

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

TAWANNA L. WHITEHEAD	:	CIVIL ACTION
	:	
Plaintiff,	:	No. _____
	:	
v.	:	
	:	
CITY OF ALLENTOWN	:	JURY TRIAL DEMANDED
	:	
Defendant.	:	

CIVIL ACTION COMPLAINT

Plaintiff Tawanna L. Whitehead, by and through undersigned counsel, hereby complains as follows against Defendant City of Allentown (“City”):

I. INTRODUCTION

1. Members of the City Council of Allentown (“City Council”) have been vocal of late in criticizing City Mayor Matt Tuerk for allowing racial and ethnic discrimination to permeate the City’s workforce. Indeed, City Council has authorized and retained an outside investigator to get to the bottom of it, and is willing to spend up to \$300,000 to do it.¹ Yet within City Council’s very own ranks is a Member who is an unashamed bigot. For years

¹ See https://www.wfmz.com/news/area/lehighvalley/allentown-city-council-hires-former-fbi-investigator-to-look-into-claims-of-discrimination-at-city/article_16a13d88-23a0-11ef-9e66-07bc6349a0b2.html (last visited 11/28/24).

City Council has known of this Member’s racial animus but did next to nothing to protect Plaintiff, a direct victim of it. Mayor Tuerk and prior administrations were aware of it too, but did shamefully little to protect Plaintiff either. With Plaintiff’s pleas for assistance largely ignored, she now submits her plight to this Court. Her claim for a racially hostile work environment arises under Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000e et seq.) (“**Title VII**”), and the Pennsylvania Human Relations Act (43 P.S. § 951 et seq.) (“**PHRA**”). A “short and plain” statement of facts, as prescribed by Rule 8 of the Federal Rules of Civil Procedure follows.

II. PARTIES

2. Plaintiff is an adult Black female and citizen of the United States.
3. The City is the county seat for Lehigh County, PA. It is governed by a Mayor and a seven-person council.
4. At all times relevant herein, the City acted through its several agents, servants, and employees (including but not limited to those named elsewhere in this Complaint), each of whom acted in the course and scope of their employment for the City at all times relevant herein. The City is therefore fully responsible for the illegal acts and omissions of the aforesaid employees pursuant to the principle of *respondeat superior*.

III. JURISDICTION AND VENUE

5. This Court may properly maintain personal jurisdiction over the City because the

City's contacts with this state and this judicial district are sufficient for the exercise of jurisdiction over the City to comply with traditional notions of fair play and substantial justice, satisfying the standard set forth by the United States Supreme Court in Int'l Shoe Co. v. Washington, 326 U.S. 310 (1945) and its progeny.

6. The United States District Court for the Eastern District of Pennsylvania has original subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343(a)(4) because it arises under the laws of the United States and seeks redress for violations of civil rights. The Court may also maintain supplemental jurisdiction over state law claims set forth herein pursuant to 28 U.S.C. § 1367(a) and Rule 18(a) of the Federal Rules of Civil Procedure because they are sufficiently related to the claim(s) within the Court's original jurisdiction that they form part of the same case or controversy.

7. Venue is properly laid in this District pursuant to 28 U.S.C. §§ 1391(b)(2) and (c) because a substantial part of the events or omissions giving rise to the claims set forth herein occurred in this judicial district and the City is subject to personal jurisdiction in the Eastern District of Pennsylvania.

IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES

8. Plaintiff has satisfied the procedural and administrative requirements for proceeding under Title VII and the PHRA. In particular:

- a. Plaintiff filed a timely written charge of discrimination with the U.S. Equal Employment Opportunity Commission ("EEOC") and Pennsylvania Human

Relations Commission (“PHRC”);

- b. The EEOC assigned it Charge No. 530-2024-00178;
- c. On or about September 3, 2024 the EEOC issued a Dismissal and Notice of Rights;
- d. The instant action is timely because it was initiated within ninety (90) days of the receipt of the aforementioned Notice;
- e. Plaintiff has fully exhausted her administrative remedies.

V. FACTUAL BACKGROUND

9. Plaintiff is a highly educated professional, having earned her Bachelor’s degree in Business Management from Bloomfield College in New Jersey and her Master’s degree in Business Administration from DeSales University.

10. She was hired by the City as Deputy City Clerk in or about January 2010 and has reported to City Clerk Michael Hanlon, a White male, during her entire tenure.

11. As Deputy City Clerk, Plaintiff principally assists City Council in performing its legislative duties. For example, Plaintiff assists in preparing the agendas, minutes, resolutions and ordinances.

12. As Deputy City Clerk, Plaintiff works under the directs supervision of the President of Council, City Council and City Clerk.

13. City Clerk Hanlon and Plaintiff work primarily from an office suite on the 5th floor in City Hall. City Council has office space in the same suite.

14. During her tenure of nearly 15 years, Plaintiff has received several performance evaluations and has been rated well. She's never had any disciplinary write-ups.

15. During her tenure with the City, Plaintiff has been subjected to myriad racially hostile incidents which provide background and context to the current, unlawful work environment.

16. In or about October 2015, a high-ranking City official used the term "Sand Nigger" multiple times in Plaintiff's presence, during several encounters. It was just Plaintiff and that City official present on those occasions.

17. Shortly thereafter, that same high-ranking City official again used that despicable term, in the presence of Plaintiff, Hanlon and then-Council President Ray O'Connell.

18. At Plaintiff's urging, Hanlon reported the incident to Human Resources but Plaintiff was never told of any findings or remedial actions taken. Rather, when she was interviewed by the then-HR Director she was told, "you're not the victim."

19. On or about October 16, 2019, during the City's Safety, Health and Wellness day celebration, Plaintiff spun a wheel to win a prize. When the wheel stopped it showed she had won an I-Pad or something of similar, significant value. Plaintiff, however, was falsely told by two HR employees (neither of whom is Black) that she did not win and had to spin again.

20. A co-worker who is White was watching and said to Plaintiff you know you won. In order to avoid causing a scene, Plaintiff did not challenge the HR employees.²

² The same HR employees did it again to Plaintiff two years later during the 2021 event. This time they withheld a sweatshirt from her, falsely telling her there were no more left. Later, Plaintiff was told by a White co-worker that she had just gotten a sweatshirt.

Councilwoman Candida Alfa Creates a Racially Hostile Environment

21. Candida Affa, a White female, has served as a Member of City Council since approximately 2016.

22. In or about November 2019, while Affa was in the 5th floor office suite, Affa stated to Hanlon that they (Black people) are always “begging for something” when the Black community came to Council meetings during budget discussions. Plaintiff could hear Affa say this to Hanlon.

23. Affa added that she is gay, but “not out there demanding anything.”

24. Affa added that individuals in the Black community “do not want to educate themselves or work.”

25. Once Affa left, Plaintiff expressed her concern to Hanlon. He didn’t respond.

26. A few days later Affa returned to the 5th floor office suite. Plaintiff said to Affa that those comments had hurt Plaintiff. Affa apologized, saying “I don’t mean to say it.”

27. Plaintiff had further discussions about it with Hanlon, but he did nothing.

28. In or about June 2020, and again in or about July 2020, Affa made additional racially offensive remarks in Plaintiff’s presence in the 5th floor office suite.

29. While in Hanlon’s office with the door open she stated that “it doesn’t take a village,” insinuating that Black families should be able to - but cannot - raise their own children.

30. Affa further declared that when she owned her bar, the minorities were causing all the issues.

31. Affa added that when she first opened her bar the community at the time wanted her to close it because they did not want a gay bar in their neighborhood, and she replied to them that she will sell her bar to a Black person.

32. Affa also then questioned aloud, “Black Lives Matter, what does that mean?” - suggesting the public outrage over deaths caused to Black citizens like George Floyd was not warranted.

33. Seeking to show acceptance of her invidious prejudice, Affa stated the City’s Police Chief himself had stated that Black people could not even educate themselves. According to Affa, this was said after the Black community came to the Police Department and Civil Service Board asking that the associate degree requirement be rescinded from the police officer background requirements.

34. Hanlon did report these comments to HR, and HR reported it to the City Solicitor. Yet no action was taken against Councilwoman Affa.

35. In or about February 2023, Plaintiff sought to review her official personnel file. She was obstructed from doing so by one of the White HR employees who had denied her prizes during City Safety, Health and Wellness days.

36. Ultimately, when Plaintiff was provided access to her file, she noticed that her prior submitted complaints of racial animus from 2015 and 2020 were missing. City officials later acknowledged the prior complaints were missing.

37. In or about September 2023, Affa requested Plaintiff’s assistance with downloading

an app on her phone.

38. While assisting Affa as requested, Plaintiff asked if she could ask Affa a question about certain comments Affa had made at a recent Council meeting regarding racial issues.

39. Affa answered that she does not care what a Black person says, and then, screamed “Fuck Justan [Parker]!” (affiliated with Black Lives Matter of the Lehigh Valley), “Fuck Barbara [Redmond]!” (affiliated with the NAACP Allentown branch) and “Fuck everyone!”

40. Affa then clarified and included Plaintiff as well, exclaiming “Fuck you too!”

41. Affa then went into Hanlon’s office and slammed the door. She left shortly thereafter.

42. On or about the following day, Affa called Plaintiff. Affa apologized for saying “Fuck you” to Plaintiff, but again stated “Fuck Justan” and “Fuck Barbara.” Affa added that she is a Councilperson and Plaintiff is the Deputy Clerk, they should leave it at that.

43. Plaintiff reported the disturbing incident to other high-ranking City officials - **including Councilmembers Daryl Hendricks and Cynthia Mota**. Plaintiff cooperated with the subsequent investigation. Hanlon pledged to keep Affa away from Plaintiff, and the City offered to ensure Plaintiff would not be alone with Affa in the office.

44. Notwithstanding those representations, Affa has entered the Clerk’s office when no one else was present other than Plaintiff. This occurred on February 26, 2024, and on March 5, 2024.

45. Councilmembers Hendricks and Mota have made no public pronouncements regarding Affa’s conduct, nor have they publicly called for Council to take action against Affa.

46. Councilmembers Hendricks and Mota have taken no steps or initiated any safeguards to protect Plaintiff from additional racial abuse and/or intimidation from Affa.

47. On or about April 4, 2024, Councilwoman Mota stated in Plaintiff's presence that she loved Affa, despite being aware of the comments Affa had made to Plaintiff.

48. On April 9, 2024, Hanlon defended Affa. He told Plaintiff to talk with clergy about her concerns, not him. Plaintiff asked Hanlon to help her change the work environment and he declined. He said he would not be standing with Plaintiff.

49. On Tuesday, May 7, 2024 at 1:30 p.m., Affa came into the Clerk's office, yet neither Hanlon nor any other member of City Council was present.

50. Traumatized by the prior incidents with Affa as described above, Plaintiff remains terrified that Affa will barge on in, with no one else present, and barrage her with a new set of racist slurs.

51. The racially-based abuse as described above has caused significant psychological harm to Plaintiff, requiring ongoing treatment with mental health providers and appropriate medication.

FIRST CAUSE OF ACTION
HOSTILE WORK ENVIRONMENT ON ACCOUNT OF RACE
(Violations of Title VII and the PHRA)

52. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

53. In the manner set forth above and in violation of Title VII, the City has engaged in

knowing, purposeful and unlawful race discrimination in the form of a hostile work environment.

54. As a result of the race based hostile work environment inflicted by the City, Plaintiff has suffered extreme emotional pain, anguish and suffering, humiliation, inconvenience, loss of enjoyment of life, and other non-pecuniary losses.

WHEREFORE, upon entering judgment in favor of Plaintiff and against the City, Plaintiff prays that this Court enter an additional order providing as follows:

- A. The City is to be permanently enjoined from discriminating and/or retaliating against Plaintiff on any basis proscribed Title VII and the PHRA;
- B. The City is to promulgate and/or adhere to a policy prohibiting Title VII and PHRA violations, and is to ensure this policy is enforced;
- C. Plaintiff is to be awarded compensatory damages for the extreme pain, suffering, and humiliation caused to her by the City's actions and omissions;
- D. Plaintiff is to be awarded the costs and expenses of this action and reasonable attorneys' fees as provided by applicable federal and state law;
- E. This Court should grant any and all other such legal, injunctive and/or equitable relief as it deems necessary, just and appropriate;
- F. This Court should maintain jurisdiction over the instant action to ensure full compliance with its Orders therein until such time it is satisfied that its Orders and

dictates have been complied with in full by the City.

REQUEST FOR JURY TRIAL

Plaintiff hereby makes her request for a jury trial for all claims raised in this action.

Respectfully submitted,

WEINSTEIN LAW FIRM, LLC

By: /s/ Marc E. Weinstein
Marc E. Weinstein, Esquire
500 Office Center Drive
Suite 400
Fort Washington, PA 19034
267.513.1942
marc@meweinsteinlaw.com
Counsel to Plaintiff

Dated: November 29, 2024

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

TAWANNA L. WHITEHEAD

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

(c) Attorneys (Firm Name, Address, and Telephone Number)

Marc E. Weinstein, Esq. WEINSTEIN LAW FIRM, LLC 500 Office Center Dr., Ste. 400 Ft. Washington PA 19034

DEFENDANTS

CITY OF ALLENTOWN

County of Residence of First Listed Defendant (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, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 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)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

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

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes codes like 110 Insurance, 310 Airplane, 365 Personal Injury, etc.

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, 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): 42 USC sec. 2000e

Brief description of cause: Employment discrimination

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: [X] Yes [] No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE

Nov 29, 2024

SIGNATURE OF ATTORNEY OF RECORD

[Handwritten Signature]

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

Place of Accident, Incident, or Transaction: LEHIGH COUNTY

RELATED CASE IF ANY: Case Number: Judge:

- 1. Does this case involve property included in an earlier numbered suit? Yes
2. Does this case involve a transaction or occurrence which was the subject of an earlier numbered suit? Yes
3. Does this case involve the validity or infringement of a patent which was the subject of an earlier numbered suit? Yes
4. Is this case a second or successive habeas corpus petition, social security appeal, or pro se case filed by the same individual? Yes
5. Is this case related to an earlier numbered suit even though none of the above categories apply? Yes
If yes, attach an explanation.

I certify that, to the best of my knowledge and belief, the within case is / is not related to any pending or previously terminated action in this court.

Civil Litigation Categories

A. Federal Question Cases:

- 1. Indemnity Contract, Marine Contract, and All Other Contracts
2. FELA
3. Jones Act-Personal Injury
4. Antitrust
5. Wage and Hour Class Action/Collective Action
6. Patent
7. Copyright/Trademark
8. XXXX Employment
9. Labor-Management Relations
10. Civil Rights
11. Habeas Corpus
12. Securities Cases
13. Social Security Review Cases
14. Qui Tam Cases
15. Cases Seeking Systemic Relief *see certification below*
16. 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. All Other Diversity Cases: (Please specify):

I certify that, to the best of my knowledge and belief, that the remedy sought in this case does / does not have implications beyond the parties before the court and does / does not seek to bar or mandate statewide or nationwide enforcement of a state or federal law including a rule, regulation, policy, or order of the executive branch or a state or federal agency, whether by declaratory judgment and/or any form of injunctive relief.

ARBITRATION CERTIFICATION (CHECK ONLY ONE BOX BELOW)

I certify that, to the best of my knowledge and belief:

XXXXXX Pursuant to Local Civil Rule 53.2(3), this case is not eligible for arbitration either because (1) it seeks relief other than money damages; (2) the money damages sought are in excess of \$150,000 exclusive of interest and costs; (3) it is a social security case, includes a prisoner as a party, or alleges a violation of a right secured by the U.S. Constitution, or (4) jurisdiction is based in whole or in part on 28 U.S.C. § 1343.

None of the restrictions in Local Civil Rule 53.2 apply and this case is eligible for arbitration.

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