

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

STEVEN M. PAPI	:	
	:	CIVIL ACTION
Plaintiff,	:	
	:	
v.	:	NO. _____
	:	
COUNTY OF DELAWARE	:	
	:	JURY TRIAL DEMANDED
Defendant	:	

CIVIL ACTION COMPLAINT

Plaintiff Steven M. Papi, by and through counsel, hereby complains as follows against Defendant County of Delaware:

I. Introduction

1. Plaintiff has initiated the instant action to redress violations of the Age Discrimination in Employment Act (29 U.S.C. § 621 *et seq.*) (“**ADEA**”), the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.* (“**ADA**”), and the Pennsylvania Human Relations Act, (43 P.S. § 951 *et seq.*) (“**PHRA**”). In particular, Defendant has violated the anti-retaliation provisions of these statutes.¹

II. Parties

2. Plaintiff is an adult male and citizen of the United States. He resides in Delaware

¹ The implicated statutory anti-retaliation provisions include 29 U.S.C. § 623(d) (**ADEA**), 42 U.S.C. § 12203(b) (**ADA**) and 43 P.S. § 955(d) (**PHRA**).

County, Pennsylvania.

3. Defendant Delaware County is one of the Commonwealth of Pennsylvania's 67 counties.

4. The County is governed by a five-member County Council. Members of County Council are elected on an at-large basis to four year terms at staggered two year intervals when municipal elections are held, which occur in odd numbered years.

5. In accordance with the Constitution of the Commonwealth of Pennsylvania, the County appoints a Public Defender.

6. The Public Defender's Office ("PDO"), according to the County's website, provides legal assistance to persons who are accused of criminal offenses by the Commonwealth of Pennsylvania and who cannot afford the expense of presenting a defense to the charges against them. The PDO employs a team of attorneys which is supported by various paralegals, investigators, and other staff.

7. The PDO represents several thousand clients each year who are charged with crimes ranging from retail theft offenses to homicide in the District Justice Courts, the Court of Common Pleas and the Appellate Courts of Pennsylvania. In addition, the PDO represents young people who appear in the Juvenile Court, and clients charged with contempt in Family Court.

8. At all times relevant herein, the County acted through its several agents, servants, and employees (including but not limited to those named elsewhere in this Complaint), each of

whom acted in the course and scope of their employment for the County at all times relevant herein. The County is therefore fully responsible for the illegal acts and omissions of the aforesaid employees pursuant to the principle of *respondeat superior*.

III. Jurisdiction and Venue

9. This Court may properly maintain personal jurisdiction over Defendant because Defendant's contacts with this state and this judicial district are sufficient for the exercise of jurisdiction over Defendant to comply with traditional notions of fair play and substantial justice, satisfying the standard set forth by the United States Supreme Court in *Int'l Shoe Co. v. Washington*, 326 U.S. 310 (1945) and its progeny.

10. The United States District Court for the Eastern District of Pennsylvania has original subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343(a)(4) because it arises under the laws of the United States and seeks redress for violations of civil rights. The Court may also maintain supplemental jurisdiction over state law claims set forth herein pursuant to 28 U.S.C. § 1367(a) and Rule 18(a) of the Federal Rules of Civil Procedure because they are sufficiently related to the claim(s) within the Court's original jurisdiction that they form part of the same case or controversy.

11. Venue is properly laid in this District pursuant to 28 U.S.C. §§ 1391(b)(2) and (c) because a substantial part of the events or omissions giving rise to the claims set forth herein occurred in this judicial district (Plaintiff was working in the Eastern District of Pennsylvania at the time of the illegal actions set forth herein) and Defendant is subject to personal

jurisdiction in the Eastern District of Pennsylvania.

IV. Procedural and Administrative Requirements

12. Plaintiff has exhausted the procedural and administrative requirements for proceeding under the anti-retaliation provisions of the **ADEA**, **ADA**, and **PHRA**. In particular:

- a. On or about November 1, 2022, Plaintiff filed a timely written Charge of Discrimination with the U.S. Equal Employment Opportunity Commission (“EEOC”) where it was assigned Charge No. 530-2023-00839;
- b. Plaintiff requested that EEOC cross-file his Charge with the Pennsylvania Human Relations Commission (“PHRC”);
- c. On or about August 29, 2024, the EEOC issued a Notice of Right to Sue to Plaintiff on the aforesaid Charge;
- d. The instant action is timely because it has been initiated within ninety (90) days of the receipt of the aforementioned Notice;
- e. Plaintiff fully exhausted his administrative remedies.

V. Factual Background

13. Plaintiff is an attorney licensed in the Commonwealth of Pennsylvania.

14. He has been an attorney with the PDO since November 2007. Since approximately April 2012, Plaintiff has been working in the Appeals Unit.

15. Beginning in late 2019/early 2020, Plaintiff served as both First Assistant Public

Defender and Chief of Appeals.

16. Since July 2020, the PDO has been run by Christopher Welsh, who holds the position of Director.

17. Welsh initially informed Plaintiff that Plaintiff would retain one of his two positions - either First Assistant Public Defender or Chief of Appeals.

18. In about August 2020, Welsh terminated the employment of an older attorney with a disability who worked under Plaintiff in the Appeals Unit.

19. At that time Plaintiff shared with Welsh concerns of apparent age and/or disability discrimination.

20. Within days of Plaintiff's admonition to Welsh regarding apparent age and/or disability discrimination, Welsh both demoted Plaintiff to Assistant Chief of Appeals and removed him from the First Assistant Public Defender role.

21. Welsh offered no explanation for the demotions, or why he had reneged on his earlier representation to Plaintiff that he would retain one of those higher level positions.

22. The older attorney with a disability (about whom Plaintiff cautioned Welsh) later filed a lawsuit against the County. See Leigh J. Bechtle v. County of Delaware (Civ. A. No. 20-5803) (E.D. Pa.).

23. In Bechtle, Plaintiff was deposed, and during his deposition he expressed concern that Welsh would retaliate against him.

24. Neither Welsh nor other County officials ever attempted to allay Plaintiff's fears of

retaliation.

25. Judge Baylson, in denying the County's motion for summary judgment in Bechtle, relied in part on Plaintiff's deposition testimony. See Bechtle supra, Summ. J. Op. dated January 3, 2022 (ECF No. 25) at p. 6.

26. On or about May 10, 2022, Plaintiff testified before a jury in the Bechtle case. Welsh was present in the courtroom.

27. Plaintiff's trial testimony in Bechtle was damaging to the County and Welsh, so much so that the case settled during a break in Plaintiff's testimony.

28. **Just 28 days later**, on June 7, 2022, Welsh demoted Plaintiff from Assistant Chief of Appeals to Staff Appeals Attorney.

29. Although Welsh claimed he eliminated the Assistant Chief of Appeals position because it was no longer necessary, this was a phony explanation. Appellate caseloads were increasing since the time in 2020 when Welsh first appointed Plaintiff to the role. Back then, appellate caseloads were relatively low due to the pandemic's interruption of trials. By June 2022, however, trials had resumed in Delaware County.

30. The retaliatory demotion to a non-management position deprived Plaintiff of a subsequent salary increase of at least \$20,000 per year.

31. The retaliatory demotion to a non-management position also thereafter subjected Plaintiff to a collective bargaining agreement he had no part in negotiating, and which subjected Plaintiff to supplemental income restrictions.

32. Welsh's misconduct is especially disquieting since he knew full well that retaliation for engaging in protected activity is illegal. Indeed, Welsh himself brought a claim for retaliation after he was fired from the Public Defender's office in Philadelphia. See Welsh v. Defender Ass'n of Philadelphia (Civ. A. No. 17-4113) (E.D. Pa.) (filed 9/14/17).

33. Welsh's decision to retaliate against Plaintiff by demoting him to Assistant Chief of Appeals coincided with his savage, systematic effort to purge the office of older and/or disabled employees since he joined the office in mid-2020.

34. In one instance, upon Welsh's joining the office, the first thing Welsh said to an older attorney was, "How old are you?" And then Welsh asked him, "What are you still doing here?" Welsh later fired that employee.

35. In another instance Welsh characterized an older employee as "an old man."

36. In another instance Welsh remained silent when one of his Unit Chiefs stated in a meeting that she hated "old white men."

37. There have been a host of age discrimination claims filed against Welsh since he took over as PDO Director in July 2020. The County, to its shame, knows of these claims yet has permitted Welsh to persist with his ageist personnel decisions.

**FIRST CAUSE OF ACTION - UNLAWFUL RETALIATION
IN VIOLATION OF THE ADEA, ADA and PHRA**

38. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

39. **By demoting Plaintiff from Assistant Chief of Appeals to Staff Appeals Attorney**

in June 2022 due to his testimony in the Bechtle case just weeks earlier, Defendant deliberately, knowingly and intentionally violated the above-referenced anti-retaliation provisions of the **ADEA, ADA and PHRA**.

40. As a result of Defendant's actions, Plaintiff has suffered pecuniary losses, emotional pain, anguish and suffering, humiliation, inconvenience, loss of enjoyment of life, and other non-pecuniary losses.

WHEREFORE, Plaintiff prays that this Court enter an Order providing that:

- A. Defendant is to be permanently enjoined from retaliating against employees who engaged in protected activity under the ADEA, ADA and PHRA;
- B. Defendant is to promulgate and adhere to a policy prohibiting illegal retaliation; Defendant is to compensate Plaintiff, reimburse Plaintiff, and make Plaintiff whole for any and all pay and benefits Plaintiff would have received had it not been for Defendant's illegal actions, including but not limited to back pay, front pay, salary, pay increases, bonuses, insurance, benefits, training, promotions, and seniority;
- C. Plaintiff is to be awarded compensatory damages for the pain, suffering, emotional distress, anguish and humiliation caused him by Defendant's actions and omissions;
- D. Plaintiff is to be awarded liquidated damages under the ADEA, in an amount equal to his back pay losses, due to Defendant's willful violations of the ADEA's anti-retaliation provision;

- E. Plaintiff is to be accorded other equitable and legal relief as the Court deems just, proper and appropriate;
- F. Plaintiff is to be awarded the costs and expenses of this action, and his legal fees;
- G. Plaintiff's claims are to receive a trial by jury to the extent allowed by applicable law;
- H. Plaintiff has also endorsed this demand on the caption of this Complaint in accordance with Federal Rule of Civil Procedure 38(b).

Respectfully submitted,

WEINSTEIN LAW FIRM, LLC

By: /s/ Marc E. Weinstein
Marc E. Weinstein, Esquire
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Fort Washington, PA 19034
267.513.1942 tel
PA Atty No. 79474
marc@meweinsteinlaw.com
Counsel to Plaintiff

Dated: September 24, 2024

CIVIL COVER SHEET

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
STEVEN M. PAPI
(b) County of Residence of First Listed Plaintiff DELAWARE COUNTY
(c) Attorneys (Firm Name, Address, and Telephone Number)
Marc E. Weinstein WEINSTEIN LAW FIRM, LLC 500 Office Center Dr., Ste. 400, Ft. Washington, PA 19034

DEFENDANTS
COUNTY OF DELAWARE
County of Residence of First Listed Defendant
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)
PTF DEF
Citizen of This State 1 1
Citizen of Another State 2 2
Citizen or Subject of a Foreign Country 3 3
Incorporated or Principal Place of Business In This State 4 4
Incorporated and Principal Place of Business In Another State 5 5
Foreign Nation 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: Nature of Suit Code Descriptions.

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes codes for various legal actions like 110 Insurance, 310 Airplane, 365 Personal Injury, 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):
29 U.S.C. § 623(d), 42 U.S.C. § 12203(b)
Brief description of cause:
EMPLOYMENT DISCRIMINATION/RETALIATION

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$
CHECK YES only if demanded in complaint: JURY DEMAND: [X] Yes [] No

VIII. RELATED CASE(S) IF ANY (See instructions):
JUDGE DOCKET NUMBER

DATE Sep 24, 2024 SIGNATURE OF ATTORNEY OF RECORD [Signature]

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: Delaware County

Address of Defendant: 201 West Front Street, Media, PA 19063

Place of Accident, Incident or Transaction: Defendant's address

RELATED CASE IF ANY:

Case Number: Judge: Date Terminated

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? Yes No [X]
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: 9/24/24

Attorney-at-Law (Must sign above)

79474

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 XXXXXX
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, Marc E. Weinstein, 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:

[X] Relief other than monetary damages is sought.

DATE: 9/24/24

Marc E. Weinstein signature

Attorney-at-Law (Sign here if applicable)

79474

Attorney ID # (if applicable)

NOTE: A trial de novo will be a jury only if there has been compliance with F.R.C.P. 38.