



employees. Without limitation: IKEA's preference for the advancement of its younger employees is openly expressed at the highest level; IKEA managers openly express age bias and ageist stereotypes; complaints of age discrimination expressed to the highest level of the company are not remediated; and older workers are dismissively labeled, without good or apparent basis, as lacking in "potential."

Plaintiff Donofrio has been adversely affected by Defendant's pattern and practice of age discrimination and its policy of denying advancement opportunities based on an age biased labeling of those with and without "good" or "high" potential, including Defendant's denying him leadership development opportunities and rejecting him for promotion. Plaintiff now brings this action against IKEA for violation of the Age Discrimination in Employment Act, as amended, 29 U.S.C. § 621, *et seq.* ("ADEA"), as a collective action pursuant to the ADEA, 29 U.S.C. § 626(b), incorporating section 16(b) of the Fair Labor Standards Act, 29 U.S.C. § 216(b), on behalf of himself individually and on behalf of those similarly situated: *i.e.*, all current hourly retail employees of IKEA who, since January 20, 2016, were age 40 or over and denied leadership development opportunities and/or rejected for promotion ("Older Coworkers") (Counts I, II, and III). In that regard, Plaintiff seeks an Order providing that Notice of this lawsuit be given to each Older Coworker. In addition, Plaintiff seeks injunctive and declaratory relief, damages, including compensatory and liquidated damages, attorney's fees and costs, and all other relief under the ADEA and any other relief this Court deems appropriate.

In addition, Plaintiff brings this action on an individual basis only for Defendant's violation of the Pennsylvania Human Relations Act, as amended, 43 P.S. § 951, *et seq.* ("PHRA") (Count IV).

## **II. PARTIES.**

1. Plaintiff, Frank Donofrio, is an individual and citizen of the state of Pennsylvania, residing therein in Norristown, Pennsylvania 19401.

2. Plaintiff was born in September 1963, and is currently age fifty-four (54).

3. Plaintiff has been an employee of IKEA since in or about February, 2011.

4. Defendant, IKEA US Retail, LLC formerly known as IKEA US East LLC, and doing business as IKEA (“IKEA” or “Defendant”), is a limited liability company with headquarters and a principal place of business located in Conshohocken, Pennsylvania.

5. At all times material hereto, IKEA has been engaged in an industry affecting interstate commerce and has acted as an “employer” within the meaning of the antidiscrimination laws at issue.

6. At all times material hereto, IKEA employed more than twenty (20) people.

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

8. At all times material hereto, Plaintiff has been an employee of IKEA within the meaning of the antidiscrimination laws at issue.

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

9. The causes of actions alleged herein arise under the ADEA, as amended, 29 U.S.C. § 621, *et seq.*, and the PHRA, as amended, 43 P.S. § 951, *et seq.*

10. The District Court has jurisdiction over the ADEA claims (Counts I, II, and III) pursuant to 29 U.S.C. § 626(c) and 29 U.S.C. § 1331.

11. The District Court has jurisdiction over the PHRA claim (Count IV) pursuant to 28 U.S.C. § 1367.

12. The District Court has personal jurisdiction over Defendant because, *inter alia*, Defendant maintains a principal place of business and is at home in Pennsylvania, the actions giving rise and/or related to this suit occurred in Pennsylvania, and/or IKEA has consented to the jurisdiction of this Court through its appointment of an authorized agent in Pennsylvania to accept service of process.

13. Venue is proper under 28 U.S.C. § 1391(b).

14. On or about November 15, 2016, Plaintiff filed a Charge of Discrimination with the Equal Employment Opportunity Commission (“EEOC”), which was dual filed with the Pennsylvania Human Relations Commission (“PHRC”).

15. Attached hereto, incorporated herein and marked as Exhibit “A” is a true and correct copy of Plaintiff’s November 15, 2016 Charge of Discrimination (with minor redactions for purposes of electronic filing of confidential/identifying information).

16. More than 60 days have passed since Plaintiff filed his first Charge of Discrimination with the EEOC. Further, the EEOC on or about November 29, 2017, closed its file on Plaintiff’s Charge of Discrimination and issued to him a “Notice of Right to Sue,” which is attached hereto as Exhibit “B.”

17. More than one year has passed since Plaintiff’s Charge of Discrimination was dual-filed with the PHRC.

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

**IV. FACTUAL ALLEGATIONS SUPPORTING CLAIMS.**

**Policy of Denying Development and Advancement Opportunities to Older Coworkers**

19. The IKEA Group is an international furniture retail chain which, through its controlled subsidiaries, operates more than 50 retail stores and employs more than 15,000 people in the United States.

20. Defendant is an indirect, controlled subsidiary of the IKEA Group.

21. Defendant's employees are subject to the same centrally controlled Human Resources policies.

22. Defendant's employees are subject to the same centrally controlled employment policies.

23. Defendant's employees are subject to the same centrally controlled strategies, processes and policies for recruitment, evaluation, development, and advancement.

24. Defendant's policies in connection with recruitment, evaluation, development, and advancement are infected with age bias.

25. Defendant maintains a corporate culture of age bias that starts at the top and affects its employment decisions.

26. Defendant's literature openly expresses that the company considers age in its employment decisions.

27. Defendant's managers openly express age bias.

28. As part of its business model, IKEA touts its management and leadership training programs aimed at "high" potential employees, and that most of its managers are in their early thirties.

29. IKEA management openly expresses its preference for younger employees.

30. IKEA's age bias and preference for younger employees is expressed and implemented in its policies and practices.

31. IKEA communicates to its managers/decision-makers the company's goal of retaining and promoting young employees.

32. IKEA makes decisions based on stereotypes of older workers as having less "potential" than younger ones.

33. IKEA recruits young employees for management positions as "future leaders."

34. In an interview published in August 2015, the IKEA Group's then U.S. recruitment and succession manager, Cathy Blair, publicly promoted IKEA's hopes and plans to attract "recent college graduates" into management level positions and develop an internship programs as a way of developing "future leaders" of IKEA.

35. IKEA management has openly expressed that IKEA has hired and/or promoted younger individuals into management positions because they are "young and energetic."

36. IKEA management has openly expressed age-biased stereotypes. For example, and without limitation, in connection with its recent reorganization, a young Sales Manager expressed at a group meeting that it would be a challenge to retrain older employees.

37. IKEA provides preferential training, placement, and advancement opportunities to its younger employees.

38. IKEA has engaged in a company-wide, institutional policy of denying training, development, and advancement opportunities to its older employees.

39. IKEA has a policy by which it identifies the "potential" of its employees, and makes development and advancement decisions based on its subjective labeling of an employee's "potential."

40. IKEA identifies “potential” based on subjective factors.

41. IKEA’s identification of an employee’s potential is vulnerable to age bias.

42. IKEA’s literature indicates that its identification of an employee’s potential is based on non-objectively measured factors subject to stereotypes regarding older workers, including, without limitation, that they lack energy, will want to retire and not remain in the workforce for many years, and that they lack learning agility.

43. In its literature regarding the assessment of an employee’s potential, IKEA openly employs and expresses age biased stereotypes. For example, and without limitation, IKEA ascribes “youthful enthusiasm” to a “high potential” employee.

44. In connection with its performance evaluation process, IKEA managers rate, and Human Resources sign off on, employees on their “potential.”

45. Managers are asked to evaluate their employees and assign to them an “identified potential” of either “high potential,” “good potential,” or “same level.”

46. An employee’s performance evaluation does not indicate the criteria or process by which a manager determines an employee’s “identified potential.”

47. A manager’s determination of an employee’s “identified potential” does not appear to have any correlation to whether the employee meets or even exceeds expectations in his or her current position.

48. A manager’s determination of an employee’s “identified potential” is entirely subjective and vulnerable to age discriminatory bias.

49. IKEA’s literature on assessing potential engages in and promotes age biased stereotypes. For example, and without limitation, the literature gives two examples of employees who “exceed expectations” as far as their performance, one of whom has a rating of “high

potential,” and the other as “same level.” The example of the “high potential” high performing employee demonstrates “youthful enthusiasm,” while the “same level” high performing employee is described as having been there longer and “likes a stable environment.”

50. A manager’s determination of an employee’s “identified potential” is infected with age bias.

51. IKEA’s age biased determination of an employee’s identified potential impacts the employee’s opportunities for training, development, and advancement.

52. For example, and without limitation, IKEA’s literature states that for an employee to have vertical growth, a “good” or “high” potential rating is needed.

53. IKEA has selectively offered leadership development opportunities to individuals who have been identified as “high potential.”

54. By way of example, and without limitation, IKEA had in place from at least January 2014 through July 2016 a Leadership Development Program, entitled “Aspire,” which, according to IKEA’s literature, is “designed to support identified high potential co-Workers.”

55. IKEA has represented to the EEOC that the Aspire program was a training program for “applicants who were perceived to be high potential co-workers,” but does not indicate how, by whom, or on what basis an employee was “perceived” as such.

56. IKEA selected for its Aspire program younger employees in their twenties, and rejected the applications of its older employees.

57. Younger employees who have successfully completed Defendant’s leadership development programs, including Aspire, have been promoted into management level positions.



58. IKEA has denied Older Coworkers the opportunity to even compete for development and training opportunities. For example, and without limitation, IKEA did not post or openly seek applicants for the Aspire program that ran through July 2016.

59. IKEA passes over for promotion more qualified Older Coworkers in favor of substantially younger individuals.

60. An IKEA Human Resources manager has acknowledged that IKEA has promoted an employee in his twenties into a management level position even though he probably was not ready.

61. IKEA has demoted or pushed out its older managers and replaced them with substantially younger individuals.

62. IKEA employees have complained of age discrimination to no avail.

63. In or about October 2016, complaints of age discrimination in connection with development opportunities and promotion were made to managers at the highest level of the company, including Nabella Ixtabalan, then head of Defendant's US Human Resources, and even global company leaders from Sweden.

64. No one from IKEA's management responded to or followed up on these complaints of age discrimination.

65. IKEA has failed to remediate complaints of age discrimination, and tolerates and promotes a corporate culture of age discrimination.

66. Defendant has since at least January 20, 2016, engaged in a company-wide pattern and practice of age discrimination against its Older Coworkers, including Plaintiff Donofrio.

67. Defendant has by its actions since at least January 20, 2016, intentionally discriminated against Older Coworkers, including Plaintiff Donofrio.

68. Defendant's policies and practices have since at least January 20, 2016, resulted in a disparate impact against Older Coworkers, including Plaintiff Donofrio.

69. Defendant has since at least January 20, 2016, denied leadership development opportunities to Older Coworkers, including Plaintiff Donofrio, because of age.

70. Defendant has since at least January 20, 2016, failed to promote Older Coworkers, including Plaintiff Donofrio, because of age.

**Plaintiff Frank Donofrio**

71. Since February 2011, Plaintiff has been employed by IKEA as an hourly "coworker" working in its Conshohocken retail store.

72. Plaintiff's performance has been outstanding. For example, and without limitation:

- a. Every one of Plaintiff's annual performance ratings has been fully meets or better.
- b. In 2013 and 2014, Plaintiff was assigned the highest overall rating of "Exceptional Contributor," defined to mean:
  - Exhibits leadership by example among peers in all aspect of work performed.
  - Makes a significant contribution to the department/location goals.
  - Demonstrated performance is outstanding and consistently exceeds established expectations of the position.
  - Exceeds stated expectations in the outcomes in work quality, quantity and timeliness.
  - Takes on or is given greater responsibility.
  - Demonstrates "Excels" in most areas in the competencies, including the key areas within each competency.
- c. In his 2013 evaluation, Plaintiff was praised by his manager for, among other things, being a "very strong and independent coworker who takes responsibility and pride in [his] everyday work," for being a "great example for anyone," and for training a fellow coworker.
- d. In his 2014 evaluation, Plaintiff was assigned "excel" for 30 out of 33 individual ratings (the other three were meets). He was praised by his manager for, among other things, his "energy and enthusiasm," and his

“hard work and dedication.” She wrote: “Being an activities co-worker, you mostly work independently but through the training courses you participated in and the commercial projects you were in charge of, you have shown that you can take on anything and actively work with a team.”

- e. In his 2015 evaluation, Plaintiff received an overall score that put him the high end of “Fully Meets Expectations.”
- f. Plaintiff twice received recognition as a coworker of the month.
- g. Plaintiff was praised for his achievements as a Project Leader.
- h. Plaintiff received unsolicited appreciation by customers, for which he was recommended for an Ambassador Award.

73. Notwithstanding Plaintiff’s record of excellent performance, IKEA assessed him as lacking in potential for no good or apparent reason.

74. Notwithstanding that Plaintiff received all individual ratings of either meets or exceeds expectations in his 2015 annual assessment, his then manager evaluated his “identified potential” as “same level” – *i.e.*, the lowest among the three possible categories (“high potential,” “good potential” and “same level”).

75. IKEA’s Human Resources signed off on this lowest assessment of Plaintiff’s potential notwithstanding his two previous annual assessments of “Exceeds Expectations,” his previous manager’s high praise, including for his energy and enthusiasm, and her expression of confidence that he will “definitely climb the IKEA ladder,” and his then manager’s overall performance assessment as “fully meets expectations.”

76. Plaintiff repeatedly expressed to IKEA his interest in advancement opportunities and promotion into a management level position.

77. IKEA rejected Plaintiff for several managerial positions for which he was qualified and applied in favor of a less qualified, substantially younger individual. For example:

- a. In or around June, 2013, IKEA rejected Plaintiff for the Cook Shop/Activities Shopkeeper position in favor of an external candidate with no IKEA experience more than 20 years younger than Plaintiff.
- b. In or around February, 2014, IKEA rejected Plaintiff for the Home Organization/Lighting Shopkeeper position in favor of a candidate approximately 25 years younger than Plaintiff.
- c. In or around, June 2014, IKEA rejected Plaintiff for a Green Plant Technician position in favor of a candidate approximately 20 years younger than Plaintiff.
- d. In or around March, 2015, IKEA rejected Plaintiff for the Activities Lead position in favor a candidate approximately 20 years younger than Plaintiff.

78. IKEA managers openly expressed age bias in connection with the decisions to reject Plaintiff's application for management level positions. For example, and without limitation:

- a. The IKEA manager in charge of the store at which Plaintiff worked told Plaintiff that he was passed over for one of the positions for which he applied in favor of a substantially younger candidate because the younger candidate was "young and energetic."
- b. An IKEA Human Resources representative told Plaintiff that he was not ready for a management position and at the same time told Plaintiff that IKEA had promoted into a management position a coworker approximately 25 years younger than Plaintiff whom the HR representative described as probably not ready for a management position.
- c. Plaintiff's manager told Plaintiff that she was sure that the successful external candidate for a position to which Plaintiff had applied was "young and energetic."

79. IKEA expressed to Plaintiff that he needed more training before he could become a manager.

80. This was a pretext for discrimination, as Plaintiff had availed himself of the training opportunities actually made available to him.

81. Further, IKEA denied Plaintiff training and advancement opportunities because of his age.

82. For example, IKEA twice rejected Plaintiff's application for its Leadership Development (Aspire) Program, and, it is believed, accepted into the Program only employees in their twenties. Moreover, and although IKEA told Plaintiff that he should apply again to the Aspire program, IKEA, contrary to its policies, did not post or make known the Aspire program that ran through July 2016.

83. In or around October 2016, IKEA rejected Plaintiff for the Sales Department Manager – Bedrooms and Children's position.

84. Plaintiff was qualified for the Sales Department Manager – Bedrooms and Children's position.

85. Although IKEA interviewed Plaintiff for the position, the interview seemed to be a sham as it seemed predetermined that Plaintiff would not get the position. Among other things, and without limitation, IKEA had already determined that Plaintiff was not a "good" or "high" potential candidate and the interview was not in accordance with IKEA's usual practices.

86. IKEA hired for the position an external candidate approximately 20 years younger than Plaintiff (Brian O'Shea).

87. Plaintiff was as qualified, if not better qualified, for the position than Mr. O'Shea. Among other things, and without limitation, Mr. O'Shea had no experience with IKEA.

88. IKEA manager Florence Fitzgerald Myers (who had dismissively and improperly appraised Plaintiff as lacking in potential) told Plaintiff that IKEA hired Mr. O'Shea instead of promoting Plaintiff into the position because Mr. O'Shea was "young and energetic."

89. The reason that IKEA failed to promote Plaintiff into the Manager – Bedrooms and Children’s Department was because of his age.

90. IKEA assessed Plaintiff as lacking in potential because of his age.

91. IKEA did not identify Plaintiff as “good potential” or “high potential” because of his age.

92. IKEA passed Plaintiff over for leadership development training because of his age.

93. As a direct and proximate result of the age discriminatory and unlawful conduct of Defendant, 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.

**COUNT I**  
**AGE DISCRIMINATION IN VIOLATION OF THE ADEA – DISPARATE TREATMENT**  
**(by Plaintiff Donofrio individually**  
**and on behalf of similarly situated Older Coworkers)**

94. Plaintiff incorporates by reference the foregoing paragraphs of this Complaint as if fully set forth herein.

95. The ADEA claim of age discrimination – disparate treatment as alleged herein is brought by Plaintiff Donofrio individually and on behalf of similarly situated employees (“Older Coworkers”).

96. Defendant has intentionally discriminated against Plaintiff and Older Coworkers because of their age.

97. Defendant engaged in a pattern and practice of age discrimination against Plaintiff and Older Coworkers through its policy of promoting younger employees while denying positions to its older employees.

98. Defendant engaged in a pattern and practice of age discrimination against Plaintiff and Older Coworkers through its policy of providing leadership development opportunities to its younger employees while denying such opportunities to its older employees.

99. Defendant has denied promotions to Plaintiff Donofrio and Older Coworkers because of their age.

100. Defendant has denied leadership development opportunities to Plaintiff Donofrio and Older Coworkers because of their age.

101. Age was a determinative factor in connection with Defendant's decisions to reject for promotion Plaintiff Donofrio and Older Coworkers.

102. Age was a determinative factor in connection with Defendant's decision to deny leadership development opportunities to Plaintiff Donofrio and Older Coworkers.

103. As a direct result of Defendant's discriminatory conduct, Plaintiff and Older Coworkers have in the past incurred, and will in the future incur, a loss of earnings and/or earnings capacity, loss of benefits, and other injuries, the full extent of which is not known at this time.

104. Defendant, by the discriminatory acts set forth herein, has violated the ADEA.

105. Defendant's violation of the ADEA was intentional and willful under the circumstances and warrant the imposition of liquidated damages.

106. As a direct and proximate result of Defendant's violation of the ADEA, Plaintiff Donofrio and Older Coworkers have sustained the injuries, damages, and losses set forth herein.

107. Plaintiff and Older Coworkers are now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendant's age discriminatory and unlawful acts unless and until the Court grants the relief requested herein.

**COUNT II**  
**AGE DISCRIMINATION IN VIOLATION OF THE ADEA –**  
**DISPARATE IMPACT/LEADERSHIP DEVELOPMENT OPPORTUNITIES**  
**(by Plaintiff Donofrio individually**  
**and on behalf of similarly situated Older Coworkers)**

108. Plaintiff incorporates by reference the foregoing paragraphs of this Complaint as if fully set forth herein.

109. The ADEA claim of age discrimination – disparate impact/leadership development opportunities as alleged herein is brought by Plaintiff Donofrio individually and on behalf of similarly situated employees (“Older Coworkers”).

110. Defendant utilizes practices, policies, and procedures that disparately impact Older Coworkers, including Plaintiff Donofrio, because of age.

111. Upon information and belief, Defendant's policy and/or practice of identifying the “potential” of its employees on a subjective basis has resulted in a statistically significant disparity in the number of older employees accepted into Defendant's leadership development programs.

112. Defendant's policy and/or practice of identifying the “potential” of its employees on a subjective basis has had a disparate impact on Older Coworkers, including Plaintiff Donofrio.

113. Defendant's policy and/or practice of identifying the “potential” of its employees on a subjective basis has caused and causes Older Coworkers, including Plaintiff Donofrio, to be deprived of the benefits of IKEA's leadership development programs and thus to be



discriminated against with respect to the terms, conditions, and privileges of employment because of their age.

114. Defendant, by its policies and/or practices, has violated the ADEA.

115. As a direct and proximate result of Defendant's violation of the ADEA, Older Coworkers, including Plaintiff Donofrio, have sustained the injuries set forth herein.

116. Plaintiff Donofrio and Older Coworkers are now suffering and will continue to suffer irreparable injury as a result of Defendant's age discriminatory and unlawful acts unless and until the Court grants the relief requested herein.

**COUNT III**  
**VIOLATION OF THE ADEA –**  
**DISPARATE IMPACT/PROMOTION RATES**  
**(by Plaintiff Donofrio individually**  
**and on behalf of similarly situated Older Coworkers)**

117. Plaintiff incorporates by reference the foregoing paragraphs of this Complaint as if fully set forth herein.

118. The ADEA claim of age discrimination – disparate impact/promotion rates as alleged herein is brought by Plaintiff Donofrio individually and on behalf of similarly situated employees ("Older Coworkers").

119. Defendant utilizes practices, policies and procedures that disparately impact Older Coworkers, including Plaintiff Donofrio.

120. Upon information and belief, Defendant's policy and/or practice of identifying the "potential" of its employees on a subjective basis has resulted in a statistically significant disparity in the promotion rates of Older Coworkers, including Plaintiff Donofrio.

121. Upon information and belief, Defendant's policy and/or practice of precluding those who were not identified as "high potential" employees and thus rejected for Defendant's

leadership programs has resulted in a statistically significant disparity in the promotion rates of Older Coworkers, including Plaintiff Donofrio.

122. The foregoing policies, individually and/or collectively, have had a disparate impact on the promotion rates of Older Coworkers, including Plaintiff Donofrio.

123. Defendant, by its policies and/or practices, has violated the ADEA.

124. As a direct and proximate result of Defendant's violation of the ADEA, Older Coworkers, including Plaintiff Donofrio, have sustained the injuries set forth herein.

125. Plaintiff Donofrio and Older Coworkers are now suffering and will continue to suffer irreparable injury as a result of Defendant's age discriminatory and unlawful acts unless and until the Court grants the relief requested herein.

**COUNT IV**  
**AGE DISCRIMINATION IN VIOLATION OF THE PHRA**  
**(by Plaintiff Donofrio individually)**

126. Plaintiff Donofrio incorporates by reference the foregoing allegations of the Complaint as if set forth fully herein.

127. The PHRA age discrimination claim is brought by Plaintiff Donofrio on an individual basis only.

128. Defendant has intentionally discriminated against Plaintiff Donofrio because of his age by denying him the opportunity to participate in its leadership development programs, including Aspire.

129. Defendant has intentionally discriminated against Plaintiff Donofrio because of his age by rejecting him for promotion to the Manager – Bedrooms and Children's position.

130. Age was a motivating and/or determinative factor in connection with Defendant's decisions to deny Plaintiff the opportunity to participate in its leadership development programs, including Aspire.

131. Age was a motivating and/or determinative factor in connection with Defendant's decision to reject Plaintiff's application for promotion to the Manager – Bedrooms and Children's position.

132. Defendant, by the discriminatory acts set forth herein, has violated the PHRA.

133. As a direct and proximate result of Defendant's violation of the PHRA, Plaintiff Donofrio has sustained the injuries, damages, and losses set forth herein.

134. Plaintiff Donofrio is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendant's age discriminatory and unlawful acts unless and until the Court grants the relief requested herein.

### **RELIEF**

WHEREFORE, Plaintiff, Frank Donofrio, respectfully requests that this Court enter judgment in his favor and against Defendant, IKEA US Retail, LLC formerly known as IKEA US East LLC, and doing business as IKEA:

- a. Declaring this action to be an ADEA collective action properly maintained under 29 U.S.C. § 216(b);
- b. requiring Defendant to provide to Plaintiff the names, date of birth, addresses (including e-mail addresses), current positions, and telephone numbers of all current hourly retail employees of Defendant who, since January 20, 2016, were age 40 or over and rejected for promotion and/or leadership development opportunities;

- c. requiring that notice and opportunity to opt-in be given to all current hourly retail employees of Defendant who, since January 20, 2016, were age 40 or over and rejected for promotion and/or leadership development opportunities;
  - d. declaring the acts and practices complained of to be a violation of the ADEA;
  - e. declaring the acts and practices complained of by Plaintiff Donofrio on an individual basis to be a violation of the ADEA and PHRA;
  - f. enjoining and restraining permanently the violations alleged herein;
  - g. awarding compensatory damages to Plaintiff and Older Coworkers to make Plaintiff and Older Coworkers whole for all past and future lost earnings, benefits, and earnings capacity which Plaintiff and Older Coworkers have suffered and will continue to suffer as a result of Defendant's discriminatory conduct;
  - h. awarding liquidated damages to Plaintiff and Older Coworkers;
  - i. awarding Plaintiff Donofrio compensatory damages to make Plaintiff Donofrio whole for all past and future pain and suffering, emotional distress, embarrassment, humiliation, loss of self-esteem, mental anguish, and loss of life's pleasures that Plaintiff has suffered and will continue to suffer as a result of Defendant's age discriminatory conduct.
  - j. awarding Plaintiff the costs of this action, together with reasonable attorney's fees;
  - k. awarding Plaintiff and Older Coworkers such other damages as are appropriate under the ADEA;
  - l. awarding Plaintiff such other damages as are appropriate under the PHRA;
- and

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

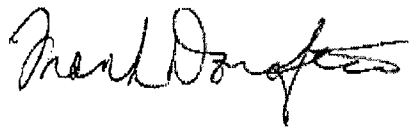
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Attorneys for Plaintiff,  
Frank Donofrio  
*(on behalf of himself individually  
and on behalf of those similarly situated)*

Dated: February 12, 2018

<b>CHARGE OF DISCRIMINATION</b>		AGENCY <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	CHARGE NUMBER NOV 15 11:11 AM '16
This form is affected by the Privacy Act of 1974; See privacy statement before consolidating this form.			
STATE OR LOCAL AGENCY: <u>Pennsylvania Human Relations Commission</u>			
NAME (Indicate Mr., Ms., Mrs.) <b>Frank Donofrio</b>		HOME TELEPHONE NUMBER (Include Area Code) (610) 955-3613	
STREET ADDRESS [REDACTED]		CITY, STATE AND ZIP Norristown, PA 19401	DATE OF BIRTH 09 [REDACTED] 1963
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP, COMMITTEE, STATE OF LOCAL GOVERNMENT WHO DISCRIMINATED AGAINST ME (If more than one than list below)			
NAME <b>IKEA</b>		NUMBER OF EMPLOYEES, MEMBERS >20	TELEPHONE (Include Area Code) (888) 888-4532
STREET ADDRESS 400 Alan Wood Road		CITY, STATE AND ZIP Conshohocken, PA 19428	COUNTY Montgomery
CAUSE OF DISCRIMINATION (Check appropriate box(es)) <input type="checkbox"/> Race <input type="checkbox"/> Color <input type="checkbox"/> Sex <input type="checkbox"/> Religion <input type="checkbox"/> National Origin <input checked="" type="checkbox"/> Retaliation <input checked="" type="checkbox"/> Age <input type="checkbox"/> Disability <input type="checkbox"/> Other (Specify)		DATE DISCRIMINATION TOOK PLACE Earliest _____ Latest 10/09/2016	
<b><u>The Particulars Are:</u></b>			
A. 1. Relevant Work History			
I was hired by Respondent on or around February 5, 2011 in the position of Sales. In my Sales position, I report to Scott Jahss (55 <sup>ea</sup> ), Self-Serve Manager, and Florence Fitzgerald (60), Self-Serve Team Lead.			
Respondent most recently failed to promote me on October 9, 2016. I was fifty-three (53) years of age, with more than five and a half (5.5) years of service at Respondent. Instead of me, Respondent hired an external candidate in his twenties (20s). This was the sixth (6th) time Respondent failed to promote me to a position for which I applied and was qualified.			
I consistently demonstrate excellent performance and dedication to Respondent. By way of example, my performance reviews and evaluations for 2011, 2012, 2013, 2014, and 2015 have all been positive.			
<input checked="" type="checkbox"/> I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures		NOTARY - (when necessary for State and Local Requirements) I swear of affirm that I have read the above charge and that it is true to the best of my knowledge information and belief.	
I declare under penalty or perjury that the foregoing is true and correct.			
Date: <u>11/14/16</u> Charging Party (Signature): 		SIGNATURE OF COMPLAINANT  SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day Month, and year)	

<sup>a</sup> All ages herein are approximations.

EEOC Charge of Discrimination

Page 2 of 5

Initials of Charging Party – *FD*

2. Harm Summary

I have been discriminated against because of my age (53), and retaliated against because of my complaints about discriminatory conduct. Evidence of the discriminatory and retaliatory conduct to which I have been subjected includes, but is not limited to, the following:

- (a) On August 27, 2016, I applied for the position of Sales Department Manager – Bedrooms and Children's IKEA. On October 9, 2016, I received an email rejection notice from the interviewer, Elizabeth Spencer (32), Sales Manager. Although I was qualified for the position, and had the requisite experience, I was not promoted to the position. Instead, Respondent selected Brian O'Shea (25), an external candidate, to fill the Sales Department Manager position.
- (b) On October 16, 2016, when I spoke with Fitzgerald and Alice Racz about the individual selected for the Sales Department Manager position, Fitzgerald stated that she was sure that the individual hired is "young and energetic." Fitzgerald also commented that Managers are no longer allowed to say the phrase "young and energetic" because employees have complained about the phrase. I understood this to mean that other employees perceive Respondent to discriminate on the basis of age, as the phrase suggests to me.
- (c) Throughout the past three (3) years, I have applied for and was not promoted to numerous management positions at Respondent—positions for which I was qualified and which were filled with younger candidates, who were often twenty (20) to thirty (30) years younger than me.
  - i. In or around June 2013, I applied for the Cook Shop/Activities Shopkeeper position, and interviewed for it. I had worked in the Cook Shop for a full year, and the Activities Department for a full year. However, I did not get the promotion; instead, Krystal Szot (25), an external candidate, was hired for the position. I was obligated to assist in training Szot.
  - ii. In or around November 2013, I applied for Home Decoration Shopkeeper. I was informed at the interview that the position was filled. Based on my horticulture education and past employment experience, I was qualified and well-suited for the position. Linda Kimmel (50) was given the position.
  - iii. When I was informed that the Home Decoration Shopkeeper position was filled, I interviewed for the Home Organization/Lighting Shopkeeper position. In or around February 2014, I was informed that Drew Calhoun (22) was given the position. I was told that I needed to have the Shopkeeper Training class to acquire such a Shopkeeper position; I was encouraged to reapply for The Aspire Program. I was informed that I needed to have all the training available before I could move into a management position.
  - iv. In or around March 2014, Store Manager Camilla Meiby (50) told me that Respondent hired Calhoun (22) for the Shopkeeper position instead of me because Calhoun is "young and energetic."
  - v. In or around March 2014, Maria Fogelstrum (42), Human Resources representative, told me that Respondent did not think that I was ready for a management position. She then stated that Eric Madison (25), who had no college education, was hired for the Full Serve Shopkeeper position. Fogelstrum admitted that, at Madison's stage, he was probably not ready for a management position.

**EEOC Charge of Discrimination**

**Page 3 of 5**

**Initials of Charging Party -**

FD

- vi. In or around June 2014, I attended the Shopkeeper Training class. Szot (26) and Calhoun (22) also attended the class, even though they already held Shopkeeper positions.
  - vii. In or around June 2014, I applied for the Green Plant Technician position. At the end of the three (3) hour interview, I was informed that I had the required horticultural education requirements, but that I should first acquire some management experience in Respondent's retail store. I did not get the position.
  - viii. In or around March 2015, I applied for Activities Team Lead, and interviewed for the position. In or around April 2015, I had a post-interview meeting during which I was informed that I was not selected for the Activities Team Lead position. Instead, Sharese Williams (25) was transferred into the position. I had the requisite experience, had worked in the Activities Department for a full year, and was the project leader of the summer furniture sales, but I was told that I needed to show more of my leadership skills and management experience at Respondent.
- (d) During the past three (3) years, I have applied to and have been rejected from Respondent's Aspire Program twice. The Aspire Program is an intensive development program for select high-value, high-potential employees at Respondent. It is a six (6) month training program for selected employees to develop their understanding of Respondent's business and their own leadership capabilities. The purpose of The Aspire Program is to train the next leaders of Respondent.
- i. I first applied for The Aspire Program in or around November 2013, and was interviewed. In or around January 2014, I received a rejection notice.
  - ii. In or around November 2014, I again applied for The Aspire Program. In or around December 2014, I was again rejected for The Aspire Program.
  - iii. In or around January 2015, a list was posted of the candidates selected for The Aspire Program. Robert Musselman (55), Jennifer Booker (55), and I were viewing the list at the same time. I stated that I had applied for The Aspire Program but was not accepted for the second time. Booker stated that she also applied but was not accepted. Musselman stated that all of the employees on the list were in their 20s.
  - iv. In or around February 2015, I met with Fitzgerald and Chris Jaconi (45), Bedroom Shopkeeper, for The Aspire Program post-rejection interview. Fitzgerald and Jaconi asked me if I stated that all the employees on The Aspire Program selection list were in their 20s, referring to my conversation with Booker and Musselman. Fitzgerald and Jaconi continued to question me about this alleged comment and proceeded to defend Respondent. They told me not to make statements like that because I cannot make false statements about Respondent, and Respondent does not discriminate. I felt interrogated and intimidated in the post-rejection interview.
  - v. During the meeting with Fitzgerald and Jaconi, I complained that Respondent, as I found out in my conversation with Meiby, hired Calhoun instead of me because he is young and energetic.



**EEOC Charge of Discrimination**

**Page 4 of 5**

**Initials of Charging Party – FD**

- vi. In or around November 2015, I met with Jahss and told him that I was disappointed that I had not been accepted into The Aspire Program. Jahss stated that he already had two employees from our Department in the Program, and that it was not possible to have more employees from our Department in the Program. Both employees from our Department, C.J. Tierney (25) and Stewart Cullinan (25), had worked for Respondent for less time than I had. Tierney and Cullinan both received management positions after they completed The Aspire Program.
- (e) Respondent's comments and conduct evidence a bias against older employees, including, but not limited to the following instances.
- i. On October 24, 2016, Respondent held a Management Facilitators Meeting, which was an open forum for employees to speak freely to Respondent's management about concerns or ideas. During the meeting, one employee, Rich Connell (25), stated that Respondent practices "ageism" and that it is impossible for anyone past their 20s to be promoted to a management position. Connell also asked why so many current employees were rejected or not even considered for The Aspire Program—especially because the program and selection process is very secretive.
  - ii. At the meeting, I explained that I applied and was rejected twice for The Aspire Program, and that I was also rejected for numerous management positions. I explained that I was not provided any specific reason for why I was not promoted. I stated that all the positions to which I was not promoted were filled with external candidates in their 20s.
  - iii. At the meeting, Brenda Brunsen-Horton (in her 60s) stated that all the good and dedicated employees at Respondent get passed over for younger people. She explained that many employees at Respondent do not apply to internal jobs any longer because they know that Respondent will hire only young people, and everyone feels discouraged and frustrated.
  - iv. In or around the spring of 2016, Fitzgerald told me that she saw an older employee crying in the bathroom because her manager was repeatedly changing her schedule and she felt as though Respondent was pushing her out.
  - v. In or around the spring of 2016, Fitzgerald told me that Respondent's Store Manager Meiby was obsessed with 20-year-olds. Fitzgerald told me that Meiby may be able to get away with that—which I understood to mean age discrimination—in Sweden, but she cannot get away with it in the United States.
  - vi. In or around January 2016, I received a corrective action for misreading the schedule; two employees in their twenties (20s) who also misread the schedule did not receive a corrective action.

**EEOC Charge of Discrimination**

**Page 5 of 5**

**Initials of Charging Party –**

FIS

- B. 1. Respondent's Stated Reasons
- (a) Respondent has not offered any legitimate explanation for failing to promote me into management me positions, including the Sales Department Manager – Bedrooms and Children's IKEA position.
  - (b) Respondent has not offered any legitimate explanation for failing to place me into The Aspire Program.
  - (c) Respondent has not offered any explanation for subjecting me to a hostile work environment.
  - (d) Respondents have not offered any explanation for failing to take corrective and/or remedial action regarding my complaints of age discrimination.
- C. 1. Statutes and Bases for Allegations

I believe that Respondent has discriminated against me based on my age (53), and retaliated against me because of my complaints about discriminatory conduct 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") as set forth herein.

**CLASS CHARGE**

**I bring this Charge as a class and pattern and practice Charge 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 hiring, promotion, training, or termination decisions, and/or have been subjected to a hostile work environment.**

INFORMATION FOR COMPLAINANTS & ELECTION OPTION  
TO DUAL FILE WITH THE  
PENNSYLVANIA HUMAN RELATIONS COMMISSION

**Frank Donofrio v. IKEA**

EEOC No. \_\_\_\_\_

RECEIVED  
16 NOV 15 PM 4  
PHRC

You have the right to file this charge of discrimination with the Pennsylvania Human Relations Commission (PHRC) under the Pennsylvania Human Relations Act. Filing your charge with PHRC protects your state rights, especially since there may be circumstances in which state and federal laws and procedures vary in a manner which would affect the outcome of your case.

Complaints filed with the PHRC must be filed within 180 days of the act(s) which you believe are unlawful discrimination. If PHRC determines that your PHRC complaint is untimely, it will be dismissed.

If you want your charge filed with the PHRC, including this form as part of your EEOC charge, with your signature under the verification below, will constitute filing with the PHRC. You have chosen EEOC to investigate your complaint, so PHRC will not investigate it and, in most cases, will accept EEOC's finding. If you disagree with PHRC's adoption of EEOC's finding, you will have the chance to file a request for preliminary hearing with PHRC.

Since you have chosen to file your charge first with EEOC, making it the primary investigatory agency, the Respondent will not be required to file an answer with PHRC, and no other action with PHRC is required by either party, unless/until otherwise notified by PHRC.

If your case is still pending with PHRC after one year from filing with PHRC, you have the right to file your complaint in state court. PHRC will inform you of these rights and obligations at that time.

**[Sign and date appropriate request below]**

X I want my charge filed with PHRC. I hereby incorporate this form and the verification below into the attached EEOC complaint form and file it as my PHRC complaint. I request EEOC to transmit it to PHRC.

X I understand that false statements in this complaint are made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

X Frank Donofrio 11/14/16  
Signature and Date

\_\_\_\_ I do not want my charge dual filed with PHRC

\_\_\_\_\_  
Signature and Date

EEOC Form 161-B (11/16)

**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**  
**NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)**

To: **Frank Donofrio**  
[Redacted]  
Norristown, PA 19401

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>530-2017-00576</b>	<b>Legal Unit, Legal Technician</b>	<b>(215) 440-2828</b>

*(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.
- Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.
- The EEOC is terminating its processing of this charge.
- The EEOC will continue to process 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 paragraph marked below applies to your case:**

- 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.
- The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

**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



**Kevin J. Berry,**  
Acting District Director

11/29/17

(Date Mailed)

Enclosures(s)

cc:

**IKEA**  
Emily Derstine Friesen, Esq. (for Charging Party)  
Kishorn Henry, Human Resources Manager  
(for Respondent)

**EXHIBIT "B"**

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.)

<p><b>I. (a) PLAINTIFFS</b>  <b>Frank Donofrio, on behalf of himself individually</b>  <b>and on behalf of those similarly situated</b></p> <p><b>(b)</b> County of Residence of First Listed Plaintiff <u>Montgomery</u>  <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p><b>(c)</b> Attorneys <i>(Firm Name, Address, and Telephone Number)</i>  <b>Stephen G. Console; Console Mattiacci Law</b>  <b>1525 Locust St., 9th Floor</b>  <b>Phila., Pa 19102 (215) 545-7676</b></p>	<p><b>DEFENDANTS</b>  <b>IKEA US Retail, LLC f/k/a IKEA US East LLC, d/b/a IKEA</b></p> <p>County of Residence of First Listed Defendant <u>Montgomery</u>  <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys <i>(If Known)</i></p>
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<p><b>II. BASIS OF JURISDICTION</b> <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;"><b>PTF</b></td> <td style="text-align: center;"><b>DEF</b></td> <td></td> <td style="text-align: center;"><b>PTF</b></td> <td style="text-align: center;"><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		<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
	<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>																				
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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.

<b>CONTRACT</b>	<b>TORTS</b>	<b>FORFEITURE/PENALTY</b>	<b>BANKRUPTCY</b>	<b>OTHER STATUTES</b>	
<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	<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>	<b>CIVIL RIGHTS</b>	<b>PRISONER PETITIONS</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	<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>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. § 621, et seq. ("ADEA")**

Brief description of cause:  
 Age discrimination as a collective action pursuant to the ADEA, 29 U.S.C. § 626(b), incorporating section 16(b) of the Fair Labor Standards Act, 29 U.S.C. § 216(b)

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.   
 DEMAND \$ in excess of \$150,000   
 CHECK YES only if demanded in complaint:  
**JURY DEMAND:**     Yes     No

**VIII. RELATED CASE(S) IF ANY** *(See instructions):*

JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE **2/12/2018**    SIGNATURE OF ATTORNEY OF RECORD **Stephen G. 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 to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: Norristown, PA 19401

Address of Defendant: 420 Alan Wood Road, Conshohocken PA 19428

Place of Accident, Incident or Transaction: Conshohocken, PA  
*(Use Reverse Side For Additional Space)*

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?  
 (Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes  No

Does this case involve multidistrict litigation possibilities? Yes  No

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  No
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  No
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 in this court?  
 Yes  No
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  No

CIVIL: (Place  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:

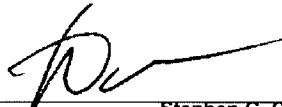
1.  Insurance Contract and Other Contracts
2.  Airplane Personal Injury
3.  Assault, Defamation
4.  Marine Personal Injury
5.  Motor Vehicle Personal Injury
6.  Other Personal Injury (Please specify)
7.  Products Liability
8.  Products Liability — Asbestos
9.  All other Diversity Cases  
 (Please specify) \_\_\_\_\_

ARBITRATION CERTIFICATION

*(Check Appropriate Category)*

I, Stephen G. Console, counsel of record do hereby certify:  
 Pursuant to Local Civil Rule 53.2, Section 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: 02/12/2018

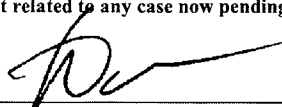
  
 Attorney-at-Law Stephen G. Console

36656  
 Attorney I.D.#

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

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

DATE: 02/12/2018

  
 Attorney-at-Law Stephen G. Console

36656  
 Attorney I.D.#

