



5. Venue is appropriate in Kenton County as Defendant's principal office is located in Kenton County, Kentucky and all or most of the relevant events at issue occurred in Kenton County, Kentucky.

**FACTS RELEVANT TO ALL CLAIMS**

6. Plaintiff has a disability as that term is defined under KRS 344.010(4). Specifically, Plaintiff has an anxiety disorder which can result in panic attacks in stressful situations.

7. On or about October 2, 2018, Plaintiff was hired by Defendant as a Lab Tech/ Accessioner.

8. Defendant has a custom or practice of having birthday celebrations for its employees at the office.

9. Plaintiff's birthday is August 7<sup>th</sup>.

10. On August 2, 2019 and because Plaintiff's birthday and being the center of attention is a source of great stress for Plaintiff, Plaintiff informed the office manager of his anxiety disorder and respectfully asked that Defendant not arrange a birthday celebration for his upcoming birthday.

11. On August 7, 2019 and without regard for Plaintiff's disability, a lunch time celebration was arranged for Plaintiff in the lunch room.

12. Plaintiff's discovery of the celebration as he was going to take his lunch break triggered a panic attack, which forced Plaintiff to leave the office suddenly and spend his lunch break in his car.

13. While in his car, Plaintiff sent a text to Defendant's office manager, confronting her for failing to accommodate his request that Defendant forego the standard birthday celebration.

14. On the morning of August 8, 2019 and shortly after Plaintiff arrived at work, Plaintiff was called into a meeting with Amy Blackburn and Ted Kanuf. During that meeting, Plaintiff was confronted and criticized by Ms. Blackburn about his reaction to the birthday celebration. This confrontation triggered another panic attack, compelling Plaintiff to ask Ms. Blackburn to stop. At the conclusion of this meeting and because Plaintiff had a panic attack, Plaintiff was sent home from work for the remainder of August 8 and August 9.

15. At or around noon on August 8, 2019 and within a couple hours of being sent home, Plaintiff sent a text to Ms. Blackburn, apologizing for having a panic attack.

16. On Sunday, August 11, 2019, Plaintiff received an email from Defendant, informing him that he was being terminated because of the events of the previous week.

**COUNT I**  
**DISABILITY DISCRIMINATION**

17. Plaintiff herein incorporates by reference all allegations previously set forth in this Complaint, the same as if set forth verbatim herein.

18. Plaintiff has a disability as that term is defined under KRS § 344.010(4).

19. Plaintiff was otherwise qualified to perform his job requirements, with or without a reasonable accommodation.

20. Plaintiff requested a reasonable accommodation when he asked Defendant, as it related to him only, to abstain from Defendant's usual practice of having birthday celebrations. Defendant also requested a reasonable accommodation when he asked Ms. Blackburn to stop confronting him about his reaction to the birthday celebration.

21. Defendant discriminatorily denied, ignored, or otherwise disregarded Plaintiff's requests in violation of KRS § 344.040.

22. Plaintiff was subsequently discriminatorily suspended and ultimately terminated in violation of KRS § 344.040.

23. As a direct and proximate result of the Defendant's conduct described herein, Plaintiff has suffered and is continuing to suffer from a loss of income and benefits and emotional distress and mental anxiety, all for which he should be compensated, along with compensation for his reasonable attorney fees.

**COUNT II**  
**RETALIATION**

24. Plaintiff herein incorporates by reference all allegations previously set forth in this Complaint, the same as if set forth verbatim herein.

25. Plaintiff engaged in protected activity when he confronted Defendant about denying, ignoring, or otherwise disregarding his request for a reasonable accommodation.

26. Defendant retaliated against Plaintiff for engaging in protected activity in violation of KRS § 344.280.

27. As a direct and proximate result of the Defendant's conduct described herein, Plaintiff has suffered and is continuing to suffer from a loss of income and benefits and emotional distress and mental anxiety, all for which he should be compensated, along with compensation for his reasonable attorney fees.

**WHEREFORE**, Plaintiff demands judgment against Defendants as follows:

- A. For actual damages, including but not necessarily limited to lost wages and benefits and emotional distress damages in an amount being just;
- B. For future lost wages and benefits;

- C. For an award of reasonable costs and attorney's fees; and
- D. For any and all other equitable and legal relief to which Plaintiff appears entitled.

Respectfully submitted,

BONAR, BUCHER & RANKIN, P.S.C.

/s/ Anthony J. Bucher

ANTHONY J. BUCHER (KBA #87126)  
3611 Decoursey Avenue  
Covington, Kentucky 41015  
Phone: 859-431-3333  
Fax: 859-392-3900  
tbucher@lawatbdb.com  
*Attorney for Plaintiff*

**JURY DEMAND**

Plaintiff herein demands a trial by jury.

/s/ Anthony J. Bucher

ANTHONY J. BUCHER (KBA #87126)



**Commonwealth of Kentucky**  
**John C. Middleton, Kenton Circuit Clerk**

**Case #:** 19-CI-01631

**Envelope #:** 1891704

**Received From:** ANTHONY BUCHER

**Account Of:** ANTHONY BUCHER

**Case Title:** BERLING, KEVIN VS. GRAVITY DIAGNOSTICS, LLC

**Confirmation Number:** 96084929

**Filed On:** 9/10/2019 2:24:44PM

<b>#</b>	<b><u>Item Description</u></b>	<b><u>Amount</u></b>
1	Access To Justice Fee	\$20.00
2	Civil Filing Fee	\$150.00
3	Money Collected For Others(Court Tech. Fee)	\$20.00
4	Library Fee	\$3.00
5	Money Collected For Others(Attorney Tax Fee)	\$5.00
6	Charges For Services(Jury Demand / 12)	\$70.00
7	Money Collected For Others(Postage)	\$12.25
8	Charges For Services(Copy - Photocopy)	\$0.70
<b>TOTAL:</b>		<u>\$280.95</u>

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### CIVIL SUMMONS

Plaintiff, **BERLING, KEVIN VS. GRAVITY DIAGNOSTICS, LLC**, Defendant

**TO: CORPORATION SERVICE COMPANY  
421 WEST MAIN STREET  
FRANKFORT, KY 40601**

Memo: Related party is GRAVITY DIAGNOSTICS, LLC

The Commonwealth of Kentucky to Defendant:  
**GRAVITY DIAGNOSTICS, LLC**

You are hereby notified that a **legal action has been filed against you** in this Court demanding relief as shown on the document delivered to you with this Summons. **Unless a written defense is made by you or by an attorney on your behalf within twenty (20) days** following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached complaint.

The name(s) and address(es) of the party or parties demanding relief against you or his/her (their) attorney(s) are shown on the document delivered to you with this Summons.

Kenton Circuit Clerk  
Date: **9/10/2019**

### Proof of Service

This Summons was:

Served by delivering a true copy and the Complaint (or other initiating document)

To: \_\_\_\_\_

Not Served because: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Served By

\_\_\_\_\_  
Title

