

ORIGINAL

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U.S. DISTRICT COURT, E.D. N.Y.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

★ APR 10 2012 ★

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NICOLE CORRADO,

LONG ISLAND OFFICE

COMPLAINT

Plaintiff,

Docket No.:

-against-

SUMMONS ISSUED

NEW YORK STATE UNIFIED COURT SYSTEM,

CV 12 - 1748

Defendants.
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NICOLE CORRADO ("Plaintiff"), by and through her attorneys, The Law Office of BORRELLI & ASSOCIATES, P.L.L.C., alleges upon knowledge as to herself and her own actions and upon information and belief as to all other matters as follows:

PIZARRI, J.
GO, NY

NATURE OF CASE

This is a civil action based upon violations committed by Defendant, NEW YORK STATE UNIFIED COURT SYSTEM ("Defendant"), of Plaintiff's rights guaranteed by: (i) Title VII of the Civil Rights Act of 1964, as amended ("Title VII") and (ii) any other cause(s) of action that can be inferred from the facts set forth herein.

PRELIMINARY STATEMENT

Plaintiff is an attorney and an employee of the State of New York Unified Court System, since November 2001. Between the years of 2003 through 2009, Defendant subjected Plaintiff to discrimination and harassment on the basis of her gender. Specifically, Defendant repeatedly made unwanted sexual advances, inappropriate sexual comments and sexual overtures to Plaintiff, as well as subject Plaintiff to an unwelcome and toxic work environment by exposing her to continued unlawful behavior of a sexual nature from two males in positions of authority

and supervision over the Plaintiff. When Plaintiff complained to Defendant, her claims were referred to the Office of the Inspector General for the Unified Court System (“OIG”). Once the investigation was completed, Defendant engaged in a pattern of retaliation against the Plaintiff by assigning her an unrealistic work load, unfair evaluations and subjecting Plaintiff to constant scrutiny, criticism and ridicule, forcing Plaintiff to take an unplanned and unwanted two year leave of absence at the height of her professional career, foregoing opportunities for career advancement.

JURISDICTION AND VENUE

1. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331. The supplemental jurisdiction of the Court is invoked pursuant to 28 U.S.C. § 1367 over all state and local law causes of action.
2. Venue is appropriate in this court pursuant to 28 U.S.C. § 1391(b) (1), as one or more of the defendants resides within this judicial district.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

3. Plaintiff filed a “Charge of Discrimination” against Defendant with the Equal Employment Commission (“EEOC”), EEOC Charge No. 520-2009-03816, on May 29, 2009, based on sexual harassment discrimination, religious discrimination and retaliation. On January 11, 2012, EEOC issued Plaintiff a “Dismissal and Notice of Suit Rights.” Plaintiff timely filed the instant matter within 90 days of receiving that letter.

PARTIES

4. At all relevant times herein, Plaintiff is a resident of the State of New York, County of Queens.
5. At all relevant times herein, Plaintiff is female.

6. At all relevant times herein, Plaintiff is an attorney, employee and a qualified person to work under the definition of Title VII.
7. At all relevant times herein Unified Court System (“Defendant”) is the official name of the judicial system of New York in the United States, with offices and Court houses all over the state of New York in each and every county. Defendant functions under the Chief Judge of the New York Court of Appeals and Defendant oversees all legal actions brought in the state of New York.
8. At all times relevant herein, Defendant appointed an independent Committee, known as the Departmental Disciplinary Committee (“DDC”) comprised of lawyers and non-lawyers to handle complaints of a disciplinary nature against lawyers whose offices are in Manhattan or the Bronx. DDC’s office and place of business is located at First Judicial Department 61 Broadway, 2nd Floor New York, New York.
9. At all times relevant herein, Plaintiff worked at the Defendant’s office within the DDC located at 61 Broadway, 2nd Floor New York, New York 10006.
10. At all relevant times herein, Defendant was an “employer” that “employs” at least 15 “employees” within the meaning of Title VII.

BACKGROUND FACTS

11. Plaintiff commenced her employment with Defendant on November 8, 2001.
12. Plaintiff was initially hired as an Associate Attorney and then as a result of her hard work and dedication to her cases was promoted to the Role of Principal Attorney in 2006.

13. As Principal Attorney, Plaintiff's responsibilities remained the same as those of an Associate attorney in that she investigated and litigated disciplinary matters involving attorneys with offices in Manhattan and the Bronx.
14. In or around 2002, Andral Bratton became Plaintiff's immediate Supervisor.
15. From 2003 until 2008, while supervising Plaintiff, Bratton admitted to developing a strong sexual attraction for Plaintiff resulting in frequent comments about his desire to have an intimate relationship with her, and later admitted during a subsequent investigation conducted by the OIG that he wanted to be in a relationship with Plaintiff and that he was "foolish as hell for crossing an emotional boundary with Plaintiff."
16. From 2003 until 2008, Bratton continuously subjected Plaintiff to a hostile work environment by engaging in the activity including but not limited to: making numerous inappropriate and unwelcomed comments filled with sexual innuendos to Plaintiff; frequently calling her at home in the evening and on week-ends subtly expressing his sexual desire for her and threatening her job if she did not return his affections.
17. Each comment Bratton made as stated above was sexual in nature and uttered for the purpose of either requesting sexual favors or for personal sexual gratification.
18. Specifically, during the course of his supervision of Plaintiff, Bratton would make statements such as "I feel like someone had ripped into my chest and ripped my heart out and stomped it to the floor" because he was married and wanted to have an extra-marital affair with Plaintiff.
19. On numerous occasions Bratton would scan Plaintiff up and down with lust in his eyes. On one occasion Plaintiff was wearing a loose sweater that slightly exposed her shoulder, Bratton remarked, "With you Nicole a little skin showing goes a long way."

20. On another occasion, in response to Plaintiff objecting to Bratton's conduct and asking him to conduct himself in an appropriate manner, because Plaintiff was uncomfortable with his numerous advances, Bratton responded in sum and substance that he felt like a "loaded pistol" in describing his compelling attraction to the Plaintiff.
21. On numerous occasions when Plaintiff discouraged him from making sexually charged remarks, Bratton, aware of the power he held as her supervisor would state, "You *need* to be nice to me."
22. Bratton would also repeatedly call Plaintiff on the phone on random nights expressing his desire for her, in that he wanted her attention and needed to be close to her. In distressed tones he would often state, "I have no one else to turn to" further demonstrating his constant need to be in contact with Plaintiff.
23. At no time did Plaintiff ever share or return any of Bratton's feelings and frequently expressed to him that his comments, sexual innuendos and lustful gazes were inappropriate and made her exceedingly uncomfortable.
24. In or about June of 2007 as a result of Bratton's, at times daily comments, continued demand for attention from Plaintiff and numerous phone calls during and after work hours and on week-ends, Plaintiff requested to be transferred to another supervisor.
25. Shortly after Plaintiff's transfer request, Bratton took a leave of absence from Defendant's employ for several months, returning in August 2007.
26. Upon Bratton's return to the office Plaintiff kept her distance and avoided contact with him.

27. In or around June of 2008, Defendant learned Plaintiff would be testifying as a non-party witness in a civil action against Defendant which alleged racial discrimination and other improper conduct on the part of Defendant and its supervisors.
28. In or around June of 2008, in retaliation for Plaintiff agreeing to provide corroborating testimony in the aforementioned discrimination suit, Alan Friedberg, the Division Chief, began closely monitoring Plaintiff's conduct and writing memos reflecting negative comments concerning Plaintiff's productivity and work practices in her file, while not disclosing said memos to Plaintiff.
29. In or around August 2008, approximately two days prior to Plaintiff testifying in the discrimination case against Defendant, Bratton approached Plaintiff in her office and informed her that in 2007, as a result of her rejecting him, he admitted himself into the psychiatric ward at St. Vincent's hospital for "severe depression and suicidal tendencies" and that he was warning her accordingly. When Plaintiff asked Bratton what he meant, Bratton stated in response, "I am just warning you" while staring intensely at the Plaintiff.
30. On or around August 21, 2008, Plaintiff gave testimony against Defendant in the discrimination lawsuit.
31. On or about September 17, 2008, in response to Bratton's warning, and in fear for her safety, Plaintiff reported Bratton's long pattern of sexual harassment and now threatening behavior to Friedberg. Plaintiff also reported Vincent Raniere's pattern of sexual harassment against her that she had experienced from 2003 to 2008.

32. During 2003-2008, Defendant employed Raniere as the Chief Investigator at DDC, having supervisory authority over cases being investigated by Defendant and the internal office operations.
33. From 2004 through 2008, Raniere would repeatedly make statements to Plaintiff such as “I can force you to be with me if I want to” and “I can take care of you in other ways, even if I can’t take care of you sexually.”
34. Raniere also made statements like you don’t need anyone but me, as well as commenting on Plaintiff’s clothes and appearance and would often state how good she looked in her clothes and how well she wore them.
35. Raniere would also state that he dreamed of Plaintiff at night, and that he would awake at night thinking of Plaintiff.
36. Raniere repeatedly called Plaintiff to say “I love you” and “I miss you.”
37. Each comment Raniere made was sexual in nature and uttered for the purpose of either requesting sexual favors or for personal sexual gratification.
38. Raniere also forcibly and repeatedly kissed Plaintiff on several occasions on the mouth without her consent. Raniere also frequently touched Plaintiff’s hair and face, while expressing a desire to be in an intimate relationship with Plaintiff.
39. At no time did Plaintiff ever share or return any of Raniere’s feelings and frequently expressed to him that his sexual comments, inappropriate touching and kissing made her extremely uncomfortable.
40. In spite of Plaintiff reporting both Bratton and Raniere’s sexual harassment of her, Friedberg only selectively documented Plaintiff’s allegations of sexual harassment involving Mr. Bratton to the OIG.

41. From September 2008 thru October 2008, the OIG conducted an investigation into Plaintiff's allegations solely in relation to Bratton.
42. During the investigation Bratton admitted to making comments where he expressed his desire and attraction to the Plaintiff and described himself as "crossing an emotional boundary with Plaintiff," and that he had become "smitten" with Plaintiff.
43. Coincidentally, during the OIG investigation, Friedberg, made few if any notations and/or wrote any adverse memos to Plaintiff's personnel file.
44. Once the OIG investigation ended, in or about October of 2008, Friedberg in retaliation to Plaintiff's complaint significantly intensified his monitoring of Plaintiff, at times making daily adverse notations about the Plaintiff in her personnel file.
45. Although a seven year veteran of Defendant's office, and a former prosecutor and criminal defense attorney, Friedberg began ridiculing Plaintiff, criticizing Plaintiff's investigative and litigation skills and techniques.
46. Upon the conclusion of OIG's investigation and in spite of Bratton's admissions, and Defendant's conclusion that Bratton "engaged in inappropriate conduct as Plaintiff's Supervisor" with the Plaintiff, they decided to merely transfer him to another unit with the same salary and benefits.
47. On or about that same time, Friedberg also informed Plaintiff that Bratton would still be permitted unrestricted access to her department and that she should just "avoid" him.
48. Subsequent to the OIG's finding of impropriety, Bratton appeared, without reprimand, at Plaintiff's office on several occasions without prior notice to the Plaintiff, notwithstanding her request for such notice.

49. From October of 2008 thru August of 2009, Plaintiff became increasingly anxious and distressed and feared for her safety and the safety of her child, as a result of the contact she was subjected to from Bratton, Raniere and the relentless, scrutiny and ridicule she received from Friedberg.
50. In May of 2009, Plaintiff filed EEOC charges against Defendant and included years of sexual harassment that she also experienced from Raniere.
51. In or around October of 2008, during the OIG investigation, Friedberg admitted to being aware of Raniere's inappropriate comments to other females in the office; however Defendant never did anything to reprimand Raniere or take any type of disciplinary action against him.
52. In or around July of 2009, in spite of Plaintiff's pending allegations against Raniere, Defendant instructed Plaintiff that all investigations must go through Raniere and thus mandated that Plaintiff have continued contact with Raniere.
53. In or around July 2009, Friedberg further increased his monitoring of Plaintiff's activities and repeatedly ordered her to attend a work related counseling session threatening her with job termination if she failed to comply.
54. From January of 2009 through July 2009, Defendant also assigned Plaintiff unreasonable workloads and constantly criticized the manner in which she handled her cases.
55. From January 2008 thru July of 2009, Plaintiff became increasingly anxious, distressed and suffered extreme emotional pain, loss of appetite and numerous bouts of insomnia as a result of Defendant's acts of sexual harassment and then subsequent retaliation.

56. On August 24, of 2009, as a result of the anxiety and emotional distress Plaintiff experienced as a result of Defendant's conduct, Plaintiff took an unpaid leave of absence during the height of her career, which lasted two years and resulted in Plaintiff losing the opportunities to apply for administrative positions commensurate with her experience.
57. In or around August 2011, Plaintiff, returned to work for the Defendant, once all of the above named individuals had either resigned or retired.
58. In 2008, Plaintiff retained the services of an attorney with offices in New York City to represent her in a Supreme Court civil action involving a property issue (Corrado v. East End Pool & Hot tub, James King et al Index # 22430/2005).
59. While Plaintiff's civil matter was pending and subsequent to Plaintiff's EEOC charge of sexual harassment and retaliation, in August 2009, Defendant initiated an investigation unrelated to her underlying civil action against her attorney involving serious ethical charges of bribery and forgery.
60. In May of 2010, Plaintiff's attorney in the underlying civil action abruptly withdrew as Plaintiff's counsel and her case of five years was subsequently dismissed and she was ultimately forced to settle her case for a fraction of its value.
61. In May 2010, all of the serious ethical charges against Plaintiff's attorney initiated by Defendant that would normally result in formal disciplinary action were also dismissed.
62. At no time during the disciplinary action against Plaintiff's attorney or any time thereafter did Plaintiff's attorney disclose to plaintiff that he was the subject of a disciplinary investigation by Defendant.

63. At no time during the disciplinary action against Plaintiff's attorney or any time thereafter did Defendant disclose to Plaintiff any of Defendant's investigation of her attorney's disciplinary action, violating the rules of professional conduct.

FIRST CLAIM AGAINST DEFENDANT

(Sexual Harassment Discrimination and Retaliation under Title VII)

64. Plaintiff repeats, reiterates and re-alleges each and every allegation set forth above with the same force and effect as if more fully set forth herein.

65. Title VII prohibits discrimination in the terms, conditions, and privileges of employment on the basis of an individual's gender and sex also prohibits retaliation against individuals who in good faith complain about discriminatory practices to which they have been subjected.

66. Defendant, as described above, discriminated against Plaintiff in violation of Title VII by taking adverse employment actions against Plaintiff because of her gender.

67. Defendant retaliated against Plaintiff in violation of Title VII for Plaintiff having in good faith opposed Defendant's discriminatory practices by taking the various adverse employment actions described above against her.

68. As a result of Defendant's discriminatory acts, Plaintiff has suffered and will continue to suffer substantial losses, including loss of past and future earnings and other employment benefits, and has suffered other monetary damages and compensatory damages for, inter alia, mental anguish, emotional distress, humiliation, and loss of reputation.

69. Defendant acted intentionally and with malice and reckless indifference to Plaintiff's rights under Title VII and is thereby liable to Plaintiff for compensatory damages under Title VII.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, demands judgment against Defendant is as follows:

65. Enter a judgment declaring that Defendant's patterns, practices and omissions, as described above, violate the law;
66. Enter a judgment and award in favor of Plaintiff and against Defendant for reasonable monetary damages, including back pay (plus interest or an appropriate inflation factor and enhancement to offset adverse tax consequences associated with lump sum receipt of back pay), front pay, benefits and all other damages owed to Plaintiff in an amount proven at trial, resulting from Defendant's unlawful and discriminatory acts or omissions;
67. Enter a judgment and award in favor of Plaintiff for the compensatory, punitive, exemplary and liquidated damages available under all applicable Federal, State, and Local laws;
68. Enter a judgment and award in favor of the Plaintiff for costs, including, but not limited to, reasonable attorneys' fees, experts' fees, and other costs and expenses of this litigation;
69. Enter a judgment and award in favor of Plaintiff for pre-judgment and post-judgment interest;
70. Award such other and further legal and equitable relief as may be found appropriate and as this Court may deem just and proper; and
71. Retain jurisdiction over this action until such time as it is satisfied that Defendant has remedied the practices complained of and is determined to be in full compliance with the law.

DEMAND FOR A JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury in this action.

Dated: Great Neck, NY
April 9, 2012

Respectfully submitted,
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