

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.)

**I. (a) PLAINTIFFS**

Christopher Welsh

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

(c) Attorneys (Firm Name, Address, and Telephone Number)  
Caren N. Gurmankin, Esq.,  
Console Mattiacci Law  
1525 Locust Street, 9th Floor, Phila. PA 19102 215-545-7676

**DEFENDANTS**

Defender Association of Philadelphia

County of Residence of First Listed Defendant Philadelphia  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION (Place an "X" in One Box Only)**

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 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)**

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | <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 |

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

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<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	<b>PERSONAL INJURY</b> <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> <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	<b>CIVIL RIGHTS</b> <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>PRISONER PETITIONS</b> <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. §2601, et seq. ("FMLA") and 43 P.S. §1421, et seq. ("PAWBL")

Brief description of cause:  
Plaintiff is alleging FMLA violations and retaliation.

**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** N/A

(See instructions):

JUDGE

DOCKET NUMBER

DATE  
09/14/2017

SIGNATURE OF ATTORNEY OF RECORD

Caren N. Gurmankin, Esquire

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT

APPENDIX F

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: Christopher Welsh, Philadelphia, PA 19129

Address of Defendant: Defender Association of Philadelphia, 1441 Sansom Street, Philadelphia, PA 19102

Place of Accident, Incident or Transaction: (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 X

Does this case involve multidistrict litigation possibilities? RELATED CASE, IF ANY: Yes No X

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?
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?
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?

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, Caren N. Gurmankin, Esquire, 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: Sept. 14, 2017 Attorney-at-Law 205900 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: Sept. 14, 2017 Caren N. Gurmankin, Esquire 205900

APPENDIX I

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

CASE MANAGEMENT TRACK DESIGNATION FORM

Christopher Welsh	:	CIVIL ACTION
	:	
v. Plaintiff,	:	
	:	
Defender Association of Philadelphia	:	NO.
Defendant.	:	

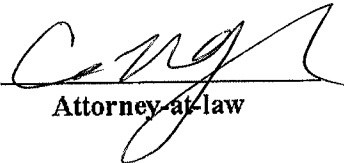
In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse 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)

Sept. 14, 2017

Date

  
Attorney-at-law

Plaintiff, Christopher Welsh

Attorney for Plaintiff

(215) 545-7676

Telephone

(215) 565-2853

FAX Number

gurmankin@consolelaw.com

E-Mail Address

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

---

**CHRISTOPHER WELSH**  
Philadelphia, PA 19129

Plaintiff,

v.

**DEFENDER ASSOCIATION OF  
PHILADELPHIA**  
1441 Sansom Street  
Philadelphia, PA 19102

Defendant.

---

CIVIL ACTION NO.

JURY TRIAL DEMANDED

**COMPLAINT**

**I. INTRODUCTION**

Plaintiff, Christopher Welsh, brings this action against his employer, Defender Association of Philadelphia (“Defendant”). When Plaintiff, a twelve (12) year veteran of Defendant, discovered that one (1) of Defendant’s attorneys had engaged in the unauthorized practice of law (representing hundreds of Defendant’s juvenile clients over an approximately six (6) month period) while that attorney was administratively suspended, Plaintiff immediately reported the same to the Chief Defender, Keir Bradford-Grey, and the First Assistant Defender, James McHugh. Bradford-Grey’s response was to yell at Plaintiff; tell him that she did not trust him and that he was not part of the team; chastise him for “investigating” the attorney engaged in the unauthorized practice of law; and,

tell him that, “you better hope no one goes poking around the skeletons in your closet.”

Defendant did not take action to correct and/or remedy the situation that Plaintiff brought to its attention regarding the unlicensed attorney representing Defendant’s juvenile clients. Instead, just over two (2) months after Plaintiff reported the situation with the unlicensed attorney practicing law, he was issued a “Final Disciplinary Warning – Performance Improvement Plan (P.I.P.).” It was the first time in Plaintiff’s twelve (12) year career with Defendant that he had ever been disciplined for any performance-related issues. As a result of Plaintiff’s severe stress and anxiety resulting from Defendant’s hostile and retaliatory conduct, he took leave pursuant to the Family Medical Leave Act (“FMLA”).

On the same day that Plaintiff returned to work upon the conclusion of his FMLA leave, he was demoted. To date, Defendant has refused to inform Plaintiff what, if anything it has done regarding the situation with the unlicensed attorney engaged in the unauthorized practice of law (representing juveniles) that Plaintiff reported earlier this year, and what, if anything, it has done regarding his complaints of retaliation.

Defendant has violated Plaintiff’s rights pursuant to the Family Medical Leave Act, as amended, 29 U.S.C. §2601, *et seq.* (“FMLA”) and the Pennsylvania Whistleblower Law, 43 P.S. §1421, *et seq.*, as amended (“PAWBL”). Plaintiff seeks relief, as set forth below, including his attorneys’ fees and costs.

**II. PARTIES**

1. Plaintiff, Christopher Welsh, is an individual and a citizen of the Commonwealth of Pennsylvania. He resides in Philadelphia, PA.

2. Plaintiff has been employed with Defendant for over twelve (12) years. Plaintiff was employed for at least twelve hundred and fifty (1,250) hours of service during his last twelve (12) month period.

3. Defendant is an independent, non-profit corporation that is incorporated in the Commonwealth of Pennsylvania, and is located at 1441 Sansom Street, Philadelphia, PA 19102.

4. Defendant provides legal representation, connection to social services, and reentry support to adults and juveniles in Philadelphia. It represents about seventy (70%) percent of all individuals arrested in Philadelphia, and focuses on three main practice areas: child advocacy (for abused and neglected children); juvenile delinquency (for children between the ages of ten (10) and eighteen (18) accused of both misdemeanor and felony crimes); and, criminal (for adults age eighteen (18) and above, who are accused of misdemeanors, felonies, and capital level crimes).

5. The Philadelphia Court of Common Pleas and the Municipal Court of Philadelphia make all determinations as to when Defendant should be appointed as counsel to indigent individuals.

6. Defendant is governed by a Board of Directors, some of whom are directors representing the City of Philadelphia.

7. Defendant receives almost all of its funding through a contract with the City of Philadelphia to provide legal services to indigent criminal defendants. The City of Philadelphia Operating Budget included that, in 2016, the City's obligations to Defendant exceeded \$42 million.

8. At all times material hereto, Defendant acted as an employer within the meaning of the statutes which form the basis of this matter.

9. At all times material hereto, Defendant employed more than fifty (50) employees at Plaintiff's workplace.

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

11. At all times material hereto, Plaintiff was an employee of Defendant within the meaning of the statutes which form the basis of this matter.

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

12. The causes of action which form the basis of this matter arise under the FMLA and the PAWBL.

13. The District Court has jurisdiction over Count I (FMLA) pursuant to 29 U.S.C. §2617(a)(2) and 28 U.S.C. §1331.

14. The District Court has supplemental jurisdiction over Count II (PAWBL) pursuant to 28 U.S.C. §1367.

15. Venue is proper in the District Court under 28 U.S.C. §1391(b).

**IV. FACTUAL ALLEGATIONS**

16. Plaintiff has spent his entire legal career with Defendant. He started working for Defendant as an Assistant Defender in around August 2005, right after his graduation from law school.

17. Plaintiff graduated from Temple University Beasley School of Law *magna cum laude* in May 2005. He has been a member of the Pennsylvania bar, and a fully licensed attorney, since 2005.

18. While in law school, Plaintiff was a Legal Intern in the Public Housing Unit at Community Legal Services in Philadelphia. Prior to attending law school, Plaintiff worked as a Community Organizer at the Northwest Bronx Community & Clergy Coalition in Bronx, New York. Plaintiff has dedicated his entire working life to public service.

19. When Plaintiff joined Defendant, he rotated through its various divisions as part of the three (3) year rigorous training program for new Assistant Defenders. After Plaintiff's training, he served in the Majors Trial Unit, the Juvenile Special Defense Unit, as Municipal Court Rotating Supervisor, and in the Mental Health Unit. In around June 2009, Plaintiff was promoted to Municipal Court Rotating Supervisor.

20. In around late 2012, Plaintiff was promoted to Assistant Chief Central Zone. Within a few months, Defendant also assigned Plaintiff to oversee the Municipal Court Domestic Violence Courtrooms. In that capacity, he supervised approximately thirty (30) attorneys, investigators, and administrative staff handling all aspects of representation for those clients arrested in the



Central Division and those arrested for domestic violence across the city.

21. In or around August 2016, Plaintiff was told that he was being promoted into the position of Deputy Defender - Practice Operations and Systems Development (effective October 2016).

22. As Deputy Defender Chief of Practice Operations and Systems Development, Plaintiff reported directly to Bradford-Grey and McHugh. Pursuant to Plaintiff's job description, his primary responsibility was "for the ongoing assessment and continual improvement of all methods, processes, protocols and procedures related to the professional services (Legal Representation, Social Services and Child Advocacy) delivered to all of the Association's clients, so as to facilitate the realization of the Association's vision."

23. At all times material hereto, Plaintiff has performed his job duties in a highly competent manner.

24. On or about February 16, 2017, Plaintiff discovered, in the course of confirming attorneys' bar numbers for the Pennsylvania court system and at the request of the Administrative Office of Pennsylvania Courts, that the status listed for one (1) of Defendant's attorneys was "Administrative Suspension."

25. Plaintiff immediately advised that attorney ("Unauthorized Attorney John Doe"), and then McHugh, of his discovery. McHugh told him that they should hold off, temporarily, on advising Bradford-Grey of the issue, as she was then on vacation.

26. On or about February 21, 2017, Plaintiff gave the following memorandum to Defendant:

On Friday, February 17, 2017 I became aware that [Unauthorized Attorney John Doe] seemingly engaged in the Unauthorized Practice of Law 42 Pa. C.S. §2524 representing a few hundred juvenile clients between October 21, 2015 and April 11, 2016. He did not have a valid license to practice law in Pennsylvania because his license was administratively suspended on October 21, 2015. His license is currently suspended to this day.

I learned this information because the AOPC asked me to verify the bar numbers for a few of our lawyers. [Unauthorized Attorney John Doe] was one of those lawyers. I notified [Unauthorized Attorney John Doe] immediately when I found out. I notified Jim of the situation Friday afternoon and we decided to meet to discuss it with Keir on Tuesday morning. I also notified Lori Friday afternoon.

I am concerned that this discovery has many potential consequences for the Defender Association. [Unauthorized Attorney John Doe]'s actions could result in liability issues with our former clients and with our malpractice insurance carrier. I am also concerned that the Defender Association might have an ethical duty to report [Unauthorized Attorney John Doe] to the Disciplinary Board because of his actions.

I hope I am wrong about the seriousness of this situation but I am concerned that I am not. I think we should contact our employment lawyers and ask to speak with their attorney who specializes in professional ethics to advise us on how to address this situation. There is a schedule of documents attached that explain the situation and my reasoning in more detail.

27. Plaintiff attached to his memorandum several documents, including the documents showing Unauthorized Attorney John Doe's administrative suspension status; Plaintiff's email to Unauthorized Attorney John Doe advising of the status that was listed as administrative suspension; the statute demonstrating that the unauthorized practice of law was a crime; and, guidance from the Disciplinary Board of the Supreme Court of Pennsylvania to lawyers who have been administratively suspended.

28. The Pennsylvania statute that Plaintiff believed that Unauthorized Attorney John Doe violated, as he reported to Defendant, 42 Pa. C.S. §2524, states that it is a misdemeanor of the third degree for a person, not currently admitted to practice law, to represent himself to the public as being entitled to practice law, or to give the impression that he is a practitioner of the law of any jurisdiction.

29. The Standard Guidance to Lawyers Who Have Been Administratively Suspended, as issued by the Disciplinary Board of the Supreme Court of Pennsylvania, requires that any individual who does not resolve his noncompliance prior to the effective date of his administrative suspension “promptly” give notice of his administrative suspension to all clients represented in pending matters, or in litigation or administrative proceedings, and the attorneys for each adverse party. The Guidance also requires that such individuals also notify “any other tribunal, court, agency, or jurisdiction in which you are admitted to practice.”

30. On February 21, 2017, after Plaintiff had submitted the above-referenced memorandum to Defendant, he met with Bradford-Grey and McHugh regarding the same. During the meeting, Plaintiff was treated with hostility, including being yelled at; being chastised for “investigating” Unauthorized Attorney John Doe without telling them; being told that they did not trust him and he was not part of the team; and, being told that “you better hope no one goes poking around the skeletons in your closet.”

31. On April 28, 2017, Bradford-Grey told Plaintiff that he was going to be placed on a Performance Improvement Plan, and that he would receive the same during the following week.

32. On May 4, 2017, Plaintiff received a “Final Disciplinary Warning – Performance Improvement Plan (P.I.P.)” That was the first time in Plaintiff’s career with Defendant that he was ever disciplined in connection with his performance.

33. On May 11, 2017, Plaintiff sent the following email to Bradford-Grey; David Rudovsky, Chair of the Board of Directors of Defendant; and, Mark Sappir, Human Resources Director:

David, Keir and Mark,

I believe that I am being retaliated against for my reporting that [Unauthorized Attorney John Doe] engaged in criminal conduct by representing our juvenile clients when [Unauthorized Attorney John Doe] did not have a valid license to practice law ([whose] license was administratively suspended in October 2015).

On February 21st, I sent the attached memo reporting this issue to Keir and Jim McHugh. In a meeting with Keir and Jim regarding this issue later that same day, I was treated with hostility and threatened including: being yelled at; being chastised for “investigating” [Unauthorized Attorney John Doe] without telling them; told that they didn’t trust me and that I was not part of the team; and, told that, “you better hope no one goes poking around the skeletons in your closet.”

On April 28th, Keir told me that I was going to be placed on a Performance Improvement Plan, with an unknown end date, and that I would get the plan, in writing, during the following week. On May 4th, I received a “Final Disciplinary Warning – Performance Improvement Plan (P.I.P.)” That is the first time in my twelve year career with the Defender Assoc. that I have ever received any disciplinary actions for my performance.

To my knowledge, no action has been taken regarding my reporting

that [Unauthorized Attorney John Doe] practiced law (and represented hundreds of our juvenile clients) without a valid license, and my recommendation that the Association take immediate action to look into, and remedy, this situation.

My only goals here have been to make sure that I am doing the right thing for the Defenders' Association and the right thing for the clients whom we serve, and to keep my job, which I love and to which I have been dedicated for the past twelve years.

34. Defendant did not respond to Plaintiff's May 11th email.

35. As a result of Defendant's retaliatory and hostile conduct, Plaintiff went out on approved leave pursuant to the FMLA for hypertension; anxiety; and, acute stress disorder.

36. On June 12, 2017, Sappir advised Plaintiff that Defendant had retained an attorney to investigate his complaints of retaliation (that Plaintiff had made one (1) month earlier).

37. At Defendant's request, Plaintiff met with its investigator on or about July 12, 2017. He provided documentation to the investigator prior to the meeting which demonstrated that the Performance Improvement Plan on which he had been placed was retaliatory. At the meeting with the investigator, Plaintiff responded fully and completely to all of her questions.

38. To date, no one at Defendant has informed Plaintiff regarding the results of the investigation into his complaints of retaliation.

39. Plaintiff returned to work from FMLA leave effective August 23, 2017.

40. On the same day that Plaintiff returned to work, he was told that he was no longer on the Performance Improvement Plan on which he had been

placed shortly before he went out on FMLA leave.

41. Plaintiff was also told that he was being demoted in that his direct reports were being removed from his supervision and reassigned because he was out on leave (for his medical condition pursuant to the FMLA); he was being placed into a project-level position, and the only project to which he was assigned was to oversee scanning and digitalizing the Defender Association's files; and, that he no longer had the authority that he had as Deputy Defender.

42. Plaintiff complained that Defendant's actions violated his rights pursuant to the FMLA.

43. Since Plaintiff's return to work, Bradford-Grey has continued to treat him in a hostile manner, including making false accusations regarding his conduct; yelling at him and cutting him off in a meeting; and, ignoring him, including refusing to make eye contact with him or address him, when she sees him at the office.

44. Since Plaintiff's return to work from his FMLA leave, he has asked Defendant, repeatedly, what actions it has taken regarding the situation with Unauthorized Attorney John Doe having engaged in the unauthorized practice of law; what actions it has taken regarding Plaintiff's complaints of retaliation; the results of the investigation that Defendant's investigator conducted regarding Plaintiff's May 11th complaint that his placement on the Performance Improvement Plan was retaliatory; and, what actions it has have taken regarding Plaintiff's complaints that Defendant violated his rights pursuant to the FMLA.

45. Defendant has refused to answer any of Plaintiff's questions, as set forth above.

46. Defendant has failed to provide a legitimate, non-discriminatory reason for placing Plaintiff on a "Final Disciplinary Warning – Performance Improvement Plan (P.I.P.)."

47. Defendant has failed to provide a legitimate, non-discriminatory reason for demoting Plaintiff.

48. Defendant interfered with Plaintiff's rights to take FMLA leave by failing to place him into an equivalent position upon his return from FMLA leave.

49. Defendant retaliated against Plaintiff for exercising his rights to FMLA leave.

50. Plaintiff's use of protected leave under the FMLA was a determinative and/or motivating factor in Defendant's discriminatory and retaliatory treatment of Plaintiff, including its demotion of Plaintiff.

51. Plaintiff's reporting the situation with Unauthorized Attorney John Doe engaging in the unauthorized practice of law by representing Defendant's juvenile clients was a determinative and/or motivating factor in Defendant's retaliatory treatment of Plaintiff, including placing Plaintiff on a "Final Disciplinary Warning – Performance Improvement Plan (P.I.P.)" and demoting Plaintiff.

**COUNT I – FMLA**

52. Plaintiff incorporates herein by reference paragraphs 1 through 51 above, as if set forth herein in their entirety.

53. By committing the foregoing acts against Plaintiff, Defendant has violated the FMLA by interfering with Plaintiff's rights.

54. By committing the foregoing acts against Plaintiff, Defendant has retaliated against Plaintiff and violated the FMLA.

55. As a direct and proximate result of Defendant's violation of the FMLA, Plaintiff has suffered losses set forth herein and has incurred attorneys' fees and costs.

56. Plaintiff is now suffering and will continue to suffer irreparable injury, and to incur attorneys' fees and costs, as a result of Defendant's violations of the FMLA unless and until the Court grants the relief requested herein.

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

#### **COUNT II – PAWBL**

58. Plaintiff incorporates herein by reference paragraphs 1 through 57 as if set forth herein in their entirety.

59. Defendant was aware that Plaintiff engaged in protected activity under the PAWBL by making a good faith report to Defendant that one (1) of its attorneys had engaged in the unauthorized practice of law by representing juvenile clients while administratively suspended from the practice of law.

60. Defendant retaliated against Plaintiff because he engaged in protected activity under the PAWBL.

61. The actions of Defendant, through its agents, servants and employees, are in violation of the PABWL.



62. As a direct and proximate result of Defendant's violation of the PAWBL, Plaintiff has incurred attorneys' fees and costs.

63. Plaintiff is now suffering and will continue to suffer irreparable injury, and to incur attorneys' fees and costs, as a result of Defendant's unlawful acts unless this Court grants the relief requested herein.

**RELIEF**

WHEREFORE, Plaintiff seeks damages and legal and equitable relief in connection with Defendant's improper 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 in violation of the FMLA;

(b) Declaring the acts and practices complained of herein to be in violation of the PAWBL;

(c) Ordering Defendant to:

(1) Reinstate Plaintiff to the Deputy Defender position that he had prior to his FMLA leave, including reassigning him to all responsibilities that he had prior to his leave; reassigning his direct reports to report to him; and, restoring the authority that he had as Deputy Defender; and,

(2) Cease and desist from any conduct that is retaliatory towards Plaintiff for reporting that Unauthorized Attorney John Doe was engaged in the unauthorized practice of law;

(d) entering judgment against the Defendant and in favor of the Plaintiff;


(e) awarding Plaintiff the costs of suit, expert fees and other disbursements, and reasonable attorney's fees; and,

(f) granting such other and further relief as this Court may deem just, proper, or equitable including other equitable and injunctive relief providing restitution for past violations and preventing future violations.

**CONSOLE MATTIACCI LAW**

Dated: 09/14/2017

BY:

  
Stephen G. Console, Esq.  
Caren N. Gurmankin, Esq.  
1525 Locust St., 9<sup>th</sup> Floor  
Philadelphia, PA 19102  
(215) 545-7676

Attorneys for Plaintiff,  
Christopher Welsh