

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Kim P. Gunter
519 Ramsay Road, Oreland, PA 19075

(b) County of Residence of First Listed Plaintiff Springfield
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Karin M. Gunter, Esquire (215) 548-9992
85 Old Cedarbrook Road, Wyncote, PA 19095

DEFENDANTS

Drexel University
3141 Chestnut Street, Philadelphia, PA 19104

County of Residence of First Listed Defendant Philadelphia
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes checkboxes for various legal categories like Insurance, Personal Injury, Real Estate, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. Section 12101, et seq.
Brief description of cause:
Disability Discrimination and Retaliation

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 150,000+
CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE Joshua D. Wolson

DOCKET NUMBER 2:23-cv-02451

DATE April 8, 2024

SIGNATURE OF ATTORNEY OF RECORD

Handwritten signature of Karin M. Gunter

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

(to be used by counsel to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 519 Ramsey Road, Oreford, PA 19015
Address of Defendant: 3141 Chestnut Street, Philadelphia, PA 19104
Place of Accident, Incident or Transaction: 3141 Chestnut Street, Phila., PA 19104

RELATED CASE IF ANY:

Case Number: 2:23-cv-02451 Judge: Joshua D. Wolson Date Terminated: N/A

Civil cases are deemed related when Yes is answered to any of the following questions:

- 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes [ ] No [x]
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit Pending or within one year previously terminated action in this court? Employment Discrimination Yes [x] No [ ]
3. Does this case involve the validity or infringement of a patent already in suit or any earlier Numbered case pending or within one year previously terminated action of this court? Yes [ ] No [x]
4. Is this case a second or successive habeas corpus, social security appeal, or pro se case filed by the same individual? Yes [ ] No [x]

I certify that, to my knowledge, the within case [ ] is / [ ] is not related to any now pending or within one year previously terminated action in this court except as note above.

DATE: Attorney-at-Law (Must sign above) Attorney I.D. # (if applicable)

Civil (Place a check in one category only)

A. Federal Question Cases:

- 1. Indemnity Contract, Marine Contract, and All Other Contracts
2. FELA
3. Jones Act-Personal Injury
4. Antitrust
5. Wage and Hour Class Action/Collective Action
6. Patent
7. Copyright/Trademark
8. Employment [x]
9. Labor-Management Relations
10. Civil Rights
11. Habeas Corpus
12. Securities Cases
13. Social Security Review Cases
14. Qui Tam Cases
15. All Other Federal Question Cases. (Please specify):

B. Diversity Jurisdiction Cases:

- 1. Insurance Contract and Other Contracts
2. Airplane Personal Injury
3. Assault, Defamation
4. Marine Personal Injury
5. Motor Vehicle Personal Injury
6. Other Personal Injury (Please specify):
7. Products Liability
8. All Other Diversity Cases: (Please specify):

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration)

I, Karin M. Gunter, counsel of record or pro se plaintiff, do hereby certify:

[x] Pursuant to Local Civil Rule 53.2 § 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

[ ] Relief other than monetary damages is sought.

DATE: April 8, 2024 Karin M. Gunter Attorney-at-Law (Sign here if applicable) 79852 Attorney ID # (if applicable)

Karin M. Gunter, Esquire  
PA ID No. 79852  
Law Office of Karin M. Gunter  
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Wyncote, PA 19095  
(215) 548-9992

ATTORNEY FOR PLAINTIFF,  
KIM P. GUNTER

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KIM P. GUNTER,	:	
Plaintiff	:	Civil Action No.:
	:	
v.	:	
	:	
DREXEL UNIVERSITY,	:	
Defendant.	:	

**COMPLAINT**

**Preliminary Statement**

Plaintiff Kim P. Gunter is an African American/black female, a qualified individual with a disability and a seasoned privacy and compliance officer with more than twenty years of experience with multiple top tier employers. After initiating a race/color and gender discrimination lawsuit against Defendant Drexel University, which continues to be litigated, Plaintiff continued to work as Drexel’s Vice President and University Chief Compliance and Privacy Officer until March 7, 2024, when she was placed on administrative leave by Drexel and on March 4, 2024, charged with insubordination by her manager Helen Bowman, Executive Vice President, Treasurer and Chief Operating Officer for the first time ever in Plaintiff’s career at Drexel including, but not limited to, on any of her performance evaluations.

This action is brought by an employee against her employer for failure to make reasonable accommodation and retaliation based on disability in violation of the Americans with Disabilities Act of 1990, *as amended* 42 U.S.C. § 12101, *et seq.* Plaintiff seeks compensatory

and punitive damages, attorney's fees, expert fees, costs and such other relief as this Court deems just and proper.

### **Jurisdiction and Venue**

1. Original jurisdiction over Plaintiff's federal question claims is conferred upon this Court pursuant to 42 U.S.C. § 2000e-5(f)(1) and 28 U.S.C. §§ 1331 and 1343.

2. Venue lies in this district by 28 U.S.C. § 1391(b) and (c) in that all actions complained of occurred and Defendant resides in this district.

3. Plaintiff exhausted her administrative agency remedies under Title VII.

4. On or about March 7, 2024, Plaintiff dual filed an administrative agency charge against Defendant Employer with the U.S. Equal Employment Opportunity Commission ("EEOC") and Pennsylvania Human Relations Commission ("PHRC") alleging disability discrimination (failure to make reasonable accommodation and retaliation), *as amended* on March 11, 2024.

5. On March 28, 2024, the EEOC issued a Dismissal and Notice of Right to Sue upon request stating "where it is unlikely that EEOC will be able to complete its investigation within 180 days from the date the charge was filed."

A true and correct copy of the Notice of Right to Sue is attached as Exhibit "A".

### **Parties**

6. Plaintiff KIM P. GUNTER ("Plaintiff" or "Gunter") is an adult person and a citizen of the United States.

7. Defendant DREXEL UNIVERSITY ("Drexel" or "University") is a private, non-profit institution of higher learning with more than 500 employees.

### **Underlying Facts**

8. Plaintiff is an African American/black female and a qualified individual with a disability.

9. Plaintiff began working for Drexel University on July 8, 2019 after a second nationwide search to fill the position of Vice President and Chief Compliance, Privacy and Internal Audit Officer (“VP CPIA”).

10. Plaintiff had over 20 years of experience leading compliance and privacy at other organizations prior to her employment at Respondent Drexel.

11. As VP CPIA, though Plaintiff had administrative and operational oversight of the Office of Compliance, Privacy and Internal Audit (“OCPIA”), she had administrative oversight only of the Internal Audit (“IA”) team.

12. Plaintiff was only the second person to hold the position of VP CPIA at Drexel.

13. The first VP CPIA was Edward Longazel (“Longazel”), a Caucasian/white male, who held the position from on or about February 2015 to December 31, 2017.

14. Since the beginning of her employment with Drexel, Plaintiff received persistent insubordination, aggressions, and harassment by Drexel’s Chief Audit Executive Billy Shea (“Shea”), a Caucasian/white male and the IA team under Shea’s management.

15. On or about March 2020, Shea complained to the Audit Committee, Board of Trustees (“Audit Committee”) during his Executive Session meeting about Plaintiff’s job title. Plaintiff was not made aware of Shea’s actions at that time.

16. Drexel with the consent and cooperation of the then-Chair of the Audit Committee Michael Williams (“Williams”), a Caucasian/white male and Plaintiff’s manager Helen Bowman (“Bowman”), a Caucasian/white female with approval of the Audit Committee changed

Plaintiff's job title to Vice President and University Chief Compliance and Privacy Officer in November 2020.

17. Bowman at all times during this matter is Executive Vice President, Treasurer and Chief Operating Officer of Drexel University.

18. As VP and University Chief Compliance and Privacy Officer, Plaintiff continued to have administrative oversight only of Shea and the IA team.

19. Despite Shea's success in getting Plaintiff's job title changed, he and the IA team continued to be insubordinate, harassing, aggressive and discriminatory towards Plaintiff.

20. Further, despite Bowman noting on several occasions that Shea's and the IA team's behavior toward Plaintiff was disrespectful, unnecessary, antagonistic and stressful for Plaintiff and stating on at least two occasions including as late as August 2022 that she would give Shea "final" warnings, Bowman did not follow through on any disciplinary actions against Shea or the IA team.

21. On or about August 18, 2022, Plaintiff's therapist took her out of work for stress and subsequently diagnosed Plaintiff with Post Traumatic Stress Disorder (PTSD), anxiety and depression.

22. Plaintiff remained out of work on family medical leave (FMLA) and short-term disability until late October 2022.

23. Plaintiff's therapist provided Drexel with paperwork identifying PTSD, anxiety and depression as Plaintiff's disabilities.

24. Before being taken out of work by her therapist in August 2022, Plaintiff made an internal complaint with Drexel's Human Resources department against Shea for discrimination, harassment, hostile work environment, retaliation and insubordination based on race and gender.

25. Once Plaintiff returned to work in October 2022, the human resources representative had not taken any additional steps to further Plaintiff's discrimination, harassment, hostile work environment, retaliation and insubordination complaint against Shea.

26. In December 2022, once again based on Shea's and IA team's repeated acts of insubordination, harassment, retaliation, aggressions and discrimination against Plaintiff, Drexel via Williams, Bowman and the Audit Committee removed IA and Shea from Plaintiff's administrative oversight.

27. It was not until February 2023 that Drexel issued a formal complaint against Shea based on Plaintiff's persistent emails pursuing the matter and in March 2023 it hired a third-party investigator to perform the investigation of Plaintiff's formal complaint.

28. Shea, Bowman and Williams, amongst others, were interviewed as part of Plaintiff's formal complaint against Shea investigated by the third party.

29. On or about May 7, 2023, Plaintiff received the initial findings of the third-party investigator.

30. On or about May 30, 2023, Plaintiff received a formal complaint against her made by Shea alleging race and gender discrimination and harassment. This was the first time ever Plaintiff received any notice or had any knowledge whatsoever of Shea making any complaints of discrimination against her.

31. Bowman subsequently acknowledged that Shea never complained to her (Bowman) that Plaintiff discriminated against Shea or harassed Shea.

32. On or about June 21, 2023, Plaintiff attended a virtual meeting with a third-party investigator for Shea's complaint against her but would not appear on video, which was not required by any of the emails Plaintiff received from the investigator prior to the meeting or by

Drexel's policies.

33. The third-party investigator would not continue with the meeting unless Plaintiff came on video. As such, the meeting ended.

34. On June 23, 2023, Plaintiff was taken out of work by her doctor due to work-related stress including, but not limited to, panic attacks and generalized anxiety.

35. During this time, Plaintiff attended individual and group therapy sessions and was put on medication for generalized anxiety and depression, *inter alia*. Plaintiff had not taken medication for anxiety, depression or panic attacks before this time.

36. Plaintiff initiated a lawsuit against Drexel on June 27, 2023 for race/color discrimination, retaliation and hostile work environment in federal court ("Lawsuit") under Section 1981, which is docketed as Case No. 2:23-cv-02451-JDW.

37. On June 28, 2023, Plaintiff dual filed an administrative agency complaint with the EEOC against Drexel ("Case No. 530-2023-06292") for race/color and gender discrimination, hostile work environment and retaliation under PHRA and Title VII.

38. Having received a right to sue letter on request on June 30, 2023, Plaintiff amended her initial pleading in the federal lawsuit to include race/color and gender discrimination, hostile work environment, and retaliation.

39. Plaintiff returned to work at Drexel on August 3, 2023 with accommodation for her to take off 2 hours a day for 4 days a work to continue to attend group therapy. This accommodation continued until September 2023.

40. Also, upon returning to work in August 2023, Plaintiff continued and continues to attend individual therapy with her therapist for one hour a week.

41. Since filing her lawsuit against Drexel, Plaintiff continues to be employed by Drexel



as its Vice President and University Chief Compliance and Privacy Officer under Bowman as manager, *inter alia*.

42. Bowman as Plaintiff's manager has biweekly, telephonic one-on-one meetings with Plaintiff to update Bowman on Plaintiff's office – Compliance, Policy and Privacy Services Office - workload, progress, and any problems/issues.

43. Further, as part of her lawsuit, Plaintiff deposed Bowman on January 31, 2024 and subpoenaed documents via personal service at Bowman's home on or about February 14, 2024.

44. As part of her work as Chief Compliance Officer, Plaintiff and her team are responsible for monitoring and investigating inquiries and complaints that come in through Drexel's Compliance Hotline and through direct reporting, *inter alia*.

45. In February 2024, Plaintiff received a direct report of a compliance inquiry against Drexel from a student, who self-identified as a disabled veteran.

46. As part of her investigation, Plaintiff communicated with the student and relevant professional staff members to address the student's concerns.

47. When talking to a subordinate junior member of the Office of General Counsel ("OGC") about the student inquiry, Plaintiff was challenged by this staff member about Plaintiff's work as the Chief Compliance Officer.

48. Specifically, Plaintiff raised concerns about disability discrimination by Drexel against the student based on the student's compliance inquiry.

49. Subsequently, the junior OGC staff member went to Bowman complaining of Plaintiff's role as Chief Compliance Officer, *inter alia*.

50. Bowman then communicated with Plaintiff that her previously scheduled one-on-one meeting for February 27, 2024 would be a Zoom virtual meeting with the subordinate, junior

OGC member in attendance because “we must align on expectations regarding your role” related to the student reporting matter.

51. Similar to Shea’s communications with Bowman, Williams and the Audit Committee regarding Plaintiff’s job title and role as administrative manager of Shea and IA, Plaintiff once again felt attacked and under unnecessary pressure and scrutiny by a subordinate, junior professional staff member.

52. Since one-on-one meetings have routinely been via telephone and without others present, Plaintiff expressed to Bowman that she (Plaintiff) did not feel comfortable with the subordinate, junior OGC staff member’s presence during her one-on-one meeting or the requirement of Zoom appearance.

53. Plaintiff also requested Bowman meet with her first alone to afford Plaintiff the opportunity to discuss the student reporting matter, Compliance Officer’s autonomy and provide Bowman with factual background information. Bowman refused to do so.

54. Despite Bowman’s refusal to accommodate Plaintiff’s request to meet first with her (Bowman) alone and her discomfort with the Zoom meeting, Plaintiff appeared on video on February 27, 2024 with the subordinate, junior OGC member and Bowman.

55. During the group portion of Plaintiff’s one-on-one meeting, Plaintiff expressed twice that she was not comfortable with the meeting.

56. Once the subordinate, junior OGC staff member left the meeting, Plaintiff and Bowman continued with Plaintiff’s scheduled one-on-one meeting during which time Bowman asked Plaintiff directly about facts related to the student reporting incident. In response, Plaintiff provided the requested information to Bowman.

57. Despite Plaintiff and Bowman having other communications regarding the content of

the February 27, 2024 Zoom meeting, Bowman for the first time on March 4, 2024 accused Plaintiff of insubordination for “not participating” in the Zoom meeting, *inter alia*.

58. On February 27, 2024, Drexel and Bowman knew and had reason to know Plaintiff suffered from stress, anxiety and other disabilities related to her work environment.

59. On February 27, 2024, Drexel and Bowman knew and had reason to know of Plaintiff’s prior leaves of absence related stress including, but not limited to, Shea’s and IA team’s behaviors, reports to Bowman, Williams and the Audit Committee, and treatment of Plaintiff.

60. Despite their actual knowledge, Drexel and Bowman did not make a reasonable accommodation for Plaintiff to meet with Bowman separately first before changing Plaintiff’s one-on-one meeting to a group Zoom meeting based on conversations outside of Plaintiff’s presence or knowledge that allowed a subordinate, junior OGC member to attend.

## COUNT I

### **Failure to Make Reasonable Accommodation**

### **Disability – Discrimination**

61. Plaintiff re-avers and incorporates by reference the averments in all paragraphs, *supra*.

62. As Vice President and University Chief Compliance and Privacy Officer at Drexel and in her prior position of Vice President and Chief Compliance, Privacy and Internal Audit Officer, Plaintiff has received annual performance evaluations that “fully achieved expected results” from Bowman since Plaintiff’s employment began at Drexel on July 8, 2019.

63. The Office of Compliance, Policy and Privacy Services (“OCPPS”) as well as its predecessor office under Plaintiff’s leadership continues to perform superbly with limited financial and staffing resources and tools.

64. In fact, at the most recent Audit Committee meeting held on March 5, 2024, Plaintiff receive accolades from IA for her office's thorough handling of issues/problems such that IA had no current issues to discuss regarding her office.

65. Plaintiff has a record of impairments as she was taken out of work two times by either her therapist or doctor for stress, PTSD, anxiety and/or depression during her employment with Drexel, both of which are documented.

66. Plaintiff is disabled based on actual disabilities, i.e., she has PTSD, anxiety and depression that is documented, and of which Drexel has actual knowledge.

67. Plaintiff is a qualified individual who can perform the essential functions of her position of Vice President and University Chief Compliance and Privacy Officer at Drexel with or without reasonable accommodations as she continues to do so and to excel in her leadership of OCPPS.

68. Bowman denied Plaintiff reasonable accommodations of meeting with Bowman alone first before the group meeting with the subordinate junior OGC member and of meeting via telephone instead of Zoom video conference on February 27.

69. Bowman and Drexel did not and cannot establish that providing Plaintiff with an individual meeting with Bowman alone first and a telephonic group meeting imposed an undue hardship on Drexel's business operations.

70. Further, Bowman and Drexel did not make a good faith effort to assist Plaintiff but rather Bowman simply refused to meet with Plaintiff or change the Zoom meeting to telephonic as Plaintiff made requests for both.

71. Finally, Drexel and Bowman could have easily accommodated Plaintiff in both instances since one-on-one meetings are routinely telephonic, and Bowman engaged in email

exchanges with Plaintiff about the matter, the time of which could have been used instead to meet with Plaintiff.

72. As a result of Drexel's discrimination, Plaintiff suffered injuries including, but not limited to, emotional distress.

**WHEREFORE**, Plaintiff respectfully requests this Honorable Court enter judgment in her favor and against Defendant in the form compensatory and punitive damages, attorney's fees, expert fees, costs and such other relief as this Court deems proper.

## COUNT II

### **Retaliation**

### **Disability - Discrimination**

73. Plaintiff re-avers and incorporates by reference the averments in all paragraphs, *supra*.

74. Plaintiff participated in protected activities when she: (a) requested a meeting first alone with Bowman to discuss the student reporting matter before the February 27, 2024 one-on-one turned group meeting as a reasonable accommodation; (b) requested the one-on-one turned group meeting be by telephone and not by Zoom video conferencing as a reasonable accommodation; (c) inquired about disability discrimination based on Drexel's handling of student's compliance inquiry; (d) took the deposition of Bowman on January 31, 2024 in furtherance of Plaintiff's federal lawsuit; and (e) personally served a subpoena *duce tecum* on Bowman on February 14, 2024 in furtherance of Plaintiff's federal lawsuit.

75. Drexel took adverse actions against Plaintiff when Bowman failed, in good faith, to assist Plaintiff by having a meeting with Plaintiff alone first before the February 27, 2024 group meeting and by requiring the routinely telephonic one-on-one meeting be a Zoom videoconference group meeting.

76. Although Plaintiff's February 27 one-on-one meeting with Bowman was scheduled weeks before on December 21, 2023, Bowman at the last minute, i.e., on February 26, 2024 required a group Zoom meeting without an good faith reason to refuse reasonable accommodations as noted *supra*.

77. Thus, the time between Plaintiff's protected activities and Drexel's failure to provide reasonable accommodations is conservatively less than two weeks but actually, less than one day.

78. Bowman also for the first time since Plaintiff's employment at Drexel accused Plaintiff of insubordination (a disciplinary charge) for not participating in the February 27 group meeting, which is not true and is an attempt to mask Drexel's failure to exercise good faith in assisting and accommodating Plaintiff's disability.

79. As a result of Drexel's retaliation, Plaintiff suffered injuries including, but not limited to, emotional distress.

**WHEREFORE**, Plaintiff respectfully requests this Honorable Court enter judgment in her favor and against Defendant in the form compensatory and punitive damages, attorney's fees, expert fees, costs and such other relief as this Court deems proper.

**Respectfully submitted:**

LAW OFFICE OF KARIN M. GUNTER

Date: April 8, 2024

/s/ Karin M. Gunter

Karin M. Gunter, Esquire

PA Supreme Court Id: 79852

85 Old Cedarbrook Road

Wyncote, PA 19095

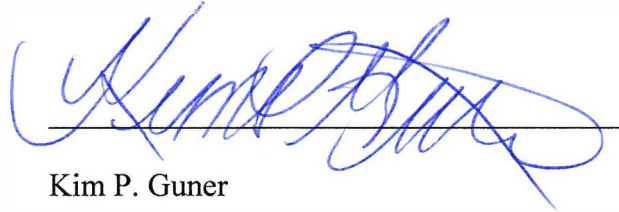
(215) 548-9992

Email: Kgunterlaw2@gmail.com

VERIFICATION

I, KIM P. GUNTER, am Plaintiff in the foregoing pleading. I hereby verify that the averments set forth in the herein Complaint are true and correct, to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 28 U.S.C. section 1746 unsworn declarations under penalty of perjury.

Dated: April 9, 2024

  
\_\_\_\_\_  
Kim P. Gunter