

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

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MINA QUINTO MALIK and ROBIA CHARLES, :
 :
 : Plaintiffs, :
 : Index No.: _____
 :
 v. :
 : **Complaint**
 :
 THE CITY OF NEW YORK and RICHARD :
 EMERY, in his personal and professional :
 capacities, : **Jury Trial Demanded**
 :
 :
 Defendants. :
-----X

Plaintiffs Mina Quinto Malik (“Ms. Malik”) and Dr. Robia Charles (“Dr. Charles”), by and through undersigned counsel, Wigdor LLP, hereby allege as follows:

PRELIMINARY STATEMENT

1. Richard Emery is the Chair of the Civilian Complaint Review Board (“CCRB”), a New York City agency tasked with protecting the rights of the citizens of New York City.

2. Sadly, however, Defendant Emery takes every opportunity to trample on the rights of and retaliate against those who complain about his misogynistic views, including, but certainly not limited to, Plaintiff Mina Malik, the Executive Director of the CCRB, and Dr. Robia Charles, the CCRB’s Deputy Executive Director for Policy and Strategic Initiatives.

3. By way of example only, Defendant Emery referred to Ms. Malik and another female CCRB employee as “**pussies,**” a highly offensive, gender-based and sexual slur. Specifically, when Ms. Malik and another female employee of the CCRB questioned Defendant Emery’s approach to a civilian complaint, he reacted by angrily stating, in front of other employees and Board members and in reference to Ms. Malik and the other female employee:

“I don’t know why everyone is acting like a bunch of pussies.”

4. Not surprisingly, given the outrageous and offensive comment, Ms. Malik complained about Defendant Emery's conduct. Shockingly, the New York City Law Department and the New York City Equal Employment Opportunity Office sat on the complaint and did nothing for more than five months. Meanwhile, Defendant Emery began retaliating against Ms. Malik for her complaint, including by undermining her authority and limiting her responsibilities at every turn.

5. The Law Department finally began its "investigation" into Ms. Malik's complaint in March 2016. Immediately after Defendant Emery became aware that Ms. Malik participated in this investigation he escalated his retaliatory conduct and began laying the groundwork for her eventual termination.

6. Plaintiff Dr. Robia Charles, the CCRB's Deputy Executive Director for Policy and Strategic Initiatives, supported Ms. Malik by opposing Defendant Emery's unlawful retaliatory conduct. In addition, Dr. Charles is being subjected to and complained about gender discrimination directly at the hands of Defendant Emery. Specifically, while her male colleagues are free to perform their work as they see fit, Dr. Charles is constantly micromanaged, undermined, belittled and disparaged by Defendant Emery.

7. Like Ms. Malik, Dr. Charles also complained about Defendant Emery's unlawful conduct, including by filing a formal complaint of discrimination and retaliation with the CCRB's Equal Employment Opportunity Officer.

8. Also like Ms. Malik, Dr. Charles was subjected to retaliation immediately upon filing her complaint of unlawful discrimination and retaliation.

9. Defendant Emery's unlawful discriminatory and retaliatory conduct has served to dampen an extremely special time in her life. Dr. Charles is pregnant and expecting in June.

While this would ordinarily be a very happy and beautiful time in Dr. Charles's life, Defendant Emery's conduct has caused her tremendous unnecessary and harmful stress, anxiety and emotional distress.

10. The CCRB's next Board meeting is scheduled for April 13, 2016. In advance of this meeting, Defendant Emery has made concerted efforts to disparage Ms. Malik and Dr. Charles to the members of the CCRB Board.

11. After each public CCRB Board meeting, the Board meets in a private "Executive Session." Upon information and belief, Defendant Emery plans to use the "Executive Session" at the April 13, 2016 Board meeting to further lay the groundwork for Plaintiffs' terminations and possibly even to vote on their termination during the Executive Session.

12. Ms. Malik and Dr. Charles are only the most recent innocent victims of Defendant Emery's unlawful retaliatory and wildly inappropriate conduct.

13. In October 2014, Ms. Malik's predecessor, Tracy Catapano-Fox, filed a lawsuit against Defendant Emery alleging, *inter alia*, that Defendant Emery retaliated against Ms. Catapano-Fox by terminating her employment for raising complaints concerning sexual harassment committed by CCRB Board member Bishop Mitchell Taylor and multiple violations of New York City Law and the CCRB's Rules by Defendant Emery. See Catapano-Fox v. The City of New York, et al., Civil Action No. 14 Civ. 8036(KPF)(DF). According to the lawsuit, Ms. Catapano-Fox was terminated less than a week after Ms. Fox sent a letter to Defendant Emery, as well as to the Mayor's office and Corporation Counsel, notifying them that she had obtained counsel in connection with her claims of retaliation.

14. In February 2016, Ms. Catapano-Fox filed a Second Amended Complaint. The Second Amended Complaint alleged that, following the filing of the initial action, Defendant

Emery and other high-ranking New York City officials further retaliated against her by torpedoing her application to become a Judge in the City of New York. According to the lawsuit, contemporaneous documentation establishes that the application was “put on hold due to pending lawsuit.”

15. Additionally, according to numerous media outlets, Defendant Emery’s role as Chair of the CCRB is in direct conflict with the practice of his law firm, Emery, Celli, Brinkerhoff & Abady LLP. See, e.g., <http://www.nydailynews.com/new-york/ccrb-chief-law-firm-represents-plaintiff-ccrb-case-article-1.2530423>.

16. According to the media, Defendant Emery still collects profits from his law firm, which regularly represents plaintiffs in cases against the City of New York, including in cases alleging police misconduct. In at least one case, Defendant Emery’s firm represented a plaintiff suing the City of New York for the actions of a police officer after the CCRB substantiated the claim that the officer had improperly pepper-sprayed the plaintiff. Id.

17. According to additional media reports, the Patrolmen’s Benevolent Association and the Sergeant’s Benevolent Association both publicly called for Defendant Emery’s resignation given the inherent conflict of interest between Defendant Emery’s law practice and his role as Chair of the CCRB. Defendant Emery came under fire for his response after he compared the complaints of these Unions to “squealing like a stuck pig.”

18. Of course, the use of the word “pig” is one of the most offensive ways in which one can refer to a police officer, just as the use of the word “pussy” is one of the most offensive ways in which one can refer to a woman.

19. Following the nearly month-long uproar over Defendant Emery’s reference to police officers as “pigs,” he insinuated to the CCRB staff that the agency would survive his

misbehavior, and told them that he had previously represented New York Police Department Commissioner William Bratton, as well as Mayor Bill de Blasio. Perhaps this is why Defendant Emery is still employed as the Chair of the CCRB despite his abhorrent behavior.

20. As such, Plaintiffs bring claims against Defendants to redress unlawful retaliatory employment practices committed in violation of the New York State Human Rights Law, New York Executive Law §§ 290 *et seq.* (the “NYSHRL”) and the New York City Human Rights Law, N.Y.C. Administrative Code §§ 8-107 *et seq.* (the “NYCHRL”).

PROCEDURAL REQUIREMENTS

21. Shortly after the filing of this Complaint, Plaintiffs will file Charges of Discrimination with the Equal Employment Opportunity Commission (“EEOC”) alleging violations of Title VII, 42 U.S.C. §§ 2000e *et seq.* (“Title VII”). When the EEOC completes its investigation of the charges and issues Plaintiffs’ notices of right to sue, Plaintiffs will file an action in federal court alleging violations of Title VII.

22. Pursuant to NYCHRL § 8-502, Plaintiffs will serve a copy of this Complaint upon the New York City Commission on Human Rights and the New York City Law Department, Office of the Corporation Counsel within ten days of its filing, thereby satisfying the notice requirements of NYCHRL § 8-502.

23. Although unnecessary, in an abundance of caution Plaintiffs will file Notices of Claim in connection with the unlawful activity described herein.

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

VENUE

25. Pursuant to New York Civil Practice Law and Rules (“CPLR”) § 503, the Supreme Court of the State of New York, New York County, is the proper venue for this action as Defendant New York City is a Municipal Corporation with its principal place of business in New York County, New York.

PARTIES

26. Plaintiff Mina Quinto Malik is a female resident of the State of New York and resides in Queens County. At all relevant times, Ms. Malik, who is the CCRB’s Executive Director, met the definition of an “employee” of the City of New York under all applicable statutes.

27. Plaintiff Dr. Robia Charles is a female African-American resident of the State of New York and resides in Queens County. At all relevant times, Dr. Charles, who is the CCRB’s Deputy Executive Director for Policy and Strategic Initiatives, met the definition of an “employee” of the City of New York under all applicable statutes.

28. Defendant City of New York is a Municipal Corporation with its principal place of business in New York County, New York, duly organized and existing under and by virtue of the laws of the State of New York. The New York City CCRB is an agency or department of the Defendant City of New York, duly existing by reason of, and pursuant to, the laws of the City and State of New York.

29. Defendant Richard Emery is the Chair of the Board of the CCRB.

FACTUAL ALLEGATIONS

I. BACKGROUND

30. Ms. Malik has spent her entire professional career in public service, the majority of which she has served the City of New York.

31. Prior to joining the CCRB, Ms. Malik served as Special Counsel to Brooklyn District Attorney Ken Thompson. In that role, Ms. Malik advised the newly-elected District Attorney on the restructuring and reorganization of the office, personnel matters, policy issues and wrongful conviction cases.

32. Before working in the Kings County District Attorney's Office, Ms. Malik was the Senior Assistant District Attorney in the Queens County District Attorney's Office's Special Victims Bureau where she supervised the investigation and prosecution of child homicides, child physical and sexual abuse and adult sex crime cases. She became a staunch advocate for countless women and children who were the victims of such heinous crimes. During her fifteen years in the Queens District Attorney's Office, Ms. Malik prosecuted a broad range of felony cases and prepared and argued numerous appeals in the Appellate Division, Second Department.

33. In addition to her public service work in law enforcement, Ms. Malik also worked as a Criminal Investigator for the D.C. Public Defender Service where she investigated criminal cases ranging from assault to murder for indigent defendants.

34. Ms. Malik was appointed Executive Director of the CCRB in February 2015.

35. In September 2015, Ms. Malik hired Dr. Charles to serve as the CCRB's Deputy Executive Director for Policy and Strategic Initiatives.

II. DEFENDANT EMERY REFERS TO MS. MALIK AS A “PUSSY” AND MS. MALIK ENGAGES IN PROTECTED ACTIVITY

36. On September 15, 2015, Defendant Emery met, *via* teleconference, with two CCRB Board members, a male CCRB employee and two high-level female CCRB employees (including one female attorney and one Unit Head).

37. During the meeting, one of the female employees, an attorney, questioned Defendant Emery with regard to an issue relating to a complaint filed by a civilian with the CCRB.

38. Ultimately, this female attorney left the meeting to speak with Ms. Malik about the issue. The female attorney asked Ms. Malik to intervene on her behalf.

39. Ms. Malik then called Defendant Emery, who was still participating in the meeting *via* teleconference. Ms. Malik also questioned Defendant Emery’s approach to the CCRB complaint at issue, and Defendant Emery became very agitated. All of the participants in the meeting observed Defendant Emery’s call with Ms. Malik.

40. Defendant Emery hung up the phone after speaking with Ms. Malik and, in the presence of the meeting participants, including the remaining female employee, exclaimed, in reference to Ms. Malik and the female attorney who had left the room: “I don’t know why everyone is acting like a bunch of pussies.”

41. This highly offensive, gender-based and sexual slur was directed towards Ms. Malik and the female attorney who questioned Defendant Emery’s approach to the case in question.

42. The female Unit head who participated in the meeting reported this discriminatory statement to Ms. Malik.

43. On or about September 16, 2015, Ms. Malik complained to Defendant Emery about this discriminatory comment, telling him that the comment was very offensive, particularly when directed towards women.

44. Defendant Emery initially denied making the statement. However, when pressed, he admitted that he made the actual statement but insisted that he only meant to call Ms. Malik and the female attorney “pussy cats.”

45. Defendant Emery’s “explanation” was not only a blatant lie, but also itself extremely offensive.

46. On or around September 26, 2015, Ms. Malik reported Defendant Emery’s use of this gender-based slur to the CCRB’s Equal Employment Opportunity (“EEO”) Officer.

47. The CCRB’s EEO Officer conveyed Ms. Malik’s report to Ryan Fenimore Fisher, New York City’s Chief Diversity and EEO Officer.

48. The CCRB’s EEO Officer also conveyed Ms. Malik’s report to the New York City Law Department.

49. Ms. Malik informed Defendant Emery that she had filed a complaint against him in connection with his reference to her as a “pussy.”

50. After Defendant Emery was informed that Ms. Malik reported his discriminatory conduct, he began retaliating against Ms. Malik, including by micromanaging her work, undermining her authority and decision-making responsibility, not inviting her to important meetings and failing to include her on communications necessary for Ms. Malik to perform her job as Executive Director.

51. Upon information and belief, neither the Law Department nor Mr. Fisher conducted any investigation into Defendant Emery’s use of the word “pussy” until March 2016.

III. MS. MALIK IS RETALIATED AGAINST FOR PARTICIPATING IN THE INVESTIGATION OF DEFENDANT EMERY’S USE OF THE TERM “PUSSY”

52. The Law Department finally conducted an “investigation” into Defendant Emery’s sexist and discriminatory conduct in March 2016, approximately five months after it was reported.

53. Ms. Malik was interviewed by the Law Department on March 4, 2016. During the interview, Ms. Malik reiterated that she found Defendant Emery’s reference to her as a “pussy” to be offensive and discriminatory. Ms. Malik also expressed her fear that she would be retaliated against by Defendant Emery for participating in the Law Department’s investigation.

54. Defendant Emery was interviewed by the Law Department on March 15, 2016.

55. Immediately following Ms. Malik’s participation in the Law Department’s investigation, Defendant Emery’s retaliatory conduct escalated.

56. Between March 15, 2016 and March 23, 2016, Defendant Emery took numerous retaliatory actions to lay the groundwork for Ms. Malik’s eventual termination, including, *inter alia*, (i) fabricating issues and concerns regarding Ms. Malik’s performance as the leader of the CCRB; (ii) curtailing Ms. Malik’s authority to hire subordinate employees, including the CCRB’s General Counsel; (iii) altering the reporting lines of the CCRB’s General Counsel such that he or she would report both to Defendant Emery and Ms. Malik rather than to Ms. Malik alone; and (iv) falsely accusing Ms. Malik of insubordination.

57. This escalated retaliatory conduct was in stark contrast to Defendant Emery’s comments about Ms. Malik during a public Board meeting just weeks before her interview with the Law Department. During these comments, Defendant Emery lauded Ms. Malik’s performance and ultimately advocated to give her a raise.

58. As such, on March 23, 2016, Ms. Malik again engaged in protected activity by complaining to the Law Department about Defendant Emery's unlawful retaliatory actions. Specifically, Ms. Malik complained as follows: "While I believe that Richard has taken adverse actions against me since I reported the incident in September of 2015, I am now writing to report to you the increasingly adverse actions Richard has taken against me since your interview with him on Tuesday, March 15th."

59. Ms. Malik complained about these retaliatory adverse actions directly to Defendant Emery, as well as to other Board members.

60. Ms. Malik also complained about all of the aforementioned conduct directly to a high-level official in the Mayor's Office. Dr. Charles was present for and participated in that complaint. The individual to whom Ms. Malik complained informed her that he would speak with Defendant Emery about his conduct.

IV. DR. CHARLES COMPLAINS ABOUT GENDER DISCRIMINATION COMMITTED AGAINST HER BY DEFENDANT EMERY

61. Dr. Charles began to experience gender discrimination at the hands of Defendant Emery shortly after she began her employment with the CCRB in September 2015.

62. Specifically, despite her significant accomplishments and outstanding performance, Defendant Emery treated Dr. Charles far worse than any of her male counterparts.

63. Dr. Charles received numerous denigrating, unprofessional and threatening emails and other communications from Defendant Emery. By way of example only, Defendant Emery sent numerous emails to Dr. Charles, with her subordinates copied, berating her for no reason at all. Defendant Emery also sent numerous emails threatening Dr. Charles's employment with the CCRB, including one in which he threatened to "redefine [her] job description as Deputy ED for Policy."

64. Upon information and belief, Defendant Emery did not treat his male subordinates in this harassing and improper fashion.

65. Defendant Emery's gender-based disparate treatment created a hostile environment and negatively impacted Dr. Charles's working conditions.

66. Defendant Emery also retaliated against Dr. Charles for making complaints regarding retaliatory conduct Defendant Emery committed against Ms. Malik, as well as for Dr. Charles's support for Ms. Malik in connection with her complaints regarding Defendant Emery's reference to female employees as "pussies."

67. As such, on April 2, 2016, Dr. Charles filed a formal complaint with the CCRB's EEO Officer. Dr. Charles's complaint, which was in writing, includes, *inter alia*, "I have been discriminated against by Richard Emery, Chairman of the CCRB Board. Mr. Emery has treated me and continues to treat me in a disparate fashion by not treating me in the same fashion as he treats men."

68. Dr. Charles's written complaint also includes, *inter alia*, "I fully believe Mr. Emery is retaliating against me because of my support for the Executive Director and because I do not agree with the retaliatory, discriminatory and adverse actions that he has continued to take against her."

V. DEFENDANT EMERY FURTHER RETALIATES AGAINST MS. MALIK AND DR. CHARLES TO LAY THE GROUNDWORK FOR THEIR TERMINATIONS

69. The CCRB's next Board meeting is scheduled for April 13, 2016. In advance of this meeting, Defendant Emery has taken numerous steps to effectuate further adverse action against Ms. Malik and Dr. Charles.

70. Specifically, Defendant Emery has made concerted efforts to call and meet with CCRB Board members to discuss the upcoming meeting. On these calls and during these

meetings, Defendant Emery has further denigrated and disparaged the work of Ms. Malik and Dr. Charles, claiming that they have performance issues and are performing poorly.

71. Defendant Emery also has asked Board members to approve a new review process for Ms. Malik, which would, of course, be used to fabricate a paper trail to support Ms. Malik's eventual termination.

72. After each public CCRB Board meeting, the Board meets in a private "Executive Session."

73. Upon information and belief, Defendant Emery plans to use the "Executive Session" at the April 13, 2016 Board meeting to further lay the groundwork for Plaintiffs' terminations and possibly even to vote on their termination during the Executive Session.

AS AND FOR A FIRST CAUSE OF ACTION
(Retaliation in Violation of New York State Human Rights Law)

74. Plaintiffs hereby repeat, reiterate and re-allege each and every allegation in each of the preceding paragraphs as if fully set forth herein.

75. Defendants have retaliated against Plaintiffs in violation of the NYSHRL for making protected complaints concerning gender discrimination and unlawful retaliation.

76. As a direct and proximate result of Defendants' unlawful retaliatory conduct in violation of NYSHRL, Plaintiffs have suffered and continue to suffer 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 they are entitled to an award of damages.

AS AND FOR A SECOND CAUSE OF ACTION
(Aiding and Abetting Violations of New York State Human Rights Law)
(Against Defendant Emery)

77. Plaintiffs hereby repeat, reiterate and re-allege each and every allegation in each of the preceding paragraphs as if fully set forth herein.

78. Defendant Emery knowingly or recklessly aided and abetted the unlawful retaliation to which Plaintiffs were subjected in violation of the NYSHRL.

79. As a direct and proximate result of Defendant Emery's aiding and abetting of unlawful retaliatory conduct in violation of NYSHRL, Plaintiffs have suffered and continue to suffer 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 they are entitled to an award of damages.

AS AND FOR A THIRD CAUSE OF ACTION
(Retaliation in Violation of New York City Human Rights Law)

80. Plaintiffs hereby repeat, reiterate and re-allege each and every allegation in each of the preceding paragraphs as if fully set forth herein.

81. Defendants have retaliated against Plaintiffs in violation of the NYCHRL for making protected complaints concerning gender discrimination and unlawful retaliation.

82. As a direct and proximate result of Defendants' unlawful retaliatory conduct in violation of NYCHRL, Plaintiffs have suffered and continue to suffer 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 they are entitled to an award of damages.

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

AS AND FOR A FOURTH CAUSE OF ACTION
(Aiding and Abetting Violations of New York City Human Rights Law)
(Against Defendant Emery)

84. Plaintiffs hereby repeat, reiterate and re-allege each and every allegation in each of the preceding paragraphs as if fully set forth herein.

85. Defendant Emery knowingly or recklessly aided and abetted the unlawful retaliation to which Plaintiffs were subjected in violation of the NYCHRL.

86. As a direct and proximate result of Defendant Emery's aiding and abetting of unlawful retaliatory conduct in violation of NYCHRL, Plaintiffs have suffered and continue to suffer 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 they are entitled to an award of damages.

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

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that the Court enter judgment in their favor and against Defendants, containing 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 their 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 order directing Defendants to take such affirmative action as is necessary to ensure that the effects of these unlawful employment practices are eliminated;

D. An award of damages against Defendants, or any jointly or severally liable entity or person, in an amount to be determined at trial, plus prejudgment interest, to compensate Plaintiffs for all monetary and/or economic damages;

E. An award of damages against Defendants, or any jointly or severally liable entity or person, in an amount to be determined at trial, plus prejudgment interest, to compensate Plaintiffs for all non-monetary and/or compensatory damages;

F. An award of punitive damages, and any applicable penalties;

G. Prejudgment interest on all amounts due;

H. An award of costs that Plaintiffs incur in this action, as well as an award of reasonable attorneys' fees to the fullest extent permitted by law; and

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

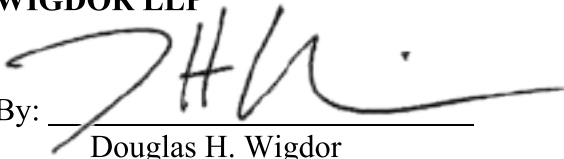
JURY DEMAND

Plaintiffs hereby demand a trial by jury on all issues of fact and damages stated herein.

Dated: April 12, 2016
New York, New York

Respectfully submitted,

WIGDOR LLP

By: 
Douglas H. Wigdor
Michael J. Willemin

85 Fifth Avenue
New York, New York 10003
Tel: (212) 257-6800
Fax: (212) 257-6845
dwigdor@wigdorlaw.com
mwillemin@wigdorlaw.com

Counsel for Plaintiffs