

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

<p><b>SARAH LOWENSTEIN,</b></p> <p style="padding-left: 40px;"><b>Plaintiff,</b></p> <p style="padding-left: 80px;">v.</p> <p><b>CATHOLIC HEALTH EAST, ST. MARY MEDICAL CENTER and CLAIRE SHANKS,</b></p> <p style="padding-left: 40px;"><b>Defendants.</b></p>	<p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p>	<p><b>CIVIL ACTION</b></p> <p><b>NO. 11-4689</b></p>
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**ORDER**

**AND NOW**, this 26th day of October, 2011, upon consideration of Defendants Catholic East, et al. Motion to Dismiss (in Part) the Complaint (Document No. 6, filed September 26, 2011); and Plaintiff Sarah Lowenstein’s Answer in Opposition to Defendants’ Motion to Dimiss [sic] in Part (Document No. 13, filed October 14, 2011), for the reasons set forth in the Memorandum dated October 26, 2011, **IT IS ORDERED** that Defendants Catholic East, et al. Motion to Dismiss (in Part) the Complaint is **DENIED IN PART** and **GRANTED IN PART**, as follows:

1. Those parts of defendants’ motion that relate to plaintiff’s claims against defendant Catholic Health East are **GRANTED**;
2. Those parts of defendants’ motion that relate to plaintiff’s withdrawn claims—(1) plaintiff’s claims against defendant Claire Shanks (“Shanks”) under the Americans with Disabilities Act (“ADA”), (2) plaintiff’s claim for compensatory damages

under the Family and Medical Leave Act (“FMLA”), (3) plaintiff’s claim for compensatory damages under the anti-retaliation provision of the ADA, and (4) plaintiff’s hostile work environment claim under the FMLA—are **GRANTED**; and

3. The motion is **DENIED** in all other respects.<sup>1</sup>

**IT IS FURTHER ORDERED** that the denial of defendants’ Motion to Dismiss, in part, is without prejudice to defendants’ right to raise the issues presented by motion for summary judgment or at trial.

**BY THE COURT:**

**/s/ Jan E. DuBois**

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**JAN E. DUBOIS, J.**

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<sup>1</sup>Remaining for adjudication are (1) plaintiff’s claims against St. Mary Medical Center (“SMMC”) and Shanks for denial of FMLA benefits and interference with the exercise of FMLA rights, with the parties agreeing that compensatory damages are not available; (2) claims against SMMC under the ADA for harassment, hostile work environment, retaliation, and wrongful termination, with the parties agreeing that compensatory damages are not available as to the retaliation claim; and (3) claims against SMMC and Shanks under the Pennsylvania Human Relations Act for harassment, hostile work environment, retaliation, and wrongful termination.