

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
MICHELE BISHOF
(b) County of Residence of First Listed Plaintiff
(c) Attorneys (Firm Name, Address, and Telephone Number)
Kevin Console, Esq., Console Mattiacci Law,
1525 Locust Street, 9th Fl., Philadelphia, PA 19102
215-545-7676

DEFENDANTS
UNITED PARCEL SERVICE, INC. and UPS CAPITAL
INSURANCE AGENCY, INC. d/b/a UPS CAPITAL
County of Residence of First Listed Defendant
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)
PTF DEF
Citizen of This State 1 1
Citizen of Another State 2 2
Citizen or Subject of a Foreign Country 3 3
Incorporated or Principal Place of Business In This State 4 4
Incorporated and Principal Place of Business In Another State 5 5
Foreign Nation 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT: 110 Insurance, 120 Marine, 130 Miller Act, 140 Negotiable Instrument, 150 Recovery of Overpayment & Enforcement of Judgment, 151 Medicare Act, 152 Recovery of Defaulted Student Loans (Excludes Veterans), 153 Recovery of Overpayment of Veteran's Benefits, 160 Stockholders' Suits, 190 Other Contract, 195 Contract Product Liability, 196 Franchise
REAL PROPERTY: 210 Land Condemnation, 220 Foreclosure, 230 Rent Lease & Ejectment, 240 Torts to Land, 245 Tort Product Liability, 290 All Other Real Property
TORTS: PERSONAL INJURY: 310 Airplane, 315 Airplane Product Liability, 320 Assault, Libel & Slander, 330 Federal Employers' Liability, 340 Marine, 345 Marine Product Liability, 350 Motor Vehicle, 355 Motor Vehicle Product Liability, 360 Other Personal Injury, 362 Personal Injury - Medical Malpractice
PRISONER PETITIONS: Habeas Corpus: 463 Alien Detainee, 510 Motions to Vacate Sentence, 530 General, 535 Death Penalty; Other: 540 Mandamus & Other, 550 Civil Rights, 555 Prison Condition, 560 Civil Detainee - Conditions of Confinement
FORFEITURE/PENALTY: 625 Drug Related Seizure of Property 21 USC 881, 690 Other
LABOR: 710 Fair Labor Standards Act, 720 Labor/Management Relations, 740 Railway Labor Act, 751 Family and Medical Leave Act, 790 Other Labor Litigation, 791 Employee Retirement Income Security Act
IMMIGRATION: 462 Naturalization Application, 465 Other Immigration Actions
BANKRUPTCY: 422 Appeal 28 USC 158, 423 Withdrawal 28 USC 157
INTELLECTUAL PROPERTY RIGHTS: 820 Copyrights, 830 Patent, 835 Patent - Abbreviated New Drug Application, 840 Trademark, 880 Defend Trade Secrets Act of 2016
SOCIAL SECURITY: 861 HIA (1395ff), 862 Black Lung (923), 863 DIWC/DIWW (405(g)), 864 SSID Title XVI, 865 RSI (405(g))
FEDERAL TAX SUITS: 870 Taxes (U.S. Plaintiff or Defendant), 871 IRS—Third Party 26 USC 7609
OTHER STATUTES: 375 False Claims Act, 376 Qui Tam (31 USC 3729(a)), 400 State Reapportionment, 410 Antitrust, 430 Banks and Banking, 450 Commerce, 460 Deportation, 470 Racketeer Influenced and Corrupt Organizations, 480 Consumer Credit (15 USC 1681 or 1692), 485 Telephone Consumer Protection Act, 490 Cable/Sat TV, 850 Securities/Commodities/Exchange, 890 Other Statutory Actions, 891 Agricultural Acts, 893 Environmental Matters, 895 Freedom of Information Act, 896 Arbitration, 899 Administrative Procedure Act/Review or Appeal of Agency Decision, 950 Constitutionality of State Statutes

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. §621, et seq. and 43 P.S. § 951, et seq.
Brief description of cause:
Plaintiff was discriminated and retaliated against based on her age in violation of state and federal law.

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ In excess of \$75,000
CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):
JUDGE DOCKET NUMBER

DATE 07/29/2022
SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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: Newtown, PA 18940
 Address of Defendant: 55 Glenlake Parkway NE Atlanta, GA 30328
 Place of Accident, Incident or Transaction: Newton, PA

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ 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 type="checkbox"/> | No <input checked="" 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: 07/29/2022 _____ 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. FEELA
- 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, 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: 07/29/2022 _____ 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

MICHELE BISHOF	:	CIVIL ACTION
	:	
v.	:	
	:	
UNITED PARCEL SERVICE, INC., et al.	:	NO.

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)

<u>07/29/2022</u>		<u>Plaintiff, Michele Bishop</u>
Date	Attorney-at-law	Attorney for
<u>215-545-7676</u>	<u>215-689-4137</u>	<u>Kevinconsole@consolelaw.com</u>
Telephone	FAX Number	E-Mail Address

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

MICHELE BISHOF
Newtown, PA 18940

Plaintiff,

v.

UNITED PARCEL SERVICE, INC.
55 Glenlake Parkway NE
Atlanta, GA 30328

and

**UPS CAPITAL INSURANCE AGENCY,
INC. d/b/a UPS CAPITAL**
35 Glenlake Parkway NE
Atlanta, GA 30328

Defendants.

CIVIL ACTION NO.

JURY TRIAL DEMAND

COMPLAINT

I. INTRODUCTION

Plaintiff, Michele Bishof (“Plaintiff”), brings this action against her employers, United Parcel Service, Inc. and UPS Capital Insurance Agency, Inc. d/b/a UPS Capital (collectively, “Defendants”), for discriminating against Plaintiff based upon her age, in violation of the Age Discrimination in Employment Act, as amended, 29 U.S.C. § 621, *et seq.* (“ADEA”), and the Pennsylvania Human Relations Act, as amended, 43 P.S. § 951, *et seq.* (“PHRA”). Defendants’ age discriminatory conduct includes demoting Plaintiff and subjecting Plaintiff to a hostile work environment.

Plaintiff seeks damages, including back pay, front pay, compensatory, liquidated damages, attorneys’ fees and costs, and all other relief that this Court deems appropriate.

II. PARTIES

1. Plaintiff is an individual and a citizen of Pennsylvania. Plaintiff resides in Newton, Pennsylvania.

2. Plaintiff was born in 1968. Plaintiff is currently fifty-four (54) years of age. Plaintiff was fifty-two (52) years of age as of when Defendants demoted her in or around October 2020.

3. Defendant United Parcel Service, Inc. is engaged in an industry affecting interstate commerce and regularly does business in Pennsylvania.

4. Defendant UPS Capital Insurance Agency, Inc. d/b/a UPS Capital is engaged in an industry affecting interstate commerce and regularly does business in Pennsylvania.

5. Defendant UPS Capital Insurance Agency, Inc. d/b/a UPS Capital is a wholly-owned subsidiary of Defendant United Parcel Service, Inc.

6. Defendants are headquartered in Atlanta, GA, but collectively maintain and operate offices in Pennsylvania.

7. Prior to Plaintiff's October 2020 demotion, Plaintiff primarily worked from her home in Newtown, Pennsylvania. Following Plaintiff's demotion, she primarily worked, and continues to work, at Defendants' offices located at the Philadelphia International Airport in Philadelphia, Pennsylvania.

8. Upon information and belief, Defendants collectively presented themselves as a single company such that third parties dealt with them as one unit.

9. Upon information and belief, each named Defendant shares with the other named Defendants, *inter alia*, common ownership, office locations, personnel policies, and employment practices.

10. Defendants are interconnected such that they are considered a “single” and/or “integrated” employer and/or enterprise. Defendants collectively caused the unlawful actions complained of herein.

11. At all relevant times, Defendants employed twenty (20) or more employees.

12. At all times material hereto, Defendants acted by and through their authorized agents, servants, workmen, and/or employees acting within the course and scope of their employment with Defendants and in furtherance of Defendants’ business.

13. At all times material hereto, Defendants acted as an “Employer” within the meaning of the statutes that form the basis of the matter.

14. At all times material hereto, Plaintiff was an “Employee” of Defendants within the meaning of the statutes that form the basis of the matter.

III. JURISDICTION AND VENUE

15. The causes of action that form the basis of the matter arise under the ADEA and the PHRA.

16. The District Court has jurisdiction over Count I (ADEA) pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1332.

17. The District Court has jurisdiction over Count II (PHRA) pursuant to 28 U.S.C. §1367 and 28 U.S.C. §1332.

18. Venue is proper in this District Court under 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claims occurred within this District.

19. On or about March 30, 2021, Plaintiff filed a Complaint of Discrimination with the Pennsylvania Human Relations Commission (“PHRC”) and Equal Employment Opportunity Commission (“EEOC”) complaining of the acts of discrimination alleged herein (the “Complaint

of Discrimination”). Attached hereto, incorporated herein, and marked as Exhibit 1 is a true and correct copy of Plaintiff’s Complaint of Discrimination (with personal identifying information redacted).

20. On May 5, 2022, the EEOC issued Plaintiff a Notice of Right to Sue regarding her Complaint of Discrimination. Attached hereto, incorporated herein, and marked as Exhibit 2 is a true and correct copy of the notice.

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

IV. FACTUAL ALLEGATIONS

22. Plaintiff was hired by Defendants in August 1996¹ and currently has over twenty-five (25) years of service with the company.

23. As of 2015, Plaintiff held the position of Enterprise Business Development Officer (“BDO”), working in Channel Partner Sales.

24. As a BDO, Plaintiff consistently performed her job duties in a highly competent and successful manner. By way of example only: in 2019, she achieved “Platinum World of Champions” (reserved for the top 1% of the salesforce); and in 2020, she achieved “Gold World of Champions” (reserved for the top 3% of the salesforce).

25. In late October 2020, Plaintiff was abruptly informed by her then-supervisor, Colleen Hackley (“Hackley”) (approximately 45 years of age), Vice President of Channel Partner Sales, that she was being taken out of her BDO role that she had held for nearly five (5) years and transferred into a Digital Access Platform (“DAP”) position.

26. Hackley simply told Plaintiff that the company was “changing direction.”

¹ All dates contained herein are approximations.

27. In response, Plaintiff expressed her surprise and disagreement with the decision.

28. Plaintiff asked why she was being transferred, but Hackley repeated that the company was changing direction and did not provide any further explanation.

29. Defendants did not provide Plaintiff with any options to remain employed other than accepting the transfer.

30. The DAP role that Defendants said it would be placing Plaintiff into entailed less-desirable job responsibilities, as well as lower compensation.

31. On November 3, 2020, during a Zoom video conference, Hackley told Plaintiff that she was actually going to be transferred back to a middle market role, instead of the DAP role.

32. The middle market role that Defendants said it would be placing Plaintiff into entailed less-desirable job responsibilities, as well as lower compensation.

33. The transfer constituted a demotion.

34. Hackley told Plaintiff the transfer was because Plaintiff was “not a team player.”

35. Defendants did not provide Plaintiff with any explanation as to what that meant, and she was not provided with any examples of when or how she was allegedly “not a team player.”

36. The stated reason is false and pretext for age discrimination.

37. Hackley told Plaintiff that her job would be posted but that she should not apply for the position.

38. Hackley did not provide any legitimate, non-discriminatory explanation for instructing Plaintiff not to apply for her own position.

39. Hackley told Plaintiff not to tell anyone about their November 3, 2020 conversation.

40. Plaintiff was not provided with any legitimate explanation as to why, at age fifty-two (52), with over twenty-four (24) years of service, she was being abruptly transferred out of a position that she loved, had significant experience in and was highly-successful at.

41. Plaintiff believes her age-based demotion was designed to force her to quit, or alternatively, to try to justify terminating her employment.

42. Plaintiff was informed that the decision to transfer her was part of a reorganization.

43. The reorganization that allegedly resulted in her transfer disproportionately impacted older workers.

44. By way of example only and without limitation, to Plaintiff's knowledge, of the approximately eight (8) BDOs in her department, the four (4) oldest BDOs (including Plaintiff) were transferred and/or demoted, while the three (3) youngest were allowed to remain in their positions.

45. Furthermore, the four (4) older BDOs were replaced by younger employees.

46. Upon information and belief, the other three (3) older BDOs were given similarly vague and subjective explanations as to why they were being transferred and/or demoted.

47. Following Plaintiff's transfer, she submitted verbal and written complaints of age discrimination to Defendants, including to upper-management, human resources and Defendants' ethics hotline.

48. Plaintiff's complaints included, without limitation:

- a) written complaints of age discrimination on January 11, 2021;
- b) verbal complaints of age discrimination on January 12, 2021;
- c) verbal complaints of age discrimination on January 14, 2021;
- d) verbal complaints of age discrimination on February 24, 2021;

- e) verbal complaints of age discrimination on March 15, 2021;
- f) verbal complaints of age discrimination on March 16, 2021;
- g) verbal complaints of age discrimination on March 17, 2021;
- h) verbal complaints of age discrimination on March 18, 2021; and
- i) written complaints of age discrimination and retaliation on April 1, 2021.

49. Among other things, Plaintiff complained that she had been transferred to a less-desirable position because of her age, without legitimate explanation, and replaced by a substantially younger, less-experienced employee; while younger, similarly-situated BDOs were allowed to remain in that role.

50. Defendants failed to appropriately or promptly investigate, remedy, prevent or correct their discriminatory conduct.

51. Prior to being informed of her demotion, Plaintiff had not complained of discrimination at Defendants.

52. Despite Plaintiff's various requests, Defendants have failed to provide her with any coherent, non-discriminatory explanation for her demotion.

53. After being displaced from her BDO role, Plaintiff learned that a larger account of hers, which she had been servicing as part of her BDO role, complained to management about Defendants' decision to take Plaintiff out of that role.

54. Shortly after Plaintiffs transfer, Defendants recognized the performance and contributions of Defendants' sales employees during an annual sales conference. Despite Plaintiffs sales numbers, performance and contributions to the company, Defendants did not recognize her performance. Instead, Defendants decided to recognize substantially-younger, similarly-situated

employees, who, upon information and belief, had not achieved the performance numbers that Plaintiff had achieved.

55. Defendants have not provided any legitimate, non-discriminatory and/or non-retaliatory explanation for its differential treatment based upon age.

56. On February 8, 2021, Plaintiff had a performance review, during which Defendants perpetuated the false allegation that she was “not a team player,” though still unable to provide Plaintiff with any specific examples of when she allegedly exhibited that behavior.

57. On February 23, 2021, during a conversation in which Plaintiff was attempting to move out of the middle market role she had been transferred and into a better-suited role, Defendants suggested that if she tried to make the move into the new role, it would need to discuss potential separation with Plaintiff. Defendants did not provide any legitimate, non-discriminatory and/or non-retaliatory explanation for that comment, which Plaintiff understood to be a threat and part of Defendants’ attempts to force her to quit because of her age and her complaints.

58. Multiple employees of Defendants, including upper-management, have told Plaintiff that they believe Defendants’ decision to transfer her out of her BDO role was based on Plaintiffs age and that age plays a role in Defendants’ personnel decisions.

59. Defendants have a pattern and practice of discriminating against older workers. This includes, without limitation: demoting them; assigning them to less-desirable positions; reducing their compensation; failing to provide them with adequate raises and/or bonuses; falsely – and typically subjectively – criticizing their performance; undervaluing their contributions compared to substantially younger employees; providing financial incentives for them to leave the workforce (while providing no such incentives for younger employees to leave); and generally

trying to push them out of the company. This conduct is primarily directed towards employees over the age of fifty (50).

60. As a result of Defendants' age discriminatory and retaliatory conduct, Plaintiff has suffered, without limitation, severe emotional distress, embarrassment, humiliation, loss of self-worth and economic loss. She has been forced to receive treatment as a result of the same.

61. Plaintiff's age was a motivating and/or determinative factor in Defendants' discriminatory treatment of Plaintiff, including the hostile work environment to which she was subjected, and her demotion.

62. Plaintiff's complaints of age discrimination were motivating and/or determinative factors in Defendants' retaliatory treatment of Plaintiff.

63. The discriminatory and retaliatory conduct of Defendants, as alleged herein, was sufficiently severe and/or pervasive to make a reasonable person believe that the conditions of employment had been altered and that a hostile work environment existed, and made Plaintiff believe that the conditions of employment had been altered and that a hostile work environment existed.

64. Plaintiff remains employed by Defendants and continues to suffer the consequences of Defendants' discriminatory and retaliatory conduct.

65. Defendants failed to prevent or address the discriminatory and retaliatory conduct referred to herein and further failed to take corrective and remedial measures to make the workplace free of discriminatory and retaliatory conduct.

66. The retaliatory actions taken against Plaintiff after she complained of discriminatory conduct would have discouraged a reasonable employee from complaining about discrimination.

67. 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.

68. The conduct of Defendants, as set forth above, was willful under the circumstances and warrants the imposition of liquidated damages.

69. No previous application has been made for the relief requested herein.

COUNT I
(VIOLATION OF THE ADEA)

70. Plaintiff incorporates the paragraphs above as if set forth herein in their entirety.

71. By committing the foregoing acts of discrimination and retaliation against Plaintiff, Defendants violated the ADEA.

72. Defendants' violation of the ADEA was intentional and willful under the circumstances, warranting the imposition of liquidated damages.

73. As a direct and proximate result of Defendants' violation of the ADEA, Plaintiff has sustained the injuries, damages, and losses set forth herein and has incurred attorneys' fees and costs.

74. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendants' discriminatory and retaliatory acts unless and until this Court grants the relief requested herein.

75. No previous application has been made for the relief requested herein.

COUNT II
(VIOLATION OF THE PHRA)

76. Plaintiff incorporates the paragraphs above as if set forth herein in their entirety.

77. By committing the foregoing acts of discrimination and retaliation against Plaintiff, Defendants violated the PHRA.

78. As a direct and proximate result of Defendants' violation of the PHRA, Plaintiff has sustained the injuries, damages, and losses set forth herein and has incurred attorneys' fees and costs.

79. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendants' discriminatory and retaliatory acts unless and until this Court grants the relief requested herein.

80. 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' unlawful conduct, and specifically prays that the Court grant the following relief to the Plaintiff by:

- a. declaring the acts and practices complained of herein to be a violation of the ADEA and the PHRA;
- b. enjoining and restraining permanently the violations alleged herein;
- c. awarding Plaintiff damages for back pay, front pay, and pre- and post-judgment interest;
- d. awarding compensatory damages to Plaintiff for past and future emotional distress and pain and suffering;
- e. awarding liquidated damages under the ADEA;
- f. awarding Plaintiff the costs of this action, together with reasonable attorneys' fees;
- g. awarding Plaintiff such other damages as are appropriate under the ADEA and the PHRA; and

h. granting such other and further relief as this Court deems appropriate.

Respectfully submitted,

CONSOLE MATTIACCI LAW, LLC

By: /s/ Kevin Console
KEVIN CONSOLE, ESQ.
1525 Locust Street
Philadelphia, PA 19102
kevinconsole@consolelaw.com (email)
(215) 545-7676 (office)

Dated: 7/29/2022

Attorneys for Plaintiff

Exhibit 1

Received

MAR 30 2021

PA Human Relations Commission
Philadelphia Regional Office

**COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
PENNSYLVANIA HUMAN RELATIONS COMMISSION**

COMPLAINT

COMPLAINANT:
MICHELE BISHOF

v.

RESPONDENTS:
UNITED PARCEL SERVICE, INC.
and
UPS CAPITAL CORPORATION

Docket No. **202002354**

1. The Complainant herein is:

Name: Michele Bischof

Address: [REDACTED]
Newtown, PA 18940

2. The Respondents herein are:

Name: UPS Capital Corporation and United Parcel Service, Inc. (collectively, "Respondent")

Address: 35 Glenlake Parkway NE
Atlanta, GA 30328

3. I, Michele Bischof, the Complainant herein, allege that I was subjected to unlawful discrimination because of my age (53) by Respondent, including, without limitation, being demoted and being subjected to a hostile work environment, as set forth below:

Discrimination

A. I specifically allege:

- [1] I was hired by Respondent in August 1996¹ and currently have over twenty-four (24) years of service with the company.
- [2] I was born on [REDACTED] 1968 and am currently fifty-three (53) years of age.
- [3] As of January 1, 2016, I held the position of Enterprise Business Development Officer ("BDO"), working in Channel Partner Sales.
- [4] As a BDO, I consistently performed my job duties in a highly competent and successful manner. By way of example only: in 2019, I achieved "Platinum World of Champions" (reserved for the top 1% of the salesforce); and in 2020, I achieved "Gold World of Champions" (reserved for the top 3% of the salesforce).
- [5] In late October 2020, I was abruptly informed by my then-supervisor, Colleen Hackley ("Hackley") (approximately 45 years of age), Vice President of Channel Partner Sales, that I was being taken out of my BDO role that I had held for nearly five (5) years and transferred into a Digital Access Platform ("DAP") position.
- [6] Hackley simply told me that the company was "changing direction."
- [7] In response, I expressed my surprise and disagreement with the decision.
- [8] I asked why I was being transferred, but Hackley repeated that the company was changing direction and did not provide any further explanation.
- [9] Respondent did not provide me with any options to remain employed other than accepting the transfer.

¹ All dates contained herein are approximations.

[10] The DAP role that Respondent said it would be placing me into entailed less-desirable job responsibilities, as well as lower compensation.

[11] On November 3, 2020, during a Zoom video conference, Hackley told me that I was actually going to be transferred back to a middle market role, instead of the DAP role.

[12] The middle market role that Respondent said it would be placing me into entailed less-desirable job responsibilities, as well as lower compensation.

[13] The transfer constituted a demotion.

[14] Hackley told me the transfer was because I was "not a team player."

[15] Respondent did not provide me with any explanation as to what that meant, and I was not provided with any examples of when or how I was allegedly "not a team player."

[16] This stated reason is false and pretext for age discrimination.

[17] Hackley told me that my job would be posted but that I should not apply for the position.

[18] Hackley did not provide any legitimate, non-discriminatory explanation for instructing me not to apply for my position.

[19] Hackley told me not to tell anyone about our November 3, 2020 conversation.

[20] I was not provided with any legitimate explanation as to why, at age fifty-three (53), with over twenty-four (24) years of service, I was being abruptly transferred out of a position that I loved, had significant experience in and was highly-successful at.

[21] I believe my age-based demotion was designed to force me to quit, or alternatively, to try to justify my termination.

[22] I was informed that the decision to transfer me was part of a reorganization.

[23] The reorganization that allegedly resulted in my transfer disproportionately impacted older workers.

[24] By way of example only and without limitation, to the best of my knowledge, of the approximately eight (8) BDOs in my department, the four (4) oldest BDOs (including myself) were transferred and/or demoted, while the three (3) youngest were allowed to remain.

[25] The four (4) older BDOs were replaced by younger employees.

[26] Upon information and belief, the other three (3) older BDOs were given similarly vague and subjective explanations as to why they were being transferred and/or demoted.

[27] Following my transfer, I submitted verbal and written complaints of age discrimination to Respondent, including to upper-management, human resources and Respondent's ethics hotline.

[28] This includes, without limitation:

1. written complaints of age discrimination on January 11, 2021;
2. verbal complaints of age discrimination on January 12, 2021;
3. verbal complaints of age discrimination on January 14, 2021;
4. verbal complaints of age discrimination on February 24, 2021;
5. verbal complaints of age discrimination on March 15, 2021;
6. verbal complaints of age discrimination on March 16, 2021;
7. verbal complaints of age discrimination on March 17, 2021; and

8. verbal complaints of age discrimination on March 18, 2021.

[29] Among other things, I complained that I had been transferred to a less-desirable position because of my age, without legitimate explanation, and replaced by a substantially younger, less-experienced employee; while younger, similarly-situated BDOs were allowed to remain in that role.

[30] As of the filing of this Complaint, Respondent has failed to remedy or correct its discriminatory conduct.

[31] To the extent Respondent may be conducting any type of investigation into my complaints, I am unaware of the status or the potential outcome, if any.

[32] Prior to being informed of my demotion, I had not complained of discrimination at Respondent.

[33] Despite my various requests, Respondent has failed to provide me with any non-discriminatory explanation for my demotion that makes sense.

[34] After being displaced from my BDO role, I learned that a larger account of mine, which I had been servicing as part of my BDO role, complained to management about Respondent's decision to take me out of that role.

[35] Shortly after my transfer, Respondent recognized the performance and contributions of Respondent's sales employees during an annual sales conference. Despite my sales numbers, performance and contributions to the company, Respondent did not recognize my performance. Instead, Respondent decided to recognize substantially-younger, similarly-situated employees, who, upon information and belief, had not achieved the numbers that I had achieved.

[36] Respondent has not provided any legitimate, non-discriminatory and/or non-retaliatory explanation for its differential treatment based upon age.

[37] On February 8, 2021, I had a performance review, during which Respondent perpetuated the false allegation that I was "not a team player," though still unable to provide me with any specific examples of when I allegedly exhibited that behavior.

[38] On February 23, 2021, during a conversation in which I was attempting to move out of the middle market role I had been transferred and into a better-suited role, Respondent suggested that if I tried to make the move into the new role, it would need to discuss potential separation with me. Respondent did not provide any legitimate, non-discriminatory and/or non-retaliatory explanation for that comment, which I understood to be a threat and part of Respondent's attempts to force me to quit.

[39] Multiple employees of Respondent, including upper-management, have told me that they believe Respondent's decision to transfer me out of my BDO role was based on my age and that age plays a role in Respondent's personnel decisions.

[40] Respondent has a pattern and practice of discriminating against older workers. This includes, without limitation: demoting them; assigning them to less-desirable positions; reducing their compensation; failing to provide them with adequate raises and/or bonuses; falsely – and typically subjectively – criticizing their performance; undervaluing their contributions compared to substantially younger employees; providing financial incentives for them to leave the workforce (while providing no such incentives for younger employees to leave); and generally trying to push them out of the company. This conduct is primarily directed towards employees over the age of fifty (50).

[41] As a result of Respondent's age discriminatory conduct, I have suffered, without limitation, severe emotional distress, embarrassment, humiliation, loss of self-worth and economic loss. I have been forced to receive treatment as a result of the same.

[42] I am filing this Complaint as a class, collective, and pattern and practice Complaint on behalf of myself and any and all current or former employees of Respondent who are age forty (40) and over and who have been discriminated against based on age in connection with Respondent's recent reorganization(s), including, without limitation, Respondent's decisions concerning demotions, transfers, hirings and/or terminations.

B. Based on the aforementioned, I allege that Respondent has discriminated against me because of my age, in violation of the Age Discrimination in Employment Act, as amended, 29 U.S.C. § 623 *et seq.* ("ADEA") and the Pennsylvania Human Relations Act, as amended, 43 P.S. § 951, *et seq.* ("PHRA").

The foregoing allegations constitute unlawful discriminatory practices in violation of:

Pennsylvania Human Relations Act (Act of October 27, 1955, P.L.

744, as amended) Section 5 Subsection(s): (a)

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) _____

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:

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

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.

March 29, 2021

(Date Signed)

Michele Bishop

(Signature) Michele Bishop

Exhibit 2

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Michele Bischof
[Redacted]
Newtown, PA 18940

From: Philadelphia District Office
801 Market St, Suite 1000
Philadelphia, PA 19107

EEOC Charge No.
17F-2021-61224

EEOC Representative
Damon Johnson,
State, Local & Tribal Program Manager

Telephone No.
(267) 589-9722

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA **must be filed in a federal or state court 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.)

More than 180 days have passed since the filing of this charge.

The EEOC is terminating its processing of this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS** *of your receipt of this Notice.* Otherwise, your right to sue based on the above-numbered charge will be lost.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought 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.**

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

Digitally Signed By: Karen McDonough
05/05/2022

Enclosures(s)

Karen McDonough
Enforcement Manager

cc: For Respondent: UPS CAPITAL CORPORATION;
UNITED PARCEL SERVICE, INC.
Shannon B Schmoyer, Esq.
Schmoyer Reinhard LLP
8000 IH 10 West
San Antonio, TX 78230

For Charging Party:
Kevin Console, Esq.
Console Mattiacci Law
Via email: kevinconsole@consolelaw.com