IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION-CIVIL

ERICA PUGH, as an individual and on behalf of others similarly situated, **Plaintiffs,** **v.** **CHHS HOSPITAL COMPANY, LLC, et al.,** **Defendants.**	**August Term, 2020** **No. 200801768** **COMMERCE PROGRAM** **Control Nos. 25064241/25082973**

ORDER

AND NOW, this 9th day of March, 2026, upon consideration of the Motion for Partial Summary Judgment filed by Plaintiffs and the Response filed by Defendants CHHS Hospital Company, LLC and CHSPSC, LLC f/k/a Community Health Systems Professional Services Corporation ("Defendants") (Control No. 25064241), and the Motion for Summary Judgment filed by Defendants and the Response filed by Plaintiffs (Control No. 25082973), it is **ORDERED** that:

1. Plaintiffs' Motion for Partial Summary Judgment on the issue of liability under Philadelphia's Ban the Box Ordinance is **GRANTED**;
2. Defendants' Motion for Summary Judgment is **GRANTED in part and DENIED in part** as follows:

a. The motion is **GRANTED** on the issue of the Ordinance's statute of limitations, and any class member who applied for employment with Chestnut Hill Hospital before June 13, 2017 is dismissed from this action;

b. The motion is **GRANTED** on the issue of Plaintiff Erica Pugh's claim for violation of the Pennsylvania Criminal History Record Information, and Count II of the Ninth Amended Complaint against Defendants is **DISMISSED**; and

c. The remainder of Defendants' Motion for Summary Judgment is **DENIED**.

BY THE COURT:

MICHAEL E. ERDOS, J.

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION-CIVIL

ERICA PUGH, as an individual and on behalf of others similarly situated,	**August Term, 2020**
Plaintiffs,	**No. 200801768**
v.	**COMMERCE PROGRAM**
CHHS HOSPITAL COMPANY, LLC, et al.,	**Control Nos. 25064241/25082973**
Defendants.	

OPINION

Plaintiff Erica Pugh ("Ms. Pugh") brings a claim on behalf of herself and a class for violations of Philadelphia's Fair Criminal Record Screening Standards Ordinance, Phila. Code §§ 9-3501 *et seq.* (the "Ordinance").[1] Ms. Pugh also brings a claim individually for violations of the Pennsylvania Criminal History Record Information Act, 18 Pa. C.S.A. § 9125 ("CHRIA"). Presently before the Court is Plaintiffs' partial motion for summary judgment on liability for Defendants' CHHS Hospital Company, LLC ("CHHS") and CHSPSC, LLC f/k/a Community Healthy Systems Professional Services Corporation's ("CHSPSC" and together with CHHS, "Defendants") purported violations of the Ordinance. Also before the Court is Defendants' motion for summary judgment seeking dismissal of the complaint. For the reasons discussed

[1] The parties agree that the version of the Ordinance that became effective on March 14, 2016 controls this case. Plaintiffs' Motion for Summary Judgment ("Pl. Mot.") ¶ 25; Defendants' Opposition to Plaintiffs' Motion for Summary Judgment ¶ 25. References to the Ordinance refer to the March 14, 2016 version unless otherwise stated.

below, Plaintiffs' motion for partial summary judgment is granted; Defendants' motion for summary judgment is granted in part and denied in part.

BACKGROUND

I. Plaintiffs' Employment Applications

Ms. Pugh applied for employment as a phlebotomist at Chestnut Hill Hospital (the "Hospital") around August 20, 2017. At that time, the Hospital was owned by CHHS, CHSPSC, and Chestnut Hill Hospital, LLC. On October 1, 2017, CHHS sold the Hospital to Tower Health, Tower Health Medical Group Holding Company, LLC, and Chestnut Hill Hospital, LLC (collectively, the "Tower Defendants"). The online employment application Plaintiff filled out and submitted on August 20, 2017, asked:

> Are you registered, or ordered to be registered, on the National Sex Offender Public Website or other governmental sex offender/predator registry?

Plaintiffs' Motion for Summary Judgment ("Pl. Mot.") ¶ 17; Defendants' Motion for Summary Judgment ("Def. Mot."), Ex. 3 ("List of All Questions Answered by Pl. during Application Process"). CHHS included this question on all applications for positions at the Hospital until it sold the Hospital to the Tower Defendants. Def. Mot. ¶ 11; Plaintiffs' Opposition to Def. Mot. ¶ 11). Ms. Pugh answered no to this question. Def. Mot., Ex. 3; Def. Mot., Ex. 1 ("Pl.'s Dep.") at 114:7-14. Before CHHS acted on Ms. Pugh's application, the Hospital canceled the phlebotomist position and took no action on Ms. Pugh's application. Def. Mot. ¶ 13; Def. Mot., Ex. 4 ("Goble Dep.") at 42:17-20, 44:15-20. Ms. Pugh did not receive communications from the Hospital about her application prior to October 1, 2017. Pl.'s Dep. at 113:7-114:21, 115:6-12.

After the sale of the Hospital to the Tower Defendants, Ms. Pugh claims she submitted another application to the Hospital, which asked, "Have you been convicted of a felony or

misdemeanor in the last seven years?" Def. Mot., Ex. 5 (Pl.'s Appl. To Tower Health, CHH-Tower 73-80). The Tower Defendants extended Ms. Pugh a conditional offer, but in January 2018, the Tower Defendants revoked Ms. Pugh's conditional offer after a background check revealed a prior conviction from 2009. Def Mot. ¶ 23; Pl.'s Dep. at 60:9-15, 68:17-69:6. This rejection was the first time Ms. Pugh was rejected for employment based on her criminal history. Def. Mot. ¶ 24, Pl.'s Dep. at 69:15-20.

II. This Action

On April 9, 2018, Ms. Pugh filed a complaint with the Philadelphia Commission on Human Relations ("PCHR") on behalf of herself and others similarly situated against CHHS, CHSPSC, and the Tower Defendants. The PCHR Complaint alleged violations of the Ordinance and of CHRIA.

Around September 17, 2019, Ms. Pugh requested a Right-to-Sue from PCHR, and PCHR voted to close the matter as a result, permitting Ms. Pugh to pursue the matter in court. Plaintiffs' Ninth Amended Complaint ("Complaint" or "Compl."), Ex. 1.

Ms. Pugh filed a complaint in this Court on August 20, 2020. Ms. Pugh filed the operative, Ninth Amended Complaint, on September 19, 2021. Ms. Pugh alleges a violation of the Ordinance, which deems it unlawful for employers to make an inquiry requiring persons to disclose criminal convictions during the application process. Ordinance § 9-3504(1). Ms. Pugh also alleges a violation of CHRIA, which permits employers to consider felony and misdemeanor convictions only to the extent they relate to the applicant's suitability for employment in the position for which she has applied. CHRIA § 9125(b). Ms. Pugh asserted her claims on behalf of two classes—one that was denied employment in violation of the Ordinance and another that was denied employment in violation of CHRIA.

Ms. Pugh filed a motion for class certification on August 3, 2023, noting she was seeking certification of claims only under the Ordinance but not CHRIA. Plaintiffs' Motion for Class Certification at 2 n.2. Ms. Pugh seeks only punitive damages but not compensatory damages on behalf of the class. On June 27, 2024, this Court certified a class with respect to a claim for violation of the ordinance consisting of "All persons who were asked a question regarding a criminal conviction during the online application process at Chestnut Hill Hospital from March 14, 2016, through September 30, 2017."

A settlement between Plaintiffs and the Tower Defendants was approved on April 7, 2025. Accordingly, the cross-motions for summary judgment are only between Plaintiffs and CHHS and CHSPSC.

DISCUSSION

I. Plaintiffs have suffered a compensable injury under the Ordinance.

Plaintiffs contend that Defendants violated Section 9-3504(1) of the Ordinance by asking Plaintiff and the class members whether they were "registered, or ordered to be registered, on the National Sex Offender Public Website or other governmental sex offender/predator registry." Section 9-3504(1) of the Ordinance provides that "it shall be an unlawful discriminatory practice for a City agency or private employer to make any inquiry regarding or to require any person to disclose or reveal any criminal convictions during the application process." The National Sex Offender Registry is mandated by § 20921(a) of the Sex Offender Registration and Notification Act, 34 U.S.C. §§ 20901 *et seq.* ("SORNA"). Under SORNA, a sex offender "means an individual who was convicted of a sex offense." 34 U.S.C. § 20911(1). Thus, the asking of the sex offender registry question constitutes an inquiry regarding an applicant's criminal convictions. Defendants do not dispute that this question was asked of Ms. Pugh or the class.

Instead, Defendants argue that Ms. Pugh and the class have shown only procedural violations of the Ordinance without concrete harm and therefore lack standing. Defendants' Memorandum of Law in Support of Motion for Summary Judgment ("Def. Memo") at pp. 7-10.

In Pennsylvania, a litigant may establish statutory standing or traditional standing. Statutory standing exists where "the interest the plaintiff seeks to protect is arguably within the zone of interests to be protected by the statute." *Milby v. Pote*, 189 A.3d 1065, 1077 (Pa. Super. 2018). "[T]he answer to any question concerning statutory standing involves a careful analysis of the relevant statutory scheme." *Id.* "[T]raditional standing requirements apply only when a specific statutory provision for standing is lacking." *Id.* at 1076-77. As such, this Court first considers whether the Ordinance confers standing on Ms. Pugh and the class.

Defendants first argue that only a ***state*** statute, not a city ordinance, can confer statutory standing. *See* Def. Memo at pp. 14-15. In support, Defendants cite *Hous. Auth. v. Pa. State Civil Serv. Comm'n*, 730 A.2d 935 (Pa. 1999), where the Supreme Court of Pennsylvania noted,

> if a statute properly enacted by the *Pennsylvania legislature* furnishes the authority for a party to proceed in Pennsylvania's courts, the fact that the party lacks standing under traditional notions of our jurisprudence will not be deemed a bar to an exercise of this Court's jurisdiction, since the *Pennsylvania legislature* constitutionally may enhance or diminish the scope of this Court's jurisdiction.

Id. at 941 (emphasis added). *Housing Authority*, however, does not hold that *only* the Pennsylvania legislature may enact statutes conferring standing. Indeed, the Commonwealth Court of Pennsylvania found that "it is within Philadelphia's power to provide in Section 14-1806(1) of the [Philadelphia Zoning Code] that taxpayers have standing to challenge the actions of zoning officers." *Society Created to Reduce Urban Blight (SCRUB) v. Zoning Bd. of the City of Philadelphia*, 729 A.2d 117, 122 (Pa. Commw. Ct. 1999). The court rejected defendant-appellee's argument that "Philadelphia cannot

broaden who has standing in zoning legislation because access to the courts is a matter of statewide concern." *Id.* at 121.

Because the Ordinance may confer standing, this Court looks to its language to determine whether it in fact does. Defendants note the Ordinance's provision that "[a] person ***injured*** by a violation of [the Ordinance] may report such violation to the [PCHR]." Ordinance § 9-3506(3) (emphasis added). Defendants argue that Ms. Pugh and the class have not suffered an injury and therefore lack standing. The Ordinance does not define "injury."[2] Black's Law Dictionary, however, defines "injury" as "The violation of another's legal right, for which the law provides a remedy; a wrong or injustice." INJURY, Black's Law Dictionary (12th ed. 2024). The "injury," or violation of legal right, in this case is the asking of the sex offender registry question on Plaintiffs' applications. This interpretation does not render "injury" surplusage, contrary to Defendants' arguments. *See* Def. Memo at 17; Defendants' Reply in Support of Motion for Summary Judgment at 11. The word "injury" is necessary because otherwise a person who never

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[2] Defendants contend in their supplemental reply memorandum in support of their motion for summary judgment ("Def. Supp. Reply") that a 2025 amendment to the Ordinance clarifies that an "injury" under the Ordinance requires some adverse impact to an applicant's application. Def. Supp. Reply at 2. Specifically, the 2025 amendment adds the following subpart (4) to Section 9-3506:

> *(4) When a complaint has been filed with the Commission reporting a violation of this Chapter by an Employer, that Employer must file with the Commission in its response to the complaint a statement containing the following information:*
>
> *(a) The specific criminal record on which the Employer based its decision to reject the Applicant or Employee;*
> *(b) The specific duties and requirements of the job being sought, which the Employer considered in its individualized assessment, that resulted in a decision to reject the Applicant or Employee due to their criminal record;*
> *(c) The time passed since arrest or incarceration relating to the specific conviction considered; and*
> *(d) The evidence of rehabilitation and mitigation that the Employer considered.*

Defendants argue that this amendment clarifies that it was implicit in the 2016 version of the Ordinance that only individuals impacted by specific decisions by an employer were "injured." But the 2025 amendment does not provide that it applies retroactively, nor does it clearly reveal an implicit intent behind the 2016 version. Even if the 2025 amendment may be considered, the new subpart (4) does not necessarily mean that all violations of the Ordinance involve a rejection of an applicant. An employer could conceivably respond that there was no decision to reject an applicant.

even applied to work at the Hospital, unlike Ms. Pugh or any of the class members, could file an action under the Ordinance.

Plaintiffs posit that the Ordinance confers standing, relying on *Taha v. Bucks Cnty. Pennsylvania*, 172 F.Supp.3d 867, 868 (E.D.P.A. 2016). In *Taha*, the plaintiff brought a class action alleging that defendants had published his expunged arrest record in violation of CHRIA. There was no evidence that plaintiff was ever subjected to an adverse employment action because of the publicized information. *Id.* at 869. The plaintiff sought only punitive damages but agreed he had not suffered any economic injury. *Id.* at 872-73. The *Taha* defendants asserted that plaintiff was not entitled to damages under CHRIA. That court looked at the text of CHRIA, which states that a person must be "aggrieved" by a violation of CHRIA to recover damages. 18 Pa. C.S.A. § 9183(b). That court determined that, because the defendants did indeed release plaintiff's criminal history record information, plaintiff had been aggrieved. *Taha* at 872. The court further noted, "In Pennsylvania, a plaintiff may recover punitive damages even when he is not entitled to specific compensatory damages." *Taha* at 872-73. The district court rejected the defendants' argument that imposition of punitive damages under CHRIA, which expressly provides for punitive damages, *see* 18 Pa. C.S.A. § 9183(b)(2), would be contrary to public policy and violate their Due Process rights in this instance. *Id.*

Defendants cite two cases to the contrary where courts found that procedural violations of the federal Fair and Accurate Credit Transactions Act ("FACTA") did not confer standing. *See* Def. Mot. at 12 (citing *Kamal v. J. Crew Grp., Inc.*, 918 F.3d 102 (3d Cir. 2019); *Gennock v. Kirkland's Inc.*, 299 A.3d 900, 2023 Pa. Super. Unpub. LEXIS 1208 (2023). In *Gennock*, however, the court held that FACTA did not confer statutory standing because it lacked any provision delineating who has standing to pursue an action. *Gennock*, 299 A.3d 900, 2023 Pa.

Super. Unpub. LEXIS 1208, at *5. Here, by contrast, the Ordinance *does* confer standing by setting forth who may pursue an action in court. *See* Ordinance §§ 9-3506(3), 9-3508. Additionally, the Ordinance provides that a court may grant punitive damages. Ordinance § 9-3508(3)(b). Plaintiffs sustained an injury under the Ordinance and have standing to seek punitive damages from this Court simply by being asked the sex offender registration question.

II. The Child Protective Services Law does not bar Plaintiffs' claim.

Defendants argue that the Child Protective Services Law ("CPSL") bars plaintiffs' claim because the CPSL prohibits employers from approving an applicant for hire who may have direct contact with children if that applicant's name appears in a governmental sex offender/predator registry. *See* Def. Memo at p. 25; 23 Pa. C.S.A. § 6344. The CPSL prohibits employers from hiring an applicant who has been convicted of certain offenses including sex offenses. 23 Pa. C.S.A § 6344(c)(2). The CPSL mandates that applicants submit their criminal history record information before the "commencement of employment." 23 Pa. C.S.A. § 6344(b). The Ordinance further states that its prohibitions "shall not apply if the inquiries or adverse actions prohibited herein are specifically authorized or mandated by any other applicable law or regulation." Ordinance § 9-3505. According to Defendants, it follows that the CPSL authorized them to ask this question on their employment applications.

But while the CPSL mandates that applicants submit criminal history information before commencing employment, the Ordinance simply makes it unlawful for an employer to make that inquiry "during the application process." Ordinance § 9-3504(1). To comply with both the Ordinance and the CPSL, an employer could omit criminal-history questions from its application but still investigate after the application has been submitted and prior to hiring. The CPSL does not bar Plaintiffs' claim under the Ordinance.

III. There is a dispute of material fact as to whether Plaintiffs are entitled to punitive damages.

Defendants argue that Plaintiffs' claim for punitive damages (in the absence of claims for actual—or other—damages) should be dismissed because Plaintiffs have no evidence to support assertions of recklessness, wantonness, or outrageousness to support punitive damages. "Punitive damages may be awarded for conduct that is outrageous, because of the defendant's evil motive or his reckless indifference to the rights of others." *Feld v. Merriam*, 485 A.2d 742, 747 (Pa. 1984).

Plaintiffs and Defendants cite exclusively to the deposition testimony of Lisa Goble, senior regional human resources director at CHSPSC, on the issue of whether Defendants exhibited reckless indifference towards their obligations to comply with the Ordinance. Plaintiffs' Opposition to Defendant's Motion for Summary Judgment at p. 12-13; Def. Mot. at p. 30. Ms. Goble testified that she was not aware of discussions at the Hospital as to whether the sex offender registry question would violate the Ordinance. Goble at 30:2-6. She also was not aware whether Chestnut Hill HR had discussed this question with legal professionals. Goble at 32:11-34:6. Ms. Goble testified that the Ordinance was discussed with the legal team but that "specific questions or specifics I do not have that information." Goble at 34:11-14. Whether Defendants undertook sufficient due diligence into the legality of the sex offender registry question to overcome the standard for awarding punitive damages is a factual dispute to be resolved at trial.

Accordingly, Plaintiffs' motion for summary judgment is granted on the issue of liability, and Defendants' motion for summary judgment is denied on the issue of standing.

IV. The Ordinance Class should be limited to applicants from June 13, 2017 to September 30, 2017.

Defendants argue that the Ordinance Class should be limited to individuals who applied after June 13, 2017 rather than after March 14, 2016 (and through September 30, 2017). Defendants point to Ordinance Section 9-3506(3), which states, "[i]n order to exercise the private right of action provided under Section 9-3508 of [the Ordinance], a person must first report the violation to the [PCHR] within 300 calendar days of the unlawful act." Additionally, Section 9-3508 of the Ordinance states that if the PCHR dismisses the case, and if the complainant filed the complaint with the PCHR within 300 days of the unlawful act, the complainant may then file a complaint in court. Pugh filed her PCHR complaint on April 9, 2018. According to Defendants, any alleged action by Defendants that occurred 300 days or more before April 9, 2018 (i.e., June 13, 2017) is time-barred.

In response, Plaintiffs rely on the "single filing rule doctrine." *Commc'ns Workers of Am.*, 282 F.3d 213, 217 (3d Cir. 2002). ("Under the single filing rule doctrine, a plaintiff who has not filed an EEOC charge within the requisite time period can join a class action without satisfying either requirements—exhaustion and filing—if the original EEOC charge filed by the plaintiff who subsequently filed a class action had alleged class based discrimination in the EEOC charge.") The single filing rule, however, applies only to those individuals whose claims were timely at the moment the original plaintiff filed their charge. *See Mitchell v. MG Indus., Inc.*, 822 F. Supp. 2d 490, 497 n.5 (E.D. Pa. 2011) ("noncomplying plaintiffs may 'piggyback' onto a timely filed claim if the non-complying plaintiffs could have filed their own charges at the time the complying plaintiff filed his or her charge"); *see also Rupert v. PPG Indus., Inc.*, Nos. 07-705, 08-616, 2009 U.S. Dist. LEXIS 131493, at *8-9 (W.D. Pa. Feb. 27, 2009) (single filing rule applies "only to those plaintiffs whose claims arise in the same time frame as the filing

plaintiff or who could have filed timely EEOC charges on the date which the filing plaintiff actually filed his or her EEOC charge" (citing *Thiessen v. Gen. Elec. Cap. Corp.*, 996 F. Supp. 1071 (D. Kan. 1998) and *Hipp v. Liberty Nat'l Life Ins. Co.*, 252 F3d 1208 (11th Cir. 2001)). Accordingly, the single filing rule must be limited to the 300 days preceding Pugh's PCHR filing on April 9, 2018. The class definition is hereby modified to include "All persons who were asked a question regarding a criminal conviction during the online application process at Chestnut Hill Hospital from ***June 13, 2017***, through September 30, 2017."

V. Ms. Pugh's CHRIA claim is dismissed.

Ms. Pugh brings a claim on behalf of herself only, alleging Defendants violated CHRIA Section 9125(b). Section 9125 provides:

> (a) General rule. — Whenever an employer is in receipt of information which is part of an employment applicant's criminal history record information file, it may use that information for the purpose of deciding whether or not to hire the applicant, only in accordance with this section.
> (b) Use of information. — Felony and misdemeanor convictions may be considered by the employer only to the extent to which they relate to the applicant's suitability for employment in the position for which he has applied.
> (c) Notice. — The employer shall notify in writing the applicant if the decision not to hire the applicant is based in whole or in part on criminal history record information.

Id. § 9125. Defendants note that Ms. Pugh has presented no evidence that Defendants received, and therefore considered, any information that was part of her criminal history record file. *See* Def. Memo at p. 37. Ms. Pugh does not dispute Defendants' CHRIA argument beyond denying it as a legal conclusion. Plaintiff's Opposition to Defendants' Motion for Summary Judgment ¶ 30. "Failure of a non-moving party to adduce sufficient evidence on an issue essential to his case and on which it bears the burden of proof .... establishes the entitlement of the moving party to judgment as a matter of law." *Murphy v. Duquesne Univ. of the Holy Ghost*, 777 A.2d 418, 429 (2001); *see also* Pa.R.C.P. 1035.2. Indeed, the only relevant evidence suggests that Defendants

did not receive any criminal history record information, because Ms. Pugh answered "no" to the sex offender registry question. Def. Mot., Ex. 3 ("List of All Questions Answered by Plaintiff during Application Process"); Pl. Dep. at 114:7-14. It was only after Ms. Pugh's second application, when the Tower Defendants owned the Hospital, that the Hospital learned of Ms. Pugh's 2009 conviction. See Pl. Dep. at 60:13-15. Accordingly, there is no dispute of material fact that Defendants violated CHRIA. Defendants' motion for summary judgment is granted on Plaintiff's CHRIA claim.

BY THE COURT:

Michael E. Erdos

MICHAEL E. ERDOS, J.

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION-CIVIL

LEAF CAPITAL FUNDING, LLC, Plaintiff, **v.** KOMODO DRAGON BREW GALS, LLC d/b/a THE SUNNY PINT, SIMONE WADDELL and SUSAN SIDOTI Defendants.	AUGUST TERM, 2025 No. 00828 COMMERCE PROGRAM Control No. 25121995

ORDER

AND NOW, this 9th day of March 2026, upon consideration of the foregoing Plaintiff's Motion for Alternative Service, it is hereby **ORDERED** said Motion is **GRANTED**.

BY THE COURT:

Michael E. Erdos

MICHAEL E. ERDOS, J.