

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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ASHLEY BERG,

Plaintiff,

v.

THE BMF MEDIA GROUP LLC; BRIAN FEIT,
in his individual and professional capacities;
BRUCE STARR, in his individual and
professional capacities; ED STARR, in his
individual and professional capacities; and ERIC
BRUNMAN, in his individual and professional
capacities,

Defendants.
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Civil Action No. 19-cv-01601 (ALC)

AMENDED COMPLAINT

Jury Trial Demanded

Plaintiff Ashley Berg, as and for her Amended Complaint against Defendants The BMF Media Group LLC (“BMF” or the “Company”), Brian Feit, Bruce Starr (“B. Starr”), Ed Starr (E. Starr), and Eric Brunman (Messrs. Feit, B. Starr, E. Starr and Brunman will be referred to collectively as the “Individual Defendants”) (BMF and the Individual Defendants will be referred to collectively as “Defendants”) hereby alleges as follows:

PRELIMINARY STATEMENT

1. No woman should ever have to choose between receiving the job promotion she has worked hard to earn, and becoming pregnant and starting a family. These two celebrated accomplishments should never be mutually exclusive. Yet, in the eyes of the all-male leadership at BMF Media Group LLC, a company specializing in experiential brand marketing for some of the most successful companies in the world such as L’Oréal, Estee Lauder, and Revlon, whose mission it is to empower women, a woman cannot have both a family and a successful career.

2. Indeed, BMF and its male leaders rightly promoted Plaintiff Ashley Berg to lead BMF's sales team after observing her exhibit nothing but dedication to the Company and powerful leadership in the one year she had been working for BMF.

3. Yet, just mere days after Ms. Berg informed Defendants that she was pregnant with her first child and planned to take maternity leave, Defendants abruptly stripped her of the promotion she had just earned.

4. Incredibly, when asked why Ms. Berg was so suddenly demoted, BMF's Chief Operating Officer, Defendant Brunman, confirmed his view that simply being a rank-and-file salesperson as opposed to an executive leading the sales team was a **"better role for [her] now because [she is] pregnant."**

5. This was after BMF's Managing Partner, Defendant Ed Starr, ominously warned Ms. Berg at the outset of her employment that she was **"at the top of the list"** for **"risk"** of becoming pregnant according to a "risk assessment" analysis that the Company had conducted with regard to a proposed maternity leave policy.

6. At a time when Ms. Berg should be celebrating the impending birth of her first child with family, friends and supportive colleagues, she is left shattered after being punished by Defendants merely for choosing to become pregnant.

7. What is even more alarming, right after Ms. Berg filed this action, other women have come forward to share their harrowing stories of gender and/or pregnancy discrimination committed against them by BMF and its all-male leadership team with Ms. Berg.

8. For instance, one female executive who has courageously come forward was interviewed by Defendant Brunman for the position of Senior Vice President of Creative Strategy at BMF in the fall of 2017. Not only did Mr. Brunman ask this woman wholly

inappropriate questions about whether she had children or planned to become pregnant anytime soon, but shockingly said to her, **“if we do move forward [with hiring you to join BMF], we would need you to promise that you will wait a year to have a baby because we need someone to give us runway and show that they are fully committed to the job and can give their full attention to the position.”**

9. Not surprisingly, after Mr. Brunman was told by this female executive that it was wrong for him to be making these types of statements and warnings to her, Mr. Brunman merely laughed and said, in sum and substance, “you are probably right.”

10. Disturbingly, it is now apparent that BMF’s discriminatory conduct towards Ms. Berg was not an aberration, but part of a shocking pattern and practice of illegal, gender-based conduct at the Company. Ms. Berg now brings this action to vindicate her rights to be free from discrimination and retaliation on the basis of her gender and/or pregnancy, which have been blatantly trampled upon by Defendants, pursuant to the Family Medical Leave Act, 29 U.S.C. §§ 2601 *et seq.* (“FMLA”), New York State Human Rights Law, N.Y. Executive Law §§ 290 *et seq.* (“NYSHRL”) and New York City Human Rights Law, N.Y. City Administrative Code §§ 8-101 *et seq.* (“NYCHRL”).

ADMINISTRATIVE PREREQUISITES

11. Simultaneously with the filing of this Amended Complaint, Plaintiff will file a Charge of Discrimination with the Equal Employment Opportunity Commission (“EEOC”) alleging unlawful discrimination in violation of Title VII of the Civil Rights Act of 1964 (“Title VII”). Upon issuance of a Notice of Right to Sue from the EEOC, Plaintiff shall seek leave to amend this Complaint to include claims under Title VII.

12. Following commencement of this action, a copy of the Complaint was served 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.

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

JURISDICTION AND VENUE

14. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331, as this action involves federal questions regarding the deprivation of Plaintiff's rights under the FMLA. The Court has supplemental jurisdiction over Plaintiff's related claims arising under State and local law pursuant to 28 U.S.C. § 1367(a).

15. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to this action, including the unlawful employment practices alleged herein, occurred in this district.

PARTIES

16. Plaintiff Ashley Berg is a female employee of BMF, and a resident of New York, New York. At all relevant times, Plaintiff met the definition of an employee and/or eligible employee under all applicable statutes.

17. Defendant The BMF Media Corporation is a New York limited liability company, with headquarters at 50 West 23rd Street, 7th Floor, New York, New York, 10010. At all relevant times, BMF was an employer within the meaning of all applicable statutes.

18. Defendant Feit is, upon information and belief, a resident of New York, New York and a Co-founding Partner of BMF. At all relevant times, Defendant Feit met the definition of Plaintiff's "employer" under all applicable statutes.

19. Defendant Bruce Starr is, upon information and belief, a resident of New York, New York and a Co-founding Partner of BMF. At all relevant times, Defendant B. Starr met the definition of Plaintiff's "employer" under all applicable statutes.

20. Defendant Ed Starr is, upon information and belief, a resident of New York, New York and the Managing Partner of BMF. At all relevant times, Defendant E. Starr met the definition of Plaintiff's "employer" under all applicable statutes.

21. Defendant Brunman is, upon information and belief, a resident of New York, New York and the Chief Operating Officer ("COO") of BMF. At all relevant times, Defendant Brunman met the definition of Plaintiff's "employer" under all applicable statutes.

FACTUAL ALLEGATIONS

Ms. Berg Joins BMF, Excels as a Performer, and is Promoted to Lead BMF's Sales Team

22. In October 2017, Ms. Berg joined BMF as an Executive Vice President following BMF's acquisition of LFB Media Group, LLC ("LFB"), the public relations firm Ms. Berg founded.

23. Soon after she came aboard, BMF's Managing Partner, Defendant Ed Starr, told Ms. Berg, unprompted, that the Company had just conducted a "risk assessment" analysis of its female employees in connection with a proposed company maternity leave policy. He then ominously revealed that Ms. Berg was "**at the top of the list**" in terms of "**risk**" of becoming pregnant.

24. A stunned and uncomfortable Ms. Berg tried to downplay this offensive revelation by telling Mr. E. Starr that she had no plans to become pregnant.

25. Despite the alarming warning issued by Mr. E. Starr, from the start of her employment, Ms. Berg demonstrated a profound dedication to the Company and willingness to take initiative to better the business.

26. In addition to ensuring that LFB smoothly transitioned to BMF's management, Ms. Berg worked to develop and roll out operational procedures, interviewed employees, including for leadership positions, and developed sales strategies. This was in addition to the time she spent performing business development and sales functions.

27. Ms. Berg proved to be an asset to the Company, and a natural leader.

28. In recognition of the value she brought to BMF, in early November 2018, Mr. Feit, Mr. Bruce Starr and Mr. Brunman promoted Ms. Berg to lead the sales team.

29. Ms. Berg instantly embraced this new role and leadership opportunity, which was announced to the executive leadership and sales teams.

30. Ms. Berg immediately began to further develop the sales strategy, attend executive leadership meetings, present the strategy she developed at executive leadership meetings, develop sales reporting and management processes, and introduce a new proposed commission structure.

31. Ms. Berg also had input into personnel decisions involving sales employees, and even met with Human Resources Director Aurelie Binisti to go over the new sales commission structure in order to begin preparing amended sales commission agreements.

32. Ms. Berg was also asked by Mr. Brunman to transition her sales leads to other members of the sales team in order to focus full-time on management, and she met with Mr. E. Starr, who formerly ran the sales team, to go over transition and training.

33. There is no question that Defendants fully regarded and welcomed Ms. Berg as an executive leader.

Upon Learning of Her Pregnancy and Anticipated Maternity Leave, BMF Demotes Ms. Berg, and Tells Her it is Due to Her Pregnancy

34. Ms. Berg became pregnant in October 2018, but waited to formally announce her pregnancy to the Company.

35. However, after Ms. Berg was promoted to lead the sales team, on December 5, 2018 she attended a client holiday party that was also attended by Defendant Feit, BMF Sales Consultant Meredith Dichter, and David DeVos, Defendant B. Starr's fiancé.

36. At that event, Ms. Dichter told Mr. DeVos that she suspected Ms. Berg was pregnant given that Ms. Berg was wearing loose-fitting clothes (she typically wore form-fitting clothing), and was not consuming any alcohol, including the champagne handed to her when she arrived.

37. Likewise, on December 11, 2018, after an office meeting, Ms. Dichter told Defendant B. Starr that she thought Ms. Berg was pregnant because she wore loose-fitting clothes and had frequently been out sick from work.

38. Notably, later that day Defendant Brunman told Ms. Berg that the Company would further be adjusting the sales strategy and commission structure, and would circle back to Ms. Berg on these issues by the end of the week. However, Mr. Brunman never did so.

39. In addition, Ms. Berg was also asked by colleagues at the Company's December 18, 2018 holiday party whether she was pregnant because she had been frequently wearing loose-fitting sweaters.

40. Ultimately, on January 3, 2019, Ms. Berg told Defendant Brunman that she was pregnant, to which Mr. Brunman responded, "we knew this was coming." Ms. Berg then assured Mr. Brunman that she had no intention of slowing down as sales team leader, and would prepare a coverage plan for her anticipated maternity leave.

41. Later that day, Ms. Berg notified Defendants Feit, B. Starr and E. Starr, that she was pregnant and planned to take maternity leave.

42. Incredibly, **just two business days later**, on January 7, 2019, Ms. Berg was told by the Individual Defendants that she was being demoted back to a sole contributor sales position, and that her salary would be cut by 35%.

43. Clearly mindful of the extraordinarily suspicious timing of this decision, Defendants Feit and B. Starr repeatedly told Ms. Berg that this decision was allegedly “in the works” weeks before she notified them that she was pregnant.

44. Ms. Berg met with Defendant Brunman the next day, and asked what she had done to deserve the sudden demotion. Defendant Brunman responded that she had not done anything wrong, but that he did not think that she was qualified to run a sales team, though he admitted that he was not familiar with Ms. Berg’s employment history.

45. Further, Defendant Brunman shockingly told Ms. Berg that a sole contributing sales person position was a **“better role for you now because you are pregnant.”** Defendant Brunman’s candid comment made it abundantly clear that the decision to demote Ms. Berg was unlawfully motivated by her pregnancy.

Defendants Retaliate Against Ms. Berg After She Complains of Discrimination

46. On February 1, 2019, Ms. Berg, through counsel, sent a letter to Messrs. Feit, B. Starr and Brunman, notifying them that the above referenced acts constituted unlawful gender and pregnancy discrimination.

47. A half an hour after this correspondence was sent, Defendants emailed Ms. Berg to inform her that as a result of her counsel’s correspondence, her Company email access would be suspended and she was not to report to work.

48. It was only after Ms. Berg's counsel wrote to Defendants to make it clear that their actions in response to Ms. Berg's protected activity were punitive and retaliatory that Defendants restored her email access and allowed her to return to work.

49. However, Defendants' retaliatory actions did not cease there. Rather, Defendants immediately began a campaign of shutting out and marginalizing Ms. Berg as a result of her protected complaints.

50. Specifically, since Plaintiff's complaints, Defendant Feit has scheduled and held meetings with several of Ms. Berg's existing clients, including Amazon Fashion, UNIQLO, and Coach. It was highly unusual and contrary to past practice for Ms. Berg to be excluded from even casual meetings involving her existing clients. Yet, Mr. Feit did not notify Ms. Berg of his intent to meet with these clients, nor did he invite Ms. Berg to attend these meetings.

51. Further, Ms. Berg was inexplicably disinvited to a meeting involving her client, L'Oréal.

52. Moreover, despite being the sales lead on the Amazon Fashion account, Ms. Berg was removed completely from correspondence and involvement regarding ongoing and new projects involving this client without explanation.

53. Given that a significant portion of Ms. Berg's compensation is tied to sales commission, Defendants' actions in excluding and actively shutting her out from opportunities to generate sales revenue such as client meetings and projects are clearly attempts to diminish her earning potential and force her out of the Company in retaliation for complaining about unlawful gender and pregnancy discrimination.

BMF Continues to Retaliate Against Ms. Berg After She Files Suit

54. BMF's retaliatory actions against Ms. Berg relentlessly continued even after she commenced this suit on or about February 21, 2019.

55. In fact, the very next day, February 22, 2019, BMF issued a public press release in which the last name Ms. Berg is known as professionally (Berg is her maiden name) was gratuitously revealed, something done with no motive but to retaliate against and punish Ms. Berg who clearly wished to minimize any damage to her professional reputation caused by having to commence suit against BMF.

56. Moreover, on February 25, 2019, BMF circulated a gratuitous, unnecessary and retaliatory internal statement about this lawsuit to its staff, which served no purpose but to deter and intimidate others from coming forward or cooperating with Ms. Berg. Specifically, this statement:

- i. Announced that Ms. Berg was involved in a suit in which BMF was a defendant;
- ii. Announced that the Company had "heard" from many employees;
- iii. Stated that BMF is sure employees "must have a number of questions,"
- iv. Stated that BMF is "proud of [its] values ... including diversity, inclusion and empowerment," and is committed to providing a "safe and supportive" work environment;
- v. Stated that BMF "will contest these allegations vigorously,"
- vi. Instructed employees to "respect Ashley's privacy regarding this matter," while any "questions or concerns" should be directed to HR; and
- vii. Touted the "number of projects and opportunities coming up."

57. In addition, Defendant Brian Feit has continued to unashamedly exclude Ms. Berg from meetings with her existing clients, often without her even knowing about the meetings beforehand, including Estee Lauder, The Robot Company, Kohl's, and Kiehl's.

58. Further, BMF has gone out of its way to look for ways in which to make Ms. Berg's work environment unpleasant, in a bid to force her to quit. For example, Ms. Berg was accused of violating BMF policy by not submitting time off requests through a tracking program called BambooHR, even though Ms. Berg was previously advised by BMF's Director of HR that she did not in fact need to enter her time off requests into the system, and was never told otherwise.

59. Moreover, in yet another clear act of retaliation meant to embarrass and intimidate Ms. Berg, since this suit was filed, BMF has evicted Ms. Berg from her own private office from where she has worked since the start of her employment for no valid reason. As a result, Ms. Berg will be the highest ranking employee (not counting BMF's partners who elect to sit in the open office space because they frequently travel and otherwise have a shared lounge that they use for private space) without their own private office. To add even further insult to injury, Ms. Berg will now have to sit next to Defendant Ed Starr, who, as discussed herein, has already and continues to discriminate against, harass, and retaliate against Ms. Berg.

After Ms. Berg Commences Suit, BMF's Pattern of Discrimination Against Women Based on Gender and/or Pregnancy Further Comes to Light

60. After Ms. Berg commenced this lawsuit, a number of women came forward to express that they have felt discriminated against because of their gender and/or pregnancy status by BMF and its all-male leadership.

61. In fact, much like how Ms. Berg was cautioned at the outset of her employment by Ed Starr that she was a "high risk" for becoming pregnant, other female employees or

employment candidates have also been warned about becoming pregnant while working for BMF.

62. For instance, during the fall of 2017, one female executive had a series of conversations with BMF COO Eric Brunman about the open Senior Vice President, Creative Strategy position that BMF was looking to fill. These conversations were part of the interview process, and meant for Mr. Brunman to get to know this female executive and her background and experiences, and for the female executive to learn more about BMF, its culture and the available position.

63. During one particular face to face conversation, Mr. Brunman asked this female executive if she had children and whether she planned to become pregnant anytime soon, even though the female executive's family status had no bearing on whether she was the right candidate for the Senior VP, Strategy position. The female executive had not volunteered or otherwise said anything up to that point which opened the door to or invited this line of questioning from Mr. Brunman regarding her pregnancy-related and family plans.

64. Subsequently, during a phone conversation, Mr. Brunman said to this female executive, in sum and substance, "if we do move forward [with hiring you to join BMF], we would need you to promise that you will wait a year to have a baby because we need someone to give us some runway and show that they are fully committed to the job and can give their full attention to the position."

65. Mr. Brunman was not only conditioning a job offer on a promise that the female candidate not get pregnant in her first year at BMF, but that doing otherwise would indicate that she was not "fully committed to the job" and could not give her "full attention to the position."

66. The female executive was taken aback by Mr. Brunman's inappropriate and discriminatory statement, and immediately told him that he should not be making those types of statements to her. In response, Mr. Brunman laughed and said, in sum and substance, "you are probably right."

67. Shortly after this conversation, BMF offered the Senior VP, Creative Strategy position to this female executive, but she ultimately declined in part because of Mr. Brunman's comments. Further, BMF made no mention of any maternity leave policy anywhere in the documents that accompanied the female executive's offer letter, including in those documents where her potential benefits were discussed.

68. As such, it is apparent that the discriminatory actions committed against Ms. Berg after she revealed that she was pregnant were not aberrational or the exception, but part of a pattern and practice of marginalizing women who choose to or even consider becoming pregnant while at BMF.

The Company Fails to Pay Ms. Berg Over \$60,000 in Owed Commissions

69. In addition to unlawfully discriminating and retaliating against Ms. Berg for becoming pregnant and expressing her intent to take maternity leave, BMF has also failed to honor the terms of Ms. Berg's commission agreement, in violation of New York Labor Law § 191(c).

70. Specifically, the only operative commission agreement between BMF and Ms. Berg is the agreement Ms. Berg signed and agreed to at the time she joined BMF in 2017.

71. Any subsequent proposed commission structure was never agreed to or signed by Ms. Berg. Yet, BMF has failed to abide by the commission terms contained in her original employment agreement.

72. As a result, BMF has failed to pay and now owes Ms. Berg approximately \$60,985.50 in unpaid commissions pursuant to the terms of the only operative and mutually agreed upon commission agreement, in addition to liquidated damages and other penalties.

FIRST CAUSE OF ACTION
(Retaliation in Violation of the FMLA)
Against Defendant BMF

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

74. At all times relevant herein, Plaintiff was an “eligible employee” within the meaning of the Family Medical Leave Act, 29 U.S.C. § 2601. Plaintiff, a full-time employee of BMF, at all relevant times worked at least 1,250 hours in any 12-month period, and specifically, in the 12-month period preceding her anticipated FMLA leave due to her pregnancy.

75. At all times relevant herein, BMF was a “covered employer” within the meaning of the FMLA. BMF employs 50 or more employees in at least 20 calendar weeks within a 75 mile radius.

76. By the actions described above, among others, BMF violated the FMLA by unlawfully retaliating against Plaintiff for the exercise of her FMLA rights by, *inter alia*, demoting her shortly after she announced that she was pregnant and intended to take maternity leave, an action that would clearly deter employees from exercising their rights under the FMLA.

77. As a direct and proximate result of BMF’s unlawful conduct in violation of the FMLA, Plaintiff has suffered and continues to suffer harm for which she is entitled to an award of damages, to the greatest extent permitted under law, in addition to liquidated damages and reasonable attorneys’ fees and expenses.

SECOND CAUSE OF ACTION
(Gender and Pregnancy Discrimination in Violation of the NYSHRL)
Against All Defendants

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

79. 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.

80. Specifically, Defendants demoted Plaintiff within days after she provided notice to them that she was pregnant and intended to take maternity leave, and did so because she became pregnant and intended to take maternity leave.

81. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has suffered, and continues to suffer, monetary and/or economic harm for which she is entitled to an award of damages, in addition to reasonable attorneys' fees and costs.

82. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has suffered, and continues to suffer, mental anguish and emotional distress, for which she is entitled to an award of damages.

THIRD CAUSE OF ACTION
(Retaliation in Violation of the NYSHRL)
Against All Defendants

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

84. As alleged herein, Defendants have retaliated against Plaintiff on the basis of her protected complaints regarding gender and pregnancy discrimination.

85. As a direct and proximate result of Defendants' unlawful retaliatory conduct in violation of the NYSHRL, Plaintiff has suffered, and continues to suffer, monetary and/or

economic harm for which she is entitled to an award of damages, as well as an award for reasonable attorneys' fees and litigation costs.

86. As a direct and proximate result of Defendants' unlawful retaliatory conduct in violation of the NYSHRL, Plaintiff has suffered, and continues to suffer, mental anguish and emotional distress for which she is entitled to an award of damages.

FOURTH CAUSE OF ACTION
(Aiding and Abetting in Violation of the NYSHRL)
Against the Individual Defendants

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

88. The Individual Defendants knowingly and maliciously aided and abetted the unlawful employment practices, discrimination and retaliation described herein against Plaintiff in violation of the NYSHRL.

89. As a direct and proximate result of the Individual Defendants' unlawful conduct, Plaintiff has suffered, and continues to suffer, monetary and/or economic harm for which she is entitled to an award of damages, in addition to reasonable attorneys' fees and costs.

90. As a direct and proximate result of the Individual Defendants' unlawful conduct, Plaintiff has suffered, and continues to suffer, mental anguish and emotional distress, for which she is entitled to an award of damages.

FIFTH CAUSE OF ACTION
(Gender and Pregnancy Discrimination in Violation of the NYCHRL)
Against All Defendants

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

92. By the actions described above, among others, BMF discriminated against Plaintiff on the basis of her gender and/or pregnancy in violation of the NYCHRL

93. Specifically, Defendants demoted Plaintiff within days after she provided notice to them that she was pregnant and intended to take maternity leave, and did so because she became pregnant and intended to take maternity leave.

94. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has suffered, and continues to suffer, monetary and/or economic harm for which she is entitled to an award of damages, in addition to reasonable attorneys' fees and costs.

95. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has suffered, and continues to suffer, mental anguish and emotional distress, for which she is entitled to an award of damages.

96. Defendants' unlawful and discriminatory actions were done with willful negligence, or recklessness, or a conscious disregard of the rights of Plaintiff or conduct so reckless as to amount to such disregard of Plaintiff's protected rights under the NYCHRL, for which Plaintiff is entitled to an award of punitive damages.

SIXTH CAUSE OF ACTION
(Retaliation in Violation of the NYCHRL)
Against All Defendants

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

98. As alleged herein, Defendants have retaliated against Plaintiff on the basis of her protected complaints about gender and pregnancy discrimination.

99. As a direct and proximate result of Defendants' unlawful retaliatory conduct in violation of the NYCHRL, Plaintiff has suffered, and continues to suffer, monetary and/or

economic harm for which she is entitled to an award of damages, in addition to reasonable attorneys' fees and costs.

100. As a direct and proximate result of Defendants' unlawful retaliatory conduct in violation of the NYCHRL, Plaintiff has suffered, and continues to suffer, mental anguish and emotional distress for which she is entitled to an award of damages.

101. Defendants' unlawful and retaliatory actions were done with willful negligence, or recklessness, or a conscious disregard of the rights of Plaintiff or conduct so reckless as to amount to such disregard of Plaintiff's protected rights under the NYCHRL, for which Plaintiff is entitled to an award of punitive damages

SEVENTH CAUSE OF ACTION
(Aiding and Abetting in Violation of the NYCHRL)
Against the Individual Defendants

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

103. The Individual Defendants knowingly and maliciously aided and abetted the unlawful employment practices, discrimination and retaliation against Plaintiff in violation of the NYCHRL.

104. As a direct and proximate result of the Individual Defendants' unlawful conduct, Plaintiff has suffered, and continues to suffer, monetary and/or economic harm for which she is entitled to an award of damages, in addition to reasonable attorneys' fees and costs.

105. As a direct and proximate result of the Individual Defendants' unlawful conduct, Plaintiff has suffered, and continues to suffer, mental anguish and emotional distress, for which she is entitled to an award of damages.

106. The Individual Defendants' unlawful actions were done with willful negligence, or recklessness, or a conscious disregard of the rights of Plaintiff or conduct so reckless as to amount to such disregard of Plaintiff's protected rights under the NYCHRL, for which Plaintiff is entitled to an award of punitive damages.

EIGHTH CAUSE OF ACTION
(Violation of NYLL § 191)
Against All Defendants

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

108. Defendants have refused to pay Plaintiff certain commissions she has earned based on sales she originated, in contravention of the terms of Plaintiff's employment, and in violation of the New York Labor Law ("NYLL").

109. Defendants' willful refusal to pay Plaintiff's hard-earned commissions is a violation of New York Labor Law § 191, which requires that employers pay employees' commissions in accordance with their agreed upon terms of employment.

110. The foregoing conduct of Defendants constitutes willful violations of the NYLL.

111. Defendants' violations of the NYLL have significantly damaged Plaintiff, and entitles her to recover the total amount of her unpaid commissions earned in accordance with her agreed terms of employment, an additional amount in liquidated damages, and reasonable attorneys' fees and costs.

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 United States, the State of New York and the City of New York;

B. 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;

C. 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 emotional distress;

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

E. An award of liquidated damages in an amount to be determined at trial;

F. Pre-judgment interest on all amounts due;

G. An award of Plaintiff's reasonable attorneys' fees and costs; and

H. 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: March 19, 2019
New York, New York

Respectfully submitted,

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