Wigdor Files Gender Discrimination Case against Paul Taylor Dance Foundation

November 4, 2022 • News & Press

Update in the case on August 1, 2023:

A good decision by Judge Abrams, holding that our NYCHRL sexual harassment claim in Delo v. Paul Taylor Dance Company was sufficient to exempt our entire case from arbitration, largely by way of following the Engelmayer theory of the EFAA. Of note, the Court held that six months of silent treatment, one instance of "visibly glowering," and implementing an unfavorable workplace policy that made it more difficult for our client to keep up her childcare responsibilities, were sufficiently non-trivial to count as part of a hostile workplace (and could constitute part of a continuing violation for accrual purposes). You can read the Opinion here.

On November 3, 2022, Wigdor LLP client Barbara Delo filed legal claims of gender and pregnancy discrimination and retaliation in federal court (the U.S. District Court for the Southern District of New York) and with the Equal Employment Opportunity Commission (the "Complaint"). Ms. Delo's claims are against her former employer, Paul Taylor Dance Company ("PTDC" or "Paul Taylor"), and its Executive Director, John Tomlinson. Ms. Delo, a costumer with over thirteen years of experience, designed and produced the costumes for Paul Taylor's dancers from September 2021 until her unlawful termination in July 2022. As alleged in the Complaint, PTDC and Mr. Tomlinson terminated Ms. Delo after she raised concerns in December 2021 about Paul Taylor's compliance with requirements to provide employees with a private space to express breast milk, as well as about unequal treatment of her by Tomlinson because she is a mother. The Defendants, and Mr. Tomlinson in particular, exhibited strong contempt and discriminatory animus towards Ms. Delo because she had recently given birth in July 2021 to her first child, a daughter, and Mr. Tomlinson did not want her child in Paul Taylor's workspaces at any time and did not want to take any steps to comply with legal requirements to provide a private space for an employee to pump breast milk. As alleged, Tomlinson terminated Ms. Delo after consistent displays of animus towards her, before terminating her during a gap between Paul Taylor's busy performance seasons, one of which was set to resume at New York's Lincoln Center on November 1, 2022.

The Complaint's allegations truly harken back to an earlier time in American history, as does the unmistakable feeling of impunity with which Paul Taylor Dance Company and Mr. Tomlinson have acted.

Here are some of the primary allegations, as set forth in Ms. Delo's filed federal complaint:

- The founder of PTDC, the late Paul Taylor, is said to have a practice of telling his dancers not to get married or have children because they were his "muses." John Tomlinson, the Company's current Executive Director likewise, allegedly once forced a dancer to promise Mr. Taylor that she would never get pregnant. After she did so and was feeling humiliated, Mr. Tomlinson reportedly laughed in her face.
- Ms. Delo applied to Paul Taylor in the summer of 2021 while visibly pregnant. Her husband already worked at the Company as a lighting designer. As alleged, Tomlinson declined to hire her, asking his

production manager, "What will she do with the baby?" He hired a man instead, and only after that man did not work out did PTDC hire Ms. Delo, despite her superior qualifications.

- Starting on short notice in September 2021, barely two months after giving birth in early July, Ms. Delo and her husband did not have time to hire a nanny in her first week on the job. When *her husband* brought their newborn (Olive) into the office, Tomlinson immediately blamed Ms. Delo for the child being present, and said "I told you so" to the production manager.
- After Ms. Delo and her husband brought Olive on a tour in the fall of 2021 (with a nanny), Tomlinson publicly chastised Ms. Delo in front of the creative team, telling her that Paul Taylor practiced a separation of "church and state" when it came to children on the premises.
- Ms. Delo, wary of angering Tomlinson if he ever saw her pumping breast milk, pointed out that she was being treated differently as a mother at work and that the Company was out of compliance with its responsibility to provide a private space to pump, as required by federal and state law. The next day, Tomlinson came into Ms. Delo's office while she was pumping, along with two repairmen. He did not apologize or leave when he saw her pumping, but instead, as the repairmen started working in the office, pointedly reached across her body (while she was still pumping) to call someone using her desk phone. There were other free phones in the room, and he had a cell phone. Ms. Delo was mortified.
- Eran Bugge, Paul Taylor's celebrated, hardworking lead dancer, was also pregnant in the fall of 2021. When she reportedly asked to modify some of her dance steps, artistic director Michael Novak and Paul Taylor's rehearsal directors allegedly refused to allow her to do so, and Mr. Tomlinson called her an "embarrassment." Yet, they apparently permitted a male dancer to modify dances because they were becoming too difficult for him as he got older.
- In April 2022, right before Ms. Bugge was scheduled to return from her maternity leave, Paul Taylor then pointedly rolled out a harsh, anti-child policy that would have banned babies from Company vehicles and required advance permission to have kids in Company-paid hotel rooms on tour, making it basically impossible for Ms. Delo and Ms. Bugge to bring their children with them.
- As soon as it would not disrupt Paul Taylor's performance schedule, Tomlinson terminated Ms. Delo. When she asked a reason, he said he did not need a reason because she was an at-will employee.

Statement from Lawrence M. Pearson and John S. Crain

"There are some in the performing arts who still believe that female performers, artists, and other employees can be abused and intimidated with impunity. Barbara Delo has filed her federal complaint because Paul Taylor Dance Company terminated her from a job she loved creating beautiful costumes for dancers because management, particularly Executive Director John Tomlinson, saw her as a "liability" simply because she is a mother and tried to get them to comply with laws requiring a private space to pump breast milk. Ms. Delo and we at Wigdor LLP hope that her complaint's thorough account of how she and other women and mothers were mistreated at Paul Taylor will add more urgency to the drive for change and respect at PTDC and in the arts generally."

PRESS:

Read Here: New York Times: *"Paul Taylor Dance Company Is Accused of Gender Discrimination"*