

4. Defendant is a paving contractor that is located at 100 Main Street, West Collingswood Heights, NJ 08059.
5. Plaintiff was employed by Defendant from September 6, 2016 to October 13, 2016.
6. At all times relevant hereto, Defendants acted by and through their agents, servants, and employees, each of whom acted within the scope of his or her job responsibilities.

JURISDICTION AND VENUE

7. The foregoing paragraphs are incorporated by reference herein as if the same were set forth at length.
8. The Court may properly maintain personal jurisdiction over Defendant because the Defendant's contacts with this state and this judicial district are sufficient for the exercise of jurisdiction and comply with traditional notions of fair play and substantial justice, thus satisfying the standard set forth by the United States Supreme Court in International Shoe Co. v. Washington, 326 U.S. 310 (1945) and its progeny.
9. The Court may exercise original subject-matter jurisdiction over the instant 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 federal law.
10. 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 one or more claims within the Court's original jurisdiction that they form part of the same case or controversy.
11. Venue is properly laid in the District of New Jersey pursuant to 28 U.S.C. §§ 1391(b)(1) and 1391(b)(2) because the Defendant is located in this judicial district and because all of the acts and/or omissions giving rise to the claims set forth herein occurred in this judicial district.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

12. The foregoing paragraphs are incorporated by reference herein as if the same were set forth at length.
13. Plaintiff exhausted his administrative remedies under Title VII. Butterbaugh v. Chertoff, 479 F. Supp. 2d 485 (W.D. Pa. 2007).
14. On December 5, 2016, Plaintiff filed a timely written Charge of Discrimination (the “Charge”) with the Equal Employment Opportunity Commission (“EEOC”) and the New Jersey Division on Civil Rights alleging religious discrimination against Defendant.
15. The Charge was assigned a Charge Number of EEOC No. 530-2017-00562.
16. Plaintiff received a Notice of Right to Sue relative to the Charge dated June 12, 2018. Plaintiff received the Notice by mail.
17. Plaintiff files the instant Complaint within ninety (90) days of his receipt of the Notice of Right to Sue letter relative the Charge.
18. Prior to the filing of this action, Plaintiff notified the EEOC of his intent to proceed with a lawsuit in federal court.
19. On September 6, 2016, Defendant hired Plaintiff as a Foreman.
20. Plaintiff was well qualified for the position and performed well.
21. Plaintiff’s religion is Paganism, and management was aware of his religion.
22. Bob Brown and David Solkin were the owners of the Defendant at all times relevant to the factual allegations contained in this matter.
23. On October 13, 2016, Mr. Brown called Plaintiff into his office, began speaking about the company’s core values, and asked Plaintiff questions geared at eliciting answers about Plaintiff’s religious views, and Plaintiff responded, and in the response, explained his views.

24. Mr. Solkin was present for this meeting.

25. After Plaintiff explained his views, Mr. Brown told Plaintiff that his employment was terminated.

26. After the meeting, Plaintiff spoke to his supervisor, Ron and told Ron that he was just fired because of his religion.

27. Plaintiff then went to the EEOC and filed a Charge of Discrimination alleging discrimination on the basis of his religion.

28. On October 13, 2016, Plaintiff was called into a meeting and fired because his religion did not follow that of management.

29. As a result, Plaintiff alleges that his termination was discriminatory and unlawful.

COUNT I - RELIGIOUS DISCRIMINATION
(HOSTILE WORK ENVIRONMENT AND DISCRIMINATORY
TERMINATION)
TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED

30. Plaintiff incorporates by reference each allegation contained in the preceding paragraphs as if the same were set forth more fully at length herein.

31. Plaintiff is a member of protected classes in that his religion is Paganism.

32. Plaintiff was qualified to perform the job for which he was hired.

33. Plaintiff suffered intentional discrimination because of his religion.

34. Defendant subjected Plaintiff to unwelcome conduct of a religious nature that was severe and pervasive.

35. Co-workers Gabe, Albert, and Matt asked Plaintiff about his religion on several occasions.

36. The conversations were unwelcome.

37. Prior to the termination meeting, it is believed and therefore averred that the owners called

Matt into the office at one point and asked Matt what Plaintiff's religion was.

38. The discrimination detrimentally affected Plaintiff.

39. Plaintiff suffered adverse job actions, including, but not limited to termination.

40. Similarly situated people outside of Plaintiff's protected class were treated more favorably than Plaintiff.

41. Circumstances exist related to the above cited adverse employment actions that give rise to an inference of discrimination.

42. Defendant discriminated against Plaintiff on the basis of religion.

43. No legitimate, non-discriminatory reasons exist for the above cited adverse employment actions that Plaintiff suffered.

44. The reasons cited by Defendant for the above cited adverse employment actions that Plaintiff suffered are pretext for discrimination.

45. *Respondent superior* liability exists such that Defendant is strictly liable for the actions of its supervisors.

46. Defendant is not entitled to an affirmative defense.

47. Defendant terminated Plaintiff because of his religious beliefs.

WHEREFORE, Plaintiff seeks the damages set forth in the Prayer for Relief clause of this Complaint, *infra*.

**COUNT II – RELIGIOUS DISCRIMINATION (HOSTILE WORK ENVIRONMENT)
THE PENNSYLVANIA HUMAN RELATIONS ACT**

48. Plaintiff incorporates by reference each allegation contained in the preceding paragraphs as if the same were set forth more fully at length herein.

49. The foregoing conduct by Defendants constitutes unlawful discrimination against Plaintiff on

the basis of his religion (Paganism).

50. As a result of Defendants' unlawful race discrimination, Plaintiff has suffered damages as set forth herein.

51. Defendant terminated Plaintiff because of his religious beliefs.

WHEREFORE, Plaintiff seeks the damages set forth in the Prayer for Relief clause of this Complaint, *infra*.

COUNT III - DISPARATE IMPACT UNDER TITLE VII

72. Plaintiff incorporates by reference each allegation contained in the preceding paragraphs as if the same were set forth more fully at length herein.

73. Defendants maintain policies, including but not limited to policies on religious beliefs of employee, that have a disparate impact on members of certain protected classes, including those who practice certain religions like Plaintiff.

74. Maintaining such a policy for no legitimate reason is in violation of the law.

WHEREFORE, Plaintiff seeks the damages set forth in the Prayer for Relief clause of this Complaint, *infra*.

COUNT VI - DISPARATE IMPACT UNDER PHRA

72. Plaintiff incorporates by reference each allegation contained in the preceding paragraphs as if the same were set forth more fully at length herein.

73. Defendants maintain policies, including but not limited to policies on religious beliefs of employee, that have a disparate impact on members of certain protected classes, including those who practice certain religions like Plaintiff.

74. Maintaining such a policy for no legitimate reason is in violation of the law.

WHEREFORE, Plaintiff seeks the damages set forth in the Prayer for Relief clause of this

Complaint, *infra*.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Linwood Cutchins, requests that the Court grant him the following relief against Defendant:

- (a) Damages for past and future monetary losses as a result of Defendant unlawful discrimination;
- (b) Compensatory damages;
- (c) Punitive damages;
- (d) Liquidated damages;
- (e) Emotional pain and suffering;
- (f) Reasonable attorneys' fees;
- (g) Recoverable costs;
- (h) Pre and post judgment interest;
- (i) An allowance to compensate for negative tax consequences;
- (j) A permanent injunction enjoining Defendant, its directors, officers, employees, agents, successors, heirs and assigns, and all persons in active concert or participation with them, from engaging in, ratifying, or refusing to correct, employment practices which discriminate in violation of TITLE VII and the PHRA.
- (k) Order Defendant to remove and expunge, or to cause to be removed and expunged, all negative, discriminatory, and/or defamatory memoranda and documentation from Plaintiff's record of employment, including, but not limited, the pre-textual reasons cited for her adverse actions, disciplines, and termination; and
- (l) Awarding extraordinary, equitable and/or injunctive relief as permitted by law, equity and the federal statutory provisions sued hereunder, pursuant to Rules 64 and 65 of the Federal Rules of Civil Procedure.

JURY TRIAL DEMAND

Demand is hereby made for a trial by jury as to all issues.

CERTIFICATION

I hereby certify that to the best of my knowledge and belief the above matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding, nor at the present time any other action or arbitration proceeding contemplated.

RESPECTFULLY SUBMITTED,

KOLLER LAW LLC

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Date: September 13, 2018