

STATE OF MINNESOTA
COUNTY OF ST. LOUIS

DISTRICT COURT
SIXTH JUDICIAL DISTRICT
CASE TYPE: EMPLOYMENT

Timothy Luedtke,

Plaintiff,

v.

Complaint

Minnesota State Colleges & Universities; and
Lake Superior College,

Jury Trial Demand

Defendants.

For his Complaint against Defendants Minnesota State Colleges & Universities and Lake Superior College, Plaintiff Timothy Luedtke hereby states and alleges upon knowledge, information, and belief as follows:

Jurisdiction & Venue

1. Defendant Minnesota State Colleges and Universities (MnSCU) is an arm of the State of Minnesota organized under Minn. Stat. § 136F *et seq.* whose headquarters and principal place of business is located at 30 East 7th Street, St. Paul, County of Ramsey, Minnesota.

2. Defendant Lake Superior College (LSC) is a public college in the MnSCU system with its primary campus located at 2101 Trinity Road, Duluth, County of St. Louis, Minnesota.

3. LSC's employees are employees of MnSCU.

4. At all relevant times, Luedtke and Defendants were “employee” and “employers,” respectively.

5. Plaintiff Timothy Luedtke is an adult resident of St. Louis County in Duluth, Minnesota.

6. At all relevant times, Luedtke was employed by LSC and/or MnSCU.

7. Personal jurisdiction exists over Defendants because the violations of law occurred in Minnesota and involved Minnesota state law.

8. Venue is proper because the violations of law occurred in St. Louis County.

Luedtke Raises Concerns Relating to Defendants’ Handling of COVID-19

9. In January 2018, LSC hired Luedtke in an entry level position as an Information Technology Specialist (ITS).

10. In January 2019, Luedtke was recognized for his strong work performance.

11. Luedtke’s job duties included providing technical assistance, troubleshooting, testing software, hardware and other technologies, ensuring general connectivity in classrooms, labs, and employee offices, and setup, support, assistance, and technology training for campus activities and special events.

12. LSC’s Chief Information Officer, Steven Fudally, supervised Luedtke.

13. While employed by LSC, Luedtke raised various concerns relating to suspected unlawful conduct occurring at the campuses.

14. Luedtke has several disabilities that impact his day-to-day life, including severe sleep apnea, traumatic brain injury, Post Traumatic Stress Disorder, major

depressive disorder, post-concussion syndrome, ADHD, gastric reflux disease, and a hiatal hernia.

15. As such, Luedtke experiences ongoing health-related issues and is more susceptible to becoming ill.

16. On March 6, 2020, Minnesota reported its first COVID-19 case and five days later, COVID-19 was declared a pandemic.

17. On March 12, 2020, Luedtke informed Fudally that he was not feeling well and had symptoms including a fever.

18. The following day, a peacetime emergency was declared.

19. Despite the ongoing global pandemic, LSC employees, including Luedtke, were still required to work in person on the campus.

20. Luedtke believed that LSC's COVID-19 related protocols were not sufficient to protect the health and safety of its employees or students.

21. Around this time, Luedtke had been appointed as the Interim Membership Secretary for the Minnesota Association of Professional Employees Local 1402 (MAPE) and also became a Steward temporarily to assist with communications.

22. The same day the peacetime emergency was declared, Luedtke sent an email to MAPE members about their right to stay home from work if sick.

23. On March 14, 2020, Luedtke forwarded an email containing information on MAPE's efforts regarding safety for its members to LSC's President Patricia Rogers.

24. President Rogers then forwarded Luedtke's email to MnSCU's Vice Chancellor for Finance and Facilities William Maki and included MnSCU's Labor Relations Consultant Aaron Bouschor.

25. Vice Chancellor Maki then forwarded the email to MnSCU's Chancellor's Chief of Staff Jaime Simonsen, MnSCU's Vice Chancellor of Human Resources Eric Davis, and MnSCU's Senior Vice Chancellor for Academic and Student Affairs Ron Anderson.

26. The same day, Luedtke also emailed MnSCU's Chancellor Devinder Malhotra with the subject "Covid19 Response at Lake Superior College," raising concerns regarding how LSC was handling the health and safety of its employees and students related to the COVID-19 pandemic.

27. The Chancellor then forwarded Luedtke's email to Vice Chancellor Maki, Vice Chancellor Davis, Senior Vice Chancellor Anderson, MnSCU's Director of Government Relations Bernard Omann, and MnSCU's Associate Vice Chancellor for Facilities Brian Yolitz.

28. On March 15, 2020, Luedtke emailed Fudally about safety precautions that MAPE recommended for its members, including to work from home.

29. The following day, Fudally forwarded the email to LSC's Human Resource (HR) representatives LeAnn Ulvi and Judi Seifert. Seifert then forwarded it to President Rogers, who forwarded the email to Bouschor.

30. Fudally also forwarded the March 13, 2020 email to Alan Finlayson, who was LSC's Vice President of Administration, and separately to HR representatives Ulvi and Seifert.

31. Ulvi then forwarded the email to Bouschor, and included President Rogers, Fudally, and Seifert, stating "[t]his individual is not a steward and is communicating the below information to MAPE employees away from established plans. Would like some guidance on how we can curtail the behavior."

32. Luedtke continued to advocate for employees and their safety by discussing COVID-19 policy concerns with LSC employees, including Fudally, via email.

33. On Saturday, March 21, 2020, Luedtke went to the LSC campus to work at the direction of Fudally.

34. Luedtke forgot his badge, so he had to ask an LSC security guard to provide him access to his office to retrieve his computer.

35. Luedtke had never been told he was prohibited from being on LSC's campus on weekends, nor that he was prohibited from working on weekends.

36. While on campus, Luedtke observed another IT employee retrieving equipment.

37. On March 23, 2020, Luedtke informed Fudally that his symptoms now included a severe cough, fever, and headache.

38. Luedtke also stated he was waiting to hear back from his medical provider on how to proceed.

39. The following day, Luedtke informed Fudally that he was still very ill, that his medical provider advised him to stay home until three days after he no longer has a fever, that he was not being tested for COVID-19 because his symptoms were not critical, and that he was told to contact the hospital if his symptoms got worse.

40. Luedtke was given the time off but told that he was expected to return to campus when he felt better, even though COVID-19 cases were spreading and increasing exponentially at the time.

Defendants Prepare to Retaliate Against Luedtke

41. Instead of addressing Luedtke's pleas for increased COVID-19's protections and protocols, Defendants began laying the groundwork to retaliate against Luedtke for raising these safety concerns.

42. On March 24, 2020, Luedtke emailed HR representative Ulvi to inform her that his medical provider stated he may have COVID-19 and that he should self-quarantine.

43. The following morning, Bouschor sent an email to MnSCU's Senior System Director for Labor Relations, two Directors for Labor Relations, and the Assistant Director for Labor Relations regarding Luedtke's illness and that he was raising safety concerns.

44. In this email, Bouschor referenced "potentially disciplin[ing Luedtke] for essentially inciting panic."

45. Around this same time, Fudally emailed Vice President Finlayson and HR representative Seifert that he learned Luedtke had been on campus on Saturday, March 21, 2020.

46. Seifert forwarded the email to Bouschor and included President Rogers, Vice President Finlayson, and HR representative Ulvi.

47. Bouschor responded, including MnSCU's Director of Labor Relations and Assistant Director of Labor Relations, stating "Thanks for sharing, Judi. If this was a violation of a clearly communicated work directive, [then] it would be appropriate to investigate and determine why he needed to access the inventory room on the weekend and whether he had permission from anyone. . . ."

48. Fudally sent Seifert an email regarding Luedtke's illness and raising safety concerns publicly, while off-duty and away from campus.

49. Seifert then forwarded the email to Bouschor and included President Rogers, Vice President Finlayson, Ulvi, and LSC's Vice President of Advancement and External Relations Daniel Fanning.

50. Bouschor responded to the entire group and again included MnSCU's Senior System Director for Labor Relations, two Directors for Labor Relations, and the Assistant Director for Labor Relations, stating that LSC should request verification of Luedtke's illness and ask him to cease raising his concerns publicly.

51. After receiving Bouschor's email instructions, Ulvi responded to Luedtke regarding his illness and asked Luedtke to provide authorization for LSC to obtain his diagnosis and treatment recommendation from his medical provider.

52. Ulvi included representative Seifert and asked Luedtke to cease raising safety concerns publicly.

53. Luedtke responded that his medical provider could send a fax with the provider's recommendation that he self-quarantine and asked for an example of what LSC was asking him to cease raising publicly.

54. The next day, on March 26, 2020, Ulvi responded to Luedtke with LSC's fax number, but did not address Luedtke's question about his safety concerns.

55. Later that day, Luedtke's medical provider then faxed a letter to LSC stating that Luedtke was "under my care and will not be able to return to work until he has been fever free for 72 hours without fever-reducing medications, his other symptoms have improved and it has been at least 7 days since his symptoms started, per the CDC guidelines."

56. The letter was signed, "Sincerely, [medical provider's name], MD."

57. Ulvi then forwarded the entire correspondence with Luedtke to President Rogers, Vice President Finlayson, Fudally, and Seifert.

58. Ulvi also sent the correspondence to Bouschor, noting she believed Luedtke "did not comply with our request" for medical documentation because the "Letter is not signed by the doctor," although she called the medical provider and "did confirm that the doctor was not in the office yesterday but the physician did write the letter from her remote location and forwarded through the system to fax to LSC, this is why it was not signed."

59. Ulvi then asked, "Since he did not follow our direction, do we have a next step?"

60. Ulvi's inquiry was whether LSC now had a seemingly legitimate reason to punish Luedtke.

61. Less than two weeks later on April 7, 2020, LSC’s Executive HR Officer Jestina Vichorek reached out to Bouschor regarding Luedtke, titling her email “Question – Discipline Procedure.”

62. Vichorek requested “a little guidance” regarding whether it was appropriate to discipline Luedtke with a written reprimand.

63. Vichorek stated she had discussed Luedtke with Fudally and Finlayson, “and in a perfect world, they would like to issue a written reprimand[.]”

64. Vichorek noted the desired written reprimand would be based on:

- a. Luedtke raising safety concerns publicly, with Vichorek stating, “I am still getting familiar with LSC policies, but I believe I could argue that this is in violation of 1C.0.01 Employee Code of Conduct;”
- b. Luedtke being on campus on March 21; and
- c. Luedtke’s use of sick leave.

65. The other IT employee who had been on campus on March 21 to retrieve equipment was not investigated or disciplined.

66. Vichorek’s basis for deciding to discipline Luedtke was pretext for retaliation against Luedtke for raising ongoing safety concerns.

Defendants Retaliate Against Luedtke

67. Following Vichorek’s plan, a retaliatory investigation was initiated against Luedtke.

68. The “investigation” was focused on three purported issues: Sick Leave Usage, Unauthorized Access to IT Space, and Workplace Conduct.

69. During the investigation and awaiting results, Luedtke continued to express concern for the health and safety of LSC employees and students, related to COVID-19 and campus policies.

70. On May 7, 2020, Luedtke reported his concerns regarding unsafe working conditions to the Minnesota Department of Labor and Industry, Minnesota OSHA Compliance department.

71. Luedtke specifically mentioned violations of COVID-19 protocols by LSC administrators that were putting employees' and students' health and safety at risk.

72. The following day, Luedtke reported his concerns regarding unsafe working conditions to the Department of Public Safety.

73. In May 2020, Luedtke reported suspected violations of the law multiple times, including to Fudally.

74. In one email to Fudally, Luedtke stated, "I made an initial request for a safety issue that was not addressed. I have let our statewide director know and our enforcement business agent. I should not have to work in an unsafe environment. The onus is on management to provide a safe work environment, not the employees."

75. Luedtke also sent emails to his LSC colleagues highlighting MAPE's safety recommendations and guidelines for union members during the COVID-19 pandemic, as he was concerned about the health and safety of his colleagues.

76. In one email to his LSC colleagues, Luedtke stated, "There is a very strong anti-retaliation process in place regarding CV-19 related to safety complaints, so if you feel unsafe and your supervisor is not addressing the situation, use [MAPE contacts] and help

get the situation remedied. If you have reported unsafe conditions and feel you are being retaliated against, immediately contact [MAPE] for assistance.”

77. He also provided contact information for multiple state and federal agencies that handle safety concerns in the workplace, including OSHA.

78. On May 21, 2020, Vichorek notified President Rogers that during the investigation, Luedtke reported concerns related to LSC’s compliance with the Family and Medical Leave Act (FMLA), the Americans with Disabilities Act (ADA), and unsafe work conditions at LSC.

79. On June 10, 2020, the misconduct investigator sent his report regarding Luedtke to LSC’s Vice President of Academic and Student Affairs Hanna Erpstead.

80. On June 29, 2020, Vice President Erpstead sent Luedtke a letter stating that she concluded that the information of record did not support a finding against him on any of the allegations of misconduct.

Defendants Terminated Luedtke

81. On or before July 15, 2020, the decision was made to terminate Luedtke.

82. That same day, Luedtke was issued a Letter of Expectation “not to be considered or perceived as discipline.”

83. On July 20, 2020, Luedtke was informed LSC was eliminating two positions in his department but was not told he had been chosen for elimination.

84. On July 22, 2020, Luedtke learned that he was losing his job.

85. That day, Luedtke asked Vichorek if LSC would allow him to take transition leave.

86. On July 27, 2020, Vichorek emailed President Rogers regarding Luedtke's request for transition leave, stating in part, "I did talk with Steve last week and he sees value in having [Luedtke] off of campus and didn't think he had enough access to cause any concern, maybe more like a work from home situation if this paid leave is not approved. In that case we may have to allow him to come to campus to conduct Union business (not paid of course). If we don't feel he's any sort of threat if working from home I agree we could do that instead of the paid transition leave."

87. LSC approved Luedtke's transition leave request.

88. Luedtke's employment ended August 19, 2020.

Count One
Minnesota Whistleblower Act
Minn. Stat. §§ 181.932, 181.935
Plaintiff v. MnSCU and LSC

89. Plaintiff realleges each paragraph as if fully stated herein.

90. The Minnesota Whistleblower Act (MWA) prohibits retaliation against employees for making good-faith reports of violations of law. Minn. Stat. § 181.932

91. Luedtke had a good faith belief that Defendants' conduct violated state, federal, and/or common law or rule adopted pursuant to law related to health and safety concerns stemming from Defendants' handling of the COVID-19 pandemic, including Defendants' violations of the FMLA and ADA.

92. The laws Luedtke believed Defendants violated include, but are not limited to, the Minnesota Occupational Safety and Health Act; the Occupational Safety and Health

Act of 1970; the Department of Labor's Occupational Safety and Health Administration regulations.

93. Luedtke reported to Defendants his good faith belief that conduct by the Defendants violated state, federal, and/or common law and/or rule adopted pursuant to law.

94. Defendants disciplined, threatened, discriminated against, and/or penalized Luedtke for his reporting, including by initiating an investigation of baseless allegations of misconduct, issuing a Letter of Expectation, and discharging Luedtke.

95. The adverse employment actions as alleged constitute violations of the MWA, Minn. Stat. §§ 181.931 *et seq.*

96. The unlawful employment practices complained of above were intentional and were performed by Defendants with malice or reckless indifference to the MWA, which protects Luedtke.

97. Defendants' employees were acting within the course and scope of their duties as MnSCU and LSC employees at all relevant times, and MnSCU and LSC are vicariously liable under the doctrine of *respondeat superior* for all of the conduct by Defendants and Luedtke's damages resulting from that conduct.

98. As a result of the above, Luedtke has suffered and/or will suffer damages, including loss of income, emotional distress, medical expenses, humiliation, intimidation, and reputational harm, in an amount in excess of \$50,000.

Count Two
Minnesota Occupational Safety and Health Act
Minn. Stat. §§ 182.653, 182.654, 182.669
Plaintiff v. MnSCU and LSC

99. Plaintiff realleges each paragraph as if fully stated herein.

100. At all relevant times, Defendants MnSCU and LSC were Luedtke's "employers" within the meaning of Minn. Stat. § 182.651, subd. 7, 9.

101. The Minnesota Occupational Safety and Health Act (MnOSHA) requires an employer to furnish to each of its employees' conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to its employees. Minn. Stat. § 182.653, subd. 2.

102. Luedtke had a good faith belief that Defendants' conduct violated the MnOSHA.

103. Luedtke acted in good faith when he reported to Defendants his belief that Defendants' conduct violated the MnOSHA.

104. Defendants intentionally disregarded Luedtke's reports, constituting a willful indifference to the rights and safety of Luedtke and other employees.

105. As a result of Luedtke's objections to known and unknown workplace hazards and his request for Defendants to address the hazards, Defendants discriminated against Luedtke, including by initiating an investigation of baseless allegations of misconduct, issuing a Letter of Expectation, and discharging Luedtke.

106. Defendants' employees were acting within the course and scope of their duties as MnSCU and LSC employees at all relevant times, and MnSCU and LSC are

vicariously liable under the doctrine of *respondeat superior* for all of the conduct by their employees and Luedtke's damages resulting from that conduct.

107. As a result of the above, Luedtke has suffered and/or will suffer damages, including loss of income, emotional distress, medical expenses, humiliation, intimidation, and reputational harm, in an amount in excess of \$50,000.

Plaintiff Timothy Luedtke hereby demands a trial by jury.

WHEREFORE, Plaintiff Timothy Luedtke prays for judgment as follows:

1. As to Count One, a judgment in favor of Luedtke against Defendants MnSCU and LSC in an amount in excess of Fifty Thousand Dollars (\$50,000), together with costs and disbursements herein, pre-and-post-judgment interest, and all other relief the Court deems just and equitable.

2. As to Count Two, a judgment in favor of Luedtke against Defendants MnSCU and LSC in an amount in excess of Fifty Thousand Dollars (\$50,000), together with costs and disbursements herein, pre-and-post-judgment interest, and all other relief the Court deems just and equitable.

STORMS DWORAK LLC

Dated: April 10, 2025

/s/ Naomi E. H. Martin

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ACKNOWLEDGEMENT

The undersigned hereby acknowledges that pursuant to Minn. Stat. § 549.211, subd. 2, costs, disbursements, and reasonable attorney and witness fees may be awarded to the opposing party or parties in the litigation if the Court should find that the undersigned acted in bad faith, asserted a claim or defense that is frivolous and that is costly to the other party, asserted an unfounded position solely to delay the ordinary course of the proceedings or to harass; or commit a fraud upon the Court.

Dated: April 10, 2025

/s/ Naomi E. H. Martin

Naomi E. H. Martin, #402332

Attorney for Plaintiff

MINNESOTA
JUDICIAL
BRANCH