

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

REGINA WEISS,

Plaintiff,

vs.

OFFICE OF THE BROOKLYN BOROUGH
PRESIDENT and MARTY MARKOWITZ,

Defendants.

VERIFIED COMPLAINT WITH
JURY DEMAND

Index No.

Plaintiff, by her attorneys, Tuckner, Sipser, Weinstock & Sipser, LLP respectfully complains as follows:

NATURE OF THE CASE

1. This is an action arising under the laws of the City of New York seeking damages to redress the injuries that Plaintiff Regina Weiss has suffered as a result of being discriminated against and unlawfully discharged by her former employer on the bases of her age and gender.

PARTIES

2. Plaintiff Regina Weiss was employed by Defendants from in or about January 2005 until in or about February 2006.

3. Defendant Office of the Brooklyn Borough President (hereinafter also described as BBP and/or Defendant) is an elective office within the confines of Kings County, the City of New York. BBP is an employer as defined in §8-102(5) of the New York City Administrative Code.

4. Defendant Marty Markowitz (hereinafter also described as "Defendant Markowitz") is Borough President of the Borough of Brooklyn and is an "employer" as defined in §8-102(5) of the New York City Administrative Code.

MATERIAL FACTS

5. Plaintiff commenced her most recent employment at BBP as Communications Director in or about January 2005.

6. Plaintiff is a well-credentialed and gifted communications professional who was qualified for her position at BBP. Prior to commencing work at BBP in January 2005, she was employed as Assistant Director of Communications by the New York State Nurses Association ("NYSNA") and she had previously worked for Defendant Markowitz, as well as predecessor Brooklyn Borough President Howard Golden, Planned Parenthood Federation of America and several prominent publishing houses.

7. During Plaintiff's first appointment of employment with BPP, as Defendant Markowitz's speechwriter and senior writer for BPP, in or about July 2003, Plaintiff announced her resignation from Defendant's employ due to Defendant Markowitz's announcement of imminent seniority-based staff layoffs due to the New York City budget cuts. Plaintiff's lack of seniority with the agency militated in favor of her resignation, as she could ill afford a period of unemployment if she awaited the inevitable reduction in force before seeking comparable gainful employment.

8. Plaintiff thereafter sought and obtained a new and higher level job at the NYSNA, at a significant increase in salary, and with much better benefits than those she had received working for BBP.

9. Following Plaintiff's resignation from BBP, she was asked to reconsider by Defendant Markowitz and by BBP Communications Director Andrew Ross. Ross offered to promote Plaintiff to Deputy Director of Communications if she remained with the agency and advised her that Defendant Markowitz would never have ratified her lay-off, notwithstanding her lack of seniority, because her work was far too valuable to him. Plaintiff declined the promotional offer and effectuated her resignation as she had already committed her services to NYSNA.

10. During the eighteen months that Plaintiff worked for NYSNA, Defendant Markowitz repeatedly asked her to return to work for him.

11. In or about December 2004, Defendant Markowitz again asked Plaintiff to return to work for him as BBP Communications Director, indicating to her that his current director was "*a complete disaster*."

12. The Communications Director who was denominated "*a complete disaster*" by Defendant Markowitz was a young male with no experience managing a department or working in media relations, who had been hired by BBP Chief of Staff, Greg Atkins. Upon Plaintiff's return to BBP, Atkins engaged in discriminatory conduct against Plaintiff, a forty-eight year old woman, ultimately resulting in her discharge from BBP.

13. According to Defendant Markowitz, Michael Kadish, the younger male who had served as the Communications Director "*just went AWOL on the job. He did not show up to work for months, even though we were paying him.*"

14. In or about December 2004, after Plaintiff met with BBP's senior staff, Defendant Markowitz formally offered Plaintiff the Communications Director position and she agreed to return to work at BBP.

15. After Plaintiff agreed to return to BPP, Defendant Markowitz told her: *[Good. Greg wanted to keep interviewing but I told him, No, I want you.]* "Greg" referred to BPP's Chief of Staff, Greg Atkins.

16. Plaintiff was advised by several BBP staff members that Defendant Markowitz was *thrilled* that she had agreed to return to work at BBP. On or about December 12, 2004, Defendant Markowitz sent an email to a group of BBP staffers, writing in pertinent part, *"I can't wait until Regina Weiss takes charge of this department and provides direction and leadership."*

17. Contemporaneously, BBP Chief of Staff Greg Atkins commenced his campaign of disparate treatment against Plaintiff as he advised her that he *"wished she had more media experience,"* a transparently pretextual assertion in light of Plaintiff's excellent qualifications, extensive experience and impressive resume.

18. Thereafter, Plaintiff returned to work at BBP and was subjected to unlawfully differential treatment that included, but was not limited to, the following.

19. During the 13 months that Plaintiff held the position of Communications Director at BBP, Chief of Staff Atkins engaged in discriminatory actions to

undermine Plaintiff's ability to perform the essential functions of her position while simultaneously creating a pervasively hostile work environment for Plaintiff as a result of her gender and age. Finally, Atkins' actions, statements and omissions all served to intentionally undermine Defendant Markowitz's confidence in Plaintiff's abilities, with the goal of having Plaintiff fired.

20. Throughout Plaintiff's tenure as BBP Communications Director, the department was seriously understaffed and Plaintiff was advised that no funding was available for staff expansion needs. Additionally, the departmental secretary was beset with serious health challenges and was often out sick, increasing the burden on everyone in the department.

21. Defendants were aware of this serious under-staffing problem as Plaintiff repeatedly asked to have someone "floated" into the department, at least to answer the ringing telephone while the secretary was convalescing at home. Her requests were repeatedly declined.

22. Indefensibly, Atkins insisted on micro-managing Plaintiff and thereafter duplicitously complained to Defendant Markowitz that he was compelled to supervise Plaintiff's every move, in a blatantly discriminatory attempt to discredit Plaintiff while eroding Markowitz's assessment of Plaintiff's abilities and to convince Defendant Markowitz to end her employment.

23. In or about July 2005, Atkins ordered Plaintiff to lower the ratings on the performance evaluations she had given all of her female staff yet she was precluded from making this adjustment to the ratings of the sole male member of her department, Defendant Markowitz's then-speech writer, Eric Demby.

24. Atkins routinely obstructed Plaintiff's ability to respond to press opportunities, which by their nature are extremely time-sensitive, by insisting upon reviewing all press-related materials and then delaying his review of them for days and, in some cases, up to a week at a time.

25. While Defendant Markowitz routinely reviewed Plaintiff's press releases, letters, op-ed submissions or quotations that Plaintiff prepared, Atkins insisted on reviewing all of Plaintiff's work after Defendant Markowitz had already approved it.

26. Atkins accused Plaintiff of insubordination when she disseminated work product to the press on Defendants' behalf *after* Defendant Markowitz had approved of its form and content but without Atkins prior consent.

27. In addition to undermining Plaintiff through delay tactics, Atkins habitually baselessly objected to Plaintiff's objectively outstanding work product.

Unfortunately, Atkins could not explain his objections beyond the baseline, nor could he articulate an alternative vision or plan for success.

28. Atkins made a habit of belittling Weiss's work with factually inaccurate comments and then ignoring proof that was presented to him about the factual inaccuracy of his comments.

29. Shortly after Plaintiff was appointed BBP Communications Director, Atkins ordered Plaintiff not to discuss her public relations ideas with Defendant Markowitz, even when they were formulated in response to Defendant Markowitz's direct instructions or work requests to Plaintiff. Rather, Atkins directed Plaintiff to discuss her ideas and work plans only with him and, when she did so, then ordered her not to present them to Defendant Markowitz. In a deliberately discriminatory fashion, Atkins hindered Plaintiff from fulfilling Defendant's expectations of her by creating and requiring a conflicting and untenable infrastructure that was at odds with Defendants' clear instructions to Plaintiff.

30. As part of his campaign to undermine Plaintiff, Atkins refused to discuss her concerns that the office was being misused for political purposes during a year when the borough president was running for reelection, and he ordered Plaintiff not to discuss those concerns with Defendant Markowitz.

31. As part of his campaign to undermine Plaintiff, Atkins prevented the execution of policy initiatives that Defendant Markowitz requested from Plaintiff. This led to neglect by the agency of matters important to Brooklyn residents in the areas of land use, planning and development and other vital issues

32. While Atkins' showed discriminatory animus toward Plaintiff through the regular and persistent degradation to the terms and conditions of her employment, he exhibited no tendencies toward dictatorial micro- management toward any of Plaintiff's young male predecessors. In or about August 2005, Andrew Ross, one of Defendant Markowitz's previous Communications Directors, informed Plaintiff that during his tenure serving at Defendant Markowitz's pleasure, he had performed Plaintiff's job description completely independent of Atkins' purview. "*Greg didn't get involved at all,*" Ross told Plaintiff.

33. In August 2005, Plaintiff met with Defendant Markowitz's Deputy Chief of Staff, Mary Anne Cino, with respect to her concern that Atkins was not according to her equal privileges of employment, thereby unlawfully diminishing her prospects of successfully performing the position she was eminently qualified to hold, as Atkins had sought to hire a younger male candidate before Defendant Markowitz hired Plaintiff instead.

34. Cino remained silent and did not contest Plaintiff's contentions. Plaintiff then advised Cino that she had offered to find another position and resign. Cino responded to Plaintiff, *"I just want to tell you, as a woman, if it doesn't work out, don't take it personally."*

35. In or about January 2006, Defendant Markowitz held an inaugural celebration, a significant event that the Communications department worked for weeks to bring to successful fruition, as it was to be attended by thousands of people. The morning after the event, Atkins sent an email to the entire BBP staff thanking everyone in the Special Events department, especially the director, yet he chose to thank only one person in Plaintiff's department—a young male—Eric Demby, Markowitz's speechwriter.

36. Atkins wholly ignored the contributions of Plaintiff and the other members of her staff—all women—to the success of the event.

37. On or about January 31, 2006, Atkins told Plaintiff that she was being asked to resign because the agency was *"changing direction for the next four years"* and because they wanted someone in her position *"who can test the political waters."*

38. Upon Plaintiff's departure from BBP's employ on or about February 7, 2006, Atkins named speechwriter Eric Demby as Acting Director of Communications. Demby was a younger man in his early thirties with scant political, managerial or media relations experience.

39. While Plaintiff had been routinely informed that no resources were available to expand her staffing needs, Demby was provided with the additional funding to hire new staff members that Plaintiff was denied.

40. Also, immediately following Plaintiff's departure and after Demby assumed her previous position, employees from other departments were routinely floated into the Communications department to provide telephone answering support and other assistance, as needed.

41. After Plaintiff was removed from her job, and Demby was installed into that position, a woman of the same age as Plaintiff applied for a job in the communications department for which she was exceptionally well qualified and was told by Demby that he "*wanted to hire young, creative people.*" He then hired two men, both under the age of twenty three.

42. After Plaintiff was removed from her job, an employee was moved from the executive office to another department after complaining to her union shop

steward that she was being subjected to a hostile work environment due to inappropriate sexual activity taking place in the executive office among Atkins and 3 other staff members.

43. On February 3, 2006, only three days after Atkins told Plaintiff that she was being forced to resign, Defendant Markowitz gave Plaintiff a letter praising Plaintiff for her abilities and accomplishments. It read, in pertinent part, "*I brought Regina back to my administration . . . to stabilize a department that was in disarray. She quickly organized the communications staff, providing the oversight and guidance they needed to start functioning at the top of their game. My communications department is extremely busy, with constantly shifting, complex demands placed on a skeletal staff. Under Regina's leadership, the department has been remarkably productive, consistently putting out high quality work, often under extreme pressure.*"

42. On Plaintiff's last day on the job, on or about February 7, 2007, she was presented with a certificate, signed by each member of the communications department, acknowledging her "*outstanding leadership and unparalleled excellence in writing, editing, and media relations.*"

43. As a result of Defendants' actions described above and herein, Defendants subjected Plaintiff to discriminatory employment actions, including the termination of her employment.

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

44. Plaintiff repeats, reiterates and reasserts all allegations contained in paragraphs 1 through 43 of this Complaint as if fully set forth herein at length.

45. 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...age ... to discharge from employment such person or to discriminate against such person in compensation or in terms, conditions or privileges of employment."

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

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

47. Plaintiff repeats, reiterates and reasserts all allegations contained in paragraphs 1 through 46 of this Complaint as if fully set forth herein at length.

48. 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...sex ... to discharge from employment such person or to discriminate against such person in compensation or in terms, conditions or privileges of employment."

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

INJURY AND DAMAGES

50. As a result of the Defendants' unlawful discriminatory employment practices, Plaintiff Regina Weiss has suffered lost wages, future earnings and other financial benefits, and has and continues to endure the pain and suffering of mental and emotional distress.

REMEDY

WHEREFORE, Plaintiff requests a judgment against the Defendants:

- A. Awarding future income to the Plaintiff in an amount to be proven at trial representing all loss of future earnings and overtime, including reasonable and expected increases, loss of retirement income and all other benefits she would have expected to earn during her entire lifetime had it not been for Defendants' unlawful discharge of her employment;
- B. Awarding damages to the Plaintiff, including all lost earnings and overtime, and to otherwise make her whole for any losses suffered as a result of such unlawful employment practices;
- C. Awarding Plaintiff compensatory damages for mental and emotional distress, pain and suffering as well as for the grievous injury to her reputation in an amount to be proven at trial;
- D. Awarding Plaintiff punitive damages;
- E. Awarding Plaintiff attorneys' fees and costs and expenses incurred in the prosecution of the action;

F. Awarding Plaintiff such other and further relief as the Court may deem equitable, just and proper to remedy the Defendants' unlawful employment practices.

JURY DEMAND

Plaintiff demands a trial by jury.

Dated: December 3, 2007
New York, NY

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