**Case No. 24-cv-298**
**DISTRICT OF COLUMBIA**
**COURT OF APPEALS**

| | |
|---|---|
| **Thomas Rabon** | |
| **Plaintiff-Appellant,** | |
| **v.** | |
| **Pepco Holdings Inc** | |
| **Defendant-Appellee.** | |

On Appeal from the Superior Court of the District of Columbia

Civil Division. Case No. 2022 CA 003673B (Hon. Yvonne Williams)

---

# Reply Brief of Plaintiff-Appellant Thomas Rabon

---

A.J Dhali
Dhali PC
DC Bar No. 495909
1629 K. Street. NW. Suite 300
Washington D.C. 20006
Telephone: (202) 556-1285
Facsimile: (202) 351-0518
ajdhali@dhalilaw.com
***Thursday January 16, 2025.***
***Attorney for Plaintiff-Appellant Thomas Rabon***

## Table of Contents

## Table of Authorities

### Cases



### Other Authorities

## Summary of Argument

Pepco has filed an interesting Opposition – it takes issue with Pepco's own documents and the testimony of Pepco's witnesses and employees. Counsel for Pepco has also substituted her legal training and legal knowledge as evidence of medical training and medical knowledge. It then states that this Court does not look to the ADA for interpreting disability under the DCHRA, when this Court did just that in *Wallace v. Eckert infra*. On the issue of COVID as a disability, the test set forward by the EEOC is simple and straightforward. If as in this case, Rabon had Covid for an extended period of time, here from October 2020 until February 2021, Covid is a disability. Pepco may think Rabon can run with Covid, but it does not detract from the fact that Covid is a disability. On the issue of Rabon's qualifications to perform the job, Pepco states that Rabon was unqualified because he failed the "cable splicer" test. Under both the DCHRA and the ADA, a disabled person is a qualified person with accommodations. Pepco first approved his accommodations in September 2020, only to then use it as a basis to terminate him in March 2021, which even their Director of HR, Marsha Byas, admitted was a violation of the disability laws.

On the issue of the sufficiency of Rabon's medical documents, they are all part of JA 372-391, and were all disclosed to Pepco while Rabon was employed.

Pepco chose to ignore these medical documents at their peril. A jury can also conclude that when in here, Pepco and the terminating panel, never even bothered to review his medical documents, only to then accuse Rabon of not providing "medical documents" – not only are Pepco's reasons for Rabon's termination suspect, but a jury can conclude that this lie (of the inadequacy of the medical documents) was concocted for the purpose of discrimination and retaliation.

In short, Pepco asks that too many inferences be ruled in their favor, which is the exact opposite of the standard set forth under Rule 56. This matter must be remanded for trial.

## Argument

### A. Rabon is a Disabled Person under the Guidance Set forth by the EEOC.

Pepco asserts that this Court does not look to the ADA to interpret an employee's disability status for claims under the DCHRA. This Court did exactly that in *Wallace v. Eckert*, 57 A.3d 943 (D.C 2012) when determining if a temporary foot surgery was a disability within the meaning of the DCHRA. It looked at guidance from case law under the ADA and the EEOC manual. It held,

> This court has considered decisions under the ADA and EEOC guidelines as persuasive in interpreting comparable provisions of the Human Rights Act. [internal case cites omitted.] The definition of disability under the ADA is virtually identical to the definition of the term under the Human Rights Act. In *Grant* [*v. May Dep't Stores Co*., 786 A.2d 580 (D.C. 2001)], we recognized specifically that the "definition" of disability in the Human

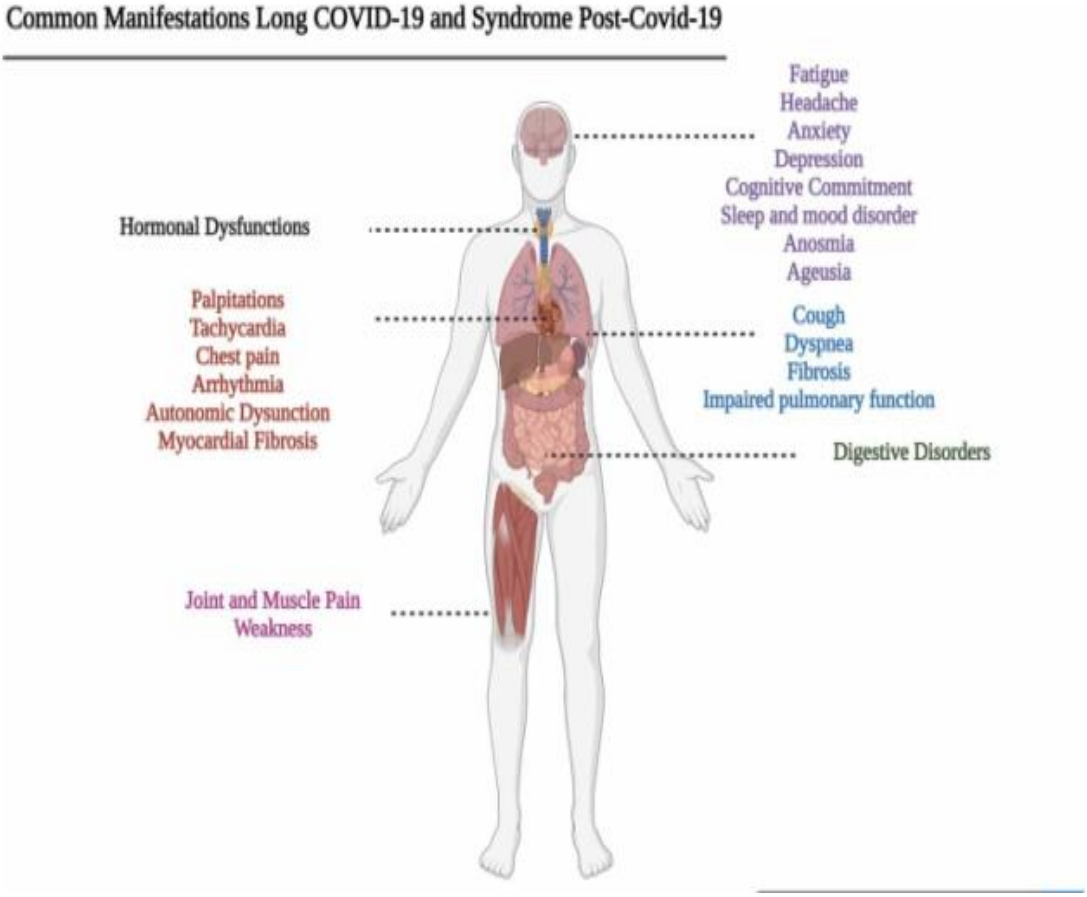
> Rights Act is substantially similar to that found in the ADA and EEOC regulations. (emphasis added.) *Id*. at 953-54.

Pepco then goes on to claim that Covid is not a disability under the DCHRA and also misconstrues the focus by the EEOC. Under the EEOC guidelines on Covid, the issue of Covid as a disability is straightforward. The first question one needs to ask, is the illness transitory? If it resolves like the flu within days, and has no other consequence, the illness is deemed transitory and not a disability. Otherwise, Covid is a disability.

In here, Rabon remained under Dr. Mary Rifino's medical care from October 2020 until February 2021. According to Dr. Rifino, the long term effects of Covid are: "viral cardiomyopathy, fatigue syndrome, **post viral fatigue, which is now called long COVID**[….] shortness of breath, fatigue, muscle aches." (emphasis added.) (JA 444-45: Rifino Dep. 136:21-24; 137:1-2). This is also what Dr. Rifino diagnosed (or assessed) Rabon with. In Dr. Rifino's medical note dated January 13, 2021 (or 3-months after Rabon was first diagnosed with Covid in October 2020), Dr. Rifino states that Rabon has "postviral fatigue syndrome," or long Covid. (JA 378.) Again, on January 27, 2021, Dr. Rabino's assessment of Rabon states that Rabon has "Postviral fatigue syndrome," shortness of breath," and dyspnea on exertion. (JA 374).

The National Institute of Health (NIH) deems this to be a manifestation of long-Covid. (JA 483.)

Fig. 1




Under the EEOC guidelines, "a person with COVID-19 or Long COVID has an actual disability if the person's medical condition or any of its symptoms is a "physical or mental" impairment that "substantially limits one or more major life activities." https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws

More importantly, neither Pepco, nor Dr. Rifino believed that Rabon was "faking his illness." This seems to be the continued implication by Pepco in their papers to this Court, that somehow Rabon who had been waiting for years to be employed at Pepco, was faking his illness, so he could continue to twiddle his thumbs at home.

10 During your examination of -- examination
11 of -- examination and treatment of my client,
12 Thomas Rabon, did you at any time believe that he
13 was faking his illness?
**14 A No, not at all.** (JA 443: Rifino Dep. 130)

7 Q. Did anybody at OHS, whether that be Angela
8 Forrester or anyone else at OHS, come and tell you
9 that, you know, we think Mr. Rabon might be faking
10 it?
11 A. No. (JA 510: Gentry-May Dep. 40)[1]

On page 19 of their brief, Pepco makes the outlandish (and false) claim, that "no medical provider advised him to remain out of work after October 22[.]" Dr.

[1] Gentry-May's deposition testimony should also rebut any claims as part of Pepco's fn. 14 that no one in Pepco believed that Rabon was disabled. Additionally, insofar as Pepco also approved Rabon to be on short term disability (STD) because of his Covid disability (JA 497) also disproves Pepco's assertion in fn. 14.

Rifino told Rabon to remain out of work, and Dr. Rifino also told Pepco's counsel about this during her deposition.

Q You did not write a note excusing Mr. Rabon -- excusing his absence from October to February, did you?
MR. DHALI: Objection, misstates the record.
Q You can answer.
**A Yes. There was a note in here.**
Q Does it excuse his absence from October to February?
**A Yes.**

(JA 442: Rifino Dep. 128)

Later in her deposition, Dr. Rifino also refutes the implication that somehow Rabon was willy-nilly asking to stay at home because Rabon wanted to.

**A And you know, COVID is a different disease than we knew back in 2020. There is long COVID, and people present with symptoms such as he had. And he had not asked for -- I don't if I should go on about -- I mean --**
Q You can. Go ahead.
**A You know, he hadn't been asking for disability. You know, he hadn't come in asking for -- I demand this, I demand that, I want this, I want that. I had no reason not to believe him.**

(JA 444: Rifino Dep. 135)

## B. Rabon is a Qualified Person with Disability Who Can Perform his Job With or Without Accommodations.

Pepco on page 23-24 of their brief states an incorrect statement of the law. Pepco contends that insofar as Rabon failed the "cable splicer test," the first time, that makes him unqualified and that is the end of the inquiry. Hardly so.

As this Court is aware, under the ADA and the DCHRA, the issue of qualification is directly linked with the issue of accommodation. As this Court held in *Hunt v. District of Columbia*, 66 A.3d 987, 990 (D.C. 2013), "to show unlawful discrimination, an ADA plaintiff with a disability "must prove . . . that he was qualified for the position with or without a reasonable accommodation, and that he suffered an adverse employment action because of his disability." *Duncan v. Washington Metro. Area Transit Auth*., 240 F.3d 1110, 1114 (D.C Cir. 2001) (internal quotation marks omitted). [T]herefore, the question is whether Hunt, with or without reasonable accommodation, could perform the essential functions of her position[.]" (internal citations omitted.)

As we stated in our opening brief, Rabon also failed the cable splicer test the first time because no accommodation was provided by Pepco. Pepco which at that time relied on his IEP[2] (JA 354) to identify his disability and subsequent request for accommodations, also provided Rabon with accommodations to re-take the cable splicer test a second time on September 25, 2024 (JA 485).

[2] Pepco in fn. 20 states that the IEP Rabon provide to Pepco is inauthentic and inadmissible. The IEP (JA 354-63) is issued by the state of Maryland. It is a self authentic and admissible document under FRE 902(1). Moreover, at no time during Rabon's employment did Pepco question its authenticity or admissibility. Pepco also did not make a request for it to Maryland during discovery.

Pepco now on page 24 make the false claim that we are asking this Court to assume that "with such accommodation he would pass the test."

We are not asking the Court to engage in any assumptions. This Court can look at the evidence and the admissions from Pepco. In ¶13 of our first amended complaint, we state that, "On September 5, 2019, Pepco informed Rabon that he would be taking two tests. The "construction and skilled trades" (CAST) written exam and the "task specific exercise" (TSE). Pepco provided Rabon with accommodations for taking the CAST and TSE exams. Rabon passed both exams."

In filing their Answer to ¶13, Pepco states: "Plaintiff requested, and was provided, an accommodation of extra time for the CAST test, (iii) with that accommodation, Plaintiff passed the CAST test on September 5, 2019 (iv) Plaintiff did not request any accommodation for the September 12, 2019 TSE, and (v) and Plaintiff successfully completed the TSE." (emphasis added.)

That is to say, there is evidence in the record (and from Pepco's admissions) that the accommodations Pepco previously provided (extra time to work on the test) worked. When Pepco provided Rabon with accommodations for the CAST written exam, Rabon passed the CAST written exam. There is no reason to believe that Rabon would have failed the "cable splicer test" had Pepco provided him with accommodations.

Also, the issue is about the request for accommodations, and not if Pepco's counsel believes if the accommodations would have been successful. In a departure from their attorney's assertions, Pepco themselves believed the accommodations would be successful. How do we know this? On account that Pepco approved the accommodations on September 25, 2020 (JA 485). There is nothing in this September 25, 2020, series of emails saying that accommodations to Rabon would be unsuccessful because Rabon would still fail the "cable splicer" test. If anything, Pepco is agreeable to the accommodation (JA 485).

**From:** Forrester, Angella:(PHI)
**To:** Gentry-May, Karen Y:(PHI); Merkel, Dane G:(PHI); Thompson, Kathleen B:(PHI)
**Cc:** Jonjo, Samuel M:(BSC); Kargbo, Abdulai H:(PEPCO)
**Subject:** RE: Request for Test Accommodation
**Date:** Friday, September 25, 2020 8:50:00 AM

Good morning,

The request is an educational intervention that would have been used while Mr. Rabon was in a primary or secondary educational institution. Ii would be in the best interest of the employee to accommodate him. Usually the allotted extra time is from 30-60 minutes.

**From:** Gentry-May, Karen Y:(PHI) <kgentry-may@PEPCO.COM>
**Sent:** Thursday, September 24, 2020 4:21 PM
**To:** Merkel, Dane G:(PHI) <dgmerkel@pepco.com>; Thompson, Kathleen B:(PHI) <Kathleen.Thompson@exeloncorp.com>; Forrester, Angella:(PHI) <Angella.Forrester@exeloncorp.com>
**Cc:** Jonjo, Samuel M:(BSC) <smjonjo@pepco.com>; Kargbo, Abdulai H:(PEPCO) <akargbo@pepco.com>
**Subject:** RE: Request for Test Accommodation

Seems like this is a new issue for all of us. I am also in support of an accommodation but I don't want to step outside of any process used to review such requests. Given that the test is scheduled for tomorrow, maybe we move forward. Did he say how much extra time he needs?

Kathleen/Angella – any guidance you can give is appreciated.

Pepco then used the accommodations they provide and approved to Rabon on September 25, 2020, as a basis to terminate him in March 2021, which even their HR Director Marsha Byas admitted was a violation of the ADA. (JA 398-99: Byas Dep. 24:18-21; 25: 1-10.)

C. **Pepco's Reasons for Rabon's Termination are False**.

Pepco has made a lot of noise about "motive." Motive is not the purview of this Court or Pepco's counsel. Only the jury decides the issue of motive, when reviewing the live record or the live testimony of witnesses. *See Hollins v. Fannie Mae,* 760 A,2d 563, 579 (D.C 2000) ("We reiterate that summary judgment is rarely appropriate in a case involving motive or intent[.]") *Accord Arthur Young & Co. v. Sutherland*, 631 A.2d 354, 368 (D.C. 1993) ("[M]otive is question of fact for the jury (or the judge in a non-jury trial), and, like other types of claims in which motive or intent is in issue, is not well suited to disposition on a motion for summary judgment.")

In its brief, Pepco seems to imply that when Rabon's leave expired on January 26, 2021, Rabon was to show up to work also on January 26, 2021, and because he did not, he abandoned his job. These are not the facts.

The facts are that once Rabon was informed that his January 26, 2021, leave was decertified, Rabon immediately began communicating with Dr. Rifino to have Dr. Rifino communicate with Pepco concerning his medical status. (This is not an

example of an employee who rested on his laurels, once Pepco told him that his leave was decertified.) To that end on January 29, 2020, Rabon emails Pepco and Forrester, to enquire if Peco received his medical report from Dr. Rifino, sent on January 27, 2020[3] (or a day after he was decertified on January 26) (JA 292). Forrester states that she did not receive it and asks Rabon to resend the January 27 medical report from Dr. Rifino. Pepco acknowledges receipt of this report around 12:40pm on January 29, 2021 (JA 292). The medical note is dated January 27, 2021, states that Rabon continues to be suffering from Covid. (JA 373-75.)

On February 3, 2021, Gentry-May (HR Business Partner) sends an email to Forrester saying she is about to send Rabon a job abandonment letter and wants to know his status. Forrester replies on this same day and provides Gentry-May with the following two pieces of information: (i) that she (Forrester) told Dr. Rifino that Rabon was not disabled and (ii) Dr. Rifino stated she would tell Rabon to return to work. (JA 292)

That is to say, despite being on express knowledge by Forrester on February 3 that Rabon's physician was going to have Rabon report to work, Gentry-May still sent Rabon a job abandonment letter.

[3] This January 27, 2020 report from Dr. Rifino is at JA 373-75.

On February 3, 2021, Rabon receives a letter from his manager Abdulai Kargbo that Rabon has abandoned his job (JA 299) because he did not provide "medical documentation," and that a conference call is scheduled for February 9, 2021. On February 9, 2021, Rabon is the only person on this call. Rabon later learned that the call had been postponed to February 12, 2021 (JA 523: Rabon Aff. ¶¶25-26.) On February 12, 2021, Rabon joins the call attended by Gentry-May (HR), his manager Kargbo and Jerry Williford (union representative). Gentry-May in this February 12, 2021, call informed Rabon that he must return back to work (and not that that he had already been terminated).[4] Rabon states that he will reach out to his physician to enquire about his return to work status.

On February 18, 2021, Rabon emails, Pepco's Director of HR Marsha Byes, with the February 11, 2021, medical note, clearing him to return to work as of February 15, 2021, and that Rabon has been under the care of Dr. Rifino from October 2020 until February 2021. He attaches the letter from his physician. This February 11, 2021, letter states: (JA 390-91; 523: ¶32, Rabon Aff.):

[4] This is significant because it means that as of 2/12/2021, Gentry-May had made no decision to terminate him. She after all told Rabon on 2/12/2021, to return back to work. (JA 523: Rabon Aff. ¶27) This is also an admission on the part of Gentry-May under FRE 801((d)(2)(D).

**Message:**

To whom it may concern:
Mr. Thomas Rabon has been under the care of Dr. Mary Rifino, M.D. form October 2020 through February 2021. Mr. Rabon may return to work full-time on Monday February 15, 2021. If you may have any questions or concerns you may contact the office at 667-234-8650.

The HR Director Byes in turn sends this note to Pepco's OHS. (JA 406: Byas Dep. 54:21; 55:1-6.)

There is another conference call on February 19, 2021. Rabon informs Pepco that he is ready, willing and able to return to work as of February 15, 2021. Despite Gentry-May on February 12, 2021, asking Raboon to return to work, now Pepco again states that he has abandoned his job. Rabon says he never abandoned his job. He was under his doctor's care and is now able to return to work. (JA 525: ¶33, Rabon Aff.)

Gentry-May, the HR manager, in her deposition also admitted that as of February 19, 2021, there was no decision made to terminate Rabon.

Page 59

Q. On February 19, 2021, there was no decision made to terminate Mr. Rabon; is that correct?
A. That's correct.
Q. In fact, I think the decision was not made until about March 2021. Is that fair to say?
A. That's correct.

(JA 515: Gentry-May Dep. 59)

Despite Rabon providing medical documentation of his illness and Rabon's willingness and ability return to work as of February 15, 2021, and Pepco's knowledge of this, Pepco, on March 16, 2021, sent Rabon a termination letter.

This March 16, 2021, termination letter states that Rabon is being terminated for two reasons: (i) that Rabon failed the cable splicer test administered to him on September 15, 2020, and (ii) that Rabon failed to provide medical documentation for his absences (JA 488.)

Concerning the latter, Pepco in their Opposition again falsely state there is "no documentation" concerning his absences. All of his documentation justifying his absences are at JA 372-391. In fact, the last medical note from Dr. Rifino dated February 11, 2021, states that Rabon has been under her care from October 2020 to February 2021 and that he is cleared to return to work on February 15 (JA 391). We are unsure what other medical documents Pepco, this Court or the jury needs to review.

Even Byas in her deposition admitted that Rabon provided medical documentation. "Okay. He provided documentation." (JA 516: Gentry-May Dep. 64:1-10) What is also interesting about this admission from their HR person, is that on pages 65-66 (JA 517) of her deposition, Gentry-May also admitted to not ever seeing his medical documentation, and that the terminating panel also never saw any of his "medical documentation" and despite this, the terminating panel went ahead and terminated Rabon anyway, because of the absence of "medical documentation." (JA 517: Gentry-May Dep. 65-66)

In practice, what Pepco is stating to the jury is the following, "we fired Rabon because he never provided any medical documentation. We will also admit that we the terminating panel also never saw his medical documentation." In that case, how does Pepco know that Rabon never provided any medical documentation, when the terminating panel refused to even see it? And if the terminating panel never saw his "medical documentation" – that is evidence that Pepco's reason's for Rabon's termination, the lack or inadequacy of medical documentation, is a lie. This was captured perfectly by *Aka v. Washington Hospital Center*, 156 F.3d 1284, 1292 (D.C. Cir. 1998), when the D.C Circuit held that, "[e]vents have causes; if the only explanations set forth in the record have been rebutted, the jury is permitted to search for others, and may in appropriate circumstances draw an inference of discrimination."

After all, only Pepco is in the best position to explain its actions, and when it chooses to lie about its reasons for terminating an employee it runs the risk that "the lie will lead the jury to draw an adverse inference." *Id*. at 1293. This is true even when there are possible legitimate explanations for the lie. "The fact that a lie could have multiple explanations, some of them well-intentioned, cannot and should not foreclose the finder of fact, after hearing witness testimony and assessing the evidence as a whole, from deciding that the real motivation for lying was not innocent, but discriminatory." *Id* at 1294 n.8.

This is made all the more suspect, because when discussing Rabon's termination in February 2021 and March 2021, HR Director Byas also did not share with her HR team (Gentry-May) and Rabon's supervisors that Rabon was cleared to return to work as of February 15, 2021. (JA 480: Byas Dep. 61:17-21). This is also confirmed by Gentry-May, Byas' subordinate and HR Manger, that Byas never told her that Rabon could return to work as of February 15, 2021 (JA 515: Gentry-May Dep. 60: 4-8.)

Is there not ever 1-juror that will find that decision to conceal suspicious? We can think of 6-jurors that may conclude just that. This failure to review Rabon's medical documentation and the further decision to then also conceal from the terminating panel that Rabon was cleared to return to work as of February 15, 2021, is as we stated in our opening brief, **evidence of bad faith**. *See Little v. Ill. Department of Revenue*, 369 F.3d 1007, 1013 (7th Cir. 2004) ("[T]he more objectively *un*reasonable a belief is, the more likely it will seem that the decision maker did *not* actually hold it.") (emphasis original.) *See also EEOC v. Target Corp*., 460 F.3d 946, 960-61 (7th Cir. 2006) (analyzing whether Target's decision not to hire an African-American applicant was honestly justified and holding that objective evidence indicated there was a material issue of fact as to whether Target's non-discriminatory reason was honestly held.)

**D. Pepco Retaliated against Rabon under the DCHRA & the CSEA**

Pepco has made the unsound argument, that the taking of medical leave, in this case from September 2020 until February 2021, or, if Pepco chooses until the day his medical leave was decertified, on January 26, 2021, is not protected activity.

On page 39 of their brief, Pepco first asserts we have "amended his complaint" via our opposition to the R.56 motion. We did no such thing. In ¶67 of his first amended complaint (JA 22: FAC), we state that his protected activities occurred from January 2021 – February 2021. Paragraph 67 states, "A casual connection exists between Plaintiff's protected activities from January – February 2021 and his termination a month later in March 2021. The decision to terminate him might have also been formed within days and weeks of his protected activities." (emphasis added) (JA 22)

From January 2021 to February 2021, Rabon was on sick or medical leave under the care of his physician Dr. Rifino. Seeking medical leave as a form of accommodation, constitutes protected activity. *See Wilhelm v. Eden Cent. Sch. Dist*., No. 17-CV-01327Si(F), 2020 U.S. Dist. LEXIS 144932, at *44 (W.D.N.Y. Aug. 11, 2020) ("the use of a medical leave as a reasonable accommodation of a qualified disability is protected activity under the ADA."); *Clark v. Jewish*

*Childcare Ass'n*, 96 F. Supp. 3d 237, 262 (S.D.N.Y. 2015) ("a reasonable accommodation includes requests for leave due to a plaintiff's disability.")

As we stated in our opening brief, Rabon also "subjectively believed" he was disabled. His "subjective belief" can also be objectively verified from the reports of Dr. Rifino, who states that Rabon had Covid and has been under her care for about 4-months.

Pepco in their opposition state that his protected activity did not end or start in February 2021, since his medical "leave was approved through January 26." (Brief at 43.) We will give Pepco the benefit of the doubt. Even if the jury were to accept January 26, 2021, as the end of Rabon's protected activity, Rabon was terminated on March 16, 2021 or about 7-weeks later. That is sufficient for the close causal connection. *See Badwal v. Bd. of Trustees of Univ. of D.C.*, 139 F. Supp. 3d 295, 318-19 (D.D.C. 2015) ("In this Circuit, the alleged retaliatory acts must have occurred within three or four months of the protected activity to establish causation by temporal proximity.")

As we stated earlier, neither on January 26, 2021, or anytime before March 16, 2021, was a decision made to terminate Rabon. Infact for all periods from January 26, 2021 until March 16, 2021, Rabon attended all conference calls initiated by Pepco and continued to provide all medical documents to Pepco

showing his disability and medical care, only for Pepco to continuously thwart his efforts to return to work by coming up with nonsensical or retaliatory reasons.

Pepco, and their Director of HR then finally admitted, that not only can they not use his prior requests for accommodations to re-take the test as grounds to terminate him in March 2021, but that, the persons that approved his termination, in this case, Gentry-May and Kargbo, also did not review his medical records, only to then fire Rabon due to the absence of these "medical records." Gentry-May also admitted that "medical documentation" was provided to Pepco.

Finally, we rely on the arguments from our opening brief to show that Pepco also retaliated against Rabon under the Coronavirus Support Emergency Act (CSEA).

**Conclusion.**

Once again, Pepco is asking for too many inferences to be ruled in their favor, when the dictates of Rule 56 require the exact opposite. *See Williams v. Temple Univ. Hosp., Inc.*, 345 F. Supp. 3d 590, 599 (E.D. Pa. 2018) ("Williams' case is far from robust, but Temple asks me to draw far too many inferences adverse to Plaintiff when the prevailing standard requires exactly the opposite.")

This matter must be remanded to trial.

Respectfully submitted,

/s/ AJ Dhali
Dhali PC
(202) 556-1285
ajdhali@dhalilaw.com
Attorney for Plaintiff-Appellant Thomas Rabon
Thursday January 16, 2025

## Certificate of Service

A copy of the foregoing was filed via the Court's, Appellate E-Filing System, ' with copies sent to Pepco on 1/16/2025.

/s/ A.J Dhali

## Certificate of Compliance

This brief complies with Local Rule 32. It is in 14-point Times New Roman font, typed on Microsoft 365 and has 3,789 words.

/s/A.J Dhali