

JS 44 (Rev. 06/17)

**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**

MICHELLE T. SEIDNER

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

(c) Attorneys (Firm Name, Address, and Telephone Number)  
Kevin Console, Esquire  
Console Mattiacci Law, LLC  
1525 Locust Street, 9th Floor, Philadelphia, PA 19102 215-545-7676

**DEFENDANTS**

CITY OF PHILADELPHIA & DISTRICT ATTORNEY LAWRENCE KRASNER

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

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  
 3 Federal Question (U.S. Government Not a Party)  
 2 U.S. Government Defendant  
 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)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | <b>PTF</b>                 | <b>DEF</b>                 |   | <b>PTF</b>                 | <b>DEF</b>                 |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act  <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**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 et seq. ("ADEA")

Brief description of cause:

Plaintiff brings this action against her former employers for unlawful discrimination based on her age.

**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:**  Yes  No

**VIII. RELATED CASE(S) IF ANY**

(See instructions): JUDGE Gene E.K. Pratter DOCKET NUMBER 19-4039

DATE 09/20/2019 SIGNATURE OF ATTORNEY OF RECORD /s/ Kevin Console

**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 or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: Philadelphia, PA 19128

Address of Defendant: Three South Penn Square, Philadelphia, PA 19107

Place of Accident, Incident or Transaction: \_\_\_\_\_

**RELATED CASE, IF ANY:**

Case Number: 19-4039 Judge: Gene E.K. Pratter 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 <input type="checkbox"/>            | No <input checked="" type="checkbox"/> |
| 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 <input checked="" type="checkbox"/> | No <input type="checkbox"/>            |
| 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 <input type="checkbox"/>            | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> |

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

DATE: 09/20/2019 /s/ Kevin Console 317235  
*Attorney-at-Law / Pro Se Plaintiff* *Attorney I.D. # (if applicable)*

**CIVIL: (Place a ✓ 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. Patent
- 6. Labor-Management Relations
- 7. 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**

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Kevin Console, Esquire, counsel of record or pro se plaintiff, do hereby certify:

- 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:
- Relief other than monetary damages is sought.

DATE: 09/20/2019 /s/ Kevin Console 317235  
*Attorney-at-Law / Pro Se Plaintiff* *Attorney I.D. # (if applicable)*

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

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

**CASE MANAGEMENT TRACK DESIGNATION FORM**

MICHELLE T. SEIDNER	:	CIVIL ACTION
	:	
PLAINTIFF,	:	
	:	
v.	:	
	:	
CITY OF PHILADELPHIA & DISTRICT	:	
ATTORNEY LAWRENCE KRASNER	:	NO.
	:	
DEFENDANTS.		

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. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) 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.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ( x )

Sept. 20, 2019	/s/ Kevin Console	<b>Plaintiff, Michelle T. Seidner</b>
Date	Attorney-at-law	Attorney for
(215) 545-7676	(215) 701-2344	kevinconsole@consolelaw.com
Telephone	FAX Number	E-Mail Address

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

<p><b>MICHELLE T. SEIDNER</b> Philadelphia, PA 19128</p>	<p>:</p>	<p><b>CIVIL ACTION NO.</b></p>
	<p>:</p>	
<p><b>Plaintiff,</b></p>	<p>:</p>	
	<p>:</p>	
<p>v.</p>	<p>:</p>	
	<p>:</p>	
<p><b>CITY OF PHILADELPHIA</b> Three South Penn Square Philadelphia, PA 19107</p>	<p>:</p>	
	<p>:</p>	
<p><b>&amp;</b></p>	<p>:</p>	
	<p>:</p>	
<p><b>DISTRICT ATTORNEY LAWRENCE KRASNER</b> Three South Penn Square Philadelphia, PA 19107</p>	<p>:</p>	
	<p>:</p>	
<p><b>Defendants.</b></p>	<p>:</p>	<p><b>JURY TRIAL DEMANDED</b></p>
	<p>:</p>	

**COMPLAINT**

**I. INTRODUCTION**

Plaintiff, Michelle T. Seidner, devoted over thirty-four (34) years of her life as an employee of the City of Philadelphia (“Defendant City”) in the District Attorney’s Office. Plaintiff began her career as an Assistant District Attorney in the Municipal Court division and, amidst stellar performance, rose the organizational ranks to earn a position in the prestigious Economic and Cyber Crime Unit. However, in January 2018, Defendant City, and Lawrence Krasner, District Attorney of the City of Philadelphia (“Defendant Krasner”) (collectively referred to as “Defendants”), terminated Plaintiff’s employment without any explanation or advance warning. Defendants did so because of Plaintiff’s age.

Plaintiff now brings claims against Defendant City for violations of the Age Discrimination in Employment Act, as amended, 29 U.S.C. §623 *et seq.* (“ADEA”); the Equal Protection Clause of the Constitution pursuant 42 U.S.C. §1983 (“Section 1983”); the Pennsylvania Human Relations Act, as amended, 43 P.S. §951, *et seq.* (“PHRA”); and the Philadelphia Fair Practices Ordinance, as amended, Phila. Code §9-1101, *et seq.* (“PFPO”). Plaintiff brings claims against Defendant Krasner pursuant to Section 1983. Plaintiff seeks damages, including back-pay, front-pay, compensatory, punitive, liquidated, costs and attorneys’ fees, and all other relief that this Court deems appropriate.

## **II. PARTIES**

1. Plaintiff, Michelle T. Seidner, is an individual and a citizen of the Commonwealth of Pennsylvania.
2. Plaintiff was sixty (60) years of age at the time of her termination.
3. Defendant City is a political subdivision of the Commonwealth of Pennsylvania, with an office located at Three South Penn Square, Philadelphia, Pennsylvania 19107.
4. Defendant Krasner is the current District Attorney of Defendant City. He is exclusively being sued in his individual capacity.
5. At all times material hereto, Defendant City employed more than twenty (20) employees.
6. Defendants have engaged in a pattern and practice of considering age when making employment decisions.
7. At all times material hereto, Defendants instituted, acquiesced in, ratified and/or made employment decisions based on age.

8. At all times material hereto, Defendant City acted by and through its authorized agents, servants, workmen, and/or employees acting within the course and scope of their employment with Defendant City and in furtherance of Defendant City's business.
9. At all times material hereto, Defendant City acted as an employer within the meaning of the statutes forming the basis of this matter.
10. At all times material hereto, Plaintiff was an employee of Defendant City within the meaning of the statutes forming the basis of this matter.

### **III. JURISDICTION AND VENUE**

11. The causes of action which form the basis of this matter arise under the ADEA, Section 1983, the PHRA, and the PFPO.
12. The District Court has jurisdiction over Count I (ADEA) pursuant to 28 U.S.C. §1331.
13. The District Court has jurisdiction over Count II (Section 1983) pursuant to 28 U.S.C. §1331.
14. The District Court has supplemental jurisdiction over Count III (PHRA) pursuant to 28 U.S.C. §1367.
15. The District Court has supplemental jurisdiction over Count IV (PFPO) pursuant to 28 U.S.C. §1367.
16. Venue is proper in the District Court under 28 U.S.C. §1391(b) and 42 U.S.C. §2000e-5.
17. On or about March 23, 2018, Plaintiff filed a Complaint with the Pennsylvania Human Relations Commission ("PHRC"), complaining of the acts of discrimination alleged herein. This Complaint was cross-filed with Equal Employment Opportunity Commission ("EEOC"). Attached hereto, incorporated herein and marked as Exhibit

“A” is a true and correct copy of the Complaint (with personal identifying information redacted).

18. On or about June 25, 2019, the EEOC issued to Plaintiff a Notice of Right to Sue for her Complaint. Attached hereto, incorporated herein and marked as Exhibit “B” is a true and correct copy of the notice with personal identifying information redacted.

19. Plaintiff has fully complied with all administrative prerequisites for the commencement of this action.

**IV. FACTUAL ALLEGATIONS**

20. Plaintiff was hired by Defendant City on or about November 3, 1983.

21. On or about January 5, 2018, Plaintiff was notified that her employment with the city was being terminated, effective on or about January 12, 2018.

22. Over the course of her employment, Plaintiff served as an Assistant District Attorney within various units of Defendant City DA’s Office.

23. At the time of her termination, Plaintiff held the position of Assistant District Attorney within the Economic and Cyber Crimes Unit.

24. Plaintiff consistently performed her job duties in a highly competent manner and received positive performance feedback.

25. At the time of her termination, Plaintiff reported to Lisa Caulfield (“Caulfield”), Chief, Economic and Cyber Crime Unit.

26. Upon information and belief, Caulfield was approximately forty-two (42) years of age as of January 2018.

27. Caulfield reported to Sybil Murphy (“Murphy”), Deputy of Investigations Division.

28. Murphy reported to John Delaney (“Delaney”), First Assistant District Attorney and Deputy of Trial Division.
29. Delaney reported to Defendant Krasner.
30. At all times material hereto, Defendants have exhibited an age bias as it pertains to employment decisions in the District Attorney’s Office.
31. In an interview published by *The Intercept* on May 16, 2017, regarding his plans if elected District Attorney, Defendant Krasner stated the following: “There are other people who are going to be made to leave because you cannot bring about real change and leave people in place who are going to fight change every step of the way. The ones who will leave will tend to be my generation, people who started in this business 30 years ago, which means they’ll also tend to be white and male. That results in more openings, opportunities for greater diversity . . . the office will become a tremendous magnet for new talent . . . And there are a lot of just malleable, mostly younger attorneys who did what they were told, and always wanted to do the right thing, and with proper training will do the right thing. I think real cultural change is possible.”
32. On November 7, 2017, Defendant Krasner was elected as Defendant City’s next District Attorney.
33. On January 2, 2018, Defendant Krasner was sworn in as Defendant City’s District Attorney.
34. On January 5, 2018, Defendants notified Plaintiff by letter that, if she did not retire or resign by January 8, 2018, her employment would be terminated effective January 12, 2018.
35. Defendants offered no options for Plaintiff to remain employed.



36. On January 12, 2018, Defendants terminated Plaintiff's employment, effective immediately.
37. Defendants did not interview Plaintiff, inform Plaintiff of any selection criteria, or provide Plaintiff with any reason for her termination.
38. Plaintiff had no disciplinary or performance issues throughout her more than thirty-four (34) years of employment with Defendant City.
39. Defendants terminated several other employees over age fifty (50), including Delaney, effective January 12, 2018.
40. Upon information and belief, Delaney was approximately sixty-one (61) years of age as of his termination.
41. Plaintiff was Caulfield's only direct report terminated effective January 12, 2018.
42. As of Plaintiff's termination, Defendants retained Caulfield's two (2) other direct reports: Kimberly Esack ("Esack"), Assistant District Attorney, and Harold "Rich" Bauer ("Bauer"), Assistant District Attorney.
43. Upon information and belief, Esack is substantially younger than Plaintiff, and was approximately thirty-eight (38) years of age as of Plaintiff's termination.
44. Upon information and belief, Bauer is substantially younger than Plaintiff, and was approximately forty-five (45) years of age as of Plaintiff's termination.
45. Both Esack and Bauer are less experienced and less qualified than Plaintiff.
46. Defendants failed to provide any explanation, including the selection criteria, as to why Plaintiff was terminated while the substantially younger and less qualified Esack and Bauer were retained.

47. Upon her termination, Plaintiff's job duties were assigned to substantially younger and less qualified employees, including but not limited to Esack and Bauer.
48. After Plaintiff's termination, Defendants hired and/or promoted a considerable number of substantially younger and less qualified Assistant District Attorneys.
49. Plaintiff's age was a motivating and/or determinative factor in Defendants' discriminatory treatment of Plaintiff, including the termination of her employment.
50. Defendants have failed to provide a legitimate, non-discriminatory reason for Plaintiff's termination.
51. As a direct and proximate result of the discriminatory conduct of Defendants, Plaintiff has in the past incurred, and may in the future incur, a loss of earnings and/or earning capacity, loss of benefits, pain and suffering, embarrassment, humiliation, loss of self-esteem, mental anguish, and loss of life's pleasures, the full extent of which is not known at this time.
52. Defendants acted willfully and intentionally, and with malice and/or reckless indifference to Plaintiff's protected rights, thus warranting the imposition of punitive damages.

**COUNT I – ADEA**  
**(Plaintiff v. Defendant City)**

53. Plaintiff incorporates the foregoing paragraphs of this Complaint as if set forth herein in their entirety.
54. By committing the foregoing acts of discrimination against Plaintiff, Defendant City violated the ADEA.
55. Plaintiff's age was a motivating and/or determinative factor in Defendant City's termination of her employment.

56. Defendant City's violations of the ADEA were intentional and willful under the circumstances, warranting the imposition of liquidated damages.
57. As a direct and proximate result of Defendant City's violation of the ADEA, Plaintiff has sustained the injuries, damages, and losses set forth herein and has incurred attorneys' fees and costs.
58. Plaintiff is now suffering and may continue to suffer irreparable injuries and monetary damages as a result of Defendant City's discriminatory acts unless and until the Court grants the relief requested herein.
59. No previous application has been made for the relief requested herein.

**COUNT II – Section 1983**  
**(Plaintiff v. Defendants)**

60. Plaintiff incorporates the foregoing paragraphs of this Complaint as if set forth herein in their entirety.
61. By committing the foregoing acts of discrimination against Plaintiff, Defendants violated Section 1983.
62. Plaintiff's age was a motivating and/or determinative factor in Defendants' termination of her employment.
63. Defendants' discriminatory conduct, as set forth herein, deprived Plaintiff of equal protection under the law as guaranteed by the Fourteenth Amendment of the United States Constitution.
64. Defendants' constitutional violation included policies, practices, and/or customs to treat employees less favorably because of their age, and such was committed, directed, implemented, and/or ratified by Defendants.

65. Defendants acted willfully and/or intentionally with malice and/or reckless indifference to Plaintiff's federally protected rights, warranting the imposition of punitive damages.
66. As a direct and proximate result of Defendants' violation of Section 1983, Plaintiff has sustained the injuries, damages, and losses set forth herein, and has incurred attorneys' fees and costs.
67. Plaintiff is now suffering and may continue to suffer irreparable injury and monetary damages as a result of Defendants' discriminatory acts unless and until this Court grants the relief requested herein.
68. No previous application has been made for the relief requested herein.

**COUNT III – PHRA**  
**(Plaintiff v. Defendant City)**

69. Plaintiff incorporates the foregoing paragraphs of this Complaint as if set forth herein in their entirety.
70. By committing the foregoing acts of discrimination against Plaintiff, Defendant City violated the PHRA.
71. Plaintiff's age was a motivating and/or determinative factor in Defendant City's termination of her employment.
72. As a direct and proximate result of Defendant City's violation of the PHRA, Plaintiff has sustained the injuries, damages, and losses set forth herein, and has incurred attorneys' fees and costs.
73. Plaintiff is now suffering and may continue to suffer irreparable injuries and monetary damages as a result of Defendant City's discriminatory acts unless and until the Court grants the relief requested herein.
74. No previous application has been made for the relief requested herein.

**COUNT IV – PFPO**  
**(Plaintiff v. Defendant City)**

75. Plaintiff incorporates the foregoing paragraphs of this Complaint as if set forth herein in their entirety.
76. By committing the foregoing acts of discrimination against Plaintiff, Defendant City violated the PFPO.
77. Plaintiff's age was a substantial, motivating, and/or determinative factor in Defendant City's termination of her employment.
78. Defendant City acted willfully and/or intentionally with malice and/or reckless indifference to Plaintiff's federally protected rights, and Defendant City's conduct was especially egregious, warranting the imposition of punitive damages.
79. As a direct and proximate result of Defendant City's violation of the PFPO, Plaintiff has sustained the injuries, damages, and losses set forth herein, and has incurred attorney's fees and costs.
80. Plaintiff is now suffering and may continue to suffer irreparable injuries and monetary damages as a result of Defendant City's discriminatory acts unless and until the Court grants the relief requested herein.
81. No previous application has been made for the relief requested herein.

**RELIEF**

WHEREFORE, Plaintiff seeks damages and legal and equitable relief in connection with Defendants' discriminatory conduct, and specifically prays that the Court grant the following relief to Plaintiff by:

- (a) declaring the acts and practices complained of herein to be in violation of the ADEA;
- (b) declaring the acts and practices complained of herein to be in violation of Section 1983;

- (c) declaring the acts and practices complained of herein to be in violation of the PHRA;
- (d) declaring the acts and practices complained of herein to be in violation of the PFPO;
- (e) enjoining and permanently restraining the violations alleged herein;
- (f) entering judgment against Defendants and in favor of Plaintiff in an amount to be determined;
- (g) awarding compensatory damages to make Plaintiff whole for all lost earnings, earning capacity and benefits, past and future, which Plaintiff has suffered or may suffer as a result of Defendants' discriminatory conduct;
- (h) awarding compensatory damages to Plaintiff for past and future pain and suffering, emotional upset, mental anguish, humiliation, and loss of life's pleasures, which Plaintiff has suffered or may suffer as a result of Defendants' discriminatory conduct;
- (i) awarding Plaintiff back-pay;
- (j) awarding Plaintiff front-pay;
- (k) awarding liquidated damages to Plaintiff;
- (l) awarding punitive damages to Plaintiff;
- (m) awarding Plaintiff such other damages as are appropriate under the ADEA, Section 1983, the PHRA, and the PFPO;
- (n) awarding Plaintiff the costs of suit, expert fees and other disbursements, and reasonable attorneys' fees, and;

(o) granting such other and further relief as this Court may deem just, proper, or equitable, including other equitable and injunctive relief, providing restitution for past violations, and preventing future violations.

**CONSOLE MATTIACCI LAW LLC**

Dated: September 20, 2019

By: /s/ Kevin Console  
Kevin Console, Esq.  
1525 Locust St., 9<sup>th</sup> Floor  
Philadelphia, PA 19102  
(215) 545-7676

Attorney for Plaintiff,  
Michelle T. Seidner

# Exhibit “A”



Received  
MAR 23 2018  
PA Human Relations Commission  
Philadelphia Regional Office

COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE  
PENNSYLVANIA HUMAN RELATIONS COMMISSION

COMPLAINT

COMPLAINANT:

MICHELLE T. SEIDNER

v.

RESPONDENTS:

THE PHILADELPHIA DISTRICT  
ATTORNEY'S OFFICE

and

THE CITY OF PHILADELPHIA

and

LAWRENCE S. KRASNER, aider and abettor

Docket No. 201703329

1. The Complainant herein is:

Name: Michelle T. Seidner

Address: **REDACTED**  
Philadelphia, PA 19128

2. The Respondents herein are:

Names: The Philadelphia District Attorney's Office; The City of Philadelphia ("Respondent Entities"); Lawrence S. Krasner, aider and abettor

Address: Three South Penn Square  
Philadelphia, PA 19107

3. I, Michelle T. Seidner, the Complainant herein, allege that I was subjected to unlawful discrimination because of my age (60), as set forth below:

**Discrimination**

**A. I specifically allege:**

[1] I was hired by Respondent Entities on November 3, 1983. I consistently performed my job duties in a highly competent manner, and received positive feedback.

[2] At the time of my termination, I held the position of Assistant District Attorney.

[3] At the time of my termination, I reported to Lisa Caulfield (47<sup>1</sup>), Chief, Economic and Cyber Crime Unit. Caulfield reported to Sybil Murphy (55), Deputy of Investigations Division, who reported to John Delaney (61), First Assistant District Attorney and Deputy of Trial Division. Delaney reported to Lawrence S. Krasner (55), District Attorney.

[4] On November 7, 2017, Krasner was elected as Respondent Entities' next District Attorney.

[5] On January 2, 2018, Krasner was sworn in as Respondent Entities' District Attorney.

[6] On January 5, 2018, by letter signed by Arun S. Prabhakaran (42), Chief of Staff, Respondents terminated my employment. The letter stated that I should "be advised that [my] resignation or retirement from employment with the Philadelphia District Attorney's Office is terminated effective January 12, 2018, is requested [sic]." I was instructed to not return to Respondent Entities. I refused to resign or retire. The letter stated that if I did not resign by January 8, 2018, my employment with Respondent Entities would be terminated. I had no options to remain employed with Respondents.

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<sup>1</sup> All ages referenced herein are approximations.

[7] Respondents did not interview me, inform me of any criteria, or provide me with an opportunity to remedy any allegedly deficient performance or procedures before terminating my employment.

[8] I have had no disciplinary or performance issues throughout my more than thirty-four (34) years of service at Respondent Entities.

[9] I was Caulfield's only direct report terminated effective January 12, 2018.

[10] When I was terminated, Respondents retained Caulfield's two (2) other direct reports, both of whom are substantially younger than I am: Kimberly Esack (38), Assistant District Attorney; Harold "Rich" Bauer (45), Assistant District Attorney. I am more qualified and experienced to perform these employees' positions.

[11] Respondents failed to provide any explanation, including the selection criteria, as to why I was terminated and Esack and Bauer were retained.

[12] Esack will take over a portion my job duties. I am more qualified and experienced to perform my position than Esack.

[13] Respondents terminated several other employees over age fifty (50), including Delaney (61), effective January 12, 2018.

[14] Krasner has exhibited age bias in interviews given to the press, including an interview published by *The Intercept* on May 16, 2017. In this interview, Krasner stated the following: "There are other people who are going to be made to leave because you cannot bring about real change and leave people in place who are going to fight change every step of the way. The ones who will leave will tend to be my generation, people who started in this business 30 years ago, which means they'll also tend to be white and male. That results in more openings, opportunities for greater diversity, . . . the office will become a tremendous magnet for new

talent . . . . And there are a lot of just malleable, mostly younger attorneys who did what they were told, and always wanted to do the right thing, and with proper training will do the right thing. I think real cultural change is possible.”

[15] Respondents’ comments and conduct evidence a bias against older employees.

[16] Respondents’ conduct toward me has caused me emotional distress.

B. Based on the aforementioned, I allege that Respondents have discriminated against me because of my age (60), in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et seq.* (“Title VII”), the Age Discrimination in Employment Act, as amended, 29 U.S.C. § 623 *et seq.* (“ADEA”), the Pennsylvania Human Relations Act, as amended, 43 P.S. § 951, *et seq.* (“PHRA”), and the Philadelphia Fair Practices Ordinance, Phila. Code § 9-1101, *et seq.* (“PFPO”).

4. The allegations in Paragraph 3 hereof constitute unlawful discriminatory practices in violation of:

  X   Pennsylvania Human Relations Act (Act of October 27, 1955, P.L. 744, as amended) Section 5 Subsection(s):   (a); (e)  

       Section 5.1 Subsection(s) \_\_\_\_\_

       Section 5.2 Subsection(s) \_\_\_\_\_

       Pennsylvania Fair Educational Opportunities Act (Act of July 17, 1961, P.L. 766, as amended) Section 4 Subsection(s) \_\_\_\_\_

5. Other action based upon the aforesaid allegations has been instituted by the Complainant in any court or before any other commission within the Commonwealth of Pennsylvania as follows:

X This charge will be referred to the EEOC for the purpose of dual filing.

6. The Complainant prays that Respondents be required to:
- (a) Make the Complainant whole.
  - (b) Eliminate all unlawful discriminatory practice(s) and procedure(s).
  - (c) Remedy the discriminatory effect of past practice(s) and procedure(s).
  - (d) Take further affirmative action necessary and appropriate to remedy the violation complained of herein.
  - (e) Provide such further relief as the Commission deems necessary and appropriate.

**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 18 P.A.C.A. Section 4904, relating to unsworn falsification to authorities.

9/20/19  
\_\_\_\_\_  
(Date Signed)

*Michelle T. Seidner*  
\_\_\_\_\_  
(Signature) Michelle T. Seidner  
**REDACTED**  
Philadelphia, PA 19128

# Exhibit “B”

**DISMISSAL AND NOTICE OF RIGHTS**

To: **Seidner, Michelle T.**  
**LEGAL REP:**  
**Derstine Friesen, Emily R**  
**Console Mattiacci Law**  
**1525 Locust Street, 9th Floor**  
**Philadelphia, PA 19102**

From: **Philadelphia District Office**  
**801 Market Street**  
**Suite 1300**  
**Philadelphia, PA 19107**

*On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR §1601.7(a))*

EEOC Charge No.	EEOC Representative	Telephone No.
<b>17F-2018-60437C</b>	<b>Kurt Jung</b> <b>State, Local &amp; Tribal Program Manager</b>	<b>(267) 589-9749</b>

**THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

Other (*briefly state*)

**- NOTICE OF SUIT RIGHTS -**

*(See the additional information attached to this form.)*

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission



**06/25/2019**

Enclosures(s)

**Jamie R. Williamson**  
**District Director**

*(Date Mailed)*



**Seidner, Michelle T.**  
**LEGAL REP:**  
**Derstine Friesen, Emily R**  
**Console Mattiacci Law**  
**1525 Locust Street, 9th Floor**  
**Philadelphia, PA 19102**

**THE PHILADELPHIA DISTRICT ATTORNEY'S OFFICE;**  
**CITY OF PHILADE**  
**LEGAL REP:**  
**Swiatek, Lisa A**  
**City of Philadelphia Law Depar**  
**Division of Labor and Employme**  
**Philadelphia, PA 19102**