

<p>CHARGE OF DISCRIMINATION</p> <p>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</p>	<p>Charge Presented To: Agency(ies) Charge No(s):</p> <p><input type="checkbox"/> FEPA</p> <p><input checked="" type="checkbox"/> EEOC</p>
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City of Dallas Fair Housing Office and EEOC

State or local Agency, if any

Name <i>(indicate Mr., Ms., Mrs.)</i>	Home Phone <i>(Incl. Area Code)</i>	Date of Birth
David Jeffcoat ("Mr. Jeffcoat")	(214) 219-8585	11.06.1964

Street Address City, State and ZIP Code

c/o Lambda Legal, Nicholas Guillory, Esq. and Shelly L. Skeen, Esq.
3500 Oak Lawn Avenue, #500, Dallas, Texas 75219

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name	No. Employees, Members	Phone No. <i>(Include Area Code)</i>
Dallas Arboretum and Botanical Society, Inc.	Approximately 120+ full time employees	(214) 515-6615

Street Address City, State and ZIP Code

8617 Garland Rd. Dallas, TX 75218-3993 (c/o Mary Brinegar, Registered Agent)

Name	No. Employees, Members	Phone No. <i>(Include Area Code)</i>

Street Address City, State and ZIP Code

<p>DISCRIMINATION BASED ON <i>(Check appropriate box(es).)</i></p> <p> <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER <i>(Specify)</i> </p>	<p>DATE(S) DISCRIMINATION TOOK PLACE</p> <p style="text-align: center;">Earliest Latest</p> <p style="text-align: center;">Oct. 2021 Feb. 2022</p> <p style="text-align: center;"><input checked="" type="checkbox"/> CONTINUING ACTION</p>
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THE PARTICULARS ARE *(If additional paper is needed, attach extra sheet(s)):*

Mr. David Jeffcoat
Discrimination based on Sex (Sexual Orientation) Under Title VII

Introduction

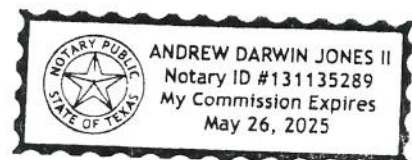
David Jeffcoat brings this charge of sex discrimination against his former employer of over seven (7) years, the Dallas Arboretum and Botanical Society, Inc., who terminated his employment because he is a gay, lives with a man, and is partnered with a man.¹

Background

The Dallas Arboretum and Botanical Society, Inc. ("Arboretum") is a 501(c)(3) non-profit organization that is located on sixty-six (66) acres of land near White Rock Lake in Dallas. The land upon which the Arboretum operates its nonprofit is owned by the City of Dallas. In 2021, the Arboretum attracted 1,025,052 visitors and

¹ Mr. Jeffcoat is married to his husband, but he does not recall telling a management employee he was married.

David Jeffcoat



is also one of the top visitor attractions in Dallas. The Arboretum has between approximately 120 to 170 full-time employees and 50+ part-time employees.²

Facts

In September 2014, the Arboretum hired Mr. Jeffcoat as a gate attendant. Mr. Jeffcoat worked as a gate attendant until June 2021, throughout which time he received positive performance reviews.³ In June 2021, Joanne Genuardi, who became Mr. Jeffcoat's supervisor, asked him if he was interested in applying for the higher level position of "Operations Supervisor" over both the fifty-eight (58) acre Main Garden and the sixteen (16) acre Rory Meyers Children's Garden ("Children's Garden"). Mr. Jeffcoat applied, and Ms. Genuardi hired him for the position within a week. The position required Mr. Jeffcoat to oversee the daily custodial and maintenance needs for the physical property located on all of the Arboretum's sixty-six (66) acres. He was also responsible for managing custodial staff, including approximately ten (10) full time employees and five (5) part time employees, as well as meeting the Arboretum's budgetary guidelines.⁴

After receiving this promotion, Ms. Genuardi and her supervisor Elspeth Nelson, Vice President of Facility Operations, told Mr. Jeffcoat it would take him at least a year and "maybe two" to learn his new position, and that the Arboretum would provide him with the training, assistance, and the support he needed to succeed in it, including performance reviews every thirty (30) days to provide feedback and help him learn as he became accustomed to the job.

The Arboretum failed to provide Mr. Jeffcoat with his first thirty (30) day review, but gave him an overall favorable sixty (60) day review, finding he performed as "Expected for his Position," more times than he needed "Additional Training."⁵ In her first comment on "job knowledge," Ms. Genuardi, stated "[a]s we know, David still has a lot to learn in his position. It typically takes a full year before all job skills are mastered." In another comment, Ms. Genuardi states "I will continue to work with him as he learns....". The review concludes by summarizing Mr. Jeffcoat's overall performance as needing "More Training."⁶

At Mr. Jeffcoat's ninety (90) day review, on or about September 20, 2021, which was also favorable, having performed more times as "Expected for his Position," than needs "Additional Training," Ms. Genuardi stated that "David is learning the skills he needed to manage the janitorial staff and cleaning of the garden" and "David has improved in attention to detail."⁷ The review again summarizes Mr. Jeffcoat's overall performance as needing "More Training."⁸ This was consistent with Ms. Genuardi and Ms. Nelson's representations that it would take Mr. Jeffcoat a year or more to learn his position. This was the last of the

² See Dallas Arboretum and Botanical Garden, available at <https://www.dallasarboretum.org> and <https://www.dallasarboretum.org/about/> (last visited May 30, 2022). The Arboretum has a seventy-five member Board of Directors, over 45,125 members, and more than 273 active volunteers.

³ Between September 2014 and June 2021, the Arboretum only provided Mr. Jeffcoat with one written reprimand that he can remember. The Chief Executive Officer of the Arboretum, Ms. Mary Brinegar, drove through the gate he was attending on a hot Texas summer day. Mr. Jeffcoat was not standing outside of the gate house located next to the gate when Ms. Brinegar drove through the gate. This upset Ms. Brinegar. Ms. Brinegar notified Kris Jackson, Mr. Jeffcoat's supervisor at the time, who wrote Mr. Jeffcoat up for not standing outside of the gate during the entirety of his shift in the hot Texas summer heat. Other than that one written reprimand, and the time Mr. Jeffcoat received the "Notice of Performance Improvement Plan" shortly before his termination described below, Mr. Jeffcoat does not recall being reprimanded in writing during the seven plus (7+) years he worked at the Arboretum.

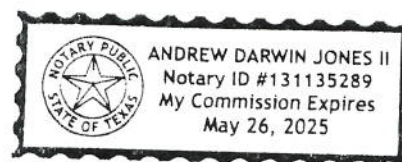
⁴ After the Arboretum reopened to the public in the summer of 2020 after COVID-19, the Arboretum was severely short-staffed, which continued through the holiday season in late 2022, and into the new year when Mr. Jeffcoat was terminated.

⁵ See Exhibit 1, 60 day Performance Review, dated August 16, 2021.

⁶ See Exhibit 1, 60 day Performance Review, dated August 16, 2021.

⁷ See Exhibit 2, 90 day Performance Review, dated September 20, 2021.

⁸ See Exhibit 2, 90 day Performance Review, dated September 20, 2021.



promised thirty (30) day performance reviews the Arboretum provided Mr. Jeffcoat between September 2021 and February 2022, despite its promise to assist his growth through ongoing reviews.

In late October 2021, Mr. Jeffcoat's husband fell ill with COVID-19. In compliance with the Arboretum's COVID-19 protocols, Mr. Jeffcoat notified Ms. Genuardi, that he had been exposed to COVID-19 by his male "partner." Prior to that time, Mr. Jeffcoat had never shared that he lived with another man who was his "partner," with an Arboretum employee in a management position.

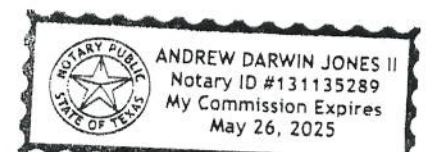
After Mr. Jeffcoat told Ms. Genuardi that he had a male partner who he lived with, both she and Ms. Nelson began treating Mr. Jeffcoat differently. Ms. Genuardi started scheduling Mr. Jeffcoat for back-to-back shifts, such that Mr. Jeffcoat might end up working from eight a.m. to eleven p.m. or midnight one day, only to be required to return by eight a.m. the following morning.

At the end of October, as the Arboretum began to prepare for the busy holiday season, Mr. Jeffcoat was given one (1) day to setup the "Christmas Village," which is an integral part of the annual holiday decorations at the Arboretum. The Christmas Village consists of twelve (12) small houses that are decorated on the outside and inside, most of which a visitor can walk into to see the decorations on the inside. The day before the setup, after Mr. Jeffcoat left for the day, Ms. Genuardi sent him an email with a list of the items she wanted him to accomplish the following day for the setup, which included removing debris and trash from the inside of the houses. On the day of the setup, Ms. Genuardi was off; therefore, she was not available to answer any of Mr. Jeffcoat's questions, or to supervise him or Arboretum staff helping him with the set up. Ms. Genuardi did come to the Arboretum in the late afternoon for the opening of the Christmas Village, which was scheduled for later that evening.

Late that afternoon, Mr. Jeffcoat was working at one end of the Christmas Village, when he received a call from Ms. Nelson to meet her at the front of the Christmas Village. Unhappy with the inside of one of the houses because there was a tote of wall decorations on the floor, Ms. Nelson began cursing at Mr. Jeffcoat for several minutes in front of approximately ten (10) employees, including Ms. Genuardi, who failed to intervene on Mr. Jeffcoat's behalf. Mr. Jeffcoat left the tote inside the house, not realizing that its contents were trash instead of decorations. Directing her anger at Mr. Jeffcoat, Ms. Nelson exclaimed "God Damn it," "Fuck," and "Shit," among other curse words. At first, Mr. Jeffcoat remembers being "shocked" and "dumbfounded" by her reaction, her anger and her language. Then he felt ashamed because Ms. Nelson was raising her voice and cursing at him in front of the Arboretum staff that he knew and worked with each day. Mr. Jeffcoat believed he had properly followed the setup instructions that Ms. Genuardi had sent him in the email the night before. Mr. Jeffcoat did not say anything in his defense because he was so surprised that Ms. Nelson was cursing at him; instead, he just listened as Ms. Nelson ranted on. Ms. Nelson said she was mad at Mr. Jeffcoat because "he made her look bad to her supervisor," during a walk-through of the Christmas Village prior to its opening. Ms. Nelson's reaction failed to take into account the fact that Mr. Jeffcoat and Arboretum staff had only one day to set up the village, the Arboretum was understaffed, Mr. Jeffcoat received Ms. Genuardi's email with the setup instructions that morning, and the instructions failed to state that wall decorations were trash.

That day Mr. Jeffcoat worked from 8 a.m. until 10:30 p.m., or fourteen and a half hours, which was scheduled by Ms. Genuardi.

After he "came out," Mr. Jeffcoat also began to notice that Ms. Genuardi and Ms. Nelson took nearly every opportunity they could to make his job harder to perform. This treatment was markedly different from the treatment he had received before—no longer was the Arboretum providing him with the training, assistance, support and feedback it promised him when he first began working as the Operations Supervisor, or that Ms. Genuardi promised him during his last two reviews. Instead, he was overworked, understaffed, and unable to obtain the tools and supplies necessary to properly perform his job. This resulted in Mr. Jeffcoat coming into



work early and leaving later each day during the holiday season, so that he could do his best to fulfill his job responsibilities, while still keeping up with the increased visitor traffic and the maintenance needs of the Arboretum during its busiest season of the year.⁹ Mr. Jeffcoat also felt like Ms. Genuardi and Ms. Nelson were more critical of his performance, and that they were looking for reasons to make him quit.

On or about the third week of November, less than a month after disclosing that he was gay, the Arboretum suddenly hired a new person to take over a portion of Mr. Jeffcoat's position without notice to Mr. Jeffcoat, and despite the Arboretum's previous representations that it would give Mr. Jeffcoat at least a year to two years to learn his new position. This newly-hired Operations Supervisor was to handle the Main Garden, leaving Mr. Jeffcoat with a diminished position as the Operations Supervisor of the smaller Children's Garden and the acting Operations Supervisor for the Main Garden on the days that the newly hired Operations Supervisor was off.

Further, rather than continuing to provide Mr. Jeffcoat with the performance evaluations it promised him in the thirty (30) day increments to support his growth in his position, on January 12, 2022, Ms. Genuardi gave him a thirty (30) day written "Notice of Performance Improvement Plan ("Notice")."¹⁰ The Notice advised him of several incidences in the prior ninety (90) days that needed improvement. Although the Notice stated that Ms. Genuardi counseled Mr. Jeffcoat on his "unacceptable performance on multiple occasions," the Notice itself was the first time he had heard about any of these incidences with one exception – an incident of unprofessional communication and tone with his staff on November 7, 2021, which he immediately corrected and never did again. Mr. Jeffcoat was not aware that the other items listed in the Notice had been a problem, and one—the accusation of "unauthorized access to the HR Director's Office by climbing through the ceiling"—was both false and completely misconstrued. With the knowledge and approval of Mike Davis, the head of security, Mr. Jeffcoat attempted to gain access to the HR Director's office because she had locked her keys inside at the end of day. The locksmith arrived, obviating the need for Mr. Jeffcoat's efforts, and he never actually accessed the office. The Notice stated that Mr. Jeffcoat "had to demonstrate immediate improvement" in three areas: "(1) Daily completion of assigned tasks in a timely and thorough manner.... (2) Improve communication with colleagues and hourly staff. (3) Communicate with manager what you need from her to be successful in this role." The Notice informed Mr. Jeffcoat that for the next thirty (30) days, his work would be closely monitored and that "improvement must begin immediately and be maintained."¹¹ Notably, rather than Ms. Genuardi identifying how she could assist him in continuing to learn his new position, now the responsibility lay with Mr. Jeffcoat to come to her with solutions.

On Monday morning, February 7, 2022, after Mr. Jeffcoat arrived at the Arboretum to begin his workday, Mr. Jeffcoat slipped and fell on the ice from a recent ice storm in one of the gardens. The Arboretum sent him to its worker's compensation health care provider, Concentra, to see if he had been injured. Concentra concluded that he had, in fact, been injured, prescribed medication and physical therapy for him and ordered that he could return to work, with restrictions including lifting no more than (15) pounds.¹²

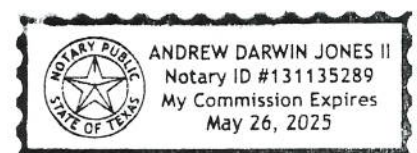
On Tuesday morning after the fall, February 8, 2022, Mr. Jeffcoat woke up in pain, so he notified Ms. Genuardi that he would not be at work that day. Prior to that, Mr. Jeffcoat had only missed approximately (5) days of work due to illness in the seven plus (7+) years he had worked for the Arboretum. On Wednesday morning, February 9, 2022, Mr. Jeffcoat had a physical therapy appointment. He had notified Ms. Genuardi about the appointment ahead of time and told her that he would not arrive until after it was over, near the lunch hour. He arrived at work between 11:30 and 12 noon. At approximately 4 p.m. that afternoon, Ms.

⁹ The Arboretum was even more short staffed during the holiday season because it could not hire employees fast enough to handle the number of visitors during the continued uncertainty of the pandemic.

¹⁰ See Exhibit 3, January 12, 2022, Notice of Performance Improvement Plan.

¹¹ See Exhibit 3, January 12, 2022, Notice of Performance Improvement Plan.

¹² See Exhibit 4, Work Activity Status Report, dated February 7, 2022.



Genuardi called Mr. Jeffcoat into her office and fired him.

Shortly thereafter, Mr. Jeffcoat received a letter dated February 10, 2022, from the Arboretum. The letter stated he was “terminated effective immediately due to your failure to comply and complete the tasks listed in your performance improvement plan given on January 12, 2022.”¹³ It also stated he “failed to complete supervisor daily and weekly tasks assigned to you and your staff. As a result of these continued deficiencies in your performance, the decision was made to terminate your performance with Dallas Arboretum.”

Mr. Jeffcoat contends he was terminated because of his sex, including his sexual orientation, and that any reasons listed for his termination were pretextual.

Title VII Claims

Sex Discrimination Claim(s):

Based on the facts set forth above, Mr. Jeffcoat believes the Arboretum discriminated against him on the basis of sex, including sexual orientation, in violation of Title VII of the Civil Rights Act of 1964, as amended. Mr. Jeffcoat believes the Arboretum discriminated against him because he is gay, lives with a man and is “partnered” with a man to whom he is married. Mr. Jeffcoat began working for the Arboretum in 2014, received positive reviews, and was recommended for and received a promotion to a higher position with greater responsibility, for which the Arboretum pledged support and training. It was only after he came out to his supervisor as gay and partnered with a man that he lives with that the Arboretum began treating Mr. Jeffcoat differently than it had treated him before, which included (1) unreasonable and onerous shift scheduling, (2) ending the promised mechanisms for support, training, and feedback to enable him to learn his new position, (3) diminishing his position by hiring another Operations Supervisor to take over supervision of the Main Garden without notifying him, (4) subjecting him to undue scrutiny, unfair treatment and public ridicule, (5) setting him up for failure by failing to provide him with adequate instructions and guidance during the holiday season to meet the Arboretum’s needs during one of its busiest times of the year, and failing to provide him with, or allow him to hire enough staff, and (6) issuing a “Notice of Improvement Performance Plan” that contained alleged problems from the prior ninety (90) days – a period of time that coincides with the time since the Arboretum learned he was gay—that had never been raised or addressed with him previously.

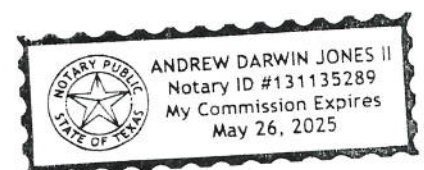
Ultimately, the Arboretum fired Mr. Jeffcoat within approximately four (4) months after he came out as a married gay man even though he had worked at the Arboretum for over seven (7) years.

Other Proceedings:

Mr. Jeffcoat is also filing a complaint with the City of Dallas Fair Housing Office, see Dallas City Code § 46-01 – 46-13, “Unlawful Discriminatory Practices Relating to Sexual Orientation and Gender Identity and Expression.”¹⁴ Which prohibits intentional or knowing discrimination based on “sexual orientation”. The ordinance does not provide a complainant with a private cause of action but can subject a respondent to a fine of not less than \$200 nor more than \$500.

¹³ See Exhibit 5, February 10, 2022, Termination Letter.

¹⁴ See Dallas City Code § 46-01 – 46-13, Unlawful Discriminatory Practices Relating to Sexual Orientation and Gender Identity and Expression, available at https://dallascityhall.com/departments/fairhousing/PublishingImages/Pages/fair_housing_links/Chapter%2046%20Unlawful%20Discriminatory%20Practices%20Relating%20to%20Sexual%20Orientation%20and%20Gender%20Identity%20and%20Exp%20ression.pdf.



Request to Designate the EEOC as Lead Investigating Agency:

Mr. Jeffcoat requests that the EEOC be designated as the investigating agency and for the EEOC to investigate and take remedial action to enforce his rights, including but not limited to awarding compensatory, mental anguish, and punitive damages against the Arboretum.

Represented by Counsel: Mr. Jeffcoat is represented by counsel in this matter, and a copy of all correspondence should be served on counsel identified in the Letter or Representation enclosed with the Charge of Discrimination. His counsel are:

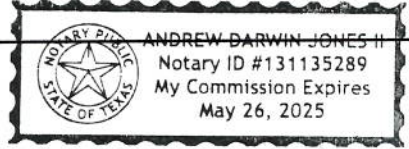
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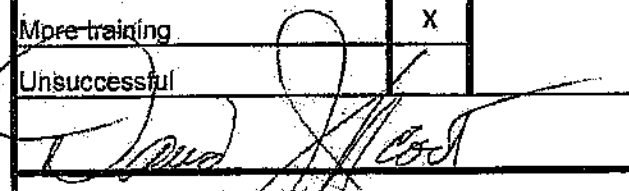
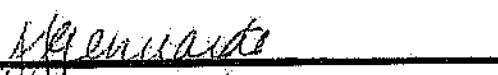
Both Mr. Nicholas "Guilly" Guillory and Ms. Skeen will be your points of contact for this matter. Mr. Guillory's phone number is (214) 219-8585, ext. 5269. Please direct all email communications to Mr. Guillory, Ms. Skeen, and Michele Clanton-Lockhart at: nguillory@lambdalegal.org; sskeen@lambdalegal.org and mclanton@lambdalegal.org.

Please send a file-stamped copy of Mr. Jeffcoat's Employment Discrimination Charge to Mr. Guillory and Ms. Skeen at their email addresses listed above. In the alternative, you may mail a file stamped copy to Mr. Guillory at the address above.

<p>I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.</p>	<p>NOTARY – <i>When necessary for State and Local Agency Requirements</i> <i>Andrew Darwin Jones II</i></p>
<p>I declare under penalty of perjury that the above is true and correct.</p> <p><u>5-31-2022</u> <i>David Jeffcoat</i></p> <p>Date Charging Party Signature</p>	<p>I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.</p> <p>SIGNATURE OF COMPLAINANT <i>David Jeffcoat</i></p> <p>SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)</p>



Dallas Arboretum and Botanical Garden

INITIAL PERFORMANCE REVIEW		<input checked="" type="checkbox"/> 60 Day	<input type="checkbox"/> 90 Day	NAME DAVID JEFFCOAT
EMPLOYEE DEPARTMENT		Operations		
POSITION		Supervisor		
DATE OF HIRE IN POSITION		6/14/2021		
Place an 'X' in the column that best represents the employee's performance for each area to date		Unsuccessful	Additional training Needed	Expected for position
				Comments
Job Knowledge			<input checked="" type="checkbox"/>	As we know, David still has a lot to learn in his position. It typically takes a full year before all job skills are mastered.
Work Quality			<input checked="" type="checkbox"/>	David needs to be focused on priority tasks and the quality of janitorial work.
Productivity			<input checked="" type="checkbox"/>	It is easy to become distracted by items that present as a crisis. David needs to learn to prioritize the tasks that need his attention and allow other departments to handle items that are not related to janitorial work.
Attendance/Punctuality				<input checked="" type="checkbox"/>
Enthusiasm, willingness to learn				<input checked="" type="checkbox"/>
Cooperative, compliant				<input checked="" type="checkbox"/>
Initiative, desires to be productive				<input checked="" type="checkbox"/>
Conduct, professional image				<input checked="" type="checkbox"/>
Communication skills (verbal - written)			<input checked="" type="checkbox"/>	David is learning written communication skills needed for the job.
Responsive to feedback				<input checked="" type="checkbox"/>
Management of staff (if applicable)			<input checked="" type="checkbox"/>	David is learning the challenges associated with managing staff across the garden. I will continue to work with him as he learns to prioritize staff management, including scheduling, hiring, and managing conflict with full and part time staff.
How would the employee's overall performance be summarized? Check Box below and indicate comments to the right.		David is very enthusiastic about the job. There is still much for him to learn. He sometimes has a challenge remembering the details. I have asked him to take notes regarding job duties for reference later. I will continue to work with David on training and prioritizing items that need to be done. He has done a good job of working on deep cleaning across the garden. However, the day to day cleaning of restrooms, houses, offices and the managing and hiring of staff needs to be his top priority.		
Expected for Position				
More training			<input checked="" type="checkbox"/>	
Unsuccessful				
 Employee Signature		8-16-21 Date		
(By signing this form, you confirm that you have discussed this review with your supervisor. Signing this form does not necessarily indicate that you agree with this evaluation.)				
 Supervisor Signature		8/16/21 Date		



Dallas Arboretum and Botanical Garden

INITIAL PERFORMANCE REVIEW		60 Day	X	90 Day	NAME DAVID JEFFCOAT
EMPLOYEE DEPARTMENT	Operations				
POSITION	Supervisor				
DATE OF HIRE IN POSITION	6/14/2021				
Place an 'X' in the column that best represents the employee's performance for each area to date	Unsuccessful	Additional Training Needed	Expected for Position	Comments	
Job Knowledge		X		David is learning the skills needed to manage the janitorial staff and cleaning of the garden. He needs to continue to work on finding a balance with priority and daily tasks.	
Work Quality		X		David needs to continue to focus on priority tasks and the quality of janitorial work. Restroom cleanliness and routine cleaning needs to	
Productivity			X	David is doing a better job of managing tasks related to his job and staff. He needs to continue to be focused on janitorial tasks across the garden.	
Attendance/Punctuality			X		
Enthusiasm, willingness to learn			X		
Cooperative, compliant			X		
Initiative, desires to be productive			X		
Conduct, professional image			X		
Communication skills (verbal - written)		X		David needs to continue to work on written communication skills needed for the job, including email, Excel and inventory spreadsheets.	
Responsive to feedback			X		
Management of staff (if applicable)		X		David still has room for improvement in the area of staff management. There is a challenge with hiring staff but he still needs to manage the existing staff to cover all needed areas.	
How would the employee's overall performance be summarized? Check Box below and indicate comments to the right.		David has improved in attention to detail. He needs to remain focused on daily and routine tasks until all janitors are in a good routine. He also needs to focus on hiring part time staff for festival and filling full time positions.			
Expected for Position					
More training		X			
Unsuccessful					
Employee Signature			Date		
(By signing this form, you confirm that you have discussed this review with your supervisor. Signing this form does not necessarily indicate that you agree with this evaluation.)					
<i>[Signature]</i>			9/20/21		
Supervisor Signature			Date		





DALLAS ARBORETUM
AND BOTANICAL GARDEN

To: David Jeffcoat
From: Joanna Genuardi
Date: January 12, 2022

Subject: Notice of Performance Improvement Plan

During the past 90-days, it has become increasingly evident that you have not been performing your assigned work in accordance with what is expected of your position as Facility Operations Supervisor. You were counseled on this unacceptable performance on multiple occasions by your immediate manager, Joanna Genuardi:

November 7, 2021 – Unprofessional communication and tone with staff members
November 2021 – Cleaning of ticket booths at Children's Garden
November 13, 2021 – Unprofessional communication style with temporary worker
November 2021 – Communication via the radio when calling for assistance to clean the Christmas Village
December 2, 2021 – Inventory submission
December 8, 2021 – Unauthorized access to HR Director's office by climbing through the ceiling
December 2021 – Close List for Children's Garden

To date, significant improvement has not been made. Dallas Arboretum values you as an employee, and it is our intent to make you fully aware of this situation and to assist you in improving your work performance. The responsibility to improve, however, is yours alone.

You are being placed on a written performance improvement plan. For the next 30 days, your work will be closely monitored. You must demonstrate immediate improvement in the following areas:

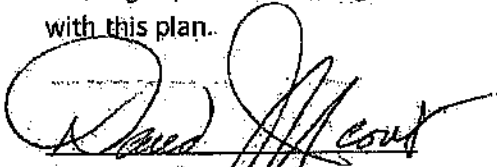
1. Daily completion of assigned tasks in a timely and thorough manner with a daily end of day report to Manager of progress and results.
2. Improve communication with colleagues and hourly staff.
3. Communicate with manager what you need from her to be successful in this role.



I will review your progress on each of the above items requiring improvement every week during our 1:1 meetings. Improvement must begin immediately and be maintained. If any objective of this improvement plan is not met at any time during the specified time frame, disciplinary action, to include separation from Dallas Arboretum, may occur. A decrease in performance after successfully completing the improvement plan may also result in dismissal from Dallas Arboretum without the issuance of another warning or improvement plan.

I am available to discuss any issues or concerns you may have as you work through this plan.

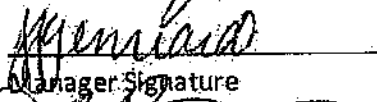
Your signature acknowledges this discussion. It does not indicate agreement or disagreement with this plan.



Employee Signature

1-12-22

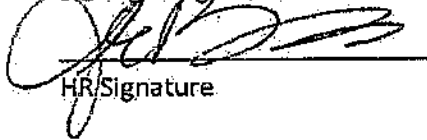
Date



Manager Signature

1/12/22

Date



HR Signature

1-14-2022

Date

OBJECTIVES	TASKS	EVALUATION
A. Complete tasks assigned in a timely and thorough manner. Communicate progress and results.	1. Keep written list of assigned tasks, including: details of task, steps of completing task and timeline for finishing task.	
	2. Send written daily progress reports to Operations Manager.	
B. Improve communication with colleagues and hourly staff.	1. When speaking to colleagues and staff, do not use a condescending tone.	
	2. Use written communication when appropriate.	
	3. Post information for staff that is pertinent to their job performance and assignments.	
C. Communicate with Operations Manager what you need to be successful in this role.	1. List of supplies needed to be successful at your job.	
	2. Training needed to be successful at your job.	
	3. Preferred method of communication by Operations Manager.	
	4. Frequency of feedback by Operations Manager.	



Employee - You are required to report your injury to your employer within 30 days if your employer has workers' compensation insurance. You have the right to free assistance from the Texas Department of Insurance, Division of Workers' Compensation (DWC) and may be entitled to certain medical and income benefits. For further information call DWC at 800-252-7031.

Empleado - Es requerido que usted reporte su lesión a su empleador dentro de 30 días si es que su empleador cuenta con un seguro de compensación para trabajadores. Usted tiene derecho a recibir asistencia gratuita por parte del Departamento de Seguros de Texas, División de Compensación para Trabajadores (DWC), y es posible que tenga derecho a recibir ciertos beneficios médicos y de ingresos. Para obtener más información llame a DWC al 800-252-7031.

DWC073

Texas Workers' Compensation Work Status Report

I. GENERAL INFORMATION				Date Sent (for transmission purposes only): 02/07/2022	
1. Injured Employee's Name David W Jeffcoat		5a. Doctor's/Delegating Doctor's Name and Degree Svellana Khairina, M.D.		5b. PA / APRN Name (if completing form)	
2. Date of Injury 02/07/2022	3. Social Security Number (last four) XXX-XX-3089	6. Facility Name CMC - Garland - TX		9. Employer's Name Dallas Arboretum & Botanic	
4. Employee's Description of Injury/Accident Patient states he was carrying supplies when he slipped on ice. Patient states he injured his upper back, lumbar spine and left hip.		7. Facility/Doctor Phone and Fax Numbers (214)-340-7555 FAX (214)-340-3980		10. Employer's Fax Number or Email Address (if known) (0)-0-0000/baines@dallasarboretum.org	
		8. Facility/Doctor Address (Street, City, State, ZIP Code) 1621 S. Jupiter Rd Suite 101 Garland TX 75042		11. Insurance Carrier Texas Mutual Insurance Company	
				12. Carrier's Fax Number or Email Address (if known)	

II. WORK STATUS INFORMATION (Fully complete one box including estimated dates, and a description in 13c, if applicable)

13. The injured employee's medical condition resulting from the workers' compensation injury:

a) will allow the employee to return to work as of ___/___/___ without restrictions; OR

b) will allow the employee to return to work as of 02 / 07 / 2022 with the restrictions identified in PART III, which are expected to last through 02 / 09 / 2022; OR

c) has prevented and still prevents the employee from returning to work as of ___/___/___ and is expected to continue through ___/___/___

The following describes how this injury prevents the employee from returning to work:

III. ACTIVITY RESTRICTIONS (Only complete if box 13b is checked)

14. Posture Restrictions (if any):		17. Motion Restrictions (if any):		19. Misc. Restrictions (if any):	
Max hours per day	0 2 4 6 8 Other:	Max hours per day	0 2 4 6 8 Other:	<input type="checkbox"/> Max hours per day of work:	
Standing	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Walking	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Sit/stretch breaks of ___ per ___	
Sitting	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Climbing stairs/ladders	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Must wear splint/cast at work	
Kneeling/squatting	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Grasping/squeezing	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Must use crutches at all times	
Bending/stooping	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Wrist flexion/extension	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> No driving/operating heavy equipment	
Pushing/pulling	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Reaching	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Can only drive automatic transmission	
Twisting	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Overhead reaching	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> No skin contact with:	
Other:		Keyboarding	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> No running	
15. Restrictions Specific To (if applicable):		Other:		<input type="checkbox"/> Dressing changes necessary at work:	
<input type="checkbox"/> Left hand/wrist	<input checked="" type="checkbox"/> Left leg	18. Lift/Carry Restrictions (if any):		<input type="checkbox"/> No work /: ___ hours/day work:	
<input type="checkbox"/> Right hand/wrist	<input type="checkbox"/> Right leg			<input type="checkbox"/> In extreme hot/cold environments:	
<input type="checkbox"/> Left arm	<input checked="" type="checkbox"/> Back	<input checked="" type="checkbox"/> May not lift/carry objects more than 15 lbs. for more than ___ hours per day.		<input type="checkbox"/> at heights or on scaffolding	
<input type="checkbox"/> Right arm	<input type="checkbox"/> Left foot/ankle	<input type="checkbox"/> May not perform any lifting/carrying:		<input type="checkbox"/> Must keep ___	
<input type="checkbox"/> Neck	<input type="checkbox"/> Right foot/ankle	Other:		<input type="checkbox"/> elevated <input type="checkbox"/> clean & dry	
16. Other Restrictions (if any) alternate seating and walking as tolerated				20. Medication Restrictions (if any):	
				<input type="checkbox"/> Must take prescription medication(s)	
				<input type="checkbox"/> Advised to take over-the-counter meds	
				<input type="checkbox"/> Medication may make drowsy (possible safety/driving issues)	

IV. TREATMENT/FOLLOW-UP APPOINTMENT INFORMATION

21. Work Injury Diagnosis Information:
Contusion of buttock (922.32 S30.0XXA)
Sacroiliac joint dysfunction (724.6 M53.3)
Strain of lumbar region (847.2)

22. Expected Follow-up Services Include:
 Evaluation by the treating doctor on 02 / 09 / 2022 at 09:00 a.m./p.m.
 Referral to/consult with ___ on ___/___/___ at ___ a.m./p.m.
 Physical medicine ___ X per week for ___ weeks starting on ___/___/___ at ___ a.m./p.m.
 Special studies (list): ___ on ___/___/___ at ___ a.m./p.m.
 None. This is the last scheduled visit for this problem. At this time, no further medical care is anticipated.

Date / Time of Visit: 02/07/2022	Employee's Signature <i>[Signature]</i>	Visit Type: <input checked="" type="checkbox"/> Initial <input type="checkbox"/> Follow-up	Role of Health Care Practitioner: <input checked="" type="checkbox"/> Treating doctor <input type="checkbox"/> Referral doctor <input type="checkbox"/> RME doctor <input type="checkbox"/> Consulting doctor <input type="checkbox"/> PA <input type="checkbox"/> APRN <input type="checkbox"/> Designated doctor <input type="checkbox"/> Other doctor
Discharge Time: 02:52:24 PM	Health Care Practitioner's Signature / License # <i>[Signature]</i> Q1640		



EXHIBIT
Charging Party 4



February 10, 2022

Dear David,

This letter confirms our discussion Wednesday, February 9, 2022 informing you that your employment with Dallas Arboretum is terminated effective immediately due to your failure to comply and complete the tasks listed in your performance improvement plan given on January 12, 2022.

During your weekly meetings with your Manager Joanna Genuardi, you failed to complete supervisor daily and weekly tasks assigned to you and your staff. As a result of these continued deficiencies in your performance the decision was made to terminate your performance with Dallas Arboretum.

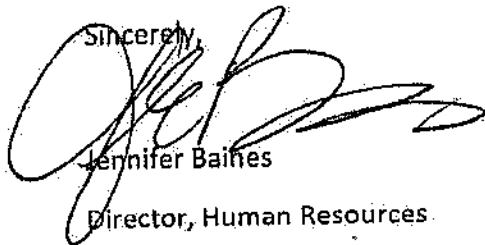
Your final paycheck will be provided to you on Friday, February 12, 2022 and will include payment for hours worked February 1 through February 15, 2022. You will receive an additional paycheck for 100 hours of unused vacation.

Your health insurance benefits will continue through February 28, 2022. Your rights to continue coverage under COBRA will be provided to you by mail from our plan administrator.

You can contact Vision Point at 1-800-556-1303 regarding your retirement plan distribution options.

Should you have further questions, please contact me directly at 214-515-6509 or dabshr@dallasarboretum.org.

Sincerely,



Jennifer Baines

Director, Human Resources

214-515-6509

DALLAS ARBORETUM
AND BOTANICAL GARDEN

8525 Garland Road, Dallas, Texas 75218 • 214.515.6500 • www.dallasarboretum.org

EXHIBIT

Charging Party 5