

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF KENTUCKY
LEXINGTON DIVISION**

JEREMY GAYHEART,)	
)	
Plaintiff,)	
)	
vs.)	CASE NO.
)	
LEXINGTON-FAYETTE COUNTY)	
HEALTH DEPARTMENT)	
)	
)	
Defendant.)	
)	

COMPLAINT AND DEMAND FOR JURY TRIAL

I. NATURE OF THE CASE

1. Plaintiff, Jeremy Gayheart (“Gayheart” or “Plaintiff”), by counsel, brings this action against Defendant, Lexington-Fayette County Health Department (“Defendant”), for violating the Americans with Disabilities Act of 1990 (“ADA”), as amended, 42 U.S.C. §12101 *et seq.*, Title VII of the Civil Rights Act of 1964, as amended 42 U.S.C. §2000e *et. seq.*, and Kentucky State Law.

II. PARTIES

2. Gayheart is a resident of Scott County, Kentucky, who at all relevant times to this action worked within the geographical boundaries of the Eastern District of Kentucky.

3. Defendant routinely conducts business within the geographical boundaries of the Eastern District of Kentucky.

III. JURISDICTION AND VENUE

4. Jurisdiction is conferred on this Court over the subject matter of this litigation pursuant to 28 U.S.C. §1331; 28 U.S.C. §1343; 28 U.S.C. §1367; 42 U.S.C. §2000e-5(f)(3) and 42 U.S.C. §12117.

5. Jurisdiction is conferred on Gayheart's state law claims pursuant to 28 U.S.C. §1367 because his state law claims arise from the same common nucleus of operative facts as his federal law claims and all of his claims form a single case and controversy under Article III of the United States Constitution.

6. Defendant is an "employer" as that term is defined by 42 U.S.C. §2000e(b), 42 U.S.C. §12111(5), and KRS 344.030(2).

7. Gayheart was an "employee" as that term is defined by 42 U.S.C. §2000e(f), 42 U.S.C. §12111(4), and KRS 344.030(5).

8. Plaintiff has a "disability" as that term is defined by 42 U.S.C. §12102(2) and KCRA 344.010(4).

9. Gayheart satisfied his obligation to exhaust his administrative remedies having timely filed a Charge of Discrimination with the U.S. Equal Employment Opportunity Commission ("EEOC") against Defendant alleging discrimination/retaliation based on disability and sex. Gayheart received the required Notice of his Right to Sue and timely files this action.

10. A substantial part of the events, transactions, and occurrences relevant to this lawsuit arose within the geographical environs of the Eastern District of Kentucky; thus, venue is proper in this Court.

IV. FACTUAL ALLEGATIONS

11. Plaintiff began working for Defendant in or about August 2022, as a registered nurse.

12. At all relevant times, Plaintiff met or exceeded Defendant's legitimate expectations.

13. Plaintiff is a qualified individual with a disability as that term is defined by the ADA. Specifically, Plaintiff suffers from clinical depression, generalized anxiety disorder, esophageal spasms, and post-traumatic stress disorder. These disabilities impact one or more major life activities.

14. On or about September 2, 2022, Plaintiff was approved for paternity leave through September 16, 2022, after his wife gave birth to their second child.

15. Prior to taking paternity leave, Plaintiff informed Defendant that he was seeking medical treatment with his primary care physician due to various issues that had exacerbated his disabilities. Specifically, he notified Defendant that he was going to be placed on workplace restrictions due to his disabilities and would need an accommodation.

16. While on paternity leave, Plaintiff's grandfather passed away. Plaintiff notified Defendant of this.

17. On or about September 14, 2022, prior to his return from paternity leave, Plaintiff was terminated for missing too many days of work.

V. CAUSES OF ACTION
COUNT I: DISABILITY DISCRIMINATION

18. Gayheart hereby incorporates paragraphs one (1) through seventeen (17) of his Complaint as if the same were set forth at length herein.

19. Defendant violated Gayheart's rights as protected by the ADA, 42 U.S.C. §12101 *et seq.* and KCRA by discriminating against him because of his actual or perceived disability. Defendant failed to accommodate him and subjected him to disparate treatment because of his disabilities in violation of the ADA and KCRA.

20. Gayheart's employment was terminated because of his disability.

21. Defendant's actions were intentional, willful, and in reckless disregard of Gayheart's rights as protected by the ADA and the KCRA.

22. Gayheart has suffered damages as a result of the Defendant's unlawful actions.

COUNT II: SEX DISCRIMINATION

23. Gayheart hereby incorporates paragraphs one (1) through twenty-two (22) of his Complaint as if the same were set forth at length herein.

24. Gayheart's employment was terminated because of his sex and utilizing paternity leave.

25. Defendant's actions were intentional, willful, and in reckless disregard of Gayheart's rights as protected by Title VII and the KCRA.

26. Gayheart has suffered damages as a result of Defendant's unlawful actions.

COUNT III: ADA & SEX – RETALIATION

27. Gayheart hereby incorporates paragraphs one (1) through twenty-six (26) of his Complaint as if the same were set forth at length herein.

28. Gayheart engaged in a protected activity under the ADA by requesting an accommodation.

29. Gayheart engaged in a protected activity under the Title VII by seeking paternity leave.

30. Defendant retaliated against Gayheart for exercising his rights under the ADA and KCRA.

31. Defendant retaliated against Gayheart for exercising his rights under Title VII and KCRA.

32. Defendant's actions were intentional, willful, and in reckless disregard of Gayheart's rights as protected by ADA and Title VII and KCRA.

33. Gayheart has suffered damages as a result of Defendant's actions.

VI. REQUESTED RELIEF

WHEREFORE, Plaintiff, Jeremy Gayheart, respectfully requests that this court enter judgment in his favor and award him the following relief:

1. Reinstatement of Gayheart's employment to the position, salary, and seniority level he would have enjoyed but for Defendant's unlawful actions; and/or payment to Gayheart of front pay in lieu thereof;
2. All wages, benefits, compensation, and other monetary loss suffered as a result of Defendant's unlawful actions;
3. Compensation for any and all other damages suffered as a consequence of Defendant's unlawful actions;
4. Compensatory damages for Defendant's violations of the ADA and the KCRA;
5. Punitive damages for Defendant's violations of the ADA, Title VII, and the KCRA;
6. All costs and attorney's fees incurred as a result of bringing this action;
7. Pre- and post-judgment interest on all sums recoverable; and
8. All other legal and/or equitable relief this Court sees fit to grant.

Respectfully submitted,

BIESECKER DUTKANYCH & MACER, LLC
By: /s/ Taylor J. Ferguson
Taylor J. Ferguson
144 North Delaware Street
Indianapolis, IN 46204
Telephone: (317) 991 - 4765

Email: tferguson@bdlegal.com
Counsel for Plaintiff, Jeremy Gayheart

DEMAND FOR JURY TRIAL

Plaintiff, Jeremy Gayheart, by counsel, requests a trial by jury on all issues deemed so triable.

Respectfully submitted,

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Counsel for Plaintiff, Jeremy Gayheart

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____)	
<i>Plaintiff</i>)	
v.)	Civil Action No.
_____)	
<i>Defendant</i>)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify):* _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: