

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ERIN ZIMMERMAN,	:	CIVIL ACTION
	:	
Plaintiff,	:	NO. 04-3429
	:	
	:	
v.	:	
	:	
WAWA, INC.	:	
	:	
Defendant.	:	

**MEMORANDUM**

BUCKWALTER, S.J.

December 3, 2004

Presently before the Court are Defendant’s Motion to Dismiss Plaintiff’s Complaint (Docket No. 5), Plaintiff’s Memorandum of Law In Opposition to Defendants’ Motion to Dismiss (Docket No. 6), Defendant’s Reply Brief in Support of Its Motion to Dismiss (Docket No. 7), and Plaintiff’s Sur-Reply Brief (Docket No.10). For the reasons discussed below, Defendant’s Motion to Dismiss is denied.

**I. STANDARD OF REVIEW**

A motion to dismiss pursuant to Rule 12(b)(6) is granted where the plaintiff fails to state a claim upon which relief can be granted. Fed. R. Civ. P. 12(b)(6). This motion “may be granted only if, accepting all well-pleaded allegations in the complaint as true, and viewing them in the light most favorable to plaintiff, plaintiff is not entitled to relief.” Maio v. Aetna, Inc., 221 F.3d 472, 482 (3d Cir. 2000). While the Court must accept all factual allegations in the complaint as true, it “need not accept as true ‘unsupported conclusions and unwarranted

inferences.’’ Doug Grant, Inc. v. Greate Bay Casino Corp., 232 F.3d 173, 183-84 (3d Cir. 2000) (citing City of Pittsburgh v. West Penn Power Co., 147 F.3d 256, 263 n.13 (3d Cir. 1998)). In a 12(b)(6) motion, the defendant bears the burden of persuading the Court that no claim has been stated. Gould Electronics, Inc. v. United States, 220 F.3d 169, 178 (3d Cir. 2000).

## II. DISCUSSION

“To establish a *prima facie* case of [retaliatory discharge], the plaintiff must show (1) that she engaged in statutorily protected expressions; (2) that she suffered an adverse employment action; and (3) there is some causal relation between the two events.” Meeks v. Computer Associates, Int’l, 15 F.3d 1013, 1021 (11<sup>th</sup> Cir. 1994). In accordance with Rule 8 of the Federal Rules of Civil Procedure, a claimant does not have to set out in detail the facts upon which a claim is based, but merely provide a statement sufficient to put the opposing party on notice of the claim.” Weston v. Commonwealth of Pa., 251 F.3d 420, 428 (3<sup>rd</sup> cir. 2001) (citations omitted).

Defendant brought the instant Motion to Dismiss solely on the assertion that Plaintiff failed to set forth a causal relationship between Plaintiff’s protected activity and subsequent termination. Defendant argues that no causal relation exists since there is not a temporal relationship between Plaintiff’s protected activity and termination. (Def’s Memo at 2-4). Plaintiff responded by correctly asserting that a temporal relationship is not the sole means by which a party may establish a causal connection. (Pl’s Memo at 5-8).

For the purposes of a 12(b)(6) motion, this Court finds that Plaintiff's Complaint contains a statement sufficient to place Defendant on notice of the claims. As such, Plaintiff has satisfied the pleading requirements contained in Rule 8 of the Federal Rules of Civil Procedure.

### **III. CONCLUSION**

For the foregoing reasons, the Court denies Defendant's Motion to Dismiss. An appropriate Order follows.

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	:	
v.	:	
	:	
'WAWA, INC.	:	
	:	
Defendant.	:	

**ORDER**

AND NOW, this 3<sup>rd</sup> day of December, 2004, upon consideration of Defendant's Motion to Dismiss Plaintiff's Complaint (Docket No. 5), Plaintiff's Memorandum of Law In Opposition to Defendants' Motion to Dismiss (Docket No. 6), Defendant's Reply Brief in Support of Its Motion to Dismiss (Docket No. 7), and Plaintiff's Sur-Reply Brief (Docket No.10), Defendant's Motion to Dismiss is DENIED.

BY THE COURT:

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RONALD L. BUCKWALTER, S.J.