

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

<p>BERLAINE SMITH MELTON <i>Plaintiff,</i></p> <p style="text-align: center;">v.</p> <p>SEPTA, SYLVIA FRITZ, and DENNIS PAPADEAS, <i>Defendants.</i></p>	<p>CIVIL ACTION</p> <p>NO. 23-1260</p>
---	--

ORDER RE: MOTION TO DISMISS

AND NOW this 25th day of September, 2024, upon review of Defendants' Motion to Dismiss, ECF 51, Plaintiff's Response, ECF 56, and Defendants' Reply, ECF 57, it is hereby **ORDERED** that this Court **GRANTS in part with prejudice** and **DENIES in part** Defendant's Motion to Dismiss, as detailed below:

- The Court dismisses Counts I, II, III, IV, VII, VIII without leave to amend;
- The Court dismisses Count V as to Papadeas and Fritz without leave to amend;
- The Court dismisses Count VI without leave to amend as to Papadeas in full, as to Fritz for the ADA, ADEA, Title VII, § 1981, and the PHRA (to the extent the claim rests on non-disability related allegations), and as to SEPTA for claims relating to Melton's April 2021 internal complaint; and
- The Court dismisses Count IX without leave to amend as to Papadeas in full and as to Fritz and SEPTA in part to the extent the claims rests on non-disability related allegations.

This case will proceed only as to the following Counts:

- Count VI against SEPTA for retaliation under the ADA and PHRA only as it relates to allegations of retaliation based on purported disability;
- Count V as to SEPTA for discrimination on the basis of disability under the ADA;

- Count IX as to SEPTA and Fritz for allegations of disability discrimination under the PHRA.

BY THE COURT:

s/ Michael M. Baylson

MICHAEL M. BAYLSON

United States District Court Judge

\\adu.dcn\paed\PHL-DATA\Judge_Baylson\CIVIL 23\23-1260 Melton v. SEPTA\23-cv-1260 Order Second Motion to Dismiss.docx