

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 by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required or use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

1. (a) PLAINTIFFS

LOUIS EBERLE

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

(c) Attorney's (Firm Name, Address, and Telephone Number) SIDNEY L. GOLD, ESQUIRE #21374 LAW OFFICES OF SIDNEY L. GOLD & ASSOC. P.C. 1835 MARKET ST., STE 515, PHILA., PA 19103 TELEPHONE (215) 569-1999

DEFENDANTS

KAPLAN HIGHER EDUCATION CORPORATION

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

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

Attorneys (If Known)

11. 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)

111. 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, DEF 1, DEF 4, DEF 5, DEF 6

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

Table with 5 main columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, SOCIAL SECURITY, FEDERAL TAX SUITS, BANKRUPTCY, OTHER STATUTES. Includes sub-sections like PERSONAL INJURY, REAL PROPERTY, LABOR, SOCIAL SECURITY, FEDERAL TAX SUITS.

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, 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

ADEA

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R. CP. 23 DEMANDS \$150,000 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) instructions): IF ANY NONE

DATE NOVEMBER 30, 2011 SIGNATURE OF ATTORNEY OF RECORD X /S/ SIDNEY L. GOLD, ESQUIRE DOCKET NUMBER

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

Dockets.Justia.com

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 appropriate calendar.

Address of Plaintiff: 758 MUELLER ROAD, WARMINSTER, PENNSYLVANIA 18974

Address of Defendant: 177 FRANKLIN MILLS BOULEVARD, PHILADELPHIA, PENNSYLVANIA 19154

Place of Accident, Incident or Transaction: 177 FRANKLIN MILLS BOULEVARD, PHILADELPHIA, PENNSYLVANIA 19154 (Use Reverse Side For Additional Space)

Does this case involve mutidistrict litigation possibilities? Yes [] No [X] 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 n 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 suitor any earlier numbered case pending or within one year previously terminated action in this court? Yes [] No [X]

CIVIL: (Place X in ONE CATEGORY ONLY)

A. Federal Question Case&

- 1. [] Indemnity Contract, Marine Contract, and All Other Contracts
2. [] FELA
3. [] Jones Act-Personal Injury
4. [] Antitrust
5. [] Patent
6. [] Labor-Management Relations
7. [X] Civil Rights
8. [] Habeas Corpus
9. [] Securities Act(s) Cases
10. [] Social Security Review Cases
11. [] 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. [] Products Liability -Asbestos
9. [] All other Diversity Cases (Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

SIDNEY L. GOLD, ESQUIRE, counsel of record do hereby certify:

- [X] Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum d \$150,000.00 exclusive of interest and costs;
[X] Relief other than monetary damages is sought.

DATE: November 30, 2011

/s/ SIDNEY L. GOLD, ESQUIRE Attorney-at-Law

SLG-21374 Attorney I.D.#

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

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previous ly terminated action in this court except as noted above.

DATE: November 30, 2011

/s/ SIDNEY L. GOLD, ESQUIRE Attorney-at-Law

SLG-21374 Attorney I.D.#

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Place of Accident, Incident or Transaction: 177 FRANKLIN MILLS BOULEVARD, PHILADELPHIA, PENNSYLVANIA 19154

(Use Reverse Side For Additional Space)

Does this case involve mutidistrict litigation possibilities?

Yes []

No [x]

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

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

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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 suitor any earlier numbered case pending or within one year previously terminated action in this court?

Yes []

No [x]

CIVIL: (Place X in ONE CATEGORY ONLY)

A. Federal Question Case&

B. Diversity Jurisdiction Cases:

- 1. [] Indemnity Contract, Marine Contract, and All Other Contracts
2. [] FELA
3. [] Jones Act-Personal Injury
4. [] Antitrust
5. [] Patent
6. [] Labor-Management Relations
7. [x] Civil Rights
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9. [] Securities Act(s) Cases
10. [] Social Security Review Cases
11. [] All other Federal Question Cases (Please specify)

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2. [] Airplane Personal Injury
3. [] Assault, Defamation
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5. [] Motor Vehicle Personal Injury
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8. [] Products Liability -Asbestos
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DATE: November 30, 2011

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SLG-21374 Attorney I.D.#

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I certify that, to my knowledge, the within case is not related to any case now pending or within one year previous ly terminated action in this court except as noted above.

DATE: November 30, 2011

[Signature] /s/ SIDNEY L. GOLD, ESQUIRE Attorney-at-Law

SLG-21374 Attorney I.D.#

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

CASE MANAGEMENT TRACK DESIGNATION FORM

LOUIS EBERLE, PLAINTIFF

CIVIL ACTION

v.
**KAPLAN HIGHER EDUCATION
CORPORATION, DEFENDANT**

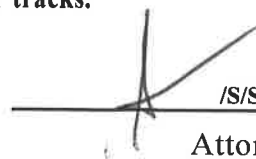
NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus -- Cases brought under 28 U.S.C. § 2241 through §2255. ()
- (b) Social Security - Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration -- Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (c) Asbestos -- Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (d) Special Management -- Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (e) Standard Management -- Cases that do not fall into any one of the other tracks. (X)

November 30, 2011
Date



/S/SIDNEY L. GOLD, ESQUIRE
Attorney-at-law

- /S/SIDNEY L. GOLD, ESQUIRE

Attorney for Plaintiff

**U.S. DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LOUIS EBERLE,

Plaintiff,

vs.

KAPLAN HIGHER EDUCATION
CORPORATION,

Defendant.

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CIVIL ACTION NO.:

JURY TRIAL DEMANDED

COMPLAINT AND JURY DEMAND

I. PRELIMINARY STATEMENT:

1. This is an action for an award of damages, declaratory and injunctive relief, attorney's fees and other relief on behalf of Plaintiff, Louis Eberle ("Plaintiff Eberle"), a former employee of Defendant, Kaplan Higher Education, who has been harmed by the Defendant's discriminatory employment practices.

2. This action is brought under the Age Discrimination in Employment Act ("ADEA") and the Pennsylvania Human Relations act ("PHRA"), 43 P.S. §951, et seq.

II. JURISDICTION AND VENUE:

3. The original jurisdiction of this Court is invoked, and venue is in this district, pursuant to Title 28 U.S.C. §§1331 and 1391, and the claim is substantively based on the ADEA.

4. The supplemental jurisdiction of this Court is invoked pursuant to Title 28 U.S.C. § 1367, to consider the Plaintiff's claims arising under the Pennsylvania Human Relations Act, 43 P.S. §951, et seq.

5. All conditions precedent to the institution of this suit have been fulfilled.

III. PARTIES:

6. Plaintiff, Louis Eberle (“Plaintiff Eberle”), is an eighty (80) year old individual and citizen of Commonwealth of Pennsylvania, residing therein at 758 Mueller Road, Warminster, Pennsylvania 18974

7. Defendant, Kaplan Higher Education Corporation (“Defendant”), is a corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania, maintaining a place of business located at 177 Franklin Mills Boulevard in Philadelphia, Pennsylvania 19154.

8. At all times relevant hereto, Defendant was acting through its agents, servants, and employees, who were acting within the scope of their authority, course of employment, and under the direct control of the Defendant.

9. At all times material herein, the Defendant has been a “person” and an “employer” within the meaning of the ADEA and the PHRA and has been, and is, subject to the provisions of each said act.

IV. STATEMENT OF FACTS:

10. Plaintiff, an eighty (80) year old individual, was employed by the Defendant from in or about September 2, 2006 until on or about November 5, 2009, the date of his unlawful termination.

11. Plaintiff worked with Defendant as a Teacher in Kaplan's School of Business (also known as CHI Institute). At all times during his employment in said position, Plaintiff performed his teaching responsibilities in a competent, dutiful and satisfactory manner.

12. On or about July 13, 2009, Defendant asked Plaintiff to work as full-time teacher in CHI Institute's Electrical program. Complainant accepted the position.

13. The day after the aforementioned conversation, on or about July 15, 2009, Dorothy McCaden ("McCaden"), Director of Education, unjustifiably informed Plaintiff that he had "three days" to prove to her that he had "no problem" teaching the students.

14. On or about July 16, 2009, McCaden informed Plaintiff that his full-time position was being replaced with a "younger teacher." Plaintiff was offered to stay on in a substitute teacher capacity.

15. McCaden thereupon replaced Plaintiff's full-time position with Don LNU, a significantly younger individual.

16. On or about November 2, 2009, Don transferred to the night program and, upon information and belief, suggested to McCaden that Plaintiff replace his full-time position.

17. Instead, McCaden replaced Don with another teacher who was significantly younger than Plaintiff.

18. Thereafter, on or about November 5, 2009, Plaintiff raised errors in his pay check to McCaden. McCaden responded that she did not "like his attitude" and, without notice, terminated Plaintiff's employment.

19. The Plaintiff believes and avers that the stated reason for his termination was pretextual and that his employment was terminated solely because of his age, which, at the time, was seventy-eight (78) years old.

COUNT I
Plaintiff Eberle v. the Defendant
(ADEA–Age Discrimination)

20. Plaintiff Eberle incorporates by reference paragraphs 1 through 19 of his Complaint as though fully set forth herein.

21. The actions of the Defendant, through its agents, servants and employees, in subjecting the Plaintiff to harassment and discrimination in the terms, conditions and privileges of his employment based on his age and ultimately resulting in his termination constitute a violation of the ADEA.

22. As a direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the ADEA, Plaintiff Eberle has sustained severe emotional and psychological distress, a loss of earnings, plus the loss of future earning power, plus back pay, and front pay and interest due thereon.

COUNT II
Plaintiff Eberle v. the Defendant
(PHRA–Age Discrimination)

23. Plaintiff Eberle incorporates by reference paragraphs 1 through 22 of his Complaint as though fully set forth herein.

24. The actions of the Defendant, through its agents, servants and employees, in subjecting Plaintiff Eberle to harassment and discrimination in the terms, conditions and privileges of his employment based on his age, ultimately resulting in his termination, constitutes a violation of the PHRA.

25. As a direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the PHRA, Plaintiff Eberle has sustained severe emotional and psychological distress, a loss of earnings, plus the loss of future earning power, plus back pay, and front pay and interest due thereon.

PRAYER FOR RELIEF

26. Plaintiff Eberle incorporates by reference paragraphs 1 through 25 of his Complaint as though fully set forth herein.

WHEREFORE, Plaintiff Eberle requests that this Court enter judgment in his favor and against the Defendant and Order that:

a. the Defendant compensate the Plaintiff with the rate of pay and other benefits and emoluments of employment, to which he would have been entitled had he not been subjected to unlawful discrimination and retaliation;

- b. The Defendant compensate Plaintiff with an award of front pay, if appropriate;
- c. the Defendant pay to Plaintiff compensatory damages for future pecuniary losses, pain, suffering, inconvenience, mental anguish, and other nonpecuniary losses as allowable;
- d. the Defendant pay to Plaintiff punitive damages, pre- and post-judgment interest, costs of suit and attorney and expert witness fees as allowed by law;
- e. The Court award such other relief as is deemed just and proper.

JURY DEMAND

Plaintiff demands trial by jury.

SIDNEY L. GOLD & ASSOC., P.C.

By: /s/ Sidney L. Gold, Esquire
SIDNEY L. GOLD, ESQUIRE
Attorney I.D. NO.: 21374
BRENDAN D. HENNESSY, ESQUIRE
Attorney I.D. NO: 91831
1835 Market Street, Suite 515
Philadelphia, PA 19103
(215) 569-1999
Attorneys for Plaintiff

DATED: November 30, 2011

VERIFICATION

I hereby verify that the statements contained in this **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 Title 18 Pa. C.S.A. §4904, relating to unsworn falsification to authorities.

DATE: 11/28/2011



LOUIS EBERLE, Plaintiff