

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

LINDA PERKINS,

Plaintiff,

v.

WHITE AND WILLIAMS LLP

Defendant.

Civ. No. 2:19-cv-02313-GAM

REPORT OF RULE 26(f) MEETING

In accordance with Federal Rule of Civil Procedure 26(f), counsel for the parties conferred on November 12, 2019 and submit the following report of their meeting for the Court's consideration:

Date of Rule 16 Conference: **December 4, 2019** Time of Rule 16 Conference: **11:00 a.m.**

1. Discussion of Claims, Defenses, and Relevant Issues

A. Plaintiff's Portion

Plaintiff Linda Perkins is a highly experienced and accomplished trial attorney with over sixteen years of supervisory experience as a department chief with the Philadelphia District Attorney's Office and over six years as a partner at a prestigious regional law firm performing complex litigation work. Despite her qualifications, Ms. Perkins was marginalized, mocked, deprived of opportunities to develop her career and otherwise discriminated against and harassed on the basis of her race. As a result of the discrimination and harassment she was experiencing, Ms. Perkins raised her concerns internally and was retaliated against for complaining.

During the alleged investigation into Ms. Perkins' internal complaints of discrimination and harassment, White and Williams took steps to justify the predetermined conclusion of the

investigation that Ms. Perkins was a poor performing employee whose claims lacked any basis. At the conclusion of the investigation, Ms. Perkins received a blatantly biased report finding that Ms. Perkins' concerns were unfounded.

Since Ms. Perkins' internal complaints of discrimination and harassment, White and Williams has retaliated against Ms. Perkins and continues to marginalize her as an African American woman by, among other things, shunning her and shutting her out of almost all meaningful work and professional opportunities. Since Ms. Perkins filed her complaint in this matter, White and Williams has increased its retaliatory efforts by putting every attorney at the Firm on notice of her lawsuit and White and Williams' motion to dismiss, misleading her with respect to disability benefits and medical leave policies, denying benefits to Ms. Perkins that were within their discretion to grant, accusing Ms. Perkins of wrongdoing, further impeding Ms. Perkins' career prospects and opportunities for advancement, and further restricting Ms. Perkins' ability to obtain meaningful work and billable hours at the Firm.

B. Defendant's Portion

Plaintiff has been neither discriminated against nor harassed during her tenure with White & Williams. Nor was Plaintiff subject to any "adverse employment action." To the contrary, the incidents alleged in the Amended Complaint are petty disputes about work distribution, client contacts and marketing, untethered to any protected category. Plaintiff alternately complains about being given associate-level work unbecoming her 30 years of experience and claims that she was discriminated against by being denied assignments given to junior-level associates. Plaintiff was hired as Counsel to the Firm at a salary of \$230,000 despite, as she acknowledges, having no clients or portable business. In her first year at White & Williams, she billed fewer than half of the 1200 hour goal in her Employment Agreement, but

was retained for a second year without a salary reduction. When she brought forth a claim of racial harassment (allegedly triggered by a discussion about a Firm employee named “Linda”), the Firm investigated the allegation (including hiring a third-party investigator) and concluded that Plaintiff had not been harassed on any level.

Shortly after the investigation concluded, Plaintiff applied for, and was granted, 12 weeks of FMLA leave for alleged emotional distress and was subsequently granted a non-FMLA leave of absence, which continues. A third-party administrator determined that Plaintiff was not eligible for Short Term Disability benefits. The Firm had no substantive involvement in this determination.

2. Informal Disclosures

The parties have produced their self-executing disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1).

3. Formal Discovery

Discovery will concern the basis/es for the allegations regarding Plaintiff’s claims of harassment, discrimination and retaliation.

Defendant intends to take the deposition of Plaintiff at the present time. Defendant may take additional depositions of witnesses identified by Plaintiff, if any.

In light of the number of employees involved in her employment and the investigation of her internal complaints, Plaintiff anticipates a greater than typical number of depositions.

Third party discovery will be necessary – specifically, Tracy Armstrong, Shareholder at Wilentz, Goldman & Spitzer, P.A. conducted the investigation into Plaintiff’s complaint of harassment and will testify pursuant to a subpoena. Additional third party discovery may be necessary.

The parties agree that there may be documents exchanged that will require a discovery confidentiality agreement and/or Order. These include, but are not limited to: Plaintiff's medical records and records relating to clients, employees (including partners and associates) of White & Williams.

The parties request a 120-day discovery period. The parties have already exchanged written discovery requests and are discussing dates for depositions.

4. Electronic Discovery

The parties have discussed electronic discovery and consent to the entry of an order incorporating the default standards. Plaintiff is requesting that documents be produced primarily in searchable .pdf format.

5. Expert Witness Disclosures

The parties propose that expert witness disclosures and depositions take place following resolution of any dispositive motions filed after the close of discovery.

6. Insurance Coverage

Defendant maintains Employment Practices Liability Coverage through Chubb with a \$100,000 deductible/retention.

7. Settlement or Resolution

The parties engaged in a settlement discussion shortly before service of the initial Complaint. Plaintiff made a settlement demand after which Defendant determined that further settlement discussion would be unproductive. The parties do not foreclose the possibility of re-opening settlement discussions after depositions have been conducted.

8. Trial date

The parties do not require a date certain for trial at this time.

9. Length of Trial

5-7 days.

10. Other Matters

By Plaintiff:

The instant matter concerns Ms. Perkins' claims of race discrimination, harassment and retaliation brought pursuant to the Civil Rights Act of 1866, 42 U.S.C. § 1981. On May 28, 2019, Ms. Perkins filed a Charge of discrimination with the EEOC alleging race and gender discrimination, harassment and retaliation pursuant to Title VII and the Pennsylvania Human Relations Act. On September 6, 2019, Plaintiff filed an Amended Charge of Discrimination with the EEOC to add her claims of disability discrimination, harassment and retaliation. It has been less than 180 days since Plaintiff filed her Amended Charge and only recently has the 180-day mark passed with respect to Ms. Perkins' initial Charge filing. Ms. Perkins must exhaust her administrative remedy with respect to Title VII, the Americans with Disabilities Act, and the Pennsylvania Human Relations Act prior to bringing them before this Court, and Ms. Perkins has a right to have the EEOC investigate her claims. With respect to Ms. Perkins' PHRA claims, it has been far less than a year since she dual-filed her Charge with the Pennsylvania Human Relations Commission and those claims would not be properly before this Court until Ms. Perkins has exhausted her administrative remedy.

By Defendant:

At present, the instant matter is limited to a claim of race discrimination under Section 1981. Plaintiff filed a Charge of gender and disability discrimination with the EEOC on or about July 19, 2019. Plaintiff amended the Charge on or about September 9, 2019 to conform, word-for-word, to the Amended Complaint. This office has been advised by the EEOC that Plaintiff

has directly declined to request a Notice of Right to Sue. In order to conserve resources in this matter, Plaintiff should be directed to request a Notice of Right to Sue and to amend the Amended Complaint within 10 days of receipt, or this matter should be stayed until the EEOC issues the same.

Respectfully submitted,

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Dated: November 27, 2019

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