

APPENDIX

TABLE OF APPENDICES

	Page
APPENDIX A: Opinion of the United States Court of Appeals for the Fourth Circuit (Apr. 24, 2024)	1a
APPENDIX B: Order of the United States District Court for the Eastern District of Virginia Dismissing the First Amended Complaint (Jan. 19, 2022).....	11a
APPENDIX C: First Amended Complaint (October 26, 2021).....	178a

1a

APPENDIX A

UNPUBLISHED

UNITED STATES COURT OF APPEALS FOR THE
FOURTH CIRCUIT

No. 22-1144

MARTHE LATTINVILLE-PACE,
Plaintiff – Appellant,
v.
INTELLIGENT WAVES LLC,
Defendant – Appellee.

EQUAL EMPLOYMENT OPPORTUNITY COMMIS-
SION,

Amicus Supporting Appellant.

Appeal from the United States District Court for the
Eastern District of Virginia, at Alexandria. Liam
O’Grady, Senior District Judge.
(1:21-cv-00698-LO-IDD)

Submitted: October 31, 2023 Decided: April 24, 2024

Before DIAZ, Chief Judge, and WILKINSON and
HEYTENS, Circuit Judges.

Affirmed in part, vacated in part, and remanded by unpublished per curiam opinion.

ON BRIEF: Carla D. Brown, CHARLSON BREDEHOFT COHEN BROWN &

NADELHAFT, P.C., Reston, Virginia, for Appellant. Lee Dougherty, Everett Dougherty, EFFECTUS PLLC, Washington, D.C., for Appellee. Christopher Lage, Deputy General Counsel, Jennifer S. Goldstein, Associate General Counsel, Elizabeth E. Theran, Assistant General Counsel, Jeremy D. Horowitz, Appellate Litigation Services, Office of General Counsel, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Washington, D.C., for Amicus Curiae.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Marthe Lattinville-Pace, a French-Canadian human resources professional, appeals the district court's order granting Intelligent Waves, LLC's motion to dismiss her complaint, which raised age and national origin discrimination claims under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, the Age Discrimination in Employment Act, 29 U.S.C. § 621 *et seq.*, and the Virginia Human Rights Act, Va. Code Ann. § 2.2-3900 *et seq.*, as amended by the Virginia Values Act, Va. Code Ann. § 2.2-3905. In her complaint, Lattinville-Pace alleged that she was unlawfully terminated by Intelligent Waves due to

her age (sixty-seven when she was terminated) and her French- Canadian ancestry.

The district court dismissed the complaint with prejudice under Federal Rule of Civil Procedure 12(b)(6). The court found that Lattinville-Pace’s complaint “fail[ed] to show a causal connection between her age or national origin and her termination.” *Lattinville-Pace v. Intelligent Waves LLC*, No. 1:21-cv-00698, 2022 WL 453752, at *2 (E.D. Va. Jan. 20, 2022). Instead, the court explained, it “assert[ed] mere conclusions and formulaic recitations that cannot survive a motion to dismiss.” *Id.*

On appeal, Lattinville-Pace primarily contends that the district court erred in failing to apply the *McDonnell Douglas* burden-shifting framework to her age and national origin discrimination claims.⁷ If it

⁷ In *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973), the Court “established an allocation of the burden of production and an order for the presentation of proof in . . . discriminatory-treatment cases.” *St. Mary’s Honor Ctr. v. Hicks*, 509 U.S. 502, 506 (1993). Under the Court’s three-step, burden-shifting framework,

the plaintiff-employee must first prove a prima facie case of discrimination by a preponderance of the evidence. If she succeeds, the defendant-employer has an opportunity to present a legitimate, non-discriminatory reason for its employment action. If the employer does so, the presumption of unlawful discrimination created by the prima facie case “drops out of the picture” and the burden shifts back to the employee to show that the given reason was just a pretext for discrimination.

had, she argues, it would have found that she pleaded a prima facie case of discrimination. She also asserts that the district court erred in applying a heightened pleading standard requiring her to prove that her age and national origin were the “but-for” causes of her termination. We agree with Lattinville-Pace and the Equal Employment Opportunity Commission (EEOC), writing as amicus in support of Lattinville-Pace, that a plaintiff need not establish but-for causation to survive a motion to dismiss. Rather, a plaintiff need only plead sufficient facts to plausibly support a claim of discrimination.

And we agree with the district court that Lattinville-Pace failed to adequately plead a national origin discrimination claim. But we disagree that she failed to state a plausible age discrimination claim. Therefore, we affirm the district court’s order in part, vacate it in part, and remand the case for further proceedings consistent with this opinion.

I.

A.

We review a district court’s grant of a motion to dismiss under Rule 12(b)(6) de novo. *Trejo v. Ryman Hosp. Props., Inc.*, 795 F.3d 442, 445–46 (4th Cir. 2015). In so doing, we accept as true “all well-pleaded, nonconclusory factual allegations in the complaint” and draw all reasonable inferences in the plaintiff’s favor. *Aziz v. Alcolac, Inc.*, 658 F.3d 388, 391 (4th Cir. 2011) (citations omitted).

Evans v. Techs. Applications & Serv. Co., 80 F.3d 954, 959 (4th Cir. 1996) (quoting *St. Mary’s Honor Ctr.*, 509 U.S. at 510–511).

A Rule 12(b)(6) motion “challenges the legal sufficiency of a complaint, . . . [which] is measured by whether it meets the standards for a pleading stated in [the Federal Rules].” *Francis v. Giacomelli*, 588 F.3d 186, 192 (4th Cir. 2009) (citation omitted). As relevant here, Federal Rule of Civil Procedure 8(a)(2) “requires only a short and plain statement of the claim showing that the pleader is entitled to relief, in order to give the defendant fair notice of what the . . . claim is and the grounds upon which it rests[.]” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (cleaned up).

“[T]he pleading standard Rule 8 announces does not require detailed factual allegations, but it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (cleaned up). “To survive a motion to dismiss, a complaint must contain sufficient [facts], accepted as true, to state a claim to relief that is plausible on its face.” *Id.* (cleaned up). And “[a] claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* (citation omitted). “[But] a plaintiff need not forecast evidence sufficient to prove a claim.” *Harbourt v. PPE Casino Resorts Md., LLC*, 820 F.3d 655, 658 (4th Cir. 2016) (cleaned up).

B.

The district court concluded that Lattinville-Pace had failed to state an age discrimination claim after finding that (1) Lattinville-Pace was required, under the Supreme Court’s decision in *Gross v. FBL Financial Services, Inc.*, to “prove, by a preponderance of the evidence, that age was the ‘but-for’ cause of the

challenged adverse employment action”; and (2) she had “failed to assert facts that show that her age was the but-for cause of her termination.” *Lattinville-Pace*, 2022 WL 453752, at *2 (quoting *Gross v. FBL Fin. Servs., Inc.*, 557 U.S. 167, 180 (2009)).

“Indeed,” the district court continued, Lattinville-Pace had failed to show “that her age played *any* role in Defendant’s decision to terminate her employment – let alone [that it was the] but-for cause” of her termination. *Id.* (emphasis added). But this statement misapprehends the pleading standard, which is concerned with the sufficiency of the pleadings, *not* the weight of the evidence.

We turn to that analysis now.

II.

A.

For an age discrimination claim brought under the Age Discrimination and Employment Act, Lattinville-Pace was required to allege facts sufficient to support an inference that she was terminated because of her age. *See* 29 U.S.C. § 623(a)(1). We believe the facts alleged in the complaint are enough to support such an inference.

Lattinville-Pace’s complaint alleges that she: (1) “was 67 years old at the time of her sudden discharge”; (2) “had exceptional qualifications for the position (setting forth the details of her HR expertise, experience, and education)”; (3) “was exceeding Intelligent Waves’[s] expectations to the praise and rewards of senior management and others (setting forth the details of her work accomplishments, accolades received, and bonus awarded)”; (4) “was terminated without

warning . . . just seven days after the President of Intelligent Waves lauded her work”; (5) “was vaguely given ‘not being a cultural fit’ as the sole justification for the discharge”; and (6) “was replaced by a significantly less qualified specifically named individual (Heidi Pirela) who was nearly 30 years Ms. Lattinville-Pace’s junior.” Reply Br. at 12 (citations omitted). Also, following her termination, other employees “near or over 60 years of age” were let go by Intelligent Waves. J.A. 34.

We agree with the EEOC that these allegations, taken together and accepted as true, “plausibly allow for the reasonable inference that Intelligent Waves terminated Lattinville-Pace—and instead hired a significantly younger and less qualified individual to fill her position—because of her age.” Amicus Br. at 11. This is so because, as the EEOC asserts, “[t]hese allegations, which describe in great detail Lattinville-Pace’s positive job performance and the ways her qualifications exceeded those of her replacement, Pirela, . . . gave Intelligent Waves ‘fair notice of what the . . . claim is and the grounds upon which it rests’—the animating purpose behind [Rule 8].” *Id.* at 12 (quoting *Twombly*, 550 U.S. at 555).

Indeed, these are precisely the sort of factual allegations that “nudge[] [a plaintiff’s] claims across the line from conceivable to plausible” *Twombly*, 550 U.S. at 570; accord *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 513–514 (2002) (under the “simplified notice pleading standard,” allegations that “detailed the events leading to [plaintiff’s] termination, provided relevant dates, and included the ages and nationalities of at least some of the relevant persons involved with his termination” were sufficient).

The district court erred in holding otherwise.

B.

As for Lattinville Pace’s national origin discrimination claim, however, we agree with the district court that it must be dismissed.

Title VII prohibits an employer from taking adverse action against an employee “because of such individual’s race, color, religion, sex, or national origin.” 42 U.S.C. § 2000e-2(a)(1). To state a claim for national origin discrimination under Title VII, Lattinville-Pace was required to allege facts from which a court could reasonably infer that Intelligent Waves “discharge[d] [her] . . . because of [her] . . . national origin.” *Id.*; see also *McCleary-Evans v. Md. Dep’t of Transp., State Highway Admin.*, 780 F.3d 582, 585 (4th Cir. 2015). She did not.

While the complaint arguably alleges Lattinville-Pace’s French-Canadian heritage and Intelligent Waves’ knowledge of the same, it doesn’t allege sufficient facts from which we can infer that her termination was motivated by a discriminatory animus against French-Canadians. We can’t, for example, reasonably conclude that Lattinville-Pace’s July 2020 termination, for which she was given the explanation of not being a “cultural fit,” J.A. 17, was connected, in whole or in part, to (1) a conversation that took place seven months earlier during which Lattinville-Pace commented on Intelligent Waves CEO Jared Shepard’s “French[-]Canadian lumberjack” attire, J.A. 15, to which Shepard responded that he did not wish to be associated with a *French* lumberjack, or (2) the fact that her replacement was American.

These allegations—which state only that Lattinville-Pace is French-Canadian, her employer was aware of that fact, and her replacement wasn’t French-Canadian—don’t support a plausible inference that Lattinville-Pace was terminated due to her national origin, even when considered alongside the allegation that Intelligent Waves’s CEO expressed a bias against French people several months before she was discharged.

The district court concluded that the “sole act” of national-origin-based discrimination alleged in the complaint—Shepard’s comment to Lattinville-Pace made seven months before her termination—was too attenuated in time to infer that her termination was motivated by bias. *Lattinville-Pace*, 2022 WL 453752, at *2. The court also found that the allegations in Lattinville-Pace’s complaint related to her national origin and that of her replacement were too conclusory to reasonably support an inference that she was terminated *because of* her French-Canadian ancestry. *Id.* at *3. We agree.

Indeed, Lattinville-Pace appears to concede that the allegations fail to connect her termination to her national origin, arguing instead that “this connection is unnecessary.” Reply Br. at 19. Because “[t]he Amended Complaint pleads *other* facts,” she says, “namely, the statement made by the firing official in the direct context of [her] discharge and with knowledge of her French[-]Canadian ancestry that the sole justification for the sudden adverse action was that she was ‘not a cultural fit’ with the company, a reasonable fact finder could conclude [such a statement] was not only false but code for her French[-]Canadian ancestry.” *Id.* at 19–20.

But Lattinville-Pace was “*required* to allege facts to satisfy the elements of a cause of action created by [Title VII]—i.e., in this case, that [Intelligent Waves] [terminated] her “*because of* [her] [national origin].” *McCleary-Evans*, 780 F.3d at 585 (first emphasis added) (citation omitted). Because she failed to do so, district court correctly dismissed the claim.

III.

For these reasons, we affirm in part, vacate in part, and remand for further proceedings. 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 IN PART, VACATED IN PART, AND REMANDED

APPENDIX B

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

MARTHE LATTINVILLE-PACE,

Plaintiff,

v.

INTELLIGENT WAVES LLC,

Defendant.

Civil Action No. 1 :21-cv-00698

Hon. Liam O'Grady

ORDER

This matter comes before the Court on the Motion to Dismiss for Failure to State a Claim filed by Defendant Intelligent Waves LLC. Dkt. 16. The matter is fully briefed, and the Court dispensed with oral argument. For the reasons that follow, Defendant's Motion is GRANTED under Federal Rule of Civil Procedure 12(b)(6).

I. BACKGROUND

Plaintiff Marthe Lattinville-Pace brings an action against Defendant Intelligent Waves LLC, her former employer. The Amended Complaint alleges two counts of age discrimination in employment (the first brought under the Age Discrimination in Employment Act of 1967 ("ADEA") and the second brought under the

Virginia Human Rights Act ("VHRA")), and two counts of national origin discrimination in employment (the first brought under Title VII of the Civil Rights Act of 1964 and the second under the VHRA.). See Dkt. 13 at 1.

Plaintiff is 68 years of age and of French Canadian origin. At all times relevant to these claims, Plaintiff was more than 40 years of age. *Id.* at 2-3. Defendant Intelligent Waves LLC, Plaintiff's former employer, is a government contractor and software developer. At the time of Plaintiff's discharge, the senior management of Defendant Intelligent Waves LLC was aware of Plaintiff's French Canadian origin. *Id.* at 3-4. Plaintiff states that she was qualified for her position at Intelligent Waves LLC, *see id.* at 4-6 and, at the time she was employed there, she successfully completed the tasks assigned to her position and received praise from senior managers and others, *see id.* at 6-8.

In support of Plaintiff's two counts of national origin discrimination in employment, she explains that on or around December 20, 2019, at an employee pot-luck, Plaintiff commented to the CEO, Mr. Jared Shepard, "that with his attire that day he reminded her of a French Canadian lumberjack, to which he responded that he was OK being associated with a Canadian lumberjack but not a French one." *Id.* at 11. The COO, Mr. James Howell, overheard the conversation and "explained that Mr. Shepard had a previous negative experience with a French woman which had left him with a negative perception of French people." *Id.*

Plaintiff also states that, in early 2020, Plaintiff interviewed Mr. Tony Crescenzo for the position of President of Intelligent Waves LLC. Plaintiff assessed Mr.

Crescenzo and concluded that she did not recommend hiring him, but also indicated that she would be "all in" if the company decided to move forward with his candidacy. In June 2020, during a senior staff discussion, Mr. Crescenzo asked Plaintiff to provide examples of where Intelligent Waves may not be perceived as open to different points of view. Plaintiff states that her comments at that meeting were not well taken. *Id.* at 12-13.

On July 22, 2020, Plaintiff learned that her employment was terminated, effective immediately. Mr. Crescenzo explained that she was not a "cultural fit," and that Intelligent Waves did not approve of her approach to providing HR services. *Id.* Plaintiff subsequently learned that her position was taken over and that she was replaced by a "significantly younger female employee who had just turned 40, with significantly less experience and an American background." *Id.* at 15.

Plaintiff brought her Amended Complaint alleging two counts of age discrimination in employment and two counts of national origin discrimination in employment. Dkt. 13. Defendant subsequently brought the motion to dismiss for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). Dkt. 16.

II. LEGAL STANDARD

Under Federal Rule of Civil Procedure 12(b)(6), a Court evaluates a Plaintiffs claims under *Twombly-Iqbal's* plausibility standard. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678-79 (2009); *Bell All. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). Under this standard, the Court accepts as true the Plaintiffs well-pleaded allegations, and views the complaint in the

light most favorable to the non-movant. *T. G. Slater & Son, Inc. v. Donald P. and Patricia Brennan LLC*, 385 F.3d 836, 841 (4th Cir. 2004). The Plaintiff must provide more than merely "labels and conclusions" or a "formulaic recitation of the elements of a cause of action." *Twombly*, 550 U.S. at 555. Rather, Plaintiff must "allege facts sufficient to raise a right to relief above the speculative level, stating a claim that is plausible on its face, rather than merely conceivable." *Vuyyuru v. Wells Fargo Bank, N.A.*, 2016 WL 356087, at *2 (E.D. Va. Jan. 28, 2016) (citing *Iqbal*, 556 U.S. at 678).

III. DISCUSSION

Plaintiff fails to show a causal connection between her age or national origin and her termination. Rather, Plaintiff asserts mere conclusions and formulaic recitations that cannot survive a motion to dismiss. *See Twombly*, 550 U.S. at 555.

A. Plaintiff's Age Discrimination Claims

The ADEA makes it unlawful for an employer to "fail or refuse to hire or discharge any individual or otherwise discriminate against an individual... because of such individual's age." 29 U.S.C. § 623(a)(1).

The Supreme Court has held that "a plaintiff bringing a disparate-treatment claim pursuant to the ADEA must prove, by a preponderance of the evidence, that age was the 'but-for' cause of the challenged adverse employment action." *Gross v. FBL Financial Services, Inc.*, 551

U.S. 167, 180 (2009). The employer need not show that it would have taken the action regardless of age, "even when a plaintiff has produced some evidence

that age was one motivating factor in that decision." *Id.* See also *Gentry v. East West Partners Club Management Co. Inc.*, 816 F.3d 228,234 (4th Cir. 2016); *Gordon v. Napolitano*, 863 F.Supp.2d 541,548 (E.D. Va. 2012).

Here, Plaintiff has failed to assert facts that show that her age was the but-for cause of her termination. Plaintiff notes only that other high-level executives near or over 60 years of age were terminated by Intelligent Waves LLC following her own termination, *see* Dkt. 13 at 17, and further that she was replaced by a woman who was 40 years old, *see id* at 15. However, these two assertions fall short of indicating that Plaintiff's age of 68 was the but-for cause of her termination. Indeed, Plaintiff does not show that her age played any role in Defendant's decision to terminate her employment - let alone the but-for cause. Because Plaintiff only asserts conclusory allegations, she fails to state an age discrimination claim.

B. Plaintiff's National Origin Discrimination Claims

Plaintiff also fails to state a claim of discrimination based on national origin. The sole act of discrimination based on national origin alleged in Plaintiff's Amended Complaint is that, at an employee pot-luck in December 2019, the CEO of Intelligent Waves LLC, Mr. Shepard, said that "he was OK being associated with a Canadian lumberjack but not a French one." Dkt. 13 at 11. Plaintiff's termination in July 2020 was seven months after this occurrence. *See* Dkt. 17 at 23. Plaintiff does not allege any further discriminatory acts or occurrences based on national origin. This connection between this passing comment at an employee pot-luck, and Plaintiff's termination seven months

later and after the hiring of the new President of Intelligent Waves LLC, is attenuated at best.

In *McCleary-Evans v. Maryland Department of Transportation, State Highway Administration*, the Fourth Circuit considered a case in which Plaintiff alleged that the State Highway Administration did not select her for a job position because of the relevant decisionmakers' bias against African American women. *McCleary-Evans v. Md. Dep't of Transp., State Highway Admin.*, 780 F.3d 582, 585 (4th Cir. 2015). The Court held that "while the allegation that non-Black decisionmakers hired non-Black applicants instead of the plaintiff is *consistent* with discrimination, it does not alone support a *reasonable inference* that the decisionmakers were motivated by bias." *Id.* at 586 (emphasis in original). The Court held that Plaintiff's allegations were simply too conclusory and therefore did not survive a motion to dismiss. *Id.* Similarly, here, Plaintiff's naked assertions do not support a reasonable inference that the decisionmakers in this case were motivated by bias. Although Plaintiff explains that she was replaced by someone who was not born in Quebec Canada, is not French Canadian, and is not of French origin, *see* Dkt. 13 at 16, she provides no facts to support the claim that Defendant acted *because* of Plaintiff's national origin. Indeed, there is no evidence that Plaintiff's national origin played a role in her termination. Therefore, because Plaintiff only asserts conclusory allegations, she fails to state an age discrimination claim.

IV. CONCLUSION

Plaintiff fails to state a claim of age discrimination in employment and fails to state a claim of national origin discrimination in employment. Therefore, the

Court therefore **GRANTS** Defendant's Motion to Dismiss, Dkl. 16, pursuant to Federal Rule of Civil Procedure 12(b)(6).

Plaintiffs Amended Complaint, Dkt. 13, is hereby **DISMISSED WITH PREJUDICE** and the matter is concluded.

It is **SO ORDERED**.

January 19, 2022
Alexandria, Virginia

s/Liam O'Grady
United States District
Judge

APPENDIX C

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)

)
MARTHE LATTINVILLE-PACE)
)
Plaintiff,)
)
v.)
)
INTELLIGENT WAVES LLC)
)
Defendant.)
)

C.A. No. 1:21cv00698 (LO/IDD)

AMENDED COMPLAINT

COMES NOW THE PLAINTIFF, MARTHE LATTINVILLE-PACE, by counsel, and moves this Court for entry of judgment in her favor and against the Defendant, INTELLIGENT WAVES LLC, and in

support of this Amended Complaint alleges and avers as follows:

NATURE OF ACTION

1. This is an action at law arising out of discrimination on the basis of age and national origin in the termination of employment of Plaintiff Marthe Lattinville-Pace. This action states federal claims against Defendant Intelligent Waves LLC for age discrimination under the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 621-34 (the “ADEA”), and national origin discrimination in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, *et seq.*

2. This action also states claims against the Defendant for wrongful (discriminatory) termination based on age and national origin in violation of the Virginia Human Rights Act, as amended in July 2020 by the Virginia Values Act (Senate Bill 868), codified at Va. Code § 2.2-3900, *et seq.*

PARTIES

3. Ms. Lattinville-Pace (“Ms. Lattinville-Pace”) was a resident and citizen of Maryland at the time this suit was filed. In August 2021, she moved to Virginia and is now a resident and citizen of that state. At all times relevant hereto, Ms. Lattinville-Pace was employed by Intelligent Waves LLC in Reston, Virginia, in this judicial district.

4. Ms. Lattinville-Pace is currently 68 years of age. At all times relevant to these claims, Ms. Lattinville-Pace was more than 40 years of age.

5. Ms. Lattinville-Pace is of French Canadian origin.

6. Ms. Lattinville-Pace was an “employee” of Intelligent Waves LLC within the meaning of 42 U.S.C. § 2000e(f) and an “eligible employee” of Intelligent Waves LLC within the meaning of 29 U.S.C. §2611(2)(A).

7. Defendant Intelligent Waves LLC (“Intelligent Waves”) is a government contractor and software developer, a foreign limited liability corporation, and is active and in good standing in the Commonwealth of Virginia and maintains its corporate headquarters and a registered agent for the service of process in this judicial district.

8. Intelligent Waves is engaged in an industry affecting commerce and has had over 50 employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, within the meaning of 42 U.S.C. § 2000e(b) and 29 U.S.C. §2611(4)(A), and within the meaning of Va. Code § 2.2-3903.

9. Intelligent Waves is an “employer” within the meaning of 42 U.S.C. §2000e(b), 29 U.S.C. §2611(4)(A), and Va. Code § 2.2-3900, *et seq.*

JURISDICTION AND VENUE

10. The amount in controversy in this action exceeds the jurisdictional minimum amount for this Court.

11. The causes of action alleged in this action arose in this judicial district, in Fairfax County, in the Commonwealth of Virginia.

12. This Court has jurisdiction over Plaintiff’s claims under the ADEA pursuant to 29 U.S.C. §

626(c)(1), and pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, *et seq.*

13. This Court has jurisdiction over Plaintiff's claims under the common laws of Virginia.

14. Jurisdiction and venue are proper in this Court.

PROCEDURAL STATUS

15. Ms. Lattinville-Pace timely filed a Charge of Discrimination with the United States Equal Employment Opportunity Commission ("EEOC") on or around September 16, 2020.

16. The EEOC issued a Dismissal and Notice of Right to Sue dated March 25, 2021.

17. This action was timely filed.

FACTS

Ms. Lattinville-Pace Is Of French Canadian Origin

18. Ms. Lattinville-Pace is currently 68 years old and of French Canadian origin.

19. Ms. Lattinville-Pace was born in Montreal, Quebec Canada. Quebec is home to the vast majority of French Canadians, a distinct ethnic group and cultural identity within Canada who trace their ancestry to French colonists who settled in Canada in the 17th century. Quebec's official language is French. Ms. Lattinville-Pace continues to be a citizen of Canada and became a U.S. citizen in 2002.

20. Ms. Lattinville-Pace was raised French; French is her native language; she speaks English with a

French accent; and she graduated from a French university. At the time of Ms. Lattinville-Pace's discharge on July 22, 2020, the senior management of Intelligent Waves (Jared Shepard, CEO; James Howell, COO; Pat Herrity, CFO; and Tony Crescenzo, President) were aware of Ms. Lattinville-Pace's French Canadian origin.

Ms. Lattinville-Pace was Exceptionally Qualified for Her Position at Intelligent Waves

21. Before her employment with Intelligent Waves, Ms. Lattinville-Pace had several decades of high-level HR management experience, including serving in senior HR roles at numerous large and high-profile companies.

22. More specifically, at the time Intelligent Waves hired Ms. Lattinville-Pace, she had 40 years of generalist HR experience including 25 years of broad leadership experience in HR with Fortune 100 and 200 companies directing strategic human resource initiatives in high-tech, governmental contractor, and service industries (each requiring different approaches for staffing and compensation management) encompassing all aspects of HR functions in fast-growing companies and environments.

23. At the time Intelligent Waves hired Ms. Lattinville-Pace, she had vast international and global HR experience which she acquired in the United States, Canada, Europe, India, and the Middle East (providing her with a unique understanding of diversity and related legal and cultural issues); held senior HR executive roles for both privately and publicly traded technology companies; served as a high-level officer on the senior management teams of major

corporations directly reporting to CEOs, CFOs, COOs, and Presidents; worked with and made presentations to Boards of Directors on IPO, Secondary Offerings, and related spinoff, merger, and acquisition integration issues playing key roles in such business expansion and development activities in several organizations much larger, more complex, and more advanced than Intelligent Waves (including Digex, Inc., America Online, Inc., and Waters Corporation); and had vast experience working through sensitive issues resulting from mergers, acquisitions, and the creation of new subsidiaries.

24. At the time Intelligent Waves hired Ms. Latinville-Pace, her areas of HR expertise included, among other things, in-depth knowledge of and experience with domestic and international compensation and benefit plans (and redesigning such plans to be more efficient and cost effective); developing and implementing leading edge and innovative HR and operational programs involving office automation, communications, web hosting, and Internet Service Providers (ISP); in depth knowledge of and experience with multiple organizational designs, change management issues, corporate policy setting, teaming building, and Human Resources Information System (HRIS) software systems.

25. At the time Intelligent Waves hired Ms. Latinville-Pace, she had a Bachelor's degree Es Sciences in Industrial Relations from the University of Montreal (a French university); an MBA from Montreal HEC (graduate business school of Montreal University); a Leadership certificate in HR from Georgetown University; was certified in Total Quality Control (TQC) & Continuous Integration (CI) processes and

methodologies; and was fully bilingual (French and English).

**Ms. Lattinville-Pace Was Hired By
Intelligent Waves**

26. In January 2019, Ms. Lattinville-Pace was contacted by Mr. Herrity, CFO of Intelligent Waves, to provide outside counseling on HR issues at Intelligent Waves.

27. Impressed by the advice Ms. Lattinville-Pace provided, Mr. Herrity reached out to Ms. Lattinville-Pace in March 2019 asking if she would be interested in the Vice President of

Human Resources position at Intelligent Waves. Ms. Lattinville-Pace subsequently interviewed with Mr. Herrity, Mr. Shepard, Mr. Howell, Erin Howell (Chief Growth Officer), and Sebastian Shahvandi (Chief Revenue Officer).

28. After the interviews, Ms. Lattinville-Pace was offered the role of Senior Vice President of Human Resources. As outlined above, she was exceptionally qualified for the position.

29. Ms. Lattinville-Pace began her employment with Intelligent Waves on April 1, 2019 as the Senior Vice President of Human Resources, reporting to Mr. Herrity.

**Ms. Lattinville-Pace Accomplished What She
Was Hired To Do At Intelligent Waves**

30. Upon her hire, Ms. Lattinville-Pace discovered a long list of significant issues in the areas of employment, compensation, benefits administration, policies and procedures, employee relations, and compliance. Ms. Lattinville-Pace worked long hours to address all

the issues and brought the company to compliance, built an HR Team, and implemented policies and best practices, working an average of 55 to 60 hours per week, including weekends and holidays.

31. Ms. Lattinville-Pace made documented achievements on behalf of the company and was never criticized, disciplined, or otherwise informed that her performance at Intelligent Waves was in any way unsatisfactory. Quite the contrary, as detailed below, during her employment with Intelligent Waves, including through the time of her discharge, the senior management of Intelligent Waves and others complimented, praised, and lauded Ms. Lattinville-Pace for her work with the company.

32. More specifically, over the course of her employment with Intelligent Waves, through the time of her discharge, Ms. Lattinville-Pace was tasked with accomplishing, and had successfully accomplished, the following projects to the praise of senior management and others:

- Restored the company's compliance with legal and regulatory requirements under the Fair Labor Standards Act, Defense Base Act ("DBA"), and other federal and state laws and regulations;

- Resolved audits of the company's 401k program, consolidated where necessary to reduce 401k costs, and set committee and policy priorities and requirements for the 401k program;

- Updated the company's offers of employment and new hire processes and made benefits packages more competitive to attract new hires;

- Set up structures for OCONUS (outside the continental United States) assignments to comply with DBA requirements;
- Upgraded the company to a better HR software platform (HRIS) that decreased costs, better supported payroll, and permitted transition to a new Workforce Now Platform;
- Implemented a popular Wellness Initiative with the employees;
- Designed and implemented new Performance Management and Annual Review processes;
- Designed and administered training of a new Performance Appraisal system for managers and employees;
- Secured and participated in multiple salary surveys and managed salary reviews for all employees for the first time in the company's history;
- Set up an Applicant Tracking System (ATS) that allowed an increase from 200 to 2,000 the number of candidates whose credentials can be reviewed per month;
- Designed and facilitated two Management Leadership Programs;
- Successfully resolved multiple employee relation challenges in compliance with legal requirements;
- Obtained approval for a new Service Award Program;
- Hired a first-rate HR Team including a new Director of Talent Acquisition and Senior HR Generalist (now the Senior HR Director);

- Implemented new staffing capabilities to support emerging growth areas of the company, including doubling the staff of one major sector (Hypori) under competitive conditions; and
- Crafted policies/procedures to manage the COVID-19 pandemic.

**Senior Managers and Others Praised
Ms. Lattinville-Pace For Her Work**

33. In recognition of her extraordinary work for the company, members of the senior management team at Intelligent Waves, and others within the company, lavished Ms. Lattinville-Pace with praise and commendations throughout her employment. Indeed, Ms. Lattinville-Pace would not have been able to successfully deliver on the above initiatives without engaging across all HR functions and without seeking and obtaining the buy-in of the senior management team and others.

34. Mr. Howell, Intelligent Waves' COO at the time, thanked Ms. Lattinville-Pace for her handling of difficult employee relations situations and expressed his regret for not having taken her advice and recommendations on such matters sooner. Mr. Howell also congratulated Ms. Lattinville-Pace on her implementation of the new Applicants Tracking Systems mentioned above.

35. Mr. Herrity, Intelligent Waves' CFO, gave Ms. Lattinville-Pace continuous, ongoing positive feedback and encouragement throughout her employment. He specifically commented on the excellence of her HR technical competency.

36. More specifically, Mr. Herrity, as CFO, praised Ms. Lattinville-Pace's cost-savings initiatives, including her consolidation efforts regarding the company's 401k program which resulted in decreasing annual costs by \$10,000 while improving services and employees' access to financial education, and renegotiating the ADP Work-Force-Now platform (mentioned above) which resulted in reduced costs from \$85 to \$25 employee per month and an annual savings of \$181,000. Mr. Herrity also praised Ms. Lattinville-Pace's efforts to bring the company into legal and regulatory compliance and for her development of solutions and processes to lead the company towards best practices and address significant risk areas.

37. Mr. Crescenzo, Intelligent Waves' President, regularly met one-on-one (1:1) with Ms. Lattinville-Pace, including at least ten times between May 6, 2020 and July 15, 2020 – the last such meeting just seven days before Ms. Lattinville-Pace was informed of her discharge (on July 22, 2020). At these meetings, Mr. Crescenzo provided Ms. Lattinville-Pace with feedback on her work performance. At none of these meetings did Mr. Crescenzo ever criticize her work, take her to task for something, or ever indicate she was “not a fit” (or words to that effect) with the company.

38. Quite the contrary, during these 1:1 meetings with Ms. Lattinville-Pace, Mr. Crescenzo responded positively, among other matters, to her descriptions about her department, its mission, and her team; how the department was organized and what systems, processes, and tools the department had in place including metrics and other tools to assess performance;

what she saw as the top trends and challenges affecting her department and its function in the next six to twelve months and the strategies she was pursuing to address them; and other such matters.

39. At no time during these 1:1 meetings with Ms. Lattinville-Pace did Mr. Crescenzo ever indicate to her that she was off track, not on the right path, or did not fit in with the culture or mission of the company. On the contrary, during these 1:1 meetings, Mr. Crescenzo's feedback to Ms. Lattinville-Pace was positive, supportive, laudatory, and he encouraged her to persevere. He told her that she was performing above expectations, that she was an overachiever, and that she was a key member of the senior management team.

40. Ms. Lattinville-Pace also worked closely with Mr. Crescenzo on two employee relations challenges involving veterans who were experiencing PTSD that affected their work performance and health. Mr. Crescenzo complimented and thanked Ms. Lattinville-Pace for her handling of these cases.

41. The period of April to July 2020 also required extensive development of guidelines, policies, procedures, communications, and forms associated with the company's response to COVID 19, including becoming familiar with new laws that applied to employers. Mr. Crescenzo provided Ms. Lattinville-Pace with positive feedback and praise for her handling of these COVID-related issues.

42. Throughout her employment, Ms. Lattinville-Pace received thanks and praise from others within Intelligent Waves. For example:

- Kris Perry, Senior Director, Research and Integration Division, thanked Ms. Lattinville-Pace for organizing the Management Leadership Program mentioned above;

- Erin Horrell, Chief Growth Officer, thanked Ms. Lattinville-Pace for her counsel and support in managing complex terminations;

- Heather Woodall, Vice President, Business Operations, thanked Ms. Lattinville-Pace for her management of employees' performance and terminations and Ms. Lattinville-Pace's intervention to address delicate matters with employees;

- Matt Stern, CISO, Vice President Products Group, Chief Security Officer, provided Ms. Lattinville-Pace with positive and appreciative feedback on her counsel and support in managing the HYPORI Business Unit, especially with the management and termination of a problematic employee and after administering HYPORI's unique incentive plan;

- Jeffrey Ruszczyk, Vice President of DOD Services, provided Ms. Lattinville-Pace with positive feedback for her implementation of performance assessment and annual compensation review programs;

- Sidney Spencer, Director Operations HYPORI, expressed his appreciation to Ms. Lattinville-Pace for providing support and counsel in handling an employee relations matter;

- John Carmin, Corporate Executive Assistant to the CEO, sent a thank you note to Ms. Lattinville-Pace expressing positive feedback and appreciation for her caring and support both professionally and personally;

- Patrick Quebedeaux, Senior Director, ISR Programs, and Hector Conception, Technical Project Manager, thanked Ms. Lattinville-Pace for leading and facilitating the payment of Hazard and Danger pay for employees;

- Julie Lane, VP Finance, on multiple occasions expressed her appreciation to Ms. Lattinville-Pace for her support and encouragement, for being a team player, and for helping Ms. Lane to build her team and navigate challenging situations such as system transition and the absence of policies and procedures;

- Mary Yardis, Senior Human Resources Generalist (now Senior Director Human Resources) expressed her appreciation to Ms. Lattinville-Pace for providing her with support and opportunities to learn as an HR professional; and

- Morinna Twigg, HR Payroll & Benefits Specialist, rescinded her resignation after working with Ms. Lattinville-Pace.

43. As confirmation of her good work, in March 2020, Intelligent Waves rewarded Ms. Lattinville-Pace with a discretionary bonus of \$ \$21,992. The bonus was the same percentage amount received by other members of the senior management team.

CEO Sheppard Expressed Dislike of People With a French National Origin

44. In or around December 20, 2019, at an employee pot-luck, Ms. Lattinville-Pace commented to Mr. Shepard that with his attire that day he reminded her of a French Canadian lumberjack, to which he responded that he was OK being associated with a Canadian lumberjack but not a French one. Ms.

Lattinville-Pace was taken back by the comment, due to her own national origin. Mr. Howell, the COO, overheard the conversation and explained that Mr. Shepard had a previous negative experience with a French woman which had left him with a negative perception of French people.

Mr. Crescenzo (President) Is Hired

45. In early 2020, Mr. Shepard began searching for a new leader for Intelligent Waves in order to provide him with more focus and availability to manage Hypori – a startup

acquired in 2017 which served as the software development group component of Intelligent Waves.

46. At Mr. Shepard's request, Ms. Lattinville-Pace interviewed Mr. Crescenzo, who had been recommended to Mr. Shepard for the President position, and provided feedback. Ms. Lattinville-Pace described her assessment of Mr. Crescenzo's strengths and weaknesses and shared her conclusion that she did not recommend hiring Mr. Crescenzo. However, Ms. Lattinville-Pace also indicated to Mr. Shepard that she would be "all in" if he decided to move forward with Mr. Crescenzo's candidacy, and she pledged her full support.

47. Mr. Crescenzo was hired on April 27, 2020. He reported to the CEO, Mr. Sheppard.

48. After Mr. Crescenzo's hiring, Ms. Lattinville-Pace, as a member of the Senior Staff Team, attended and participated in the weekly Senior Staff meetings. A stated, Ms. Lattinville-Pace met with Mr. Crescenzo for weekly 1:1 meetings at which she never received

any negative or critical feedback. To the contrary, Mr. Crescenzo confirmed her management approach and sound business sense. Mr. Crescenzo urged Ms. Lattinville-Pace not to get discouraged if she encountered resistance to change since Intelligent Waves was in need of change and Ms. Lattinville-Pace was doing the right things.

49. On June 11, 2020, during a discussion with Senior Staff about preparing a response to Intelligent Waves employees about the Black Lives Matters movement, Mr. Crescenzo asked Ms. Lattinville-Pace to provide examples where Intelligent Waves may not be perceived as open to different points of view, or else of having an unconscious bias. Ms. Lattinville-Pace provided two examples: 1) In the office foyer, the TV was tuned to Fox News on an ongoing basis, and 2) Intelligent Waves policy allowed staff to bear arms in the office.

Ms. Lattinville-Pace was aware of employees expressing concerns about some of the staff wearing firearms, and about the feeling that expressing anything other than an allegiance to the Republican party would not be welcome. Her comments were not well taken.

**Shortly After Mr. Crescenzo Is Hired, Ms.
Lattinville-Pace Is Fired For Not
Being a “Cultural Fit”**

50. On Friday, July 17, 2020, Sandy Haass, Senior Technical Recruiter, shared with Ms. Lattinville-Pace that she had found a posting on LinkedIn advertizing a position with an organization that looked suspiciously like Ms. Lattinville-Pace’s position at Intelligent Waves.

51. On Wednesday, July 22, 2020, when Ms. Lattinville-Pace logged in for her weekly 1:1 Zoom meeting with Mr. Crescenzo, she received a message that the Zoom meeting was being recorded. Mr. Crescenzo opened the meeting by stating that Mr. Howell, the COO, was on the call with him. Mr. Crescenzo then abruptly informed Ms. Lattinville-Pace that her employment was terminated, effective immediately.

52. Ms. Lattinville-Pace was completely shocked and blindsided since she had received no notice whatsoever that her position was in jeopardy.

53. When Ms. Lattinville-Pace asked for a reason for her abrupt and surprising termination, Mr. Crescenzo responded that she was not a “cultural fit.” Ms. Lattinville-Pace responded that she did not understand what this statement meant and asked for more information, but none was provided.

54. If what Mr. Crescenzo meant by “cultural fit” was that Intelligent Waves did not approve of her approach to providing HR services, or that her HR approach was not consistent with the company’s vision or goals, it was a demonstrable pretext. As detailed above, throughout her employment, including her meeting with Mr. Crescenzo on July 15, 2020 just a week before her discharge, Ms. Lattinville-Pace was the recipient of accolades, thanks, and

praise by members of senior management (including Mr. Crescenzo and Mr. Herrity, her supervisor) and others within the company for her HR approach and accomplishments as the Senior Vice President of Human Resources. In addition, as noted above, for her work, Intelligent Waves rewarded Ms. Lattinville-Pace with a five-figure discretionary bonus. Had Ms.

Lattinville-Pace not been a “fit,” Intelligent Waves would not have given her a bonus.

55. Mr. Crescenzo gave Ms. Lattinville-Pace the option of leaving immediately or leaving at the end of the day if she agreed to use the time to transition information and if she agreed to “be professional.” Ms. Lattinville-Pace responded that she did not believe that they had the same definition of professionalism and that she wanted to understand what not being “a cultural fit” meant, since she had not received any negative feedback about her performance and consistently delivered results. Ms. Lattinville-Pace told Mr. Crescenzo that if the culture of the organization evolved, she could certainly adapt.

56. Mr. Crescenzo did not address Ms. Lattinville-Pace’s comments other than to say that management all agreed with the decision to terminate her employment, which included Mr. Sheppard, the CEO, all of whom were aware that Ms. Lattinville-Pace’s age was well above 40. Ms. Lattinville-Pace told Mr. Crescenzo that she did not believe his statement, especially since her own manager (Mr. Herrity, the CFO) was absent from the discussion and did not take part in her termination. Mr. Crescenzo then stated (claimed) that her termination was his decision. He added that she could contact the CEO, Mr. Sheppard, to discuss her termination.

57. That same day, at 12:00 noon, Mr. Crescenzo summoned Ms. Lattinville-Pace’s team for a meeting and informed the team of Ms. Lattinville-Pace’s termination. Ms. Lattinville-Pace’s team was devastated by the news, further showing that she had been a “fit” for her staff, contrary to what Mr. Crescenzo had claimed. When one team member asked “why,” Mr.

Crescenzo repeated that Ms. Lattinville-Pace was “not a good cultural fit.” When the team questioned what this meant, Mr. Crescenzo alluded to moving towards a customer service orientated culture (a non-response) and offered no further information. Later that day, he sent an written announcement about Ms. Lattinville-Pace’s departure to all employees.

58. Following her termination, Ms. Lattinville-Pace had a conversation with Mr. Herrity, her supervisor, searching for an explanation for her dismissal. Mr. Herrity indicated it had not been his decision and that he had opposed it and fought against it. Mr. Herrity suspected (from a conversation with Erin Horrell, Chief Growth Officer) that Mr. Shepard had shared with Mr. Crescenzo the feedback given by Ms. Lattinville-Pace after she interviewed Mr. Crescenzo prior to his hire -- that Ms. Lattinville-Pace had not recommended him for hire.

59. After her termination became known, Ms. Lattinville-Pace received numerous accolades from co-workers and partners, many of whom expressed surprise about her termination, again showing that the reason given for her discharge – not being a “cultural fit” – could not have been the real reason for the decision.

60. The week after her termination, Ms. Lattinville-Pace learned that Mr. Crescenzo had initiated a search and started interviewing candidates to replace her in May 2020, shortly after he was hired as President, despite Ms. Lattinville-Pace never having been informed of any criticisms of her performance, or that her job was in any way in jeopardy.

Ms. Lattinville-Pace Was Immediately Replaced By a Substantially Younger and Significantly Less Qualified and Experienced Woman Not of French Origin

61. Ms. Lattinville-Pace later learned that her position was taken over and she was replaced by a significantly younger female employee who had just turned 40, with significantly less experience and an American background.

62. More specifically, on July 29, 2020, it came to Ms. Lattinville-Pace's attention that her replacement, Heidi Pirela, identified herself on her LinkedIn profile as the Chief Human Resources Officer (CHRO) of Intelligent Waves. Ms. Pirela's employment started on August 2, 2020.

63. Ms. Pirela was not born in Quebec Canada, is not French Canadian, and is not of French origin.

64. Ms. Pirela has significantly less HR qualifications and experience than Ms. Lattinville-Pace. At the time Intelligent Waves hired Ms. Pirela, the majority of her 20 years of HR experience was limited to one industry in the United States (government contracting) and with one company, Trident Systems, where her HR positions were Senior Director and Director of HR managing a workforce of 165 employees. Her other employments involved lesser HR positions and responsibilities.

65. By contrast, as detailed in ¶¶ 22-24 above, Ms. Lattinville-Pace's 40 years of HR experience encompassed senior management team positions with several large national and international privately and

publicly held 100 and 200 Fortune companies in three different industries (government contracting, high-tech, and services) with workforces in the thousands where she held officer-level positions reporting directly to top corporate executives and Boards of Directors on a wide variety of complex HR functions and issues.

66. Ms. Lattinville-Pace was also significantly more qualified and experienced than Ms. Pirela in issues of specific interest to Intelligent Waves, namely, spinoff, merger, and acquisition integration issues that arise from such business expansion and development activities, including HR issues that arise from the creation of new subsidiaries. Ms. Pirela had limited to no HR experience in these complex areas.

67. Ms. Pirela also had significantly less on-point HR education than Ms. Lattinville-Pace. At the time Intelligent Waves hired Ms. Pirela, she had an HR Certificate, an MPA (Master of Public Administration), and an undergraduate degree in sociology. By contrast, as detailed in ¶ 25 above, Ms. Lattinville-Pace has an undergraduate degree in the Science of Industrial Relations, a Master's in Business Administration, a Leadership Certificate in HR, is certified in Total Quality Control & Continuous Integration processes and methodologies, and conversant in two languages (French and English).

68. Ms. Lattinville-Pace was 67 years old at the time of her termination and had no plans to retire in the foreseeable future. Ms. Lattinville-Pace put in long hours and dedicated herself to doing an

exemplary job, and her termination was entirely unjustified by her conduct and performance.

69. Ms. Lattinville-Pace has never been given any satisfactory or true justification for her termination and never received any substantive performance criticisms. Intelligent Waves did not offer a satisfactory or credible reason or attempt to justify its acts of discrimination.

**Intelligent Waves Has Terminated Others
Near or Over 60**

70. Following Ms. Lattinville-Pace's discharge in July 2020, Intelligent Waves terminated other high-level executives near or over 60 years of age, including Ester Burgess, Vice President, IDIQ Programs & Strategic Growth (61 years old), Ruth Mullany, Senior Director, Strategic Capture (61 years old), and Nora Taylor, Vice President of Contracts and Compliance (58 years old); as well as other employees near or over 60, including Michael Chang, Pricing and Financial Analyst (56 years old) and Gail Briggs, Senior Project Accountant (61 years old).

**COUNT ONE -
DISCRIMINATION/TERMINATION
OF EMPLOYMENT IN VIOLATION OF THE
ADEA**

71. The foregoing allegations are incorporated as if realleged herein.

72. Defendants Intelligent Waves, through its agents and officers, discriminated against Ms. Lattinville-Pace and terminated Ms. Lattinville-Pace, on account of her age. This discrimination was with respect to Ms. Lattinville-Pace's compensation, terms,

conditions, and privileges of employment, and constituted a violation of the Age Discrimination in Employment Act of 1967, as amended

73. Intelligent Waves terminated Ms. Lattinville-Pace with no prior warning, no notice, and with Ms. Lattinville-Pace never having had any performance issues. To the contrary, Ms. Lattinville-Pace devoted herself to her job, with positive and proven results.

74. At the time of her termination, Ms. Lattinville-Pace was 67 years old, and the only reason given for her termination was she was not a “cultural fit.”

75. Intelligent Waves advertised and interviewed for Ms. Lattinville-Pace’s replacement months prior to her termination, and as of at least July 29, 2020 (and possibly earlier) – just one week after Ms. Lattinville-Pace’s termination - her replacement was identifying herself on LinkedIn as the Chief Human Resources Officer (CHRO) of Intelligent Waves.

76. Ms. Lattinville-Pace was replaced by a significantly younger female employee in her early forties, with less experience.

77. Intelligent Waves terminated Ms. Lattinville-Pace, and replaced her with someone younger and less experienced, because of her age.

78. Others who were younger than Ms. Lattinville-Pace were not terminated for not being a “cultural fit.”

79. Ms. Lattinville-Pace was treated differently, based on her age.

80. Ms. Lattinville-Pace was targeted for termination based on her age, over 40.

81. Ms. Lattinville-Pace was discriminated against in terms of her employment because of her age.

82. This conduct by Defendant was actuated by malice, spite and ill-will; was willful and wanton, and evinced conscious disregard for the rights of Ms. Lattinville-Pace.

83. Defendant engaged in these discriminatory practices willfully, within the meaning of Section 7(b) of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 626(b).

84. As a direct and proximate result of this discrimination, Ms. Lattinville-Pace has suffered and continues to suffer injury including past and future loss of income and benefits of employment, other past pecuniary losses, future pecuniary losses, physical and emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, other nonpecuniary losses, and other injury.

85. Due to the severity and knowledge of Defendant's conduct, Ms. Lattinville-Pace is also entitled to liquidated damages.

**COUNT TWO –
AGE DISCRIMINATION IN VIOLATION
OF THE VIRGINIA HUMAN RIGHTS
ACT/VIRGINIA VALUES ACT**

86. The allegations of the foregoing paragraphs are incorporated as if realleged herein.

87. Defendant discriminated against Ms. Lattinville-Pace, and treated Ms. Lattinville-Pace in a disparate manner, because of her age (over 40), in violation of Virginia Human Rights Act, as amended in

July 2020 by the Virginia Values Act (Senate Bill 868), codified at Va. Code § 2.2-3900, *et seq.*

88. Intelligent Waves terminated Ms. Lattinville-Pace with no prior warning, no notice, and with Ms. Lattinville-Pace never having had any performance issues. To the contrary, Ms. Lattinville-Pace devoted herself to her job, with positive and proven results.

89. At the time of her termination, Ms. Lattinville-Pace was 67 years old, and the only reason given for her termination was she was not a “cultural fit.”

90. Intelligent Waves advertised and interviewed for Ms. Lattinville-Pace’s replacement months prior to her termination, and as of at least July 29, 2020 (and possibly earlier) – just one week after Ms. Lattinville-Pace’s termination - her replacement was identifying herself on LinkedIn as the Chief Human Resources Officer (CHRO) of Intelligent Waves.

91. Ms. Lattinville-Pace was replaced by a significantly younger female employee in her early forties, with less experience.

92. Intelligent Waves terminated Ms. Lattinville-Pace, and replaced her with someone younger and less experienced, because of her age.

93. Others who were younger than Ms. Lattinville-Pace were not terminated for not being a “cultural fit.”

94. Ms. Lattinville-Pace was treated differently, based on her age.

95. Ms. Lattinville-Pace was targeted for termination based on her age, over 40.

96. Ms. Lattinville-Pace was discriminated against in terms of her employment because of her age.

97. Defendant's discriminatory treatment of Ms. Lattinville-Pace was in violation of the Virginia Human Rights Act, as amended in July 2020 by the Virginia Values Act (Senate Bill 868), codified at Va. Code § 2.2-3900, *et seq.*

98. In discriminating against Ms. Lattinville-Pace in violation of the law, Defendant evidenced malice, spite, and ill will; its actions were willful and wanton; and evinced a conscious disregard for the rights of Ms. Lattinville-Pace.

99. Ms. Lattinville-Pace has suffered and continues to suffer injury including past and future loss of income and benefits of employment, other past pecuniary losses, future pecuniary losses, physical and emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, other nonpecuniary losses, and other injury.

100. Due to the conscious disregard for Plaintiff's rights, and the severity of Defendant's conduct, Ms. Lattinville-Pace also is entitled to punitive damages.

**COUNT THREE –
DISCRIMINATION BASED ON NATIONAL
ORIGIN IN VIOLATION OF TITLE VII**

101. The allegations of the foregoing paragraphs are incorporated as if realleged herein.

102. Intelligent Waves discriminated against Ms. Lattinville-Pace, and treated Ms. Lattinville-Pace in a disparate manner, because of her national origin (French Canadian).

103. At a work function in or around December 20, 2019, when Ms. Lattinville-Pace compared Mr. Shepard (based on his attire) to a French Canadian lumberjack, Mr. Shepard responded that he was OK being associated with a Canadian lumberjack but not a French one. Ms. Lattinville-Pace was taken back by the comment, due to her own national origin. She was

later informed by James Howell, COO (who overheard the conversation) that Mr. Shepard had a previous negative experience with a French woman which had left him with a negative perception of French people.

104. Mr. Shepard made this comment to Ms. Lattinville-Pace despite being aware of her national origin.

105. Intelligent Waves subsequently terminated Ms. Lattinville-Pace with no prior warning, no notice, and with Ms. Lattinville-Pace never having had any performance issues. To the contrary, Ms. Lattinville-Pace devoted herself to her job, with positive and proven results.

106. Intelligent Waves advertised and interviewed for Ms. Lattinville-Pace's replacement months prior to her termination, and as of at least July 29, 2020 (and possibly earlier) – just one week after Ms. Lattinville-Pace's termination - her replacement was identifying herself on LinkedIn as the Chief Human Resources Officer (CHRO) of Intelligent Waves.

107. Ms. Lattinville-Pace was replaced by an American female who was not born in Quebec Canada, is not French Canadian, and is not of French origin.

108. Defendant's discriminatory treatment of Ms. Lattinville-Pace violated Title VII of the federal Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-2(a)(1).

109. In discriminating against Ms. Lattinville-Pace in violation of the law, Defendant evidenced malice, spite, and ill will; its actions were willful and wanton; and evinced a conscious disregard for the rights of Ms. Lattinville-Pace.

110. Ms. Lattinville-Pace has suffered and continues to suffer injury including past and future loss of income and benefits of employment, other past pecuniary losses, future pecuniary losses, physical and emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, other nonpecuniary losses, and other injury.

111. Due to the conscious disregard for Plaintiff's federally protected rights, and the severity of Defendant's conduct, Plaintiff is also entitled to punitive damages.

**COUNT FOUR –
DISCRIMINATION BASED ON NATIONAL
ORIGIN IN VIOLATION OF THE VIRGINIA
HUMAN RIGHTS ACT/VIRGINIA VALUES ACT**

112. The allegations of the foregoing paragraphs are incorporated as if realleged herein.

113. Intelligent Waves discriminated against Ms. Lattinville-Pace, and treated Ms. Lattinville-Pace in a disparate manner, because of her national origin (French/Canadian), in violation of Virginia Human Rights Act, as amended in July 2020 by the Virginia

Values Act (Senate Bill 868), codified at Va. Code § 2.2-3900, *et seq.*

114. At a work function in or around December 20, 2019, when Ms. Lattinville-Pace compared Mr. Shepard (based on his attire) to a French Canadian lumberjack, Mr. Shepard responded that he was OK being associated with a Canadian lumberjack but not a French one. Ms. Lattinville-Pace was taken back by the comment, due to her own national origin. She was later informed by James Howell, COO (who overheard the conversation) that Mr. Shepard had a previous negative experience with a French woman which had left him with a negative perception of French people.

115. Mr. Shepard made this comment to Ms. Lattinville-Pace despite being aware of her national origin.

116. Intelligent Waves subsequently terminated Ms. Lattinville-Pace with no prior warning, no notice, and with Ms. Lattinville-Pace never having had any performance issues. To the contrary, Ms. Lattinville-Pace devoted herself to her job, with positive and proven results.

117. Intelligent Waves advertised and interviewed for Ms. Lattinville-Pace's replacement months prior to her termination, and as of at least July 29, 2020 (and possibly earlier) – just one week after Ms. Lattinville-Pace's termination - her replacement was identifying herself on LinkedIn as the Chief Human Resources Officer (CHRO) of Intelligent Waves.

118. Ms. Lattinville-Pace was replaced by an American female who was not born in Quebec Canada, is not French Canadian, and is not of French origin..

119. Defendant's discriminatory treatment of Ms. Lattinville-Pace violated the Virginia Human Rights Act, as amended in July 2020 by the Virginia Values Act (Senate Bill 868), codified at Va. Code § 2.2-3900, *et seq.*

120. In discriminating against Ms. Lattinville-Pace in violation of the law, Defendant evidenced malice, spite, and ill will; its actions were willful and wanton; and evinced a conscious disregard for the rights of Ms. Lattinville-Pace.

121. Ms. Lattinville-Pace has suffered and continues to suffer injury including past and future loss of income and benefits of employment, other past pecuniary losses, future pecuniary losses, physical and emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, other nonpecuniary losses, and other injury.

122. Due to the conscious disregard for Plaintiff's rights, and the severity of Defendant's conduct, Plaintiff is also entitled to punitive damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff MARTHE LATTINVILLE-PACE requests that this Court enter judgment in her favor, and against Defendant INTELLIGENT WAVES LLC, on the above stated Counts; and further:

(a) Award Ms. Lattinville-Pace compensatory damages to be determined by a jury, plus demonstrated

past and future pecuniary damages on the above-stated Counts One through Four; and in addition

(b) Award liquated damages to Ms. Lattinville-Pace on Count One;

(c) Award punitive damages to Ms. Lattinville-Pace on Counts Two, Three and Four in the maximum amount allowed by law; and in addition

(d) Award Ms. Lattinville-Pace attorneys' fees and the costs of this action and all allowable pre- and post-judgment interest; and in addition

(e) Award injunctive relief consisting of an order prohibiting Defendant from engaging in further employment practices that create or tolerate a discriminatory work environment; and in addition

(f) Award Ms. Lattinville-Pace such other and further relief as may be appropriate under the circumstances.

JURY DEMAND

PLAINTIFF MARTHE LATTINVILLE-PACE DEMANDS A TRIAL BY JURY.

October 26, 2021

Respectfully submitted,

/S/ CARLA D.BROWN

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