

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

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HOPE BURGOS, :
 : Index No.
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 Plaintiff, :
 :
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 v. : **VERIFIED**
 : **COMPLAINT**
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 LEX 70 LLC, d/b/a, CORRADO BREAD & :
 PASTRY, and AARON MATALON, in his :
 individual and professional capacities, : JURY TRIAL DEMANDED
 :
 Defendants. :
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Plaintiff Hope Burgos (“Plaintiff”), by and through undersigned counsel, Wigdor LLP, as and for the Verified Complaint in this action against Defendants Lex 70 LLC, d/b/a/ Corrado Bread & Pastry (“Corrado” or the “Company”), and Aaron Matalon (“Matalon”) (collectively, “Defendants”), hereby alleges as follows:

NATURE OF THE CLAIMS

1. While many Upper East Side parents stroll into the renowned Corrado Bread & Pastry for their morning cup of coffee with young children in tow, unbeknownst to them, a pregnant woman who used to be on the other side of the counter was recently fired simply because she was starting a family of her own. Indeed, Aaron Matalon (the owner of Corrado) bluntly told Ms. Burgos (a Sales Associate) that she was fired because of her pregnancy. It is nothing short of astounding that, at a time when Ms. Burgos was extremely vulnerable and relied on her employer most, Defendants callously cut her loose. As a result of her termination, and with a baby on the way, Defendants left Ms. Burgos unemployed, without any income and emotionally devastated.

2. The anti-discrimination laws are intended to afford pregnant women the same rights as any other employee, and provide pregnant women with the dignity and respect they deserve. As such, this is an action for declaratory, injunctive and monetary relief to redress Defendants' unlawful employment practices, including unlawful discrimination against Plaintiff on account of her gender and/or pregnancy. The unlawful discrimination described herein was committed in violation of the New York State Human Rights Law, N.Y. Executive Law §§ 290 *et seq.* ("NYSHRL"), and the New York City Human Rights Law, N.Y. City Administrative Code §§ 8-101 *et seq.* ("NYCHRL").

ADMINISTRATIVE PROCEDURES

3. Ms. Burgos will be filing a charge of discrimination with the Equal Employment Opportunity Commission ("EEOC") and will file a Complaint in the District Court for the Southern District of New York alleging violations of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e *et seq.*, and as amended by the Pregnancy Discrimination Act, following receipt of a Notice of Right to Sue.

4. Following commencement of this action, a copy of this Complaint will be served both on the New York City Commission on Human Rights and the Office of the Corporation Counsel of the City of New York, thereby satisfying the notice requirements of the New York City Administrative Code.

5. Any and all other prerequisites to the filing of this suit have been met.

PARTIES

6. Plaintiff Hope Burgos is a female former employee of Lex 70 LLC, d/b/a Corrado Bread & Pastry. Ms. Burgos was terminated from her position as a Sales Associate at the Company's 960 Lexington Avenue, New York, NY 10035 location on May 6, 2013. She is a

resident of the State of New York and at all relevant times met the definition of an “employee” and/or “eligible employee” under all applicable statutes.

7. Defendant Lex 70 LLC, d/b/a/ Corrado Bread & Pastry, is a domestic limited liability company. At all relevant times, Defendant Lex 70 LLC met the definition of “employer” and/or a “covered employer” under all relevant statutes.

8. Defendant Aaron Matalon, a resident of the State of New York, is the owner of Defendant Lex 70 LLC, d/b/a/ Corrado Bread & Pastry, and controls its operations and determines its policies and practices. At all relevant times, Defendant Matalon met the definition of “employer” and/or a “covered employer” under all relevant statutes, as he made payment of Ms. Burgos’s salary and wages and had the authority to hire and fire Ms. Burgos, direct her work activities, assign her job responsibilities and monitor her performance.

FACTUAL ALLEGATIONS

9. On or about March 24, 2014, upon receiving an offer of employment from Matalon, Ms. Burgos commenced her employment at Corrado as a Sales Associate.

10. Corrado, a famous local café with three locations on the Upper East Side of Manhattan, offers its customers a wide variety of breads, pastries and sandwiches, as well as coffee, custom cakes and desserts.

11. As a Sales Associate, Ms. Burgos greeted customers, took customer orders, stocked condiments and utensils for use by customers on the sales floor, tended to the cash register and ensured the store remained clean at all times.

12. Ms. Burgos was pregnant when Matalon hired her.

13. However, Matalon did not know Ms. Burgos was pregnant when he hired her.

14. Indeed, as Ms. Burgos was only approximately 15 weeks into her pregnancy on her date of hire, she was not visibly pregnant.

15. On or about April 22, 2014, as Ms. Burgos began to show slight indications of her pregnancy, one of Ms. Burgos's coworkers approached her, put her hands on Ms. Burgos's stomach and asked whether Ms. Burgos was "with child?"

16. Ms. Burgos, feeling extremely uncomfortable and startled by her coworker's direct question, merely stated: "I don't know what you are talking about."

17. Approximately one week later, on or around April 29, 2014, Matalon approached Ms. Burgos – in front of her coworkers and with customers staring – and stated: "I heard you are pregnant."

18. Ms. Burgos felt uncomfortable disclosing this information in such a public forum.

19. However, later that same day, she disclosed to Matalon in private that she was indeed pregnant.

20. Only one week later, on May 6, 2014, Matalon again approached Ms. Burgos to discuss her continued employment.

21. During this conversation, Matalon admitted to Ms. Burgos that she was "very good" at her job.

22. However, Matalon bluntly and unambiguously stated that he was terminating her because of her pregnancy.

23. Matalon told Ms. Burgos that she was too much of a liability in the workplace because she was pregnant, so he had to terminate her employment.

24. Matalon told Ms. Burgos that he was not comfortable with her working in his store because she was pregnant.

25. Understandably, Ms. Burgos was shocked and appalled that her employer would use her pregnancy against her to prevent her from earning a living.

26. As such, Ms. Burgos asked for clarification to ensure she understood why Matalon was terminating her, asking in sum and substance whether he was saying that: “The bottom line is you are not comfortable with me working here because I am with child and you don’t want me to get hurt?”

27. Matalon answered in sum and substance: “That’s right. That’s it. That’s the bottom line.”

FIRST CAUSE OF ACTION
(Discrimination in Violation of New York State Human Rights Law)
(Against All Defendants)

28. Plaintiff repeats and re-alleges each and every allegation in all of the preceding paragraphs as if fully set forth herein.

29. By the actions described above, among others, Defendants discriminated against Plaintiff on the basis of her gender and/or pregnancy in violation of the NYSHRL by denying Plaintiff the same terms and conditions of employment available to male employees, including, but not limited to, terminating her employment on account of her gender and/or pregnancy.

30. As a direct and proximate result of Defendants’ unlawful and discriminatory conduct in violation of the NYSHRL, Plaintiff has suffered and continues to suffer harm for which she is entitled to an award of monetary damages and other relief.

SECOND CAUSE OF ACTION
(Aiding and Abetting in Violation of New York State Human Rights Law)
(Against Defendant Matalon)

31. Plaintiff hereby repeats, reiterates, and re-alleges each and every allegation as contained in each of the preceding paragraphs as if fully set forth herein.

32. Matalon directly participated in the discriminatory conduct perpetrated against Plaintiff, including, but not limited to, the termination of Plaintiff's employment.

33. At all relevant times, Matalon supervised Plaintiff and/or had the ability to control the terms and conditions of her employment, including, but not limited to, the power to terminate Plaintiff's employment.

34. Matalon knowingly or recklessly aided and abetted the unlawful discrimination against Plaintiff in violation of the NYSHRL, including, but not limited to, the termination of Plaintiff's employment on account of her pregnancy.

35. As a direct and proximate result, Plaintiff has suffered, and continues to suffer, monetary and/or economic damages, including, but not limited to, loss of past and future income for which Plaintiff is entitled to an award of damages.

36. As a direct and proximate result, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress, including, but not limited to, depression, humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-confidence and emotional pain and suffering for which Plaintiff is entitled to an award of damages.

THIRD CAUSE OF ACTION
(Discrimination in Violation of New York City Human Rights Law)
(Against All Defendants)

37. Plaintiff repeats and re-alleges each and every allegation in all of the preceding paragraphs as if fully set forth herein.

38. By the actions described above, among others, Defendants discriminated against Plaintiff on the basis of her gender and/or pregnancy in violation of the NYCHRL by denying Plaintiff the same terms and conditions of employment available to male employees, including, but not limited to, terminating her employment on account of her gender and/or pregnancy.

39. As a direct and proximate result of Defendants' unlawful and discriminatory conduct in violation of the NYCHRL, Plaintiff has suffered, and continues to suffer, harm for which she is entitled to an award of monetary damages and other relief, in addition to costs and reasonable attorney's fees.

40. As a direct and proximate result, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress, including, but not limited to, depression, humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-confidence and emotional pain and suffering for which Plaintiff is entitled to an award of damages.

41. Defendants' unlawful and discriminatory actions constitute malicious, willful and wanton violations of the NYCHRL for which Plaintiff is entitled to an award of punitive damages.

FOURTH CAUSE OF ACTION
(Aiding and Abetting in Violation of New York City Human Rights Law)
(Against Defendant Matalon)

42. Plaintiff hereby repeats, reiterates, and re-alleges each and every allegation as contained in each of the preceding paragraphs as if fully set forth herein.

43. Matalon directly participated in the discriminatory conduct perpetrated against Plaintiff, including, but not limited to, the termination of Plaintiff's employment.

44. At all relevant times, Matalon supervised Plaintiff and/or had the ability to control the terms and conditions of her employment, including, but not limited to, the power to terminate Plaintiff's employment.

45. Matalon knowingly or recklessly aided and abetted the unlawful discrimination against Plaintiff in violation of the NYCHRL, including, but not limited to, the termination of Plaintiff's employment on account of her pregnancy.

46. As a direct and proximate result, Plaintiff has suffered, and continues to suffer, monetary and/or economic damages, including, but not limited to, loss of past and future income for which Plaintiff is entitled to an award of damages.

47. As a direct and proximate result, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress, including, but not limited to, depression, humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-confidence and emotional pain and suffering for which Plaintiff is entitled to an award of damages.

48. Matalon's unlawful and discriminatory conduct constitutes a knowing, malicious, willful and wanton violation of the NYCHRL for which Plaintiff is entitled to an award of punitive damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court enter judgment in her favor and against Defendants for the following relief:

A. A declaratory judgment that the actions, conduct and practices of Defendants complained of herein violate the laws of the State of New York and the City of New York;

B. An injunction and order permanently restraining Defendants and its partners, officers, owners, agents, successors, employees and/or representatives, and any and all persons acting in concert with them, from engaging in any such further unlawful conduct, including the policies and practices complained of herein;

C. An award of damages against Defendants, in an amount to be determined at trial, plus interest, to compensate for all monetary and/or economic damages, including, but not limited to, loss of past and future income, wages, compensation, seniority, and other benefits of employment;

D. An award of damages against Defendants, in an amount to be determined at trial, plus interest, to compensate for all non-monetary and/or compensatory damages, including, but not limited to, compensation for Plaintiff's mental anguish, humiliation, embarrassment, stress and anxiety, emotional pain and suffering, and emotional distress;

E. An award of damages for any and all other monetary and/or non-monetary losses suffered by Plaintiff, including, but not limited to, loss of income, earned bonus pay, reputational harm and harm to professional reputation, in an amount to be determined at trial, plus interest;

F. An award of punitive damages in an amount to be determined at trial;

G. Prejudgment interest on all amounts due;

H. An award of costs that Plaintiff has incurred in this action, including, but not limited to, expert witness fees, as well as Plaintiff's reasonable attorneys' fees and costs to the fullest extent permitted by law; and

I. Such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues of fact and damages stated herein.

Dated: June 9, 2014
New York, New York

Respectfully submitted,

WIGDOR LLP

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