management role in the six stores in her district.[1] The managers of those stores reported directly to plaintiff. Toward the end of October or the beginning of November 2006, plaintiff became aware that the Woodbridge store did not have thermometers in the refrigerated food and beverage cases to ensure that their contents were kept at a safe temperature prior to sale. According to plaintiff, it was her responsibility to ensure that the stores had all the right tools and resources to operate effectively. She thus asked the Woodbridge store manager, Steve Szabo, and a shift supervisor, Curt, to order thermometers "as soon as possible." The thermometers were thereafter ordered and installed. She also informed Peters that the Woodbridge store was missing thermometers.

Also around the end of October or the beginning of November 2006, during her initial visit to the Newark store with Amy Vetter, the store manager, and Iona Flowers, the shift supervisor, plaintiff noticed that the refrigerated food and

[1] Plaintiff's district consisted of Linden, Newark, Union, Westfield, Woodbridge, and Route 1 North Iselin.

beverage cases were missing thermometers. According to plaintiff, instead of imposing some kind of disciplinary sanction, she decided to use the situation as an opportunity to train Vetter and Flowers by asking them to order replacement thermometers while using the daily routine book to ensure that the refrigerated food and beverage cases were kept at a proper temperature. Plaintiff also reviewed the situation with Vetter and Flowers afterwards to ascertain what they had learned from their conversation.

The thermometers were delivered and installed at the Newark store a few weeks later. Because they were not functioning properly, however, plaintiff "asked . . . [Vetter and Flowers] to contact the operations team and have someone come out to fix the equipment as soon as possible." The repairs were not successfully made the first time, so she "asked . . . [Vetter] to call the operations team and tell them that they may have to come out to fix it. . . ." The repairs were successfully completed around the end of November. At that time, the cases were at the correct temperature level.

During her visits to the Newark store, plaintiff had also observed unsanitary conditions such as: (1) "a water sink that had mold around it"; (2) a water filter with "cobwebs on it"; and (3) "filthy dirty" pastry knives. Plaintiff addressed these

issues with the store's management team, and the problems were substantially corrected by the beginning of December 2006.

Plaintiff informed Peters that Vetter and Flowers were not using the daily routine book, and that Vetter specifically was resistant to Starbucks's procedures. Peters suggested that plaintiff should first discuss the issue with them in lieu of taking formal corrective action. Consequently, plaintiff met with Vetter to "ensure that she was following the company guidelines." According to plaintiff, Vetter told her "that she didn't appreciate the conversation, that she felt like . . . [plaintiff] was nitpicking her store."

During November or December 2006 in a "peer District Manager meeting[]," in which managers discuss the things they had found on their visits to the stores within their district, plaintiff spoke generally about violations of Starbucks's policy and procedure she observed at the Woodbridge and Newark stores. According to plaintiff, Peters was present at the meeting as a "listening ear."

C

Complaints from Subordinates

After the December 2006 peer District Meeting, a number of the managers of stores within plaintiff's district lodged internal complaints about plaintiff through Starbucks' helpline.

According to a complaint made by Vetter on December 11, 2006, plaintiff: (1) dominated meetings with sales numbers without allowing store managers to give any input; (2) sent important business e-mails to the managers' personal e-mail addresses instead of the store e-mail addresses; (3) made Vetter stay after her shift to "speak with her about the numbers" despite knowing that she needed to pick up her child from school; (4) antagonized employees and insisted on keeping the store open until 10 p.m. despite the fact that surrounding businesses closed at 8 p.m. for security reasons; (5) upset customers, noting that in November 2006, a customer complained to Vetter about plaintiff, saying that "the morale of the store plummete[d]" since plaintiff went "live;" and (6) promoted a Caucasian employee to the position of shift supervisor and ignored Vetter's suggestion to promote an African-American employee, despite Vetter's opinion that the Caucasian employee "needed some more training."

On December 18, 2006, Mike Miller, the Iselin store manager, complained that plaintiff conducted a mandatory meeting with all store managers in the district on Monday December 4, 2006. The managers objected to meeting on a Monday because that day was usually set aside for administrative work and employee development. According to Miller, plaintiff was not sympathetic

to these concerns, and emphasized that the employees were their "subordinates." Miller alleged that he and other managers "found her comment to be offensive and not becoming of a district manager." Miller also claimed that plaintiff used profanity to express her displeasure when the managers did not bring to the meeting certain information she had requested.

On the day after Miller's complaint, an anonymous caller reported that since October 2006, plaintiff "has continually been rude and disrespectful to" employees, "consistently display[ing] a lack of trust[,] . . . respect[,] . . . and . . . a general lack of care for anything besides her own business agenda."

Peters testified that he received "numerous complaints about the way [plaintiff] was conducting business from a variety of store managers in her employ." Specifically, according to Peters, the complaints concerned

> the way that she was speaking to [employees], providing direction that . . . was counter to the customer experience, failing to take into account what they were currently working on and what was important to them for that day, and solely focused on her objectives with no disregard [sic] for the [employees] nor the customers.

After learning about the managers' complaints, Peters asked plaintiff if she would be amenable to "a roundtable [discussion] with her . . . [team] . . . [to] better gauge the progress that

she was making. . . ." According to plaintiff, Peters told her that the purpose of the roundtable was to see how she was performing and assess "her relationships with the store managers." At his deposition, Peters described this kind of roundtable discussion as a "skip level" meeting, which he defined as a forum in which regional directors meet directly with store managers or assistant managers, without district managers being present. Peters also indicated he conducted such "skip level" meetings on a quarterly basis.

On December 26, 2006, Peters held a roundtable discussion with the store managers in plaintiff's district. Plaintiff testified that Peters denied her request to participate in the discussion. According to Peters, "[t]he feedback from the managers at the meeting was around [plaintiff's] lack of patience, [her] lack of listening, [her] lack of providing clear direction, [and their] feeling undervalued. . . ." At the end of the meeting, Peters asked the managers "to be open to building a relationship" with plaintiff.

After the roundtable discussion, Peters memorialized the managers' comments in a document he titled: "Things We Don't Like or Understand." The comments included statements such as "no trust," "degrading tone," "lack of consistent focus," "improper language," "disruptive," and "customer complaints."

Peters met with plaintiff on January 3, 2007, to share with her the feedback from the roundtable discussion. Peters told plaintiff "what [the managers] liked and then how they wanted . . . [her] to do better." According to plaintiff, Peters asked her to be "open for feedback," to which she responded that she would "always . . . remain open for feedback."

Soon after the roundtable discussion ended, plaintiff told Peters that Rich Vasquez, the Union store manager, told her that the managers' complaints against her were in response to her reporting improper things that had taken place in their stores. Also around this time, plaintiff testified that Flowers, the shift supervisor at the Newark store, called her "confidentially" to report that some employees at her store were drinking alcohol at work, and that "Amy Vetter, the store manager, knew about it." Plaintiff also testified that she later learned that another shift supervisor "was involved in the alcoholism as well." Plaintiff testified that she met with Vetter in the back room of the store to discuss the matter. She also reported the incident to Peters at her regularly scheduled meeting with him.

D

Performance Problems

Later in January 2007, plaintiff prepared a Partner Development Plan as required by Starbucks policy. The plan is intended as a means for the company to assess the performance and aspirations of employees in supervisory positions. As per Peters's suggestion, plaintiff selected "Building Peer Relationships" as a core competency to be developed, as well as "Creating the Environment," which included making the development of store and assistant managers "a priority" and "promoting functional diversity."

In a January 30, 2007, e-mail to Glenn Shuster, partner resources manager for the Upper Mid-Atlantic Region, plaintiff inquired whether Shuster had received a surveillance videotape that had been requested by employees whom plaintiff had suspended for insubordination. Shuster responded via e-mail dated February 6, 2007, asking plaintiff for the status of the employees' suspensions; in response, plaintiff again indicated that she had requested, but had not yet received, the pertinent surveillance videotape. Shuster responded to her e-mail later that night, indicating his "increasing[] concern[]" that employees were "on suspension for over two weeks."

The following morning, Peters sent plaintiff an e-mail expressing his dismay that plaintiff had gone to Seattle "without resolving this issue." Peters concluded the e-mail as follows: "Suspensions should be for no more that 48-72 hours. I was under the assumption that this case would be addressed and closed by last Tuesday/Wednesday. Also, who is watching your district while you are away?"[2]

Sometime in February 2007, plaintiff requested a transfer to a regional director position in Texas, to which plaintiff claimed Peters responded: "Absolutely not." Peters then suggested that plaintiff start looking for another job, to which plaintiff responded: "Absolutely not . . . I intend on staying with Starbucks for the next ten years or so . . . I'm a performing individual. I am doing my job very well."

Sometime in mid-February 2007, plaintiff told Shuster and Peters about alleged after-hours sex parties occurring in the Iselin store. She had previously discussed the matter with the store's manager and shift supervisor. Plaintiff told Shuster that she was "going to be taking statements"; two days later, she sent an e-mail to Peters reporting that "there was some

[2] Plaintiff acknowledged at her deposition that Starbucks had a forty-eight-hour maximum suspension policy. She claimed, however, that no one told her about the policy before this incident arose.

overnight activity in the stores. That they had been coming into the store and having overnight sex events, and that . . . I'm gaining statements."

Also in February 2007, a female customer phoned plaintiff and told her that she had been physically attacked by an employee at the Newark store. Plaintiff advised the customer to call back and speak with her and Shuster. She also told Peters that she planned to have a "three-way call" with the customer and Shuster, and that she "would be following up . . . immediately with . . . Vetter [the store manager]." Plaintiff thereafter spoke to Vetter and advised her "to do a little bit more research on what [wa]s going on here."

On February 26, 2007, Peters received an e-mail regarding plaintiff from Guy DeFazio, the Westfield store manager. DeFazio alleged that plaintiff: (1) "no-called, no-showed" for three meetings in February; (2) e-mailed him at 6:00 a.m., on his day off, to schedule a meeting, and complained to the barista when he did not appear at the meeting at 3:00 p.m.; (3) referred to an accident that occurred on October 28th involving DeFazio, to criticize his work performance; and (4) did not foster a trusting work environment. In response, plaintiff indicated she missed only one of the three meetings; she denied asking DeFazio about his health for improper reasons, and specifically

certified that she did not "intrude[]" into DeFazio's "personal medical condition."

Plaintiff requested to meet with Chris Shaw, employee resources director, to discuss her concern that she was being punished for reporting violations of company policy. By e-mail dated February 28, 2007, plaintiff "formally requested help" from Peters, indicating that she had "a clear vision of what specific behaviors [were] needed to better support" him.

In her meeting with Shaw, plaintiff discussed Peters's performance, and gave Shaw a memorandum dated February 22, 2007, titled "Timeline of Occurrences/Incidents." She described the document as containing everything that she had reported to Peters, from the beginning of her career at Starbucks. At the end of the meeting, she told Shaw that Peters told her to work on her relationships. Shaw told plaintiff to put everything together in an e-mail. Plaintiff complied, as reflected in her e-mail to Peters of February 28, 2007.

Peters responded to plaintiff's e-mail that same day. He told her that he "was excited to move forward" and requested that she let him know when they could meet to personally discuss "past discussions and expectations going forward." Peters emphasized that this was the third time he had requested to meet with plaintiff face to face.

Plaintiff and Peters met in his office approximately two weeks later. She said she was in the process of implementing the plan outlined in her February 28, 2007, e-mail. Peters responded that she would "not . . . be moving forward with th[e] plan from . . . Shaw." Specifically, plaintiff was "not [to] be phoning [her] district manager peers on a daily basis" and should "ask for help, [and] continue to develop on [her] relationships." Peters also told her not to discuss with the managers the substance of the roundtable conversations. Peters thereafter e-mailed an interoffice memorandum to plaintiff recapping their conversations "regarding performance and expectations going forward."

Sometime in early March 2007, Iselin store manager Miller called plaintiff late at night and told her that he had received a "pornography transmittal" via e-mail involving two Iselin store employees.[3] Plaintiff told Miller that she would "notify both . . . Shuster and . . . Peters right away." Plaintiff then sent a text message to Shuster and Peters informing them

[3] At her deposition, plaintiff named the two employees involved. We have not included their names here in the interest of confidentiality. When asked to describe what Miller told her, plaintiff testified that the e-mail transmitted a photograph of an employee's penis. According to plaintiff, Miller was able to determine that the photograph was taken inside the bathroom of the Starbucks store. Plaintiff eventually terminated the employee responsible for the e-mail. He was the same individual involved with the overnight sex parties.

that "Mike Miller has just phoned me at 12 midnight . . . . That he has received a pornography transmittal at his home from [naming the employee] at the Route 1 North" store. Plaintiff testified that Shuster told her he received her text message.

Sometime in February or March 2007, plaintiff testified that she noticed the tables and chairs in the Westfield store arranged in such a way "that a human body couldn't fit between [them], let alone a wheelchair." Plaintiff believed it was part of her job to "instruct[] . . . DeFazio . . . to move the tables and chairs in a way that didn't violate the law." She testified she knew this was her responsibility because she had received training on the Americans with Disabilities Act (ADA).

Plaintiff indicated that she told Peters that the tables and chairs needed reconfiguration as part of a conversation in which they discussed "maybe eight to ten different topics . . . about things that had not been implemented . . . related to the organizational setup of the location . . . ." She testified that Peters did not say anything in response. Although she did not "recall specifically," plaintiff testified that she mentioned the furniture configuration to the zone vice president, Joe Hallihan, when they rode together in a car, wherein she "list[ed] off quite a few things within the stores that had not been completed."

E

Plaintiff's Separation From Starbucks

In a lengthy e-mail to Peters dated March 14, 2007, Miller memorialized his complaints about plaintiff's conduct, which he characterized as "inappropriate" and undermining his role as a store manager. On or around March 17, 2007, Peters received a memorandum from Vetter summarizing some of the difficulties she had with plaintiff.

On or around March 20, 2007, plaintiff met with Peters and Shuster in Shuster's office. According to plaintiff, Shuster began the meeting by stating to her that "we're highly concerned about your career with Starbucks. We've received--I've received a phone call from . . . DeFazio that has stated some information that we're concerned about and we want to ask you some questions around that." Shuster then asked plaintiff whether she had spoken to DeFazio about his health, to which she answered: "No." Peters then told her that he believed she was "a liability risk to Starbucks. . . ." According to Peters, he "told her she potentially put the company at risk with some of her behaviors." He also explained that "[s]he continued to have conversations with . . . [DeFazio] around his medical conditions that resulted from an accident, even after being asked on three separate occasions to not broach the subject with him." As the

meeting came to an end, plaintiff reviewed with them the violations of law she believed she had observed during her employment, such as the furniture configuration and the missing inventory at the Hoboken store.

The next morning, plaintiff met with Peters and Shuster. According to plaintiff, Peters said

> he believed that [she] was a liability risk to the company, they had made the phone call on [her] behalf . . . to someone in the district who they thought would support [her], that that individual did not support [her], and that at this point they would like to terminate [her] services with the company.

Peters said she had "a choice" to either resign or be terminated. In either case, her services were no longer wanted. Plaintiff chose to resign; she handwrote a resignation letter and gave it to Shuster that day.

On or about April or May 2007, plaintiff filed a report with the Hoboken Police Department regarding that store's missing inventory that she allegedly discovered in August 2006. On May 10, 2007, plaintiff reported to the Woodbridge Police Department the sex parties and the pornography in the Iselin store. Plaintiff testified that during her employment, when she asked Peters whether she should report to the police the various violations of law she had reported to him, Peters allegedly said "no."

II

Plaintiff argues that the trial court erred by dismissing her CEPA claim as a matter of law. Amicus NELA/NJ joins in this argument. We disagree.

A trial court must grant a motion for summary judgment if "the pleadings, depositions, answers to interrogatories and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to a judgment or order as a matter of law." R. 4:46-2. See also Brill, supra, 142 N.J. at 529-30. On appeal, we apply the same standard of review. Prudential, supra, 307 N.J. Super. at 167. Our review of the trial court's legal conclusions is de novo. Manalapan Realty, L.P. v. Twp. Comm. of Manalapan, 140 N.J. 366, 378 (1995).

With these principles of review as our guide, we now turn to the specific statutory claims before us. CEPA is remedial legislation, designed by the Legislature to promote two complementary public purposes: "'to protect and [thereby] encourage employees to report illegal or unethical workplace activities and to discourage public and private sector employers from engaging in such conduct.'" Yurick v. State, 184 N.J. 70, 77 (2005) (quoting Abbamont v. Piscataway Twp. Bd. of Educ., 138 N.J. 405, 431 (1994)). N.J.S.A. 34:19-3 prohibits an employer

from taking "retaliatory action" against an employee because the employee engages in any one of the following activities:

> a. Discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer . . . that the employee reasonably believes:
>
> (1) is in violation of a law, or a rule or regulation promulgated pursuant to law . . .; or
>
> (2) is fraudulent or criminal . . .;
>
> . . . .
>
> c. Objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes:
>
> (1) is in violation of a law, or a rule or regulation promulgated pursuant to law . . .;
>
> (2) is fraudulent or criminal . . .; or
>
> (3) is incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment.

N.J.S.A. 34:19-2(e) defines "retaliatory action" as a "discharge, suspension or demotion of an employee, or other adverse employment action taken against an employee in the terms and conditions of employment." To state a claim under N.J.S.A. 34:19-3(a) or (c), a plaintiff must show:

> (1) that he or she reasonably believed that his or her employer's conduct was violating either a law or a rule or regulation promulgated pursuant to law; (2) that he or

> she performed whistle-blowing activity described in N.J.S.A. 34:19-3a, c(1) or c(2); (3) an adverse employment action was taken against him or her; and (4) a causal connection exists between the whistle-blowing activity and the adverse employment action.
>
> [Kolb v. Burns, 320 N.J. Super. 467, 476 (App. Div. 1999).]

Relying on our holding in Massarano v. New Jersey Transit, 400 N.J. Super. 474 (App. Div. 2008), the trial court concluded that plaintiff did not engage in whistle-blowing activity because "the issues on which she bases her claim fall within the sphere of her job-related duties." We agree.

In Massarano, the plaintiff worked for New Jersey Transit as a security operations manager, which included supervision of security personnel in Newark, Maplewood, Kearny, and New York City. Id. at 478-88. In that role, she "instituted training, raised standards, enhanced and updated guidelines and manuals, established a tiered pay scale to attract and retain better employees, terminated workers who did not improve their performance, upgraded equipment and prepared a business plan for the security office." Id. at 478. Moreover, she "'discussed everything'" with her supervisor, Frank Fittipoldi, who also "participated in and approved [the] plaintiff's assignments and proposals." Ibid.

The plaintiff was advised by the Newark building supervisor "that he saw some schematics that were discarded in a bin on the loading dock of the Newark building." Id. at 479. The plaintiff "was concerned that anyone could enter the loading area and retrieve the discarded plans and schematics," which arguably could have resulted in a threat to public safety or security. Id. at 480. Neither Fittipoldi nor his supervisor, Frank Hopper, were at work the day the plaintiff discovered the documents. Ibid. Thus, she contacted the acting executive director. Ibid. When Fittipoldi returned, the "plaintiff informed him of the discarded documents." Ibid.

The trial court dismissed the plaintiff's retaliation claim, holding that she did not engage in whistle-blowing activity; she "'simply [made] a plea for help . . . Her job was to find security problems . . . and . . . fix them. And in an attempt to fix them going to somebody who allows her to take possession of the object that she believes is the source of the problem is hardly whistle-blowing.'" Id. at 487.

Among other contentions, the plaintiff in Massarano argued on appeal that "the trial court erred in determining that [she] was not a whistle-blower within the meaning of N.J.S.A. 34:19-3(c)(1) and (2)." Id. at 488. We rejected that argument, and agreed "with the trial court's analysis that [the] plaintiff was

merely doing her job as the security operations manager by reporting her findings and her opinion to [the acting executive director]." Id. at 491. A plaintiff who reports conduct, as part of his or her job, is not a whistle-blower whose activity is protected under CEPA. Ibid.

Plaintiff's attempt at distinguishing our holding in Massarano by contending that she "was not merely doing her job, but was also objecting to numerous violations of the law" is unavailing. Plaintiff testified that it was her job "to oversee the performance of the store managers" in her district. In that capacity, she communicated with the managers concerning alleged violations of law and company policy, including: (1) discussing the missing merchandise with the Hoboken store manager; (2) dealing with the lack of thermometers with the Woodbridge and Newark managers; (3) addressing the unsanitary conditions with the Newark manager; (4) dealing with alcohol consumption by employees while on the job, the alleged physical attack of a customer, after-hours sex parties, and the electronic transmittal of a pornographic photograph by an employee with the Iselin manager; and (5) correcting the improper configuration of tables and chairs at the Westfield store. Her job was to ensure that these alleged violations were addressed and corrected.

Plaintiff raised and discussed these alleged violations of law with her supervisors as part of her job responsibilities. With respect to the stores under her supervision, plaintiff informed Peters that the tables and chairs in the Westfield store needed reconfiguration to comply with handicap accessibility laws; during a routine meeting, she discussed with Peters that thermometers were missing in the Woodbridge store; she informed Peters of the lack of thermometers and unsanitary conditions in the Newark store, with the expectation that Peters would authorize her to take corrective action; she spoke generally about the violations of policy and procedure in Woodbridge and Newark during a peer District Manager meeting; she told Peters about the alleged drinking on the job by employees; she advised Shuster and Peters that she would be taking statements in regards to the alleged after-hours sex parties; she advised Peters how she planned to handle the customer attack; and she immediately informed Shuster and Peters about the pornographic transmittal.

Thus, like the plaintiff in Massarano, supra, 400 N.J. Super. 474, the record here shows that, as part of her job, plaintiff reported violations of law to her supervisor as well as others in management to keep them abreast of the situation and the action she was taking as district manager. Stated

differently, plaintiff did not engage in the activities covered and protected by CEPA.

Affirmed.