Element Map and Affirmative-Defense Negation Map

PREPARED BY DOCKET ENTRY

ELEMENT MAP

Count I — Discrimination through discharge, 42 U.S.C. § 12112(a)

ELEMENT	PARAGRAPHS	AUTHORITY	GAP OR NOTE
Covered entity / employer	12, 13, 76	§ 12111(2), (5)(A)	Pleaded on the statutory formula and "industry affecting commerce" from the Amended Complaint's "in excess of fifteen" and the restaurant business. Headcount not confirmed from payroll.
Disability, actual (episodic)	51, 53, 55, 56, 58, 60, 77	§ 12102(1)(A), (2)(A), (4)(D); *Mazzeo*	Limits attributed to anxiety and panic attacks only (breathing, communicating, concentrating, thinking). PTSD is pleaded as a disclosed condition, not as a limiting impairment, because the record states no PTSD-specific limitation.
Disability, regarded as (alternative)	57, 60, 62, 66, 67, 78	§ 12102(1)(C), (3)(A)–(B)	Pleads the prohibited action (discharge) because of the actual or perceived impairment, with the perception routes (Williams's knowledge, the call-out message, the attempted explanation, Williams's observation). Duration fact (¶ 60) answers the six-month half of "transitory and minor." **Gap:** no fact shows Chad perceived a mental impairment rather than intoxication; the pleading does not claim he did.

ELEMENT	PARAGRAPHS	AUTHORITY	GAP OR NOTE
Qualified individual	24–29, 50, 53, 63, 70, 79	§ 12111(8); *Holly* at 1256	**Gap:** essential functions pleaded only as serving the guests at assigned tables (¶ 27). The record supplies nothing more. Add from the client or a job description. No accommodation is pleaded as necessary to qualification; the count pleads she could perform the functions.
Employer knowledge	52, 57, 62, 66, 67, 71, 80	—	Pleaded actor by actor. **Gap:** the decision-maker is not identified; the record establishes only that Chad communicated the termination (¶ 69) and that Williams observed (¶ 67). No fact states who received the call-out message. If the decision-maker is known, plead that person's knowledge in Section G.
Adverse action: discharge	69, 81	§ 12112(a)	Established.
Causation, but-for	82–83	*Akridge*; *Swierkiewicz* (no prima facie pleading)	Facts: one-day sequence; the accuser communicated the termination; the HR recipient of the September 2024 disclosure observed the episode; seventeen-year record without significant non-medical history. **Gaps the client may fill:** whether any reason was stated on April 24 or in any separation or unemployment paper; whether any test for intoxication was done; whether Plaintiff had consumed alcohol. None is pleaded because none is in the record.
Damages	72–73, 85	§ 1981a(a)(2)	Established; pleaded as caused by the termination.

ELEMENT	PARAGRAPHS	AUTHORITY	GAP OR NOTE
Punitive mental state	84	§ 1981a(b)(1); *Kolstad* at 535–46	Pleaded generally with the facts the record has (HR knowledge; HR observation; next-day discharge). **Gap:** no fact bears on Defendant's policies, training or good-faith compliance efforts; none is invented.
Exhaustion and timeliness	18–20, 22	§ 12117(a); § 2000e-5(e)(1), (f)(1); *Morgan*; *Wilkerson*; *Gregory*	Discharge on or about April 24, 2025 to charge on or about February 17, 2026 = 299 days; day 300 = February 18, 2026. **Gap:** the charge's filing date is pleaded "on or about" because the record states it that way; obtain the stamped charge. **Gap:** whether the charge narrative reaches the discharge and the anxiety condition is a document question (*Gregory*); the pleading states only what the record states (¶ 18).

Count II — Discrimination through discharge, Fla. Stat. § 760.10(1)(a)

ELEMENT	PARAGRAPHS	AUTHORITY	GAP OR NOTE
Employer	12, 13, 89	§ 760.02(7)	Same headcount note as Count I.
Handicap, actual; regarded as (alternative)	51–60, 90–91	§ 760.10(1)(a); *Holly* at 1255 (same framework)	Count II uses the statutory word "handicap" once and otherwise tracks Count I by cross-reference. No record-of alternative.
Qualified	24–29, 50, 53, 63, 70, 92	*Holly*	Same essential-functions gap.
Knowledge	71, 93	—	Same decision-maker gap.
Discharge	69, 94	§ 760.10(1)(a)	Established.

ELEMENT	PARAGRAPHS	AUTHORITY	GAP OR NOTE
Causation	94–95	*Holly*; *Akridge* by analogy	Same facts as Count I.
Damages; punitive	96–97	§ 760.11(5)	Mental anguish and loss of dignity pleaded in the statute's words. Punitive demand made "as permitted by section 760.11(5)"; the $100,000 cap is not pleaded (correct). Same good-faith gap.
Administrative prerequisites	18, 20–22	§ 760.11(1), (3), (5) (2026), (7), (8); *Woodham*	Charge 299 days after discharge (365-day limit). **Gap:** the August 31, 2026 document is pleaded by the title the record gives it ("Notice of State Rights") and by its date (more than 180 days after filing). The pleading does not state that the FCHR made no determination within 180 days, because the record does not. Obtain the notice: if it is a no-cause determination, § 760.11(7) and *Woodham* govern the route and the count may fail as pleaded. **Note:** this action was commenced May 22, 2026, 94 days after the charge; the amendment pleads the later agency events. Address Rule 15(d) in the motion papers, not here.

Count III — Threat to discharge, intimidation and coercion, Fla. Stat. § 440.205

ELEMENT	PARAGRAPHS	AUTHORITY	GAP OR NOTE
Employer	101	§ 440.205	Established.
Protected activity: valid claim for compensation	32, 102	§ 440.205; *Hornfischer* at 706; *Andrews* at 1193	Claim filed on or about November 7, 2023 for a kitchen injury on or about November 5, 2023; MRI later showed a torn PCL (¶ 44).

ELEMENT	PARAGRAPHS	AUTHORITY	GAP OR NOTE
Prohibited act: threat to discharge; intimidation or coercion	38, 104, 106	§ 440.205; *Chase* at 97–98; *Juback*; *Hornfischer* ("discharge is not essential")	Both reported statements pleaded together (¶¶ 38, 104). The termination threat is the load-bearing half. **Exposure:** Defendant will read the "case would be cancelled" sentence as a description of § 440.15(6)'s consequence and the whole exchange as a suitable-employment dispute under *Montes de Oca*. The record does not state what restrictions applied to Front Desk work on December 6, so ¶ 36 (early return could jeopardize recovery) and ¶ 38 (termination, which § 440.15(6) does not authorize) are the only distinguishing facts pleaded.
"By reason of" the claim	33–36, 39, 103, 106	*Hornfischer* (no specific intent, but causation required); *Andrews* (knowledge required)	Facts: the statement referred to the workers' compensation case; it followed the claim by about one month; it followed repeated return-to-work questioning and Plaintiff's medical-clearance statement. Pleadable at Rule 12. Not more than that.
Agency	15, 105	—	Williams as Human Resources Representative and management in November–December 2023, in return-to-work communications.
Injury	40–41, 107–108	*Scott* (emotional distress recoverable in a discharge action)	**Gap:** emotional distress from the threat is not in the record and is not pleaded. The only pleaded injury is the knee-pain exacerbation from prolonged standing in the position accepted after the statements. Expect the argument that this is a workers' compensation injury, not § 440.205 damages. The prayer is confined to the injury caused by the Count III conduct; no wages, no fees.

Counts not pleaded, with the element that fails

COUNT	ELEMENT THAT FAILS ON THIS RECORD
ADA / FCRA failure to accommodate	No request identified in the record was denied: the hourly-break request has no pleaded response; the walking-limit request was met with the Reservations reassignment. Every accommodation event predates the charge by more than 365 days, and each is a discrete act (*Morgan*).
ADA / FCRA retaliation	No protected activity is tied to the discharge by knowledge and causation. The call-out message and the attempted explanation on April 23 are disclosures, not requests, as the record states them. If the client's account of April 23 includes a request for time, a break or another adjustment, the count becomes available with one-day proximity, subject to charge scope.
§ 440.205 retaliatory discharge	Seventeen months between the claim and the discharge; no fact ties the claim to the discharge decision or to any identified decision-maker.

AFFIRMATIVE-DEFENSE NEGATION MAP

ANTICIPATED DEFENSE	COUNTS	FACTS PLEADED AGAINST IT	PARAGRAPHS	STRENGTH
Untimely charge (300 days ADA; 365 days FCRA)	I, II	The discharge date and the charge date are pleaded; the arithmetic is 299 days. The scope paragraph confines Counts I and II to the discharge, so no 2023–2024 act is the "unlawful employment practice" (*Morgan*).	18, 23, 69	Complete on the face, subject to the stamped charge date.

ANTICIPATED DEFENSE	COUNTS	FACTS PLEADED AGAINST IT	PARAGRAPHS	STRENGTH
Failure to exhaust; discharge outside the charge (*Gregory*)	I, II	Charge named Defendant and alleged disability discrimination and retaliation.	18	**Partial.** Whether the charge narrative reaches the April 2025 discharge and the anxiety condition is a document question the pleading cannot answer.
FCRA prematurity; no-cause routing under § 760.11(7) (*Woodham*)	II	FCHR notice issued more than 180 days after the charge; conditions precedent alleged generally.	21–22	**Partial.** Depends on the notice's contents. The pleading does not assert the absence of a determination.
Transitory and minor (defeats regarded-as only)	I, II	Anxiety and PTSD disclosed before September 2024; medication prescribed September 2024; anxiety present more than six months before April 23, 2025.	52, 56, 60, 78, 91	Answers "transitory." "Minor" is answered by the pleaded limits when active (¶¶ 58, 77).

ANTICIPATED DEFENSE	COUNTS	FACTS PLEADED AGAINST IT	PARAGRAPHS	STRENGTH
Not a qualified individual (intoxication or misconduct)	I, II	About seventeen years; no significant non-medical attendance, disciplinary or performance history; generally managed her anxiety; arrived by the start of service and worked; told the call-out line it was a panic attack; attempted to tell Chad; Williams observed the symptoms.	26–29, 53, 62–63, 66–67, 79, 92	**Partial.** The record does not state that Plaintiff was not intoxicated, so the pleading does not. The accusation stands as Chad's statement, not as a resolved fact.
Legitimate non-discriminatory reason (Doc. 28's framing; not an affirmative defense at Rule 12)	I, II	Same facts, plus: the accuser communicated the termination; the HR recipient of the September 2024 disclosure watched the episode; management sent Plaintiff home after the attack.	64, 67–69, 71, 82, 94	No reason is pleaded because none is in the record. If a reason was given, plead it so the sequence can be read against it.
Punitive good-faith limit (*Kolstad*)	I, II	The actor with knowledge worked in Human Resources and observed the episode; discharge followed the next day.	57, 67, 84, 96	**Partial.** Nothing in the record addresses policies or training; nothing is pleaded.

ANTICIPATED DEFENSE	COUNTS	FACTS PLEADED AGAINST IT	PARAGRAPHS	STRENGTH
Suitable-employment dispute under § 440.15(6) (*Montes de Oca*)	III	Plaintiff told Williams that early return could jeopardize recovery; the statement threatened termination, which § 440.15(6) does not authorize; the statement tied the workers' compensation case to acceptance of the position.	36, 38, 104, 106	**Partial.** The record does not state the restrictions in force on December 6; the pleading does not claim them.
Four-year limitations (§ 440.205)	III	Not pleaded; the December 6, 2023 date appears on the face and is inside any four-year period.	37	Face of the pleading.
Workers' compensation exclusivity	III	Not addressed on the face.	—	A brief question (*Scott*), not a pleading question.
Supplemental-jurisdiction decline (§ 1367(a), (c); *Palmer*)	II, III	Count II: same discharge as Count I. Count III: knee injury and its sequel intensified the anxiety; Williams in both chains; one chronology pleaded in order.	6–7, 15, 33–57	**Partial for Count III.** The connection is pleaded from the record's own causal statement; whether it satisfies Article III is for the court.
Relation back / supplementation (Rule 15(c)(1)(B), 15(d))	I, II	Not a pleading matter. The motion for leave addresses it.	—	Outside the pleading.

AUTHORITIES RELIED ON

AUTHORITY	PROPOSITION USED	POSTURE
42 U.S.C. § 12112(a)	Covered entity shall not discriminate against a qualified individual on the basis of disability in regard to discharge	Statute
42 U.S.C. § 12111(2), (5)(A), (8)	Covered entity; employer = person in an industry affecting commerce with 15 or more employees for each working day in 20 or more calendar weeks in the current or preceding calendar year; qualified individual = can perform essential functions with or without reasonable accommodation	Statute
42 U.S.C. § 12102(1), (2)(A), (3)(A)–(B), (4)(D)	Three-prong definition; major life activities include breathing, concentrating, thinking, communicating; regarded-as = subjected to a prohibited action because of an actual or perceived impairment, whether or not it limits; (1)(C) does not apply to impairments both transitory (6 months or less) and minor; an episodic impairment is a disability if it would substantially limit when active	Statute
42 U.S.C. § 12117(a)	Title VII powers, remedies and procedures (§§ 2000e-4, -5, -6, -8, -9) apply to ADA Title I	Statute
42 U.S.C. § 2000e-5(e)(1), (f)(3)	300-day charge period where proceedings were instituted with a state agency; venue where the practice was committed, where records are kept, or where the person would have worked	Statute
42 U.S.C. § 1981a(a)(2), (b)(1)	Compensatory and punitive damages for ADA Title I; punitive require malice or reckless indifference to federally protected rights	Statute
42 U.S.C. § 12205	Attorney's fees	Statute
28 U.S.C. § 1367(a), (c)	Supplemental jurisdiction; discretionary decline	Statute

AUTHORITY	PROPOSITION USED	POSTURE
28 U.S.C. § 1391(b)(2)	Venue where a substantial part of the events occurred	Statute
Fla. Stat. § 760.10(1)(a)	Unlawful to discharge because of handicap	Statute
Fla. Stat. § 760.02(7)	Employer = 15 or more employees, same formula	Statute
Fla. Stat. § 760.11 (2026)	(1) 365-day complaint; (3) FCHR to determine reasonable cause within 180 days; (5) civil action, compensatory damages including mental anguish and loss of dignity, punitive damages capped at $100,000, prevailing-party fee; (5) as amended by ch. 2026-116: one year from a reasonable-cause determination, 18 months from the complaint where no determination within 180 days; (7) no-cause route to a 35-day administrative hearing request; (8) proceed as if cause found when no determination within 180 days	Statute
Fla. Stat. § 440.205	Quoted in ¶ 100	Statute
Fla. Stat. § 440.15(6)	Refusal of suitable employment; benefits consequence; the dispute *Montes de Oca* assigns to the judge of compensation claims	Statute
***Holly v. Clairson Indus., L.L.C.*, 492 F.3d 1247, 1255–56 (11th Cir. 2007)**	Prima facie elements: disabled; qualified individual; subjected to unlawful discrimination because of disability.	Summary judgment (reversed)

AUTHORITY	PROPOSITION USED	POSTURE
***Akridge v. Alfa Mut. Ins. Co.*, 93 F.4th 1181 (11th Cir. 2024)**	"[W]e hold that a plaintiff may not pursue an ADA discrimination claim by showing 'a motivating factor' causation but must show but-for causation." The 2008 switch to "on the basis of" did not change the standard.	Summary judgment
***Mazzeo v. Color Resolutions Int'l, LLC*, 746 F.3d 1264 (11th Cir. 2014)**	Post-ADAAA version applies to post-2009 events; "substantially limits" is not a demanding standard; physician evidence of impairment sufficed; regarded-as theory left open for remand because the district court reached "transitory and minor" without notice	Summary judgment (reversed)
***Swierkiewicz v. Sorema N.A.*, 534 U.S. 506 (2002)**	"[A]n employment discrimination plaintiff need not plead a prima facie case of discrimination"; the McDonnell Douglas prima facie case "is an evidentiary standard, not a pleading requirement"	Rule 12(b)(6) (reversed)
***Gregory v. Ga. Dep't of Human Res.*, 355 F.3d 1277, 1279–80 (11th Cir. 2004)**	"[A] plaintiff's judicial complaint is limited by the scope of the EEOC investigation which can reasonably be expected to grow out of the charge of discrimination"	Post-trial (affirmed; retaliation not barred though box unchecked)
***Wilkerson v. Grinnell Corp.*, 270 F.3d 1314, 1318–21 (11th Cir. 2001)**	A verified intake questionnaire with the § 1601.12(a) information may constitute a charge when the circumstances would convince a reasonable person the filer manifested intent to activate the administrative process	Summary judgment (reversed)

AUTHORITY	PROPOSITION USED	POSTURE
***Nat'l R.R. Passenger Corp. v. Morgan*, 536 U.S. 101 (2002)**	"Each discrete discriminatory act starts a new clock for filing charges alleging that act"; termination is a discrete act; untimely prior acts remain usable "as background evidence in support of a timely claim"	Title VII; summary judgment posture below
***Kolstad v. Am. Dental Ass'n*, 527 U.S. 526, 535–46 (1999)**	Punitive damages require that the employer act "in the face of a perceived risk that its actions will violate federal law"; managerial-capacity and scope-of-employment imputation; no vicarious punitive liability where the managerial decision is contrary to the employer's good-faith efforts to comply	Title VII; remand
***Woodham v. Blue Cross & Blue Shield of Fla., Inc.*, 829 So. 2d 891, 894–99 (Fla. 2002)**	An EEOC "unable to conclude" dismissal is not a § 760.11(7) "no cause" determination; where the FCHR makes no determination within 180 days, the claimant may proceed under (8) without requesting an administrative hearing	Dismissal (quashed)
***Palmer v. Hosp. Auth. of Randolph Cnty.*, 22 F.3d 1559, 1563–69 (11th Cir. 1994)**	§ 1367(a) defines the court's power (claims that "form part of the same case or controversy under Article III"; "the same facts, occurrences, witnesses, and evidence" sufficed); § 1367(c) is the separate discretionary step the court must address	Dismissal for lack of jurisdiction (reversed)
***Chase v. Walgreen Co.*, 750 So. 2d 93, 97–98 (Fla. 5th DCA 1999)**	§ 440.205 prohibits four distinct acts; an employee need not be discharged to sue; *Montes de Oca* distinguished because the legislature had already supplied a remedy for that grievance within chapter 440, "not because the statute was limited to discharge." The court did not reach the sufficiency of the pleaded damages.	Dismissal reversed (the opinion also describes the ruling below as summary judgment)

AUTHORITY	PROPOSITION USED	POSTURE
***Hornfischer v. Manatee Cnty. Sheriff's Office*, 136 So. 3d 703, 706–07 (Fla. 2d DCA 2014)**	Three elements: protected activity; adverse action; causal relation. "[P]roof of a discharge is not essential." No specific retaliatory intent required. Causation still required; summary judgment reversed because causation was disputed.	Summary judgment (reversed)
***Juback v. Michaels Stores, Inc.*, 143 F. Supp. 3d 1195 (M.D. Fla. 2015)**	§ 440.205 includes "two separate claims: retaliatory discharge and retaliatory intimidation or coercion in the absence of a discharge"	Summary judgment (granted on the coercion claim)
***Andrews v. Direct Mail Express, Inc.*, 1 So. 3d 1192, 1193 (Fla. 5th DCA 2009)**	Three elements (Defendant's authority in Doc. 28); causal connection requires at minimum that the defendant knew of the protected expression	Directed verdict (reversed)
***Montes de Oca v. Orkin Exterminating Co.*, 692 So. 2d 257, 258–59 (Fla. 3d DCA 1997)**	A dispute within § 440.15(6) (refusal of suitable employment; assignments allegedly beyond medical restrictions) belongs to the judge of compensation claims and "is outside the coverage of section 440.205"	Dismissal for want of jurisdiction (affirmed)
***Scott v. Otis Elevator Co.*, 572 So. 2d 902, 903 (Fla. 1990)**	A § 440.205 violation is an intentional tort; emotional-distress damages recoverable in the retaliatory-discharge action; four-year statutory limitations period noted from the earlier *Scott* decision	Certified question

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