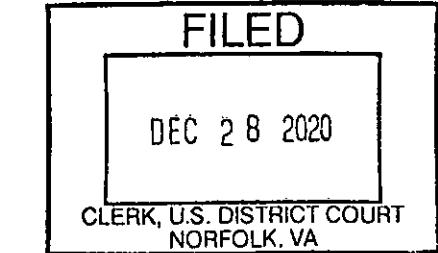


UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division

KRISTINA MERLE LARSON,

v.

Plaintiff,



ACTION NO. 2:19cv685

AMERICAN HOME PRODUCTS,
WYETH-AYERST LABORATORIES,

Defendant.

DISMISSAL ORDER

This matter is before the Court on Defendant's Motion to Dismiss Plaintiff's Amended Complaint ("Motion to Dismiss"). Mot. Dismiss, ECF No. 8. The Court determines that oral argument is unnecessary because the facts and legal arguments are adequately presented in the parties' briefs. For the reasons set forth below, Defendant's Motion to Dismiss, ECF No. 8, is GRANTED.

I. Procedural Background

On December 16, 2019, Plaintiff, appearing *pro se*, submitted an application to proceed *in forma pauperis* ("IFP Application"), along with a proposed Complaint. *See* IFP Appl., ECF No. 1; Proposed Compl., ECF No. 1-1. On January 2, 2020, the Court granted Plaintiff's IFP Application, and directed the Clerk to file Plaintiff's Complaint. Order Show Cause at 1, ECF No. 2. However, the Court explained that the Complaint "suffer[ed] from defects" that required attention before this action could proceed. *Id.*

In her Complaint, Plaintiff alleged that Defendant, her former employer, failed to provide Plaintiff with a reasonable accommodation for her disability, subjected Plaintiff to harassment, and terminated Plaintiff's employment in violation of the Americans with Disabilities Act

(“ADA”).¹ Compl. at 4, 6-7, ECF No. 3. In an Order to Show Cause dated January 2, 2020, the Court summarized the defects of Plaintiff’s Complaint, and provided Plaintiff with an opportunity to file an Amended Complaint within thirty days. Order Show Cause at 2-3. Plaintiff timely filed an Amended Complaint on January 27, 2020. Am. Compl., ECF No. 4.

On July 6, 2020, Defendant filed a Motion to Dismiss, and provided *pro se* Plaintiff with a proper *Roseboro* Notice pursuant to Rule 7(K) of the Local Civil Rules of the United States District Court for the Eastern District of Virginia. Mot. Dismiss at 1-3, ECF No. 8; *see* E.D. Va. Loc. Civ. R. 7(K). Plaintiff filed a timely Opposition, and Defendant filed a timely Reply. Opp’n, ECF No. 11; Reply, ECF No. 12. Accordingly, Defendant’s Motion to Dismiss is ripe for adjudication.

II. Plaintiff’s Amended Complaint

In her Amended Complaint and attached exhibits, Plaintiff alleges that she began working for Defendant as a sales representative in October 2000. Am. Compl. at 1-18, ECF No. 4; Second

¹ In its Motion to Dismiss, Defendant states that Plaintiff misidentifies Defendant in this action. Mem. Supp. Mot. Dismiss at 1 n.1, ECF No. 9. Specifically, Defendant states:

Plaintiff improperly identified the Defendant as “American Home Products, Wyeth-Ayerst Laboratories.” However, there is no corporate entity by such name in Virginia. American Home Products Corporation is the former corporate name of Wyeth, Inc., which is no longer an active corporation. Wyeth-Ayerst Pharmaceuticals Inc. is the former corporate name of Wyeth Pharmaceuticals Inc., which is an active corporation. However, Plaintiff was never employed by this entity as she was last employed by the former corporate entity, Wyeth-Ayerst Pharmaceuticals on or about April 2001. The entity by which Plaintiff was employed no longer exists.

Id. Because the Court finds that dismissal of this action is warranted for the reasons set forth herein, the Court does not address the identification issues raised by Defendant in its Motion to Dismiss.

EEOC Charge,² ECF No. 4-1, at 3. Plaintiff alleges that, on an undisclosed date, she met with her supervisor, Robert Heller, at a Dunkin' Donuts restaurant. Am. Compl. at 3, 7. During the meeting, Mr. Heller asked Plaintiff "if [she] was okay," and mentioned that he "noticed some changes in [Plaintiff]." *Id.* Plaintiff alleges that she suffered from anxiety, depression, and attention deficit disorder ("ADD"); however, during this meeting with Mr. Heller, Plaintiff only informed Mr. Heller that she "had been diagnosed with something," and "was receiving treatment." *Id.* at 2, 3, 7. Plaintiff did not explain her specific health issues to Mr. Heller at that time. *Id.* at 3, 7. Plaintiff alleges that Mr. Heller "offered support in the form of temporary disability;" however, Plaintiff declined the offer, and told Mr. Heller that "she would be fine." *Id.*

Plaintiff alleges that her condition worsened, to the point where Plaintiff was "living in a fog," unable to "communicate effectively," "unable to focus, read mail, email, & unable to perform certain administrative/office duties." *Id.* at 7. Plaintiff visited a psychiatrist to address her worsening condition. *Id.* at 9. Approximately two weeks after her visit to the psychiatrist, Plaintiff alleges that she met with Mr. Heller at an IHOP restaurant. *Id.* at 3, 6, 9. Plaintiff alleges that she advised Mr. Heller of her health conditions, and that once Mr. Heller learned that Plaintiff suffered from a disability that was psychiatric in nature, Mr. Heller "asked [Plaintiff] to resign" and "began publicly embarrassing [Plaintiff]." *Id.*

Plaintiff alleges that she requested a reasonable accommodation from Mr. Heller, based on the recommendation of Plaintiff's doctor. *Id.* at 3, 10. Plaintiff claims that although her condition was "debilitating," she "would have been able to do [her] job well" if she was given a reasonable accommodation. *Id.* at 2. Plaintiff alleges that Mr. Heller never responded to her request for an accommodation. *Id.* at 3, 10. Instead, Mr. Heller left a voicemail for Plaintiff on

² For reasons explained more fully herein, the Court refers to this document as Plaintiff's "Second EEOC Charge." *See infra* pp. 4-5.

April 1, 2001, in which Mr. Heller explained that Plaintiff's employment was terminated. *Id.* at 3, 10-11.

Shortly thereafter, Plaintiff, who worked from home, alleges that she received a telephone call, explaining that Mr. Heller "needed to come get [Plaintiff's] company car." *Id.* at 11. Plaintiff alleges that Mr. Heller and another employee "showed up to [Plaintiff's] house around 5:30 a.m. one morning," and "banged and banged" on Plaintiff's front and back doors. *Id.* Plaintiff alleges that she was "in [her] pajamas," "humiliated & scared," and "did not answer the door." *Id.*

Plaintiff alleges that she filed a Charge of Discrimination against Defendant ("First EEOC Charge") with the Equal Employment Opportunity Commission ("EEOC") following her termination.³ *Id.* at 4, 14. Plaintiff alleges that "[p]rior to the time limit to file a federal case initially ran out, the EEOC called [Plaintiff] [and] a lady encouraged [Plaintiff] to pursue [her] case."⁴ *Id.* at 14. However, Plaintiff alleges that she "found it difficult to focus on a legal case when [she] needed other things to survive." *Id.* Plaintiff alleges that "a year or two . . . after that lady from the EEOC called [Plaintiff]," Plaintiff contacted the EEOC and was advised that her case was closed. *Id.* Plaintiff alleges that she "stayed in touch [with] [the] EEOC off & on for many years." *Id.* at 4. Plaintiff further alleges that the medications that she was prescribed for her health issues combined in a manner that caused Plaintiff "much harm," and "prevented [Plaintiff] from pursuing this case sooner." *Id.* at 15-16.

³ Plaintiff's Amended Complaint does not identify the date on which Plaintiff filed her First EEOC Charge, and Plaintiff did not attach a copy of her First EEOC Charge to her Amended Complaint. However, in her Opposition, Plaintiff indicates that she filed her First EEOC Charge in 2002. Opp'n at 2, ECF No. 11.

⁴ Plaintiff's Amended Complaint does not identify the date on which the EEOC issued its Right to Sue Letter as to Plaintiff's First EEOC Charge, and Plaintiff did not attach a copy of the Right to Sue Letter to her Amended Complaint.

Plaintiff filed a second Charge of Discrimination against Defendant with the EEOC (“Second EEOC Charge”) on October 26, 2019, more than 18 years after Plaintiff’s April 1, 2001 termination. Second EEOC Charge at 1. In her Second EEOC Charge, Plaintiff identifies April 1, 2001 as the “latest” date of Defendant’s alleged discrimination. *Id.* Plaintiff alleges:

I. I began employment as a Sales Representative on or around October 10, 2000. Recently, I met with my Supervisor, Robert Heller and disclosed by disability. He immediately pulled out a piece of paper and asked me to write out my resignation. I refused and then was excluded from team meetings and emails. I asked for the accommodation of adjusting to and learning more about my disorder while working. I was able to do the essential functions of my job. Shortly, thereafter, I was discharged.

II. I was not given a reason why I was excluded, discharged a[n]d subjected to different terms and conditions.

III. I believe I was discharged, excluded and subjected to different terms and conditions, in violation of the American[s] with Disabilities Act of 1990, as amended.

Id.

The EEOC issued a Right to Sue Letter as to Plaintiff’s Second EEOC Charge on November 4, 2019.⁵ Right Sue Letter, ECF No. 9-1, at 1. In the Right to Sue Letter, the EEOC explained to Plaintiff that it was closing her file because “[Plaintiff’s] charge was not timely filed with the EEOC; in other words, [Plaintiff] waited too long after the date(s) of the alleged discrimination to file [her] charge.” *Id.*

In her Amended Complaint, Plaintiff states that she intends to assert claims against Defendant for: (i) “fail[ing] to provide a reasonable accommodation” for her disability;

⁵ Plaintiff did not attach a copy of the Right to Sue Letter issued by the EEOC in connection with Plaintiff’s Second EEOC Charge to her Amended Complaint; however, Defendant attached a copy of the document to its Motion to Dismiss. *See* Right Sue Letter, ECF No. 9-1, at 1. The Court may properly consider the Right to Sue Letter in its analysis of Defendant’s motion. *See Am. Chiropractic v. Trigon Healthcare*, 367 F.3d 212, 234 (4th Cir. 2004) (explaining that when ruling on a dismissal motion filed pursuant to Federal Rule 12(b)(6), the Court may consider documents that (i) are “integral to and explicitly relied on” in the operative complaint; and (ii) have not been challenged by Plaintiff as inauthentic).

(ii) "creating a hostile & toxic work environment;" (iii) "stealing [Plaintiff's] mail off of [her] front porch;" (iv) "coming to [Plaintiff's] private home uninvited, unannounced, very early in the morning;" (v) "trying to break into [Plaintiff's] company car;" (vi) subjecting Plaintiff to "unequal treatment as compared to someone else who requested time to recover" from a non-psychiatric illness; (vii) "fail[ing] to provide promised bonus;" (viii) "fail[ing] to provide Plaintiff with an opportunity to obtain other transportation;" (ix) "creating a toxic work environment by coming to [Plaintiff's] home unannounced;" (x) "turn[ing] even [Plaintiff's] own psychiatrist against [her], preventing [her] from receiving proper treatment;" (xi) not providing "a reason why [Plaintiff] was excluded, discharged and subjected to different terms & conditions than the other employee[s] who went out on short term disability;" (xii) discharging Plaintiff, excluding Plaintiff, and subjecting Plaintiff to different terms and conditions in violation of the ADA; and (xiii) privacy related issues based on Plaintiff's belief that another sales representative told Plaintiff's supervisor that she was seeing a psychiatrist. Am. Compl. at 5-6. As relief, Plaintiff seeks \$2 million in damages. *Id.* at 17.

III. Defendant's Motion to Dismiss

A. Standard of Review Under Federal Rule 12(b)(6)

Defendant seeks dismissal of this action pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. A motion to dismiss under Federal Rule 12(b)(6) should be granted if a complaint fails to allege "enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). A Rule 12(b)(6) motion "tests the sufficiency of a complaint and 'does not resolve contests surrounding the facts, the merits of a claim, or the applicability of defenses.'" *Johnson v. Portfolio Recovery Assocs., LLC*, 682 F. Supp. 2d 560, 567 (E.D. Va. 2009) (quoting *Republican Party of N.C. v. Martin*, 980 F.2d 943, 952 (4th Cir. 1992)). As such, the Court must accept all factual allegations contained in

Plaintiff's Amended Complaint as true and draw all reasonable inferences in favor of Plaintiff. *Id.* "Although the truth of the facts alleged is assumed, courts are not bound by the 'legal conclusions drawn from the facts' and 'need not accept as true unwarranted inferences, unreasonable conclusions, or arguments.'" *Id.* (quoting *E. Shore Mkts., Inc. v. J.D. Assocs. Ltd. P'ship*, 213 F.3d 175, 180 (4th Cir. 2000)).

Further, "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice" to survive a motion to dismiss. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). However, "in cases where the plaintiff appears *pro se*, courts do not expect the *pro se* plaintiff to frame legal issues with the clarity and precision expected from lawyers." *Suggs v. M&T Bank*, 230 F. Supp. 3d 458, 461 (E.D. Va. 2017). In such cases, courts are required to construe the operative complaint liberally. *Id.*

In ruling on a 12(b)(6) motion, the Court may rely upon the allegations of the operative complaint, as well as documents attached as exhibits or incorporated into the operative complaint by reference. *Simons v. Montgomery Cty. Police Officers*, 762 F.2d 30, 31 (4th Cir. 1985). The Court may also consider documents that (i) are "integral to and explicitly relied on" in the operative complaint; and (ii) have not been challenged by Plaintiff as inauthentic. *Am. Chiropractic v. Trigon Healthcare*, 367 F.3d 212, 234 (4th Cir. 2004). Additionally, the Court "may properly take judicial notice of matters of public record." *Philips v. Pitt Cty. Mem. Hosp.*, 572 F.3d 176, 180 (4th Cir. 2009).

B. ADA Claims

Plaintiff's Amended Complaint primarily asserts claims against Defendant under the ADA. Am. Compl. at 1-17, ECF No. 4. An individual alleging violations of the ADA must first file an administrative charge with the EEOC and exhaust administrative remedies before filing a lawsuit in federal district court. *Sydnor v. Fairfax Cty.*, 681 F.3d 591, 593 (4th Cir. 2012);

see *McIntyre-Handy v. APAC Customer Servs.*, 422 F. Supp. 2d 611, 620 n.16 (E.D. Va. 2006).

In Virginia, an employee challenging an employment practice under the ADA has 300 days from the last date of alleged discrimination to file a charge with the EEOC. *Smith v. Strayer Univ. Corp.*, 79 F. Supp. 3d 591, 598 (E.D. Va. 2015). Courts will not consider alleged acts of discrimination that occurred more than 300 days before the plaintiff filed a charge of discrimination with the EEOC. *Id.*

Once the EEOC closes its investigation and issues a Right to Sue Letter, the individual has 90 days to file a complaint in federal court regarding his or her ADA claims. *Smith v. N. Va. Orthodontics Ctr., LLC*, No. 1:18cv1244, 2019 U.S. Dist. LEXIS 119306, at *6 (E.D. Va. July 16, 2019). “[I]t is well-established that the failure to comply with this [90-day] requirement will result in dismissal of an ADA claim.” *Id.*

In its Motion to Dismiss, Defendant argues that Plaintiff’s ADA claims should be dismissed on timeliness grounds. Mem. Supp. Mot. Dismiss at 5-7, ECF No. 9. As summarized above, Plaintiff’s Amended Complaint refers to a First EEOC Charge and a Second EEOC Charge. Am. Compl. at 4, 14; Second EEOC Charge, ECF No. 4-1, at 3. Plaintiff’s Amended Complaint does not identify the date on which the First EEOC Charge was allegedly filed; however, Plaintiff indicates in her Opposition that the First EEOC Charge was filed in 2002. Am. Compl. at 4, 14; Opp’n at 2, ECF No. 11. Plaintiff’s Second EEOC Charge was filed on October 26, 2019. Second EEOC Charge at 1. Defendant’s initial dismissal argument focuses on the untimeliness of Plaintiff’s Second EEOC Charge. Mem. Supp. Mot. Dismiss at 6-7. Defendant argues:

Plaintiff cannot ignore her own admissions, as well as the indisputable evidence which makes clear that the “last date of discrimination” here occurred *more than 18 years ago*. Throughout her pleadings, Plaintiff admits that Defendant terminated her employment on April 1, 2001. . . . Consequently, Plaintiff had 300 days from April 1, 2001 to file her Charge,

or until approximately January 26, 2002. Instead, Plaintiff waited almost 18 years. Since Plaintiff failed to timely exhaust her administrative remedies, the Court should grant Defendant's Motion to Dismiss.

Id. at 6-7 (emphasis in original) (citations omitted).

In her Opposition, Plaintiff appears to argue that her ADA claims should not be dismissed because her First EEOC Charge was timely filed back in 2002. Opp'n at 2. Plaintiff argues:

I did file an EEOC claim within the 300 day period. I wanted to have mediation. My former employer declined that offer. At that time, I was able to obtain legal counsel. Without divulging too much information, that is as far as I was able to pursue my case at that time. However, I did remain in contact with the EEOC and at times, with my former employer. I do believe my original charge number with the EEOC was: 121-2002-00155.

...

I do have 2 different charge numbers, one from 2002 & one from 2019, both involving the same case.

Id. at 2-3.

In its Reply, Defendant argues that even if Plaintiff filed a First EEOC Charge in 2002, Plaintiff's Amended Complaint should nevertheless be dismissed under Federal Rule 12(b)(6) on timeliness grounds. Reply at 3-4, ECF No. 12. Specifically, Defendant argues:

While Plaintiff fails to allege in her Opposition if and when the EEOC issued a right to sue letter in 2002, a careful review of the Eastern District of Virginia's Court records reveal that the first time Plaintiff filed a lawsuit against Defendant was in December 2019 [i.e., the instant lawsuit], which is substantially outside any conceivable 90 day window for a Charge dating back to 2002.

Id.

Upon review of Plaintiff's Amended Complaint, Defendant's Motion to Dismiss, and the parties' briefs, it is clear that Plaintiff's ADA claims cannot survive Defendant's challenge under Federal Rule 12(b)(6). As summarized above, Plaintiff alleges in her Amended Complaint that

(i) she filed her First EEOC Charge against Defendant after her April 1, 2001 termination;⁶ (ii) an EEOC representative “encouraged [Plaintiff] to pursue [her] case” “[p]rior to the time limit to file a federal case initially ran out;” and (iii) Plaintiff did not pursue a federal lawsuit at that time due to certain personal circumstances. Am. Compl. at 10-11, 14 (emphasis added). Plaintiff further alleges that “a year or two” after the EEOC representative encouraged Plaintiff to pursue her case, Plaintiff contacted the EEOC and was advised that her case was closed. *Id.* at 14. Plaintiff did not initiate this action until December 16, 2019, more than 18 years after Plaintiff’s termination. IFP Appl., ECF No. 1.

Although Plaintiff does not provide the specific date on which the EEOC issued its Right to Sue Letter as to Plaintiff’s First EEOC Charge, it is implausible to suggest, based on the circumstances summarized above, that Plaintiff filed this action within 90 days of receipt of any such letter. *See N. Va. Orthodontics Ctr., LLC*, 2019 U.S. Dist. LEXIS 119306, at *6 (explaining that an individual seeking to assert claims under the ADA has 90 days from the receipt of a Right to Sue Letter to file a complaint in federal court). Accordingly, the Court finds that Plaintiff cannot rely on her First EEOC Charge to establish the timely exhaustion of her ADA claims in this action.

Plaintiff filed a Second EEOC Charge on October 26, 2019, in which she claimed that Defendant violated her rights under the ADA in 2001, and the EEOC issued a Right to Sue Letter as to Plaintiff’s Second EEOC Charge on November 4, 2019. Second EEOC Charge at 1; Right Sue Letter, ECF No. 9-1, at 1. Although Plaintiff initiated this lawsuit within 90 days of receipt of the November 4, 2019 Right to Sue Letter, Plaintiff’s Second EEOC Charge was not filed within 300 days of the discrimination alleged therein. *See* Second EEOC Charge at 1 (identifying the

⁶ As noted above, Plaintiff clarifies in her Opposition that she filed her First EEOC Charge in 2002. Opp’n at 2, ECF No. 11.

“latest” date of alleged discrimination as April 1, 2001); Right Sue Letter at 1 (explaining that the EEOC closed its file on Plaintiff’s Second EEOC Charge because Plaintiff “waited too long after the date(s) of the alleged discrimination to file [her] charge”); *see also Strayer Univ. Corp.*, 79 F. Supp. 3d at 598 (explaining that an employee challenging an employment practice under the ADA in Virginia has 300 days from the last date of alleged discrimination to file a charge with the EEOC). Accordingly, the Court finds that Plaintiff cannot rely on her Second EEOC Charge to establish the timely exhaustion of her ADA claims in this action.

For these reasons, the Court finds that Plaintiff has not established that she timely exhausted the administrative remedies on the ADA claims she seeks to assert against Defendant in this action. Without such timely exhaustion, Plaintiff cannot state an ADA claim against Defendant upon which relief may be granted. Accordingly, Defendant’s Motion to Dismiss is **GRANTED** as to Plaintiff’s ADA claims.

C. Non-ADA Claims

As noted above, Plaintiff’s Amended Complaint primarily asserts claims against Defendant under the ADA; however, Plaintiff also states in her Amended Complaint that she intends to assert non-ADA claims against Defendant for: (i) “stealing [Plaintiff’s] mail off of [her] front porch;” (ii) “coming to [Plaintiff’s] private home uninvited, unannounced, very early in the morning;” (iii) “trying to break into [Plaintiff’s] company car;” (iv) “fail[ing] to provide promised bonus;” (v) “fail[ing] to provide Plaintiff with an opportunity to obtain other transportation;” (vi) “creating a toxic work environment by coming to [Plaintiff’s] home unannounced;” (vii) “turn[ing] even [Plaintiff’s] own psychiatrist against [her], preventing [her] from receiving proper treatment;” and (viii) privacy related issues based on Plaintiff’s belief that another sales representative told Plaintiff’s supervisor that she was seeing a psychiatrist. Am. Compl. at 5-6. Defendant argues that Plaintiff’s non-ADA claims should be dismissed under Federal Rule

12(b)(6) because they “are not recognized theories of recovery under federal or state law and even if they were, Plaintiff fails to plead enough facts to support them.” Mem. Supp. Mot. Dismiss at 9.

Upon review of Plaintiff’s Amended Complaint, Defendant’s Motion to Dismiss, and the parties’ briefs, the Court finds that Plaintiff has not adequately identified the legal bases for her non-ADA claims, and has not alleged sufficient facts to state any non-ADA claim against Defendant that is plausible on its face. *See Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007) (explaining that a Rule 12(b)(6) motion should be granted if a complaint fails to allege “enough facts to state a claim to relief that is plausible on its face”). Accordingly, Defendant’s Motion to Dismiss is **GRANTED** as to Plaintiff’s non-ADA claims.

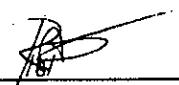
IV. Conclusion

For the reasons set forth above, Defendant’s Motion to Dismiss, ECF No. 8, is **GRANTED**.

Plaintiff may appeal this Dismissal Order by forwarding a written notice of appeal to the Clerk of the United States District Court, Norfolk Division, 600 Granby Street, Norfolk, Virginia 23510. The written notice must be received by the Clerk within thirty days from the date of entry of this Dismissal Order.

The Clerk is **DIRECTED** to send a copy of this Dismissal Order to Plaintiff and counsel for Defendant.

IT IS SO ORDERED.



Raymond A. Jackson

UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
December 28, 2020

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 21-1065

KRISTINA MERLE LARSON,

Plaintiff - Appellant,

v.

AMERICAN HOME PRODUCTS, WYETH-AYERST LABORATORIES,

Defendant - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Raymond A. Jackson, District Judge. (2:19-cv-00685-RAJ-LRL)

Submitted: June 17, 2021

Decided: August 19, 2021

Before WYNN, THACKER, and RUSHING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Kristina Merle Larson, Appellant Pro Se. Milena Radovic, Kristina H. Vaquera, JACKSON LEWIS PC, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kristina Merle Larson appeals the district court's order dismissing her complaint in which she alleged violations of the Americans with Disabilities Act, 42 U.S.C. §§ 12102-12213, and related claims. We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. *Larson v. Am. Home Prods.*, No. 2:19-cv-00685-RAJ-LRL (E.D. Va. Dec. 28, 2020). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

FILED: August 27, 2021

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-1065
(2:19-cv-00685-RAJ-LRL)

KRISTINA MERLE LARSON

Plaintiff - Appellant

v.

AMERICAN HOME PRODUCTS, WYETH-AYERST LABORATORIES

Defendant - Appellee

TEMPORARY STAY OF MANDATE

Under Fed. R. App. P. 41(b), the filing of a timely petition for rehearing or rehearing en banc stays the mandate until the court has ruled on the petition. In accordance with Rule 41(b), the mandate is stayed pending further order of this court.

/s/Patricia S. Connor, Clerk

FILED: September 20, 2021

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-1065
(2:19-cv-00685-RAJ-LRL)

KRISTINA MERLE LARSON

Plaintiff - Appellant

v.

AMERICAN HOME PRODUCTS, WYETH-AYERST LABORATORIES

Defendant - Appellee

O R D E R

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge Wynn, Judge Thacker, and Judge Rushing.

For the Court

/s/ Patricia S. Connor, Clerk

**Additional material
from this filing is
available in the
Clerk's Office.**