

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ROME DIVISION**

PAUL PHILLIPS, )  
 )  
 Plaintiff, )  
 )  
 vs. ) No.  
 )  
 ENGINEERED FLOORS, LLC, )  
 )  
 Defendant. )

**COMPLAINT**

Plaintiff files this Complaint against Defendant for violations of the Family and Medical Leave Act of 1993, as amended (FMLA), and alleges the following:

**Jurisdiction and Parties**

1. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. Section 1331.
2. Defendant is a Georgia limited liability company that has a facility located at 1025 Enterprise Drive, Dalton, GA 30721. Its registered agent for service of process in Georgia is Bennie M. Laughter, 115 W. King Street, Dalton, GA, 30720.

### **Facts**

3. Plaintiff was employed by Defendant as an operator at its facility in Dalton, Georgia from approximately October 20, 2010 through August 12, 2020.

4. Defendant employed 50 or more employees for each working day during each of 20 or more calendar workweeks in 2019 and in 2020.

5. Defendant employed more than 50 employees within a 75-mile radius of Plaintiff's worksite.

6. Plaintiff had well over 1,250 hours of service with Defendant during the 12-month period before he requested leave in July of 2020.

7. On approximately July 1, 2020, Plaintiff went to work and noticed he was having symptoms of a sinus infection that were getting progressively worse throughout the day. After work he went to Park Ridge Medical Center where he was given a Covid-19 test. The doctor also gave him a steroid shot and a prescription for steroids to be continued at home. Plaintiff was ordered to quarantine in his home for at least 14 days.

8. On July 4, 2020, Plaintiff returned to the hospital as his symptoms worsened. Soon after Plaintiff arrived at the hospital, a doctor informed him that his Covid-19 test results were positive. The doctor instructed plaintiff to continue his steroid treatment and to quarantine at home for 14 days.

9. On Monday, July 6, 2020, Plaintiff called to inform Defendant about his condition and that he would absent from work. When he called, Defendant put Plaintiff in contact with a nurse who was working at Defendant's plant in their Covid-19 office. She advised Plaintiff to quarantine before returning to work.

10. On July 20, 2020, Plaintiff received a call from his supervisor, Guy Abernathy. Abernathy told him it was time to return to work. Plaintiff informed Abernathy that he was still having symptoms and would have to continue his quarantine until he was cleared to return to work by his doctor.

11. On July 23, 2020, Plaintiff went to a Covid-19 testing site at Brainerd High school in Chattanooga to receive another test.

12. On July 30, 2020, Plaintiff received positive test results and was advised to quarantine for 14 days. Plaintiff sent an email to an employee in Defendant's human resources department with the documentation of his positive test results.

13. On August 12, 2020, Plaintiff called Defendant's human resources department to discuss when he would return to work. The employee in human resources told Plaintiff he had been terminated.

14. Defendant never provided Plaintiff with a written FMLA eligibility notice, a notice of rights and responsibilities, or a designation notice.

15. If Defendant had not terminated Plaintiff's employment, he would have continued to work in his position as an operator after taking the leave to which he was entitled under the FMLA.

16. Plaintiff has sustained and continues to sustain lost wages/income and lost benefits as a result of Defendant's termination of his employment.

### **Defendants' Violations of the FMLA**

#### **A. FMLA Coverage and Eligibility**

17. Defendant was a covered employer of Plaintiff as defined by 29 U.S.C. § 2611(4)(A) (i) and (ii) and 29 CFR 825.104(a) and (d).

18. Pursuant to 29 U.S.C. § 2611(2), Plaintiff was an eligible employee under the FMLA.

19. Plaintiff had a serious medical condition as defined by 29 U.S.C. § 2611(11).

20. Pursuant to 29 U.S.C. §§ 2612(a)(1)(C) and (D) and 2614(a)(1), Plaintiff was entitled to FMLA leave of up to 12 weeks for his medical condition, and he was entitled to be restored to the same or an equivalent position after he returned from FMLA leave.

#### **B. Count 1—Interference with Plaintiff's Exercise of FMLA Rights**

21. Defendant terminated Plaintiff's employment in order to prevent

Plaintiff from taking FMLA leave.

22. By terminating Plaintiff's employment, Defendant unlawfully interfered with, restrained, and/or denied the exercise of or the attempt to exercise Plaintiff's FMLA rights, in violation of 29 U.S.C. § 2615(a)(1).

23. Defendants violated 29 C.F.R. § 825.300(b) by failing to provide Plaintiff with a written eligibility notice as required by the regulation.

24. Defendants violated 29 C.F.R. § 825.300(c) by failing to provide Plaintiff with a written FMLA rights and responsibilities notice as required by the regulation.

25. Defendants violated 29 C.F.R. § 825.300(d) by failing to provide Plaintiff with a written FMLA designation notice as required by the regulation.

26. Pursuant to 29 C.F.R. § 825.300(e), Defendants' failure to follow the notice requirements set forth in 29 C.F.R. § 825.300 (b)-(d) constituted interference with, restraint of, and denial of Plaintiff's FMLA rights in violation of 29 U.S.C. § 2615(a)(1).

27. As a result of Plaintiff's violation of 29 U.S.C. § 2615(a)(1), Plaintiff has sustained and continues to sustain lost wages/income and lost benefits.

**C. Count 2—Retaliation in Response to Plaintiff's Exercise of FMLA Rights**

28. By taking leave due to his medical condition, Plaintiff engaged in

protected activity under the FMLA.

29. Defendant terminated Plaintiff's employment in retaliation for him taking leave for his medical condition.

30. By terminating Plaintiff's employment, Defendant unlawfully discharged Plaintiff in violation of 29 U.S.C. § 2615(a)(2).

31. As a result of Plaintiff's violation of 29 U.S.C. § 2615(a)(2), Plaintiff has sustained and continues to sustain lost wages/income and lost benefits.

**D. Plaintiff's Entitlement to Recover Damages Under the FMLA**

32. Pursuant to 29 U.S.C. § 2617(a)(1)(A)(i), Plaintiff is entitled to recover lost wages and lost employment benefits.

33. Pursuant to 29 U.S.C. § 2617(a)(1)(A)(ii), Plaintiff is entitled to recover interest.

34. Pursuant to 29 U.S.C. § 2617(a)(1)(A)(iii), Plaintiff is entitled to recover liquidated damages.

35. Pursuant to 29 U.S.C. § 2617(a)(3), Plaintiff is entitled to recover attorney's fees, expert fees, and costs.

**Prayer for Relief**

WHEREFORE, Plaintiff prays for a judgment against Defendant for damages that include the following:

- (a) back pay;
- (b) front pay;
- (c) loss of benefits;
- (d) interest;
- (e) liquidated damages;
- (f) expert fees;
- (g) attorneys' fees and costs; and
- (h) all further legal and equitable relief to which she may be entitled.

Respectfully submitted,

/s/ R. Scott Jackson, Jr.  
R. Scott Jackson, Jr., (GA 387630)  
4525 Harding Road, Suite 200  
Nashville, TN 37205  
(615) 313-8188  
(615) 313-8702 (facsimile)  
rsjackson@rsjacksonlaw.com

John McCown, GA Bar (GA 486002)  
Warren & Griffin, P.C.  
300 West Emery Street, Suite 108  
Dalton, GA 30720  
(706) 529-4878  
(706) 529-3890 (facsimile)  
john.mccown@warrenandgriffin.com

Attorneys for Plaintiff

JS44 (Rev. 6/2017 NDGA)

**CIVIL COVER SHEET**

The JS44 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 is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

<p><b>I. (a) PLAINTIFF(S)</b> Paul Phillips</p>   <p><b>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF</b> <u>Hamilton</u> <small>(EXCEPT IN U.S. PLAINTIFF CASES)</small></p>	<p><b>DEFENDANT(S)</b> Engineered Floors, LLC</p>   <p><b>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT</b> _____ <small>(IN U.S. PLAINTIFF CASES ONLY)</small></p> <p><small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small></p>
<p><b>(c) ATTORNEYS</b> <small>(FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)</small></p> <p>R. Scott Jackson, Jr., 4525 Harding Pike, Ste. 200, Nashville, TN, 37205, 615/313-8188, rsjackson@rsjacksonlaw.com; John McCown, Warren &amp; Griffin, P.C., 300 West Emery St., Ste. 108, Dalton, GA, 30720, 706/529-4878, john.mccown@warrenandgriffin.com</p>	<p><b>ATTORNEYS</b> <small>(IF KNOWN)</small></p>

**II. BASIS OF JURISDICTION**  
(PLACE AN "X" IN ONE BOX ONLY)

<input type="checkbox"/> 1 U.S. GOVERNMENT PLAINTIFF	<input checked="" type="checkbox"/> 3 FEDERAL QUESTION (U.S. GOVERNMENT NOT A PARTY)
<input type="checkbox"/> 2 U.S. GOVERNMENT DEFENDANT	<input type="checkbox"/> 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)  
(FOR DIVERSITY CASES ONLY)

<input type="checkbox"/> 1 PLF	<input type="checkbox"/> 1 DEF	CITIZEN OF THIS STATE	<input type="checkbox"/> 4 PLF	<input type="checkbox"/> 4 DEF	INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE
<input type="checkbox"/> 2 PLF	<input type="checkbox"/> 2 DEF	CITIZEN OF ANOTHER STATE	<input type="checkbox"/> 5 PLF	<input type="checkbox"/> 5 DEF	INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE
<input type="checkbox"/> 3 PLF	<input type="checkbox"/> 3 DEF	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	<input type="checkbox"/> 6 PLF	<input type="checkbox"/> 6 DEF	FOREIGN NATION

**IV. ORIGIN** (PLACE AN "X" IN ONE BOX ONLY)

<input checked="" type="checkbox"/> 1 ORIGINAL PROCEEDING	<input type="checkbox"/> 2 REMOVED FROM STATE COURT	<input type="checkbox"/> 3 REMANDED FROM APPELLATE COURT	<input type="checkbox"/> 4 REINSTATED OR REOPENED	<input type="checkbox"/> 5 TRANSFERRED FROM ANOTHER DISTRICT <small>(Specify District)</small>	<input type="checkbox"/> 6 MULTIDISTRICT LITIGATION - TRANSFER	<input type="checkbox"/> 7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT
<input type="checkbox"/> 8 MULTIDISTRICT LITIGATION - DIRECT FILE						

**V. CAUSE OF ACTION** (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

29 U.S.C. § 2601, et seq. Family and Medical Leave Act

**(IF COMPLEX, CHECK REASON BELOW)**

<input type="checkbox"/> 1. Unusually large number of parties.	<input type="checkbox"/> 6. Problems locating or preserving evidence
<input type="checkbox"/> 2. Unusually large number of claims or defenses.	<input type="checkbox"/> 7. Pending parallel investigations or actions by government.
<input type="checkbox"/> 3. Factual issues are exceptionally complex	<input type="checkbox"/> 8. Multiple use of experts.
<input type="checkbox"/> 4. Greater than normal volume of evidence.	<input type="checkbox"/> 9. Need for discovery outside United States boundaries.
<input type="checkbox"/> 5. Extended discovery period is needed.	<input type="checkbox"/> 10. Existence of highly technical issues and proof.

**CONTINUED ON REVERSE**

<b>FOR OFFICE USE ONLY</b>			
RECEIPT # _____	AMOUNT \$ _____	APPLYING IFP _____	MAG. JUDGE (IFP) _____
JUDGE _____	MAG. JUDGE _____ <small>(Referral)</small>	NATURE OF SUIT _____	CAUSE OF ACTION _____



**VI. NATURE OF SUIT** (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT - "0" MONTHS DISCOVERY TRACK

- 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- 152 RECOVERY OF DEFAULTED STUDENT LOANS (Excl. Veterans)
- 153 RECOVERY OF OVERPAYMENT OF VETERANS BENEFITS

CONTRACT - "4" MONTHS DISCOVERY TRACK

- 110 INSURANCE
- 120 MARINE
- 130 MILLER ACT
- 140 NEGOTIABLE INSTRUMENT
- 151 MEDICARE ACT
- 160 STOCKHOLDERS' SUITS
- 190 OTHER CONTRACT
- 195 CONTRACT PRODUCT LIABILITY
- 196 FRANCHISE

REAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 210 LAND CONDEMNATION
- 220 FORECLOSURE
- 230 RENT LEASE & EJECTMENT
- 240 TORTS TO LAND
- 245 TORT PRODUCT LIABILITY
- 290 ALL OTHER REAL PROPERTY

TORTS - PERSONAL INJURY - "4" MONTHS DISCOVERY TRACK

- 310 AIRPLANE
- 315 AIRPLANE PRODUCT LIABILITY
- 320 ASSAULT, LIBEL & SLANDER
- 330 FEDERAL EMPLOYERS' LIABILITY
- 340 MARINE
- 345 MARINE PRODUCT LIABILITY
- 350 MOTOR VEHICLE
- 355 MOTOR VEHICLE PRODUCT LIABILITY
- 360 OTHER PERSONAL INJURY
- 362 PERSONAL INJURY - MEDICAL MALPRACTICE
- 365 PERSONAL INJURY - PRODUCT LIABILITY
- 367 PERSONAL INJURY - HEALTH CARE/ PHARMACEUTICAL PRODUCT LIABILITY
- 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 370 OTHER FRAUD
- 371 TRUTH IN LENDING
- 380 OTHER PERSONAL PROPERTY DAMAGE
- 385 PROPERTY DAMAGE PRODUCT LIABILITY

BANKRUPTCY - "0" MONTHS DISCOVERY TRACK

- 422 APPEAL 28 USC 158
- 423 WITHDRAWAL 28 USC 157

CIVIL RIGHTS - "4" MONTHS DISCOVERY TRACK

- 440 OTHER CIVIL RIGHTS
- 441 VOTING
- 442 EMPLOYMENT
- 443 HOUSING/ ACCOMMODATIONS
- 445 AMERICANS with DISABILITIES - Employment
- 446 AMERICANS with DISABILITIES - Other
- 448 EDUCATION

IMMIGRATION - "0" MONTHS DISCOVERY TRACK

- 462 NATURALIZATION APPLICATION
- 465 OTHER IMMIGRATION ACTIONS

PRISONER PETITIONS - "0" MONTHS DISCOVERY TRACK

- 463 HABEAS CORPUS- Alien Detainee
- 510 MOTIONS TO VACATE SENTENCE
- 530 HABEAS CORPUS
- 535 HABEAS CORPUS DEATH PENALTY
- 540 MANDAMUS & OTHER
- 550 CIVIL RIGHTS - Filed Pro se
- 555 PRISON CONDITION(S) - Filed Pro se
- 560 CIVIL DETAINEE: CONDITIONS OF CONFINEMENT

PRISONER PETITIONS - "4" MONTHS DISCOVERY TRACK

- 550 CIVIL RIGHTS - Filed by Counsel
- 555 PRISON CONDITION(S) - Filed by Counsel

FORFEITURE/PENALTY - "4" MONTHS DISCOVERY TRACK

- 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
- 690 OTHER

LABOR - "4" MONTHS DISCOVERY TRACK

- 710 FAIR LABOR STANDARDS ACT
- 720 LABOR/MGMT. RELATIONS
- 740 RAILWAY LABOR ACT
- 751 FAMILY and MEDICAL LEAVE ACT
- 790 OTHER LABOR LITIGATION
- 791 EMPL. RET. INC. SECURITY ACT

PROPERTY RIGHTS - "4" MONTHS DISCOVERY TRACK

- 820 COPYRIGHTS
- 840 TRADEMARK

PROPERTY RIGHTS - "8" MONTHS DISCOVERY TRACK

- 830 PATENT
- 835 PATENT-ABBREVIATED NEW DRUG APPLICATIONS (ANDA) - a/k/a Hatch-Waxman cases

SOCIAL SECURITY - "0" MONTHS DISCOVERY TRACK

- 861 HIA (1395ff)
- 862 BLACK LUNG (923)
- 863 DIWC (405(g))
- 863 DIWW (405(g))
- 864 SSDI TITLE XVI
- 865 RSI (405(g))

FEDERAL TAX SUITS - "4" MONTHS DISCOVERY TRACK

- 870 TAXES (U.S. Plaintiff or Defendant)
- 871 IRS - THIRD PARTY 26 USC 7609

OTHER STATUTES - "4" MONTHS DISCOVERY TRACK

- 375 FALSE CLAIMS ACT
- 376 Qui Tam 31 USC 3729(a)
- 400 STATE REAPPORTIONMENT
- 430 BANKS AND BANKING
- 450 COMMERCE/ICC RATES/ETC.
- 460 DEPORTATION
- 470 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
- 480 CONSUMER CREDIT
- 490 CABLE/SATELLITE TV
- 890 OTHER STATUTORY ACTIONS
- 891 AGRICULTURAL ACTS
- 893 ENVIRONMENTAL MATTERS
- 895 FREEDOM OF INFORMATION ACT
- 899 ADMINISTRATIVE PROCEDURES ACT / REVIEW OR APPEAL OF AGENCY DECISION
- 950 CONSTITUTIONALITY OF STATE STATUTES

OTHER STATUTES - "8" MONTHS DISCOVERY TRACK

- 410 ANTITRUST
- 850 SECURITIES / COMMODITIES / EXCHANGE

OTHER STATUTES - "0" MONTHS DISCOVERY TRACK

- 896 ARBITRATION (Confirm / Vacate / Order / Modify)

**\* PLEASE NOTE DISCOVERY TRACK FOR EACH CASE TYPE. SEE LOCAL RULE 26.3**

**VII. REQUESTED IN COMPLAINT:**

CHECK IF CLASS ACTION UNDER F.R.Civ.P. 23 DEMAND \$ \_\_\_\_\_

JURY DEMAND  YES  NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)

**VIII. RELATED/REFILED CASE(S) IF ANY**

JUDGE \_\_\_\_\_ DOCKET NO. \_\_\_\_\_

CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)

- 1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 2. SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 4. APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE.
- 5. REPETITIVE CASES FILED BY PRO SE LITIGANTS.
- 6. COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S)):

7. EITHER SAME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO. \_\_\_\_\_, WHICH WAS DISMISSED. This case  IS  IS NOT (check one box) SUBSTANTIALLY THE SAME CASE.

\_\_\_\_\_  
 SIGNATURE OF ATTORNEY OF RECORD DATE 08/31/2020