

# 2015 National Legal Research Teach-In Kit

Research Instruction & Patron Services Special Interest Section  
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## Statutory Research Exercise

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I created this problem for my advanced statutory and regulatory research course (which is a 7-week, pass/fail specialized legal research course). The first three weeks of the course focus on statutory research and legislative history. As opposed to coming up with a hypothetical, I decided to use as inspiration a sample complaint, changing the names and jurisdiction, and inserting blanks where descriptions or citations of relevant statutes would need to be placed. I allowed the context of the complaint to provide the factual background needed to ascertain the law underlying the primary cause of action. Citations are for violations of both state and federal law.

## Statutory Research Question

Below is a fictional complaint that is ready to be filed in federal court. You will notice that there are blanks. Those blanks are where your answers will be placed. Given this information, fill in the blanks with citations to applicable law. The first blank is for you to identify the appropriate district court where this complaint would be filed.

All events happened in Portsmouth, Ohio.

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**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE [SOUTHERN] DISTRICT OF OHIO**  
**COMPLAINT**

I. Preliminary Statement

1. This action seeks declaratory and equitable relief; reinstatement; back pay; interest; costs; and attorney's fees for violations of [Ohio Rev. Code § 4123.90], the [Family Medical Leave Act of 1993, 29 U.S.C. § 2617], , and the Ohio Laws Against Discrimination, [R.C. 4112 et seq.] committed when Acme Warehouse (a) denied Plaintiff's requests for reasonable accommodations of his medical impairment, which would have enabled him to competently perform the essential functions of his position and would not have burdened Defendant with an undue hardship; (b) terminated Plaintiff because of his request for accommodation and status as a disabled person; (c) terminated Plaintiff because of his request for and use of [FMLA leave]; and (d) terminated Plaintiff because he suffered an injury in the course of and arising out of his employment and sought benefits through a workers' compensation claim.

II. Jurisdiction and Venue

2. This Court has jurisdiction over this action by virtue of [FMLA], [29 U.S.C. § 2617]; [28 U.S.C. § 1331]; and [28 U.S.C. § 1367].

3. Venue lies in this forum because Defendant operates a facility in Scioto County Ohio, within the [Southern] District of Ohio, where Plaintiff did substantial work for Defendant.

### III. Parties

4. Plaintiff Don Draper (“Mr. Draper” or “Plaintiff”) was employed by Defendant from 2003 until his termination on February 12, 2014, most recently as an Operator 2.

5. Defendant Acme Warehouse (“Acme” or “Defendant”) is an Ohio corporation whose principal place of business is located in Portsmouth, Ohio. Plaintiff worked for Defendant at its facility located at 101 Chillicothe St., Portsmouth, Ohio 45662 within Scioto County, Ohio.

### IV. Facts

6. Plaintiff originally began employment with Defendant in 2003 as an Operator 1. Approximately two years ago he was promoted to an Operator 2 position, which he remained until the end of his employment.

7. For the first eight and a half years of his employment, Plaintiff worked for Defendant on Defendant’s shipping line. Plaintiff’s work on the main line required a great deal of repetitive motion.

8. In January of 2012, Defendant automated its shipping line. As a result of this, Plaintiff was transferred to Defendant’s receiving area.

9. While employed in the Defendant’s receiving area, Plaintiff worked 12 hour shifts.

10. During his standard 12 hour shift, Plaintiff was supposed to work 6 hours on one job and 6 hours on a different job.

11. An operator 2 working in the receiving area was supposed to be rotated through all of the different jobs in the area.

12. After he was assigned to Defendant’s receiving area in early 2012, Plaintiff was usually assigned to work the sorting operation jobs, but was trained on and rotated through many other jobs as well.

13. In March 2012, Plaintiff began having problems with pain and numbness in his hands. Problems with pain and numbness in Plaintiff's hands persisted through the summer of 2012.

14. After he began having problems with his hands, Plaintiff began to complain to his supervisor, Ken Cosgrove, and periodically requested to be put on jobs with less repetitive motion.

15. Plaintiff's difficulty with repetitive motion tasks affected his job performance.

16. On September 4, 2012, Plaintiff received a performance evaluation which rated him as below expectations. This was the first poor performance evaluation the Plaintiff received while working for Defendant.

17. On September 18, 2012, Plaintiff was running a sorting machine. Midway through his shift, his hands became so numb that he could no longer use his hands or otherwise perform his job.

18. After his hands went numb on that date, Plaintiff was removed from the receiving line for two hours until his hands recovered.

19. Plaintiff filed an internal incident report stating what had occurred with his hands on September 18, 2012.

20. Plaintiff began seeking treatment for his hands on August 8, 2012, from Defendant's onsite physical, Dr. Margaret Olson, M.D. Dr. Olson diagnosed Plaintiff with carpal tunnel syndrome in his hands.

21. While receiving treatment from Dr. Olson, Plaintiff discussed with this doctor filing a worker's compensation claim. Dr. Olson discouraged Plaintiff from filing a workers' compensation claim, stating that if he did so, Dr. Olson could no longer treat him.

22. Dr. Olson placed Plaintiff on light duty, with work restrictions of no repetitive motion and no lifting over five pounds.

23. After Mr. Draper received his restrictions, he was placed on insert checking and capping for the entirety of his 12 hour shifts. The position, which was basically putting bottle caps on bottles, did not involve lifting over five pounds, but required the most repetitive motion of any of the jobs in the receiving area. Mr. Draper continued to suffer a great deal of pain and numbness in his hands.

24. Defendant had a considerable amount of jobs in the receiving area which met Plaintiff's weight restriction and did not require repetitive motion, including robot operation, forklift operation, and the stack room.

25. In March 2013, Plaintiff decided that Dr. Olson's treatment and work restrictions were not improving his condition. Because of this, on March 5, 2013, Plaintiff filed a claim with the Ohio Bureau of Workers' Compensation.

26. Shortly after Plaintiff filed his claim, he was confronted by his supervisor, Ken Cosgrove. Mr. Cosgrove yelled at the plaintiff and threatened his employment, telling him that he had "screwed him over" and that he "could have been fired months ago."

27. On March 13, 2013, Dr. Olson ceased treating Plaintiff because he had filed a Workers' Compensation claim.

28. On May 22, 2013, Plaintiff received another poor performance evaluation and was placed on a performance improvement plan.

29. For the rest of his employment with Defendant, Plaintiff received periodic threats from Mr. Cosgrove about his job.

30. For purposes of Ohio Workers' Compensation, Defendant is a self-insured employer, meaning that they pay directly for any approved medical treatment.

31. As part of his workers' compensation claim, Plaintiff sought approval from the Bureau of Workers' Compensation and Defendant for carpal tunnel surgery on his right hand. That request was submitted on June 20, 2013 and approved on June 24, 2013 by a third-party administrator for the Defendant.

32. On July 2, 2013, Plaintiff underwent surgery on his right hand.

33. After his surgery, Plaintiff was taken off of work for six weeks while he recovered. Although the six weeks off did not provide Mr. Draper with adequate time to complete physical therapy, the surgery helped his right hand considerably.

34. After he returned from surgery, Mr. Draper was placed back on the insert checking and capping job for 12 hours per shift.

35. The repetitive motion of the insert checking and capping line continued to cause Mr. Draper problems, especially in his left hand. The pain and numbness in his left hand continued to affect Mr. Draper's job performance.

36. Mr. Draper continued to complaint to his supervisor about the repetitive nature of insert checking and capping, and requested to be placed on the robot operation, forklift or stacking positions for at least part of the time.

37. Despite Plaintiff's requests, Defendant refused to take the Plaintiff off of the insert check and capping job.

38. On December 5, 2013, Plaintiff filed a request with the Bureau of Workers' Compensation and Defendant to allow his claim for left carpal tunnel syndrome. Defendant contested Plaintiff's claim at a hearing before the Industrial Commission of Ohio on February 6, 2014.

39. On that date, Plaintiff participated in an Industrial Commission hearing with respect to the allowance of his request for the condition, left carpal tunnel syndrome.

40. On February 11, 2014, Plaintiff received notice that this additional condition had been added to his claim. Shortly thereafter, a request was submitted and approved for left carpal tunnel surgery by the third-party administrator in Plaintiff's workers' compensation claim.

41. On February 12, 2014, Plaintiff received a bad performance evaluation and was terminated.

42. At all times material, Plaintiff was an eligible employee under the \_\_\_[Family Medical Leave Act]\_\_.

43. At all times material, Plaintiff's carpal tunnel condition was a serious health condition as that term is defined by the \_\_\_[FMLA]\_\_\_.

44. As of both July 2, 2013 and February 11, 2014, Plaintiff had performed at least 1,250 hours of work for defendant in the preceding one year period.

45. As of both July 2, 2013 and February 11, 2014, Plaintiff had \_\_\_[FMLA leave]\_\_\_ available to him

46. As of February 11, 2014, Defendant was aware that Plaintiff had needed \_\_\_[FMLA]\_\_\_ leave for a similar surgery on his right hand.

47. As of February 11, 2014, Defendant believed that Plaintiff would once again need \_\_\_[FMLA]\_\_\_ for surgery on his left hand and recovery time.

48. Plaintiff was injured in the course of and arising out of his employment in the State of Ohio.

49. Defendant terminated Plaintiff because he had requested workers' compensation benefits.

50. On or about February 19, 2014, Defendant received a letter from Plaintiff's attorney stating that Plaintiff claimed that he was terminated because he filed a workers' compensation claim, in violation of \_\_\_[Ohio Revised Code § 4123.90]\_\_\_.

51. At all times material, Plaintiff's carpal tunnel syndrome was a disability as that term is defined by the Ohio Laws Against Discrimination.

52. Plaintiff requested a reasonable accommodation for his disability by requesting that he be permitted to work in a job that did not require repetitive motion for part of the time.

53. Upon receiving notice of Plaintiff's disability and request for reasonable accommodation, Defendant placed Plaintiff in a position that caused further deterioration and worsening to Plaintiff's carpal tunnel syndrome condition.

## V. Claims for Relief

A. First Count: \_\_\_[FMLA]\_\_\_ Violation

54. Paragraphs 1-53 above are realleged and incorporated herein.

55. By discharging Plaintiff in part because of his request for and use of [FMLA], Defendant discriminated against Plaintiff in retaliation for his exercise of these rights.

B. Second Count: Revised Code Chapter [4112]

56. Paragraphs 1-55 above are incorporated as if realleged.

57. By terminating Plaintiff in part because of his status as a disabled person and because of his request for a reasonable accommodation, Defendant has violated [ORC Chapter 4112], entitling Plaintiff to the remedies available pursuant to [R.C. § 4112.99].

C. Third Count: Retaliatory Action in Violation of [R.C. § 4123.90]

58. Plaintiff incorporates, as if fully realleged, paragraphs 1-57 of the Complaint.

59. By discharging Plaintiff because he had filed a motion for an additional condition and requested benefits through his workers' compensation claim with Defendant, Defendant has violated [R.C. § 4123.90].

VI. Prayer for Relief

WHEREFORE, Plaintiff prays that this Court:

a. declare that Defendant has violated the [FMLA], [O.R.C. § 4113.90], and the Ohio Laws Against Discrimination;

b. order such injunctive relief and equitable relief as will make Plaintiff whole for Defendant's violations, including reinstatement with full back pay, pre- and post-judgment interest, and costs;

c. award liquidated damages, compensatory damages for emotional distress and punitive damages;

d. allow a reasonable attorney's fee and costs; and

e. grant such other relief as the Court may deem appropriate.