

**SUPREME COURT STATE OF NEW YORK  
COUNTY OF KINGS**

**DIANE HENSON and SHEILA GAY-ROBBINS,**

**Plaintiffs,**

**vs.**

**MADISON SQUARE GARDEN and CABLEVISION  
SYSTEMS CORPORATION,**

**Defendants.**

**VERIFIED COMPLAINT  
WITH JURY DEMAND**

**Index No.**

Plaintiffs, Diane Henson and Sheila Gay-Robbins, by their attorneys, Tuckner, Sipser, Weinstock & Sipser, LLP, complain as follows.

**NATURE OF THE CASE**

1. This is an action arising under the law of the City of New York seeking damages to redress the injuries that Plaintiffs Diane Henson and Sheila Gay-Robbins have suffered as a result of being discriminated against and discharged by their former employer, Madison Square Garden and Cablevision Systems Corporation (hereinafter collectively referred to as "Defendants" and/or "MSG") on the bases of their gender, race and color, and in retaliation for complaining about discrimination.

**PARTIES**

2. Plaintiff Diane Henson is an African-American female who was employed by Defendants from in or about 1996 until on or about July 7, 2007.

3. Plaintiff Sheila Gay-Robbins is an African-American female who was employed by Defendants from in or about February 2002 until on or about August 15, 2007.

4. Madison Square Garden (also described herein as "MSG") is an "employer" as defined in §8-102(5) of the New York City Administrative Code, as it employs four (4) or more persons.

5. Cablevision Systems Corporation is an "employer" as defined in §8-102(5) of the New York City Administrative Code, as it employs four (4) or more persons.

### **MATERIAL FACTS**

#### **DIANE HENSON**

6. Plaintiff Diane Henson is a fifty-year old African-American female.

7. Plaintiff Henson was hired by Defendants as an Event Supervisor in or about 1996. She was a dedicated, hard-working and committed employee who performed the essential functions of her position in an exemplary manner.

8. In or about 2005, two white males, Kirk Randazzo, MSG VP Event Operator, and Joseph DiCoco, MSG Director of Event Operators, commenced employment with Defendants.

9. Thereafter, Plaintiff Henson was subjected to discriminatory and retaliatory conduct, including but not limited to, the following.

10. Approximately two months after Randazzo and DiCoco were hired into their positions, Plaintiff Henson was asked to sign a two-week disciplinary suspension memo for an alleged performance issue that occurred years in the past.

11. Plaintiff Henson refused to sign the suspension notice because it was untrue, the allegations were stale and it was brought by individuals who were no longer employed by Defendants at the time of her notification of the disciplinary suspension.

12. Notwithstanding her longstanding and demonstrably excellent performance, Plaintiff Henson was given less desirable positions, while white men received more favorable positions.

13. Specifically, Plaintiff Henson was assigned to MSG's "D" Tower and the Mezzanine, one of the less desired areas known as the "*nose bleed section*" due to its high altitudinal placement within the MSG arena. This large area of coverage was frequently uncomfortably warm and involved the more frequent supervision of children, large groups and unruly youths than occurred for those working in other areas of the arena.

14. Newly hired male and Caucasian employees were routinely assigned to the more desirable sections and positions, although they lacked the qualifications, experience and

responsibilities that Plaintiff Henson possessed.

15. Caucasian and male employees were allowed flexibility in their schedules, attendance and vacation time, a benefit of employment at MSG that Plaintiff Henson was not accorded. Plaintiff Henson was required to work longer hours, assume more responsibility and was paid less than comparator Caucasian and/or male employees.

16. When Plaintiff Henson inquired about being denied certain positions regarded as “elite” within MSG, Randazzo replied that those positions were given to people who “*could handle it*,” a statement Plaintiff Henson perceived as both sexist and racist.

17. Plaintiff Henson, a long-term employee of MSG, was not provided with the same opportunities as men and/or Caucasians for certain coveted positions, including the sought after job of Event Manager.

18. An advertisement for the position of Event Manager was posted externally, despite the fact that Plaintiff Henson was well-qualified and inquired about the position several times, yet the position was not posted internally and Plaintiff Henson, as well as other African-American employees, were told that the opportunity for this position was “*closed*.”

19. In another act of disparate treatment, Plaintiff Henson was warned and threatened with disciplinary write-ups for insignificant acts, such as vocalizing or *singing* while walking through the arena’s hallways. Plaintiff Henson’s professional-grade singing voice was

previously appreciated by MSG staff. This warning by MSG through its agents Randazzo and DiCoco escalated the discriminatory degradation of the terms and conditions of her employment.

20. Younger white female employees possessed of less experience, but personally involved with DiCoco and Randazzo, were promoted several times to positions of greater responsibility and remuneration than Plaintiff's position required.

21. When one of the younger white females made mistakes with respect to the schedules, roll-calls and show times, Plaintiff Henson was penalized for her mistake.

22. In or about April 2006, Plaintiff Henson notified MSG that she no longer had access to email. MSG made no effort to correct this communication lapse nor to advise her when her schedule would change or to inform her of any new information she would need in order to optimally perform the essential functions of her position.

23. In lieu of using proper notification procedures regarding schedule changes, Plaintiff Henson was compelled to arrive at work and wait until her shift commenced. After several occurrences, Plaintiff Henson requested to be paid for this extra time, yet her requests were denied.

24. On several occasions, Plaintiff Henson complained orally and in writing to MSG's Employee Relations Department about the discriminatory treatment and retaliatory actions

she was subjected to, including the unfair schedule rearrangements, poor assignments and discriminatory disciplinary memoranda, but her complaints were never investigated and no corrective action was ever taken in response.

25. In or about March 2007, Plaintiff Henson was reprimanded for alleged tardiness and/or absences. This reprimand was denominated as a second warning, yet Plaintiff Henson never received a first warning.

26. When Plaintiff Henson complained that several white male employees arrived late but were not similarly disciplined, Randazzo and DiCoco dismissed her complaints and facetiously replied, "*It's about you.*"

27. The pretextual nature of the discriminatory time and attendance memorandum was further evinced by the omission of specific dates and times of Plaintiff Henson's alleged tardiness and/or absences, and further included days when she was ill.

28. When Plaintiff Henson asked DiCoco for a copy of MSG's policies and procedures relating to attendance, in yet another discriminatory and retaliatory act, DiCoco refused her request.

29. Plaintiff Henson also complained to MSG's Employee Relations about the discriminatory conduct and hostility directed at her due to her protected statuses.

30. Thereafter, on or about May 15, 2007, Plaintiff Henson was required to attend a deposition on behalf of MSG scheduled by her Supervisor, Paul Padilla.

31. Due to the deposition, Plaintiff Henson arrived in time to catch the last few minutes of a staff meeting. Plaintiff Henson asked Padilla, the new Director of Event Operations, for information she missed from the meeting. Padilla assured Plaintiff Henson she would receive the information, yet he never provided it.

32. When Plaintiff Henson returned to work after a vacation, on or about June 5, 2007, she found a memorandum in her mailbox stating all Event Supervisors would be held accountable for the new information and policies discussed in the May 15, 2007 staff meeting.

33. Plaintiff Henson thereafter inquired of Padilla about the substance of this memorandum and the missing information she needed in order to conform to the new policies as she had still not received it. Padilla responded by screaming at Plaintiff Henson that he was too busy to provide this information to her and that she would have to find the necessary information on her own.

34. On or about June 5, 2007, Plaintiff Henson witnessed two new male employees eating lunch in a room that she and Plaintiff Sheila Gay-Robbins were specifically advised they were not allowed to use.

35. As a result of MSG's continuing discriminatory treatment, retaliation and failure to address Plaintiff Henson's complaints of discrimination, she was constructively discharged on or about July 7, 2007.

36. Following Plaintiff Henson's constructive discharge, she was informed that her photograph was placed on a notice that was circulated at MSG banning her from entering MSG. The posting of this defamatory notice and photograph of Plaintiff Henson subjected her to widespread ridicule amongst MSG employees.

**SHEILA GAY-ROBBINS**

37. Plaintiff Sheila Gay-Robbins is a fifty-five year old African-American female.

38. Plaintiff Gay-Robbins was hired by Defendants as an Event Supervisor in or about February 2002. She was a dedicated, hard-working and committed employee and she never exhibited any job performance deficiencies.

39. Following the hiring of Randazzo and DiCoco in 2005, Plaintiff Gay-Robbins was also subjected to discriminatory and retaliatory conduct, including but not limited to, the following.

40. Plaintiff Gay-Robbins specifically complained to Randazzo, DiCoco and Padilla about the inequitable treatment accorded to people of color. Randazzo and DiCoco did nothing to address these various issues of disparate treatment.

41. While employed at MSG, Plaintiff Gay Robbins was given less desirable positions, while comparably-skilled or lesser qualified white men received favorable positions.

42. Newly hired male and Caucasian employees were given more responsibilities, flexibility with schedules and vacation time than Plaintiff Gay-Robbins.

43. Plaintiff Gay-Robbins was required to work longer hours, assume more responsibility and was paid less than comparator Caucasian and/or male employees.

44. As a long-term employee of MSG, Plaintiff Gay-Robbins was not accorded the same opportunity as Caucasians and males for advancement and professional growth, including the opportunity to obtain the position of Event Manager. As was the case with Plaintiff Henson, this position was often posted externally, despite that fact that Plaintiff Gay-Robbins was well-qualified and made several inquires about the position.

45. In addition, African-American employees, including Plaintiff Gay-Robbins, earned less in total compensation than newly hired comparator white employees.

46. In or about March 2007, Plaintiff Gay-Robbins was served with a written reprimand for alleged tardiness and/or absences. This disciplinary memorandum purported to be a second warning, although Plaintiff Gay-Robbins never received a first warning.

47. When Plaintiff Gay-Robbins specifically told Randazzo that she never received a first warning, he merely blamed DiCoco for indicating to him that Plaintiff Gay-Robbins had been previously warned in writing yet he instituted no corrective action to redress this discriminatory and disciplinary error.

48. This first warning that Plaintiff Gay-Robbins received, in or about March 2007, alleged that she was tardy 8 out of 32 shows worked, yielding a facially less than ideal attendance rating. However, this record was inaccurate as time clocks did not record employees' arrival times and the time and attendance disciplinary notice failed to show specific times for the alleged tardiness and/or absences, including days when Plaintiff Gay-Robbins was out of work due to illness.

49. On several occasions, Plaintiff Gay-Robbins complained to her supervisors about MSG's discriminatory treatment and retaliatory actions. Nonetheless, her complaints were never investigated, and no corrective action was ever taken.

50. Thereafter, MSG's discriminatory and retaliatory treatment escalated as Plaintiff Gay-Robbins continued to receive disciplinary memoranda based on unsubstantiated and pretextual allegations.

51. The retaliatory treatment was so pervasive and severe that Plaintiff Gay Robbins was constructively discharged on or about August 15, 2007.

52. Just prior to Plaintiff Gay-Robbins' constructive discharge, she specifically advised Randazzo to refrain from posting her photograph at MSG following her termination in the same retaliatory and racist manner effectuated against Plaintiff Henson as described above.

53. Randazzo denied posting the defamatory and retaliatory notice, even though Plaintiff Gay-Robbins had personally witnessed it.

54. As a result of Defendants' actions described above and herein, Defendants subjected Plaintiffs to discriminatory adverse employment actions by constructively terminating their positions as a direct result of their race, color and gender and in retaliation for complaining about discriminatory treatment.

**AS A FIRST CAUSE OF ACTION  
FOR DISCRIMINATION UNDER CITY LAW**

55. Plaintiffs repeat, reiterate and reassert all allegations contained in paragraphs 1 through 54 of this Complaint as if fully set forth herein at length.

56. The New York City Administrative Code Title 8 §8-107(1)(a) provides that it shall be unlawful discriminatory practice:

For an employer . . . because of...race ... to discharge from employment such person or to discriminate against such person...

57. Defendants engaged in an unlawful discriminatory practice in violation of New York City Administrative Code Title 8 §8-107(1)(a) by discriminating against Plaintiffs and discharging Plaintiffs based upon race.

**AS A SECOND CAUSE OF ACTION  
FOR DISCRIMINATION UNDER CITY LAW**

58. Plaintiffs repeat, reiterate and reassert all allegations contained in paragraphs 1 through 57 of this Complaint as if fully set forth herein at length.

59. The New York City Administrative Code Title 8 §8-107(1)(a) provides that it shall be unlawful discriminatory practice:

For an employer . . . because of...color ... to discharge from employment such person or to discriminate against such person in compensation or in terms, conditions or privileges of employment.

60. Defendants engaged in an unlawful discriminatory practice in violation of New York City Administrative Code Title 8 §8-107(1)(a) by discriminating against Plaintiffs and discharging Plaintiffs based upon color.

**AS A THIRD CAUSE OF ACTION  
FOR DISCRIMINATION UNDER CITY LAW**

61. Plaintiffs repeat, reiterate and reassert all allegations contained in paragraphs 1 through 60 of this Complaint as if fully set forth herein at length.

62. The New York City Administrative Code Title 8 §8-107(1)(a) provides that it shall be unlawful discriminatory practice:

For an employer . . . because of...gender ... to discharge from employment such person or to discriminate against such person in compensation or in terms, conditions or privileges of employment.

63. Defendants engaged in an unlawful discriminatory practice in violation of New York City Administrative Code Title 8 §8-107(1)(a) by discriminating against Plaintiffs and discharging Plaintiffs based upon their gender.

**AS A FOURTH CAUSE OF ACTION  
FOR RETALIATION UNDER CITY LAW**

64. Plaintiffs repeat, reiterate and reassert all allegations contained in paragraphs 1 through 63 of this Complaint as if fully set forth herein at length.

65. The New York City Administrative Code Title 8 §8-107(7) provides that it shall be unlawful discriminatory practice:

...For any person engaged in any activity to which this chapter applies to retaliate or discriminate in any manner against any person because such person has (l) opposed any practice forbidden under this chapter...

66. Defendants engaged in an unlawful discriminatory practice in violation of New York City Administrative Code Title 8 §8-107 by discriminating against Plaintiffs and discharging Plaintiffs, and retaliating against them.

## **INJURY AND DAMAGES**

67. As a result of the Defendants' unlawful discriminatory employment practices, Plaintiffs have suffered injury to their reputation, lost wages, as well as the pain and suffering of mental and emotional distress;

## **REMEDY**

**WHEREFORE**, Plaintiffs requests a judgment against the Defendants:

- A. Awarding future income to the Plaintiffs in an amount to be proven at trial representing all loss of future earnings, including reasonable and expected increases, loss of retirement income and all other benefits they would have expected to earn during their entire lifetime had it not been for Defendants' unlawful discharge of their employment;
  
- B. Awarding damages to the Plaintiffs for back pay and to otherwise making them "whole" for any losses suffered as a result of such unlawful employment practices;
  
- C. Awarding Plaintiffs compensatory damages for mental and emotional distress, pain and suffering as well as injury to their reputation in an amount to be proven at trial;

- D. Awarding Plaintiffs punitive damages;
- E. Awarding Plaintiffs attorneys' fees and costs and expenses incurred in the prosecution of the action;
- F. Awarding Plaintiffs such other and further relief as the Court may deem equitable, just and proper to remedy the Defendants' unlawful employment practices.

**JURY DEMAND**

Plaintiffs demand trial by jury.

Dated: December 31, 2007  
New York, NY 10271

**Tuckner, Sipser, Weinstock & Sipser, LLP**

By:

---

William J. Sipser  
Attorneys for Plaintiff  
120 Broadway, 18<sup>th</sup> Floor  
New York, NY 10271  
212.766.9100  
wsipser@womensrightsny.com  
[www.womensrightsny.com](http://www.womensrightsny.com)