

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

DARICK EASTERLING  
5 Paul Nelms Drive  
Downingtown, PA 19335

Plaintiff,

vs.

COUNTY OF DELAWARE  
Government Center Building  
201 West Front Street  
Media, PA 19063

Defendant.

: CIVIL ACTION – LAW  
: No.  
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: *Electronically filed*  
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: JURY TRIAL OF 12 DEMANDED  
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**COMPLAINT**

**JURISDICTION AND VENUE**

1. This Court has original subject matter jurisdiction of this case under 28 U.S.C. §1331 because it involves the Family and Medical Leave Act of 1993, 107 Stat. 6, 29 U.S.C. §2601, *et. seq.* (“FMLA”) and the American with Disabilities Act (“ADA”), 42 U.S.C. §12101 *et seq.* Plaintiff originally filed in the Equal Employment Opportunity Commission (“EEOC”) his charge of discrimination on May 11, 2022. The EEOC transferred the matter to the Pennsylvania Human Relations Commission (“PHRC”) on June 24, 2022, pursuant to a work sharing agreement. The matter was investigated, and the Charge was

amended to include Plaintiff's termination. On August 4, 2022, the PHRC issued a determination indicating there was insufficient evidence to find the Pennsylvania Human Relations Act was violated, and is attached as Exhibit A. Plaintiff thereafter requested from the EEOC a Notice of Right to Sue letter, which was issued September 26, 2023 and is attached as Exhibit B. The original Complaint was filed within 90 days of receipt of that Notice. This matter is filed within two years of the PHRC dismissal and within 90 days of the Right to Sue being issued by the EEOC. This Court has supplemental jurisdiction over the state law claim pursuant to 28 U.S.C. §1367 because it is so related to the federal claims that they form part of the same case.

2. Venue is proper in the Eastern District of Pennsylvania because at the time of the incidents in question, Plaintiff lived in Chester County, the incidents in question occurred in the County of Delaware, and Defendant employed Plaintiff in Delaware County.

### **FACTUAL ALLEGATIONS**

3. Plaintiff is Darick Easterling who currently resides at 5 Paul Nelms Drive, Downingtown, PA 19335.

4. Defendant is County of Delaware, also known as Delaware County (herein "Delaware County"), a County of the Second Class (A)(2-A) in Pennsylvania.

5. At all relevant times, Plaintiff was covered and protected under the Family and Medical Leave Act and the Americans with Disabilities Act.

6. Plaintiff was employed with Defendant as a Correctional Officer.

7. Defendant, Delaware County, employs more than 15 employees and, in particular, employs more than 15 Correctional Officers.

8. Prior to his employment with Delaware County, Plaintiff was a long-term (19+ years) employee at the George W. Hill Correctional Facility working for the Geo Group, as Delaware County outsourced its County prison to Geo Group, a private entity, which serviced Delaware County running the County prison.

9. In or about March 2020, Plaintiff requested an ADA reasonable accommodation from Geo for his condition as defined under the ADA.

10. Plaintiff's doctor-supported requested accommodation was to work no more than 8 hours/day because of certain medications that he had to take while he was not working.

11. Geo granted Plaintiff's request for this accommodation, and never hassled or retaliated against him about this ADA request.

12. Early in 2022, Delaware County took back the operation of the Correctional Facility from Geo.

13. In or about the third week of March, Plaintiff received a March 14, 2022 letter from Delaware County with a conditional offer of employment as a Correctional Officer, with a start date of April 6, 2022.

14. The offer letter indicated employees must work overtime hours but did not specify how many hours.

15. Plaintiff promptly accepted this offer of continued employment.

16. On April 4, 2022, Plaintiff's medical provider completed and gave Plaintiff another updated ADA reasonable accommodation request (now, to Delaware County), again noting that, for medical reasons, Plaintiff should not work more than 12 hours at a stretch, so that Plaintiff could take his medication when not on duty, which Plaintiff avers is for a request for intermittent FMLA leave.

17. Delaware County began a game of delay, runaround and misrepresentation regarding Plaintiff's ADA request for accommodation.

18. On Plaintiff's first day of employment with Delaware County, employer Delaware County and its H.R. representatives refused to accept a copy of Plaintiff's doctor's note and request for ADA accommodation.

19. Delaware County later announced that there would be a 16 hour back to back requirement (8 hours regular time, 8 hours overtime back to back).

20. Plaintiff was thereafter directed to work a double shift (i.e., two consecutive back to back shifts totaling 16 hours).

21. When Plaintiff advised his supervisors that Plaintiff had a doctor's note and medical accommodation to work a maximum of 12 hours (i.e. 1-1/2 shifts), Plaintiff was told to still work the double shift, or he would be written up, disciplined, and docked pay, which also provided sufficient information for the employer that the request may have been covered by the FMLA as a request for intermittent leave.

22. Plaintiff actually tried to work two 8-hour shifts back to back as requested, but found it painful and worsened his ADA condition, including the need to go to an Urgent Care after the second attempt.

23. Plaintiff complained to his Overtime Lieutenant about this development concerning his request for accommodation.

24. The Overtime Lieutenant said to Plaintiff that she was told to "write me [Plaintiff] up" regardless of his reasons.

25. The H.R. Department, similarly, responded to Plaintiff requests with refusals, contradictory messages, and directives, regarding requests for an ADA accommodation.

26. Plaintiff got written up because of the 16-hour rule on two occasions and Defendant actually suspended him for one day.

27. Because of the clear and continuing “message” from H.R. to Plaintiff that they did not want to accept any ADA accommodation, on or about May 11, 2022, Plaintiff originally filed an EEOC/PHRC complaint of discrimination against the Respondent, case numbers 530-2022-03925 and 202200301. In these complaints, Plaintiff alleged that they would not grant Plaintiff a reasonable accommodation based on disability and for retaliation by threatening termination because Plaintiff sought a reasonable accommodation.

28. At no time did Defendant engage in an interactive process with Plaintiff.

29. On or about May 25, 2022, the Defendant discharged Plaintiff’s employment.

30. The Defendant’s stated reason was because Plaintiff could not work double shifts of 16 hours straight, which was supposedly an essential function of the job.

31. Plaintiff’s doctor advised the Defendant that Plaintiff could work 1.5 shifts of 12 straight hours, which is a reasonable accommodation.

32. Defendant’s first shift for Correction Officers did not required mandatory overtime but allowed first shift officers to work overtime on a voluntary basis.

33. When they do voluntarily work overtime hours, Defendant's first shift correction officers can work no more than an additional 5 hours.

34. There was no union contract in place at the time of his termination.

35. Defendant has allowed some Correctional Officers not to work any overtime past their 2:00 p.m. to 10:00 p.m. shift and did not require them to work any hours of overtime.

36. Defendant's conduct herein is a subterfuge to dismiss Plaintiff and other Correctional Officers who have disabilities protected under federal and state law.

37. Defendant's predecessor, Geo, was able to successfully perform prison services for years for Delaware County and honored disability accommodations regarding length of working at one time above eight hours.

38. Plaintiff amended his PHRA Complaint to include termination.

39. The Respondent discharged Plaintiff's employment because of his disability and/or in retaliation for seeking a reasonable accommodation, and/or his invocation of FMLA rights.

40. Defendant failed to provide Plaintiff with a reasonable accommodation and failed to engage in the ADA/ADAAA's interactive process.

41. Accommodating Plaintiff would not cause an undue hardship for Defendant.

42. Defendant changed Plaintiff's essential job functions to making a double shift of 16 hours straight an essential job function to make disabled employees unable to perform their job with or without accommodation.

43. Plaintiff's treatment and termination was interfering with his FMLA rights and was also discriminatory treatment under the FMLA, including but not limited to his termination.

44. Plaintiff was also discriminated against and retaliated against because of his disability (as defined by the ADA/ADAAA), including but not limited to his termination.

45. Plaintiff also was retaliated against for invoking his right to reasonable accommodation, which was ADA protected FMLA leave.

46. Plaintiff was never designated as a "key" employee and was never told his job could not be preserved because it would cause substantial and grievous economic harm.

47. Plaintiff further alleges that his termination was because of his FMLA leave and interferes with his FMLA rights and was discriminated/retaliated against for assertion of FMLA rights, which was invoked when he requested his medical accommodation which was a request for intermittent leave under 29 C.F.R §825.202 and §825.203.



48. Defendant's conduct interfered with Plaintiff's FMLA rights and retaliated against him for invoking them.

49. Defendant, without good faith and without reasonable grounds for believing that it did not violate the FMLA, took adverse actions against Plaintiff, including termination.

50. Plaintiff seeks, and the FMLA affords, appropriate remedies to an eligible employee if an employer has violated the FMLA, including but not limited to (1) wages, employment benefits or other compensation denied or lost by such violation, including but not limited to back and front pay; (2) an amount of liquidated damages unless the employer's violation was in good faith and the employer had reasonable grounds for believing the employer did not violate the Act; and (3) equitable relief such as employment, reinstatement or promotion.

51. An employer found in violation of the FMLA must pay to the employee a reasonable attorney's fee, the employee's expert witness fees, and other costs of the action, and may have equitable relief granted against them (in this case reinstatement and payment of additional health care premiums, costs, and expenses caused by the deprivation of employment).

52. Plaintiff has sustained lost wages, lost benefits, lost front pay and benefits, as a result of Defendant's conduct, and Plaintiff should be awarded liquidated damages under the FMLA as Defendant's conduct was not in good faith

and the employer did not have reasonable grounds for believing it did not violate the FMLA.

53. Plaintiff was perceived or regarded to have a disability under the Americans with Disability Act and was fired because his condition was perceived or regarded to be substantially limiting under the ADA as modified by the ADAAA and the Defendant did not want to further accommodate his disabilities.

54. The conduct by Defendant was perpetrated not only by lower managers but by second line management and above and/or Human Resource official and thus establishes Kolstad liability.

## **COUNT I**

### **VIOLATION OF THE FAMILY AND MEDICAL LEAVE ACT**

#### **INTERFERENCE**

55. Plaintiff incorporates paragraphs 1 through 54 herein by reference.

56. Any violation of the FMLA or the FMLA regulations which constitute interfering with, restraining or denying the exercise of rights provided by the FMLA violates 29 U.S.C. §2615(a)(1).

57. Plaintiff was entitled to FMLA benefits and was denied them.

58. Defendant provided Plaintiff with discipline and different treatment, including termination, because of his assertion and invocation of FMLA rights

59. Defendant's conduct interfered with Plaintiff's FMLA rights.

60. Plaintiff's articulation of a need for FMLA leave and his invocation of his FMLA rights was a negative factor in his adverse treatment and his termination, under 29 C.F.R. §825.220(c).

61. Intent is not necessary to establish interference under the FMLA.

62. Alternatively, Defendant intended to deprive Plaintiff of rights under the FMLA.

63. Defendant interfered with, restrained or denied the exercise of Plaintiff's FMLA rights by terminating Plaintiff and not properly designating his leave as required under the FMLA and its regulations, including 29 C.F.R. §825.300.

64. Defendant's conduct was not in good faith and the employer did not have reasonable grounds for believing it did not violate the FMLA.

65. Plaintiff sustained damages as a result of Defendant's conduct, including lost compensation and benefits and actual monetary losses, compensatory damages, liquidated damages, attorney's fees, costs and witness fees, and is entitled to equitable relief, including reinstatement, and additional amount for the tax consequences for an award in Plaintiff's favor under the Third Circuit's Eshelman doctrine.

WHEREFORE, Plaintiff demands the following relief: (1) wages, employment benefits or other compensation denied or lost by such violation; (2) an amount of liquidated damages unless the employer's violation was in good faith and the employer had reasonable grounds for believing the employer did not violate the Act; (3) equitable relief such as employment, reinstatement or promotion or payment of health care expenses; (4) a reasonable attorney's fee; (5) the employee's expert witness fee, if any; (6) reinstatement to his former position (with all back benefits he would have been entitled to); (7) other costs of the action; (8) interest; and (9) an additional amount for the tax consequences for an award in Plaintiff's favor under the Third Circuit's Eshelman doctrine.

## **COUNT II**

### **VIOLATION OF THE FAMILY AND MEDICAL LEAVE ACT DISCRIMINATION/RETALIATION**

66. Plaintiff incorporates paragraphs 1 through 65 herein by reference.
67. Plaintiff invoked a right to FMLA benefits.
68. Plaintiff suffered an adverse action or employment decisions.
69. The adverse action was causally related to the Plaintiff's invocation and/or exercise of FMLA rights.

70. Defendant unlawfully terminated, retaliated, and otherwise discriminated against Plaintiff because of conduct protected by the FMLA. See, *inter alia*, 29 U.S.C. §2615(a)(2).

71. Defendant's conduct was not in good faith and the employer did not have reasonable grounds for believing it did not violate the FMLA.

72. Plaintiff sustained damages as a result of Defendant's conduct, including lost compensation and benefits and actual monetary losses, compensatory damages, liquidated damages, attorney's fees, costs and witness fees, and is entitled to equitable relief, including reinstatement, and an additional amount for the tax consequences for an award in Plaintiff's favor under the Third Circuit's Eshelman doctrine.

WHEREFORE, Plaintiff demands the following relief: (1) wages, employment benefits or other compensation denied or lost by such violation, including but not limited to back and front pay; (2) an amount of liquidated damages unless the employer's violation was in good faith and the employer had reasonable grounds for believing the employer did not violate the Act; (3) equitable relief such as employment, reinstatement or promotion or payment of health care expenses; (4) a reasonable attorney's fee; (5) the employee's expert witness fee, if any; (6) reinstatement to his former position (with all back benefits he would have been entitled to); (7) other costs of the action; (8) interest; and (9)

an additional amount for the tax consequences for an award in Plaintiff's favor under the Third Circuit's Eshelman doctrine.

**COUNT III**  
**VIOLATION OF AMERICAN WITH DISABILITIES ACT**  
**AS AMENDED BY**  
**THE AMERICANS WITH DISABILITIES ACT AMENDMENT ACT**  
**DISCRIMINATION**

73. Plaintiff incorporates paragraphs 1 through 72 above as if set forth herein.

74. Plaintiff is in a protected class because he has a disability as defined under the ADA.

75. Plaintiff is otherwise qualified to do the essential functions of his job with or without accommodation.

76. Plaintiff suffered adverse employment action(s) because of his disability by Defendant, including but not limited to the failure to reasonably accommodate Plaintiff and engage in the interactive process as well as termination.

77. There is a causal connection between the adverse employment action sustained by Plaintiff and because of his disabilities.

78. Plaintiff has suffered damages.

WHEREFORE, Plaintiff demands the following relief: (1) wages, employment benefits or other compensation denied or lost by such violation, including front wages; (2) equitable relief such as reinstatement; (3) a reasonable attorney's fee; (4) the employee's expert witness fee, if any; (5) damages for pain, suffering, humiliation, and emotional distress; (6) other costs of the action; (7) interest; and (8) an additional amount for the tax consequences for an award in Plaintiff's favor under the Third Circuit's Eshelman doctrine.

**COUNT IV**  
**VIOLATION OF AMERICAN WITH DISABILITIES ACT**  
**AS AMENDED BY**  
**THE AMERICANS WITH DISABILITIES ACT AMENDMENT ACT**  
**RETALIATION**

79. Plaintiff incorporates paragraphs 1 through 74 above as if set forth herein.

80. Plaintiff is in a protected class because he has disabilities as defined under the ADA.

81. Plaintiff engaged in protected activity, including seeking reasonable accommodation and/or FMLA leave for his disability.

82. Plaintiff suffered adverse actions either after or contemporaneous with his protected activity.

83. There is a causal connection between Plaintiff's protected activity and the Defendant's adverse employment action.

84. Plaintiff has suffered damages.

WHEREFORE, Plaintiff demands the following relief: (1) wages, employment benefits or other compensation denied or lost by such violation, including front wages; (2) equitable relief such as reinstatement; (3) a reasonable attorney's fee; (4) the employee's expert witness fee, if any; (5) damages for pain, suffering, humiliation, and emotional distress; (6) other costs of the action; (7) interest; and (8) an additional amount for the tax consequences for an award in Plaintiff's favor under the Third Circuit's Eshelman doctrine.

**COUNT V**  
**VIOLATION OF THE PENNSYLVANIA HUMAN RELATIONS ACT -**  
**DISABILITY**  
**DISCRIMINATION**

85. Plaintiff incorporates paragraphs 1 through 84 above as if set forth herein.

86. Plaintiff is in a protected class because of his disability.

87. Plaintiff was otherwise qualified to do the essential functions of his job with or without accommodation. Plaintiff suffered adverse employment



action(s) because of his disability as defined by the PHRA including but not limited to the failure to reasonably accommodate Plaintiff and engage in the interactive process as well as termination.

88. There is a causal connection between the adverse employment action sustained by Plaintiff and his disability.

89. Plaintiff has suffered damages.

WHEREFORE, Plaintiff demands the following relief: (1) wages, employment benefits or other compensation denied or lost by such violation, including front wages; (2) equitable relief such as reinstatement; (3) a reasonable attorney's fee; (4) the employee's expert witness fee, if any; (5) damages for pain, suffering, humiliation, and emotional distress; (6) other costs of the action; (7) interest; and (8) an additional amount for the tax consequences for an award in Plaintiff's favor under the Third Circuit's Eshelman doctrine.

**COUNT VI**  
**VIOLATION OF THE PENNSYLVANIA HUMAN RELATIONS ACT -**  
**DISABILITY**  
**RETALIATION**

90. Plaintiff incorporates paragraphs 1 through 89 above as if set forth herein.

91. Plaintiff is in a protected class because his disability as defined by the PHRA.

92. Plaintiff engaged in protected activity, including the seeking of a reasonable accommodation and intermittent FMLA leave.

93. Plaintiff suffered retaliation by Defendant for invoking his protected rights either after or contemporaneously with his protected activity, including but not limited to invoking his right to reasonable accommodation and the right to FMLA leave.

94. There is a causal connection between the Plaintiff's protected activity and Defendant's adverse action and activity.

95. Plaintiff has suffered damages.

WHEREFORE, Plaintiff demands the following relief: (1) wages, employment benefits or other compensation denied or lost by such violation, including front wages; (2) equitable relief such as reinstatement; (3) a reasonable attorney's fee; (4) the employee's expert witness fee, if any; (5) damages for pain,

suffering, humiliation, and emotional distress; (6) other costs of the action; (7) interest; and (8) an additional amount for the tax consequences for an award in Plaintiff's favor under the Third Circuit's Eshelman doctrine.

Respectfully submitted,

Date: December 19, 2023

BY: s/ Edward C. Sweeney  
Edward C. Sweeney, Esquire  
Attorney for Plaintiff  
WUSINICH, SWEENEY & RYAN, LLC  
I.D. No. 64565  
102 Pickering Way, Suite 403  
Exton, PA 19341  
(610) 594-1600  
Validation of signature code: ECS1942

# EXHIBIT A



August 4, 2023

Darick Easterling  
5 Pauls Nelms Drive  
Downingtown, PA 19335

Melissa A. Lovett, Esq.  
Delaware County Government Center Building  
201 W. Front Street  
Media, PA 19063

RE: Darick Easterling vs. County of Delaware  
PHRC Case No. 202200301  
EEOC Case No. 530-2022-03925

Dear Parties:

The Pennsylvania Human Relations Commission reviewed the above-referenced Complaint and considers this case closed on the date of this letter because there was insufficient evidence to establish discrimination and a copy of this finding is enclosed in service to Complainant pursuant to 43 P.S. §959(c).

The Pennsylvania Human Relations Act affords both the Complainant and the Respondent the opportunity to comment after the final disposition of the Complaint. Written comments may be submitted to the Director of Enforcement, 333 Market Street, 8<sup>th</sup> Floor, Harrisburg, PA 17101. In addition, enclosed is an important Notice of Complainant's Rights that explains the right to request a Preliminary Hearing if there is a disagreement with the Commission's decision pursuant to 16 Pa Code §42.62 and the right to file a complaint\* in the Court of Common Pleas pursuant to 43 P.S. Section 962(c). \*Please note that the complaint must be filed within two years of the date of closure.

Sincerely:

A handwritten signature in black ink that reads "Chad Dion Lassiter MSW".

Chad Dion Lassiter, MSW  
Executive Director

cc:

**PENNSYLVANIA HUMAN RELATIONS COMMISSION (PHRC)  
NOTICE OF COMPLAINANT'S RIGHTS AFTER CLOSURE OF COMPLAINT**

**All communication related to closed cases must be directed to the Enforcement Division, PHRC Central Office, 333 Market Street, 8th Floor, Harrisburg, PA 17101. Phone: 717-787-4410.**

The complainant has the right to request a preliminary hearing in this matter, pursuant to the PHRC's Special Rules of Administrative Practice and Procedure, 16 Pa. Code § 42.62. Should the complainant desire to file such a request, it must be in writing, and it must state specifically the grounds upon which the complainant disputes the PHRC's closure. It may contain new evidence not previously considered. If the Request for a Preliminary Hearing is based upon new or previously unconsidered evidence, the nature, location, and form of the evidence in issue must be explicitly set forth in the request.

After careful review of the request, the PHRC will notify complainant as to whether a preliminary hearing has been granted. Should the PHRC grant a preliminary hearing, you will be provided with more information. Should PHRC accept the request, an attorney with the PHRC Office of Chief Counsel will conduct a thorough review of the investigative case file to determine whether the PHRC properly closed the complaint. The PHRC may also decide to reopen the complaint for further investigation instead of conducting a hearing. At any time, the complainant may decide to withdraw the request.

Should the complainant desire to file a Request for a Preliminary Hearing, **it must be filed in accordance with PHRC's Special Rules of Administrative Practice and Procedure, 16 Pa. Code § 42.62, received by PHRC within ten (10) days of the receipt of this notice to be entitled to these rights, identified as a "Request for Preliminary Hearing," and be addressed to Office of Appeals, 333 Market St., 8th Floor, Harrisburg, PA 17101. Email: [oa-phrcOFFofappeals@pa.gov](mailto:oa-phrcOFFofappeals@pa.gov).**

In addition, you are hereby notified, as required by Section 12(c) of the Pennsylvania Human Relations Act, 43 P.S. Section 962(c), that upon closure, the complainant has two years to file a complaint in the Court of Common Pleas of the county in which the alleged unlawful discriminatory practice took place. The complainant may retain a private attorney regarding this matter or about any other rights he/she may have in this matter. Complainant's who file a complaint in the Court of Common Pleas are required by Section 12(c)(2) of the Pennsylvania Human Relations Act to serve the PHRC with a copy of the Court complaint. This copy must be served on the PHRC at the same time the complainant files it in Court. The copy is to be sent to: Chief Counsel, 333 Market St., 8th Floor, Harrisburg, PA 17101.

**ADDITIONAL RIGHTS IN CASES FILED WITH THE  
U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

Since your charge was filed under Title VII of the Civil Rights Act, Americans with Disabilities Act (ADA) or the Age Discrimination in Employment Act (ADEA), which is enforced by the US Equal Employment Opportunity Commission (EEOC), you also have the right to request the EEOC to review this action. To secure a review, you must request the review in writing within fifteen (15) days of your receipt of this letter. This request should be sent to **EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, PHILADELPHIA DISTRICT OFFICE, SUITE 1000, 801 MARKET STREET, PHILADELPHIA, PA 19107. Email: [phlstateandlocal@eoc.gov](mailto:phlstateandlocal@eoc.gov).** You can find more information about the U.S. Equal Employment Opportunity Commission at [www.eoc.gov](http://www.eoc.gov).

**Do not request a substantial weight review if you have requested a preliminary hearing at PHRC. If you requested a preliminary hearing, you may request a substantial weight review only after you receive a letter denying your request from PHRC.**

COMMONWEALTH OF PENNSYLVANIA

GOVERNOR'S OFFICE

PENNSYLVANIA HUMAN RELATIONS COMMISSION

	:
<b>Darick Easterling,</b>	:
<b>Complainant</b>	:
	:
<b>vs.</b>	<b>: PHRC Case No. 202200301</b>
	<b>: EEOC Case No. 530-2022-03925</b>
<b>County of Delaware,</b>	:
<b>Respondent</b>	:

**FINDING OF NO PROBABLE CAUSE**

On May 11, 2022, Darick Easterling (Complainant) filed a complaint of discrimination against County of Delaware (Respondent). Complainant has met all jurisdictional requirements under the Pennsylvania Human Relations Act.

Complainant alleges that Respondent discriminated against him based on the protected classes of disability and retaliation in violation of 43 P.S. §955 when it failed to provide him with a reasonable accommodation and terminated him from employment.

Respondent denies that it discriminated against Complainant. Respondent alleges that the Complainant was terminated because he was not able to perform the essential functions of his position.

To prevail, the evidence must show (1) there is a reasonable accommodation that would allow Complainant to perform the essential functions of his job.

Based on the investigation, the job description for a Correctional Officer specifies that it is a requirement for individuals to work mandated overtime up to 16 hours. Based on Complainant's medical documentation and feedback from his medical provider, he was not able to meet this requirement. The evidence indicates that there was not an accommodation available that would enable him to meet this requirement.

To prevail, the evidence must show (1) other factors that indicate Complainant was treated differently because he was in a protected group.

Based on the investigation, the evidence indicates that Complainant was terminated because he was not able to meet the mandatory overtime requirement for his position. Additionally, Complainant did not request to be placed into an alternate position. Respondent provided a legitimate, non-discriminatory reason for terminating Complainant, as there was no accommodation available that would enable him to fulfill this requirement.

To prevail, the evidence must show (1) There was a causal connection between Complainant's protected activity and the adverse action.

Based on the investigation, the evidence does not indicate a causal connection between Complainant's protected activity and adverse action. The evidence indicates that Complainant was terminated because he could not meet the mandatory overtime requirement for his position as a Correctional Officer. Respondent provided a legitimate, non-discriminatory reason for discharging Complainant.

WHEREFORE, based on the evidence described above, the Pennsylvania Human Relations Commission concludes that there is insufficient evidence to support a finding of probable cause. Insufficient evidence exists to establish that County of Delaware discriminated against Darick Easterling on the basis of disability in violation of Section 5(a) of the Pennsylvania Human Relations Act.

WHEREFORE, based on the evidence described above, the Pennsylvania Human Relations Commission concludes that there is insufficient evidence to support a finding of probable cause. Insufficient evidence exists to establish that County of Delaware discriminated against Darick Easterling on the basis of retaliation in violation of Section 5(d) of the Pennsylvania Human Relations Act.



Chad Dion Lassiter, MSW  
Executive Director



# EXHIBIT B



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

Philadelphia District Office  
801 Market St, Suite 1000  
Philadelphia, PA 19107  
(267) 589-9700  
Website: [www.eeoc.gov](http://www.eeoc.gov)

**DETERMINATION AND NOTICE OF RIGHTS**

(This Notice replaces EEOC FORMS 161 & 161-A)

**To:** Darick Easterling  
5 Paul Nelms Drive  
Downingtown, PA 19335

**Re:** Darick Easterling v. County of Delaware  
EEOC Charge Number: 530-2022-03925

EEOC Representative and email: State Local and Tribal Program Manager  
PHLSTATEANDLOCAL@EEOC.GOV

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**DETERMINATION OF CHARGE**

The EEOC issues the following determination: The EEOC has adopted the findings of the state or local fair employment practices agency that investigated your charge.

**NOTICE OF YOUR RIGHT TO SUE**

This is official notice from the EEOC of the dismissal of your charge and of your right to sue. If you choose to file a lawsuit against the respondent(s) on this charge under federal law, **your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice.** Receipt generally occurs on the date that you (or your representative) received this document. You should keep a record of the date you received this notice. Your right to sue based on this charge will be lost if you do not file a lawsuit in court within 90 days. (The time limit for filing a lawsuit based on a claim under state law may be different.)

Please retain this notice for your records.

On Behalf of the Commission:

Digitally Signed By: Karen McDonough 9/26/2023

Karen McDonough  
Deputy District Director

cc: For Respondent

Melissa A. Lovett  
County Solicitor Delaware County Government  
Center Building  
201 W. Front Street  
Media, PA 19063

**INFORMATION RELATED TO FILING SUIT  
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law. If you also plan to sue claiming violations of State law, please be aware that time limits may be shorter and other provisions of State law may be different than those described below.)*

**IMPORTANT TIME LIMITS – 90 DAYS TO FILE A LAWSUIT**

If you choose to file a lawsuit against the respondent(s) named in the charge of discrimination, you must file a complaint in court **within 90 days of the date you receive this Notice**. Receipt generally means the date when you (or your representative) received the document. You should **keep a record of the date you received this notice**. Once this 90-day period has passed, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and the record of your receiving it (email or envelope).

If your lawsuit includes a claim under the Equal Pay Act (EPA), you must file your complaint in court within 2 years (3 years for willful violations) of the date you did not receive equal pay. This time limit for filing an EPA lawsuit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, your lawsuit must be filed within 90 days of this Notice **and** within the 2- or 3-year EPA period.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. You must file a “complaint” that contains a short statement of the facts of your case which shows that you are entitled to relief. Filing this Notice is not enough. For more information about filing a lawsuit, go to <https://www.eeoc.gov/employees/lawsuit.cfm>.

**ATTORNEY REPRESENTATION**

For information about locating an attorney to represent you, go to:  
<https://www.eeoc.gov/employees/lawsuit.cfm>.

In very limited circumstances, a U.S. District Court may appoint an attorney to represent individuals who demonstrate that they are financially unable to afford an attorney.

**NOTICE OF RIGHTS UNDER THE ADA AMENDMENTS ACT OF 2008 (ADAAA):** The ADA was amended, effective January 1, 2009, to broaden the definitions of disability to make it easier for individuals to be covered under the ADA/ADAAA. A disability is still defined as (1) a physical or mental impairment that substantially limits one or more major life activities (actual disability); (2) a record of a substantially limiting impairment; or (3) being regarded as having a disability. *However, these terms are redefined, and it is easier to be covered under the new law.*

**If you plan to retain an attorney to assist you with your ADA claim, we recommend that you share this information with your attorney and suggest that he or she consult the amended regulations and appendix, and other ADA related publications, available at [http://www.eeoc.gov/laws/types/disability\\_regulations.cfm](http://www.eeoc.gov/laws/types/disability_regulations.cfm).**

**“Actual” disability or a “record of” a disability (note: if you are pursuing a failure to accommodate claim you must meet the standards for either “actual” or “record of” a disability):**

- **The limitations from the impairment no longer have to be severe or significant** for the impairment to be considered substantially limiting.
- In addition to activities such as performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, thinking, concentrating, reading, bending, and communicating (more examples at 29 C.F.R. § 1630.2(i)), **“major life activities” now include the operation of major bodily functions**, such as: functions of the immune system, special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions; or the operation of an individual organ within a body system.
- **Only one** major life activity need be substantially limited.
- With the exception of ordinary eyeglasses or contact lenses, **the beneficial effects of “mitigating measures”** (e.g., hearing aid, prosthesis, medication, therapy, behavioral modifications) **are not considered** in determining if the impairment substantially limits a major life activity.
- An impairment that is **“episodic”** (e.g., epilepsy, depression, multiple sclerosis) or **“in remission”** (e.g., cancer) is a disability if it **would be substantially limiting when active**.
- An impairment **may be substantially limiting even though** it lasts or is expected to last fewer than six months.

**“Regarded as” coverage:**

An individual can meet the definition of disability if an **employment action was taken because of an actual or perceived impairment** (e.g., The employer has a defense against a “regarded as” claim only when the impairment at issue is objectively *BOTH* transitory (lasting or expected to last six months or less) *AND* minor.

- A person is not able to bring a failure to accommodate claim *if* the individual is covered only under the “regarded as” definition of “disability.”

For more information, consult the amended regulations and appendix, as well as explanatory publications, available at [http://www.eeoc.gov/laws/types/disability\\_regulations.cfm](http://www.eeoc.gov/laws/types/disability_regulations.cfm).