

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

Index No.

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SHERINA THOMAS,

Plaintiff,

Plaintiff designates
New York County as the place
of Trial

-against-

SUMMONS

EONY LLC, and DAVID SHAVOLIAN, individually,

Defendants.

The basis for venue is
Defendants' Principal Place
of Business located at:
469 7th Avenue, 4th Floor
New York, NY 10018


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To the above named Defendant:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the plaintiffs' attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the inconvenience relief demanded in the complaint.

Dated: New York, New York
September 30, 2013

ARCÉ LAW GROUP, PC
Attorneys for Plaintiff

By:


W. Gordon Kaupp, Esq.
30 Broad Street, 35th Floor
New York, New York 10004
(212) 248-0120

Defendants' Address:

EONY LLC
~ via Secretary of State

DAVID SHAVOLIAN
~ via place of employment
469 7th Avenue, 4th Floor
New York, New York 10018

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

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SHERINA THOMAS,

Index No:

Plaintiff,

COMPLAINT

-against-

EONY LLC, and DAVID SHAVOLIAN, individually,

PLAINTIFF DEMANDS A
TRIAL BY JURY

Defendants.

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Plaintiff, by her attorneys, The Arcé Law Group, PC, hereby complains of the Defendants, upon information and belief, as follows:

1. Plaintiff complains pursuant to the New York Executive Law, the Administrative Code of the City of New York, and the New York Common Law, seeking damages to redress the injuries she has suffered as a result of, *inter alia*, sex/gender discrimination, sexual harassment, *quid pro quo* sexual harassment, retaliation and constructive discharge by Defendants.
2. Plaintiff is a resident of the State of New York, County of Kings.
3. At all times material, Defendant EONY LLC is a domestic limited liability company duly existing by virtue of the laws of the State of New York, located at 469 7th Avenue, 4th Floor, New York, New York 10018.
4. At all times material, Defendant DAVID SHAVOLIAN (hereinafter referred to as "SHAVOLAIN") was and is the owner of Defendant EONY LLC.
5. At all times material, Defendant SHAVOLIAN is a resident of the State of New York.
6. At all times material, Defendant SHAVOLIAN was Plaintiff's supervisor and/or had supervisory authority over Plaintiff.

7. Defendant EONY LLC and Defendant SHAVOLIAN are also herein collectively referred to as “Defendants.”
8. At all times material, Plaintiff was an employee of Defendants.

MATERIAL FACTS

9. Plaintiff initially met Defendant SHAVOLIAN answering an advertisement for children models, on behalf of her own children.
10. While waiting to be interviewed, Defendant SHAVOLIAN walked into the office and presented himself to Plaintiff as the person with whom she would be interviewing.
11. Defendant SHAVOLIAN led Plaintiff to the 4th floor and into his office, then asked Plaintiff to remove her blazer so he could see the shape of Plaintiff’s body.
12. Plaintiff then made it known that she was not interested in modeling, that Plaintiff was only there in the interest of her children.
13. Defendant SHAVOLIAN ignored Plaintiff’s requests and continued to speak about the modeling business and that he owned many companies.
14. Defendant SHAVOLIAN told Plaintiff **“I could help you to model.”** He then forced **Plaintiff to show her bare breasts.**
15. Defendant SHAVOLIAN then assessed Plaintiff’s breasts by taking his hands and squeezing, fondling and jiggling Plaintiff’s breasts and replied **“Your breasts are not firm enough. I can help you get surgery to fix those breasts.”**
16. Defendant SHAVOLIAN took Plaintiff’s name and contact information and then dismissed Plaintiff like she, and her breasts, were “toys” and said **“I will call you if anything comes up in terms of available work.”**

17. In or around May 2012, Defendant SHAVOLIAN contacted Plaintiff in regard to interviewing for a receptionist position at Defendant EONY LLC.
18. In or around May 2012, Plaintiff interviewed with Defendant SHAVOLIAN. At the interview, Plaintiff was asked questions by Defendant like **“Do you shave or wax your pussy?”**
19. Out of work and needing a job, Plaintiff ignored the comments and on or about May 21, 2012, she began her employment with Defendants as a “Receptionist.”
20. Although Plaintiff was promoted to “Manager” by Defendant SHAVOLIAN, Plaintiff soon realized that her duties as a Manager required her to be in constant contact with Defendant SHAVOLIAN.
21. Immediately, and continuing throughout Plaintiff’s employment with Defendants, Plaintiff was subjected to numerous discriminatory acts, and a hostile work environment.
22. By way of example, Plaintiff was required to do “rounds” or walk the floors with Defendant, checking in on properties and on building tenants. Defendant SHAVOLIAN would insist that Plaintiff accompany him into the restroom while he would urinate and have conversation with Plaintiff. He would make her stand right next to him while he urinated.
23. On one occasion, Defendant SHAVOLIAN forced Plaintiff to go with him to a vacant floor in the building so he could remove his undershirt to show Plaintiff his body. Plaintiff was required to stand and watch Defendant SHAVOLIAN undress.
24. On another occasion, Defendant SHAVOLIAN telephoned Plaintiff to inform her that his **underwear was too tight** and that **they were “squeezing [his] balls.”** He then asked Plaintiff what he should do about this problem.

25. On one occasion, Defendant SHAVOLIAN asked Plaintiff to **help him find a dermatologist because he had an anal rash and asked Plaintiff to take a look at the rash.** Plaintiff refused.
26. On another occasion, when Defendant SHAVOLIAN called Plaintiff into his office, Defendant SHAVOLIAN was standing in his office with **his pants down and his penis exposed.** Defendant then told Plaintiff to help him put lotion on his penis.
27. Defendant SHAVOLIAN would tell Plaintiff **“Your ass is so big. Do you prefer oral or traditional missionary sex?”**
28. On many occasions, Defendant SHAVOLIAN inquired as to whether Plaintiff liked any other females around the building and would beg Plaintiff to get pictures of female genitalia for him to view.
29. In or around December 2012, Defendant SHAVOLIAN propositioned Plaintiff for oral sex in exchange for him paying a \$1,200.00 bill due of hers. Defendant SHAVOLIAN then told Plaintiff that he was going to add a \$600 lawyer fee (in the hope of scaring Plaintiff into accepting Defendant SHAVOLIAN’s proposition for oral sex). Plaintiff became immediately upset and told Defendant SHAVOLIAN **“Your disgusting!”** Defendant SHAVOLIAN then laughed in Plaintiff’s face.
30. Defendant SHAVOLIAN’s actions were intended to coerce and/or intimidate Plaintiff from pursuing her legal rights.
31. Plaintiff attempted to change the subject each and every time Defendant SHAVOLIAN made sexually explicit remarks, to make it clear to him that she did not welcome the comments or harassment.

32. In or around April 2013, Defendant SHAVOLIAN asked Plaintiff to take him to an empty office. When Plaintiff took Defendant SHAVOLIAN to an empty office, Defendant SHAVOLIAN made Plaintiff engage in a pointless conversation while he began to undress.
33. Defendant SHAVOLIAN then told Plaintiff that she had two weeks vacation, and went on to tell her that she could take vacation one of two ways: either take the time off, or work and get paid an extra week.
34. Defendant SHAVOLIAN then told Plaintiff that **“If you’re a good girl, you can have both.”** (referring to a week of vacation and an extra week of pay if Plaintiff succumbed to Defendant SHAVOLIAN’s sexual advances).
35. Nevertheless, Defendant SHAVOLIAN continued to sexually harass Plaintiff throughout her employment.
36. When Plaintiff was present at work, it was an endless mental and physical battle. Plaintiff was scared to come to work or to be alone with Defendant SHAVOLIAN.
37. Defendants created a sexual hostile work environment that no reasonable person would tolerate.
38. On or about May 1, 2013, Plaintiff could no longer endure the harassment, and quit.
39. On or about May 1, 2013, Defendants constructively terminated Plaintiff.
40. As a result of Defendants' conduct, Plaintiff has been forced to seek out psychological treatment.
41. Defendants’ actions and conduct were intentional and intended to harm the Plaintiff.
42. As a result of Defendants’ actions, Plaintiff felt extremely humiliated, degraded, victimized, embarrassed, and emotionally distressed.
43. As a result of the Defendants' discriminatory and intolerable treatment, Plaintiff suffered severe emotional distress.

44. As a result of the acts and conduct complained of herein, Plaintiff has suffered and will continue to suffer the loss of income, the loss of a salary, bonuses, benefits and other compensation which such employment entails, and Plaintiff has also suffered future pecuniary losses, emotional pain, suffering, inconvenience, loss of enjoyment of life, and other non-pecuniary losses. Plaintiff has further experienced severe emotional and physical distress.
45. As a result of the above, Plaintiff has been damaged in an amount which exceeds the jurisdiction limits of all lower Courts.
46. As Defendants' conduct has been malicious, willful, outrageous, and conducted with full knowledge of the law. As such, the Plaintiff demands Punitive Damages as against all the Defendants, jointly and severally.

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

47. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint as if set forth herein more fully at length.
48. Executive Law § 296 provides that that "1. It shall be an unlawful discriminatory practice:
"(a) For an employer or licensing agency, because of the age, race, creed, color, national origin, sex, or disability, or marital status of any individual, to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment."
49. Defendants violated the section cited herein by discharging, creating and maintaining discriminatory working conditions, and otherwise discriminating against the Plaintiff because of her sex, together with sexual harassment and *quid pro quo* sexual harassment.

**AS A SECOND CAUSE OF ACTION
FOR DISCRIMINATION UNDER STATE LAW
RETALIATION**

45. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.

46. New York State Executive Law §296(7) provides that it shall be an unlawful discriminatory practice:

"For any person engaged in any activity to which this section applies to retaliate or discriminate against any person because [s]he has opposed any practices forbidden under this article."

47. Defendants engaged in an unlawful discriminatory practice by discharging, retaliating, and otherwise discriminating against the Plaintiff because of Plaintiff's opposition to the unlawful employment practices of Plaintiff's employer.

**AS A THIRD CAUSE OF ACTION
UNDER THE NEW YORK CITY ADMINISTRATIVE CODE
DISCRIMINATION**

48. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint as if set forth herein more fully at length.

49. The Administrative Code of City of NY § 8-107 [1] provides that it shall be unlawful "(a) For an employer or an employee or agent thereof, because of the actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, sexual orientation or alienage or citizenship status of any person, to refuse to hire or employ or to bar or to discharge from employment such person or to discriminate against such person in compensation or in terms, conditions or privileges of employment."

50. Defendants engaged in an unlawful discriminatory practice in violation of New York City Administrative Code Title 8, §8-107(1)(a) by creating and maintaining discriminatory working conditions, and otherwise discriminating against the Plaintiff because of her gender together with sexual harassment, and *quid pro quo* sexual harassment.

**AS A FOURTH CAUSE OF ACTION FOR DISCRIMINATION
UNDER THE NEW YORK CITY ADMINISTRATIVE CODE
RETALIATION**

51. Plaintiff repeats, reiterates and realleges each and every allegation made in the above paragraphs of this Complaint as if more fully set forth herein at length.

52. The New York City Administrative Code Title 8, §8-107(1)(e) provides that it shall be unlawful discriminatory practice: "For an employer... to discharge ... or otherwise discriminate against any person because such person has opposed any practices forbidden under this chapter..."

53. Each of the Defendants engaged in an unlawful discriminatory practice in violation of New York City Administrative Code Title 8, §8-107(1)(e) by discriminating against the Plaintiff because of Plaintiff' opposition to the unlawful employment practices of Plaintiffs employer.

**AS A FIFTH CAUSE OF ACTION FOR DISCRIMINATION
UNDER THE NEW YORK CITY ADMINISTRATIVE CODE
SUPERVISORY LIABILITY**

54. Plaintiff repeats, reiterates and realleges each and every allegation made in the above paragraphs of this Complaint as if more fully set forth herein at length.

55. New York City Administrative Code Title 8-107(13) Employer liability for discriminatory conduct by employee, agent or independent contractor.

- a. An employer shall be liable for an unlawful discriminatory practice based upon the conduct of an employee or agent which is in violation of any provision of this section other than subdivisions one and two of this section.
- b. An employer shall be liable for an unlawful discriminatory practice based upon the conduct of an employee or agent which is in violation of subdivision one or two of this section only where:
 - (1) the employee or agent exercised managerial or supervisory responsibility; or
 - (2) the employer knew of the employee's or agent's discriminatory conduct, and acquiesced in such conduct or failed to take immediate and appropriate corrective action; an employer shall be deemed to have knowledge of an employee's or agent's discriminatory conduct where that conduct was known by another employee or agent who exercised managerial or supervisory responsibility; or
 - (3) the employer should have known of the employee's or agent's discriminatory conduct and failed to exercise reasonable diligence to prevent such discriminatory conduct.

56. Defendants violated the section cited herein as set forth.

**AS AN SIXTH CAUSE OF ACTION
UNDER THE NEW YORK CITY ADMINISTRATIVE CODE
INTERFERENCE WITH PROTECTED RIGHTS**

59. Plaintiff repeats, reiterates and realleges each and every allegation made in the above paragraphs of this Complaint as if more fully set forth herein at length.

60. New York City Administrative Code Title 8-107(19) Interference with protected rights. It shall be an unlawful discriminatory practice for any person to coerce, intimidate, threaten or interfere with, or

attempt to coerce, intimidate, threaten or interfere with, any person in the exercise or enjoyment of, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected pursuant to this section.

61. Defendants violated the section cited herein as set forth.

**AS A SEVENTH CAUSE OF ACTION
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

57. Plaintiff repeats and realleges each and every paragraph above as if said paragraph was more fully set forth herein at length.

58. Defendants engaged in extreme and outrageous conduct.

59. Defendants intended to cause, or disregarded a substantial probability of causing, severe emotional distress to Plaintiff.

60. There exists a causal connection between the above conduct and said injury.

61. As a result of said conduct Plaintiff suffered and suffers from severe emotional distress.

62. Defendants breached a duty owed directly to the Plaintiff that either endangered Plaintiff's physical health and safety and/or caused Plaintiff to fear for Plaintiff's own health and safety.

WHEREFORE, Plaintiff demands judgment against Defendants in an amount that exceeds the jurisdictional requirements of this Court, plus interest and costs

WHEREFORE, Plaintiff respectfully requests a judgment against the Defendants:

A. Declaring that the Defendants engaged in unlawful employment practice prohibited by the New York City Administrative Code Title 8, §8-107 et. Seq., the New York Executive Law; and New

York Common Law; and that the Defendants discriminated against Plaintiff on the basis of sex/gender, together with sexual harassment.

- B. Declaring that Defendants Intentionally caused Plaintiff emotional distress.
- C. Awarding Plaintiff compensatory damages for mental, emotional and physical injury, distress, pain and suffering and injury to reputation;
- D. Awarding Plaintiff punitive damages;
- E. Awarding damages to the Plaintiff, retroactive to the date of discharge, for all lost wages and benefits, past and future, back pay and front pay, resulting from Defendants' unlawful termination of employment and to otherwise make Plaintiff whole for any losses suffered as a result of such unlawful employment practice;
- F. Awarding Plaintiff attorney's fees, costs, and expenses incurred in the prosecution of the action;
- G. Awarding Plaintiff such other and further relief as the Court may deem equitable, just and proper to remedy the Defendant's unlawful employment practices.

JURY DEMAND

Plaintiff requests a jury trial on all issues to be tried.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally in an amount to be determined at the time of trial plus interest, punitive damages, attorneys' fees, costs, and disbursements of action; and for such other relief as the Court deems just and proper.

Dated: New York, New York
September 30, 2013

ARCÉ LAW GROUP, PC
Attorneys for Plaintiff

By: _____

W. Gordon Kaupp, Esq.
30 Broad Street, 35th Floor
New York, New York 10004
(212) 248-0120

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

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SHERINA THOMAS,

Plaintiff,

-against-

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SUMMONS AND COMPLAINT

**ARCÉ LAW GROUP, PC
Attorneys for Plaintiff
30 Broad Street, 35th Floor
New York, NY 10004
(212) 248-0120**