

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

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**BERNICE LOWE, ANGELA FLETCHER  
and ROSEMARY MANGUM,**

**Index No.:**

**SUMMONS**

**Plaintiffs,**

**-against-**

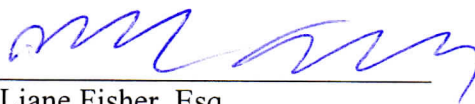
**LOEHMANN'S HOLDINGS INC., LOEHMANN'S, INC.,  
JAY ERLICHMAN, TRICIA TRAINOR, and  
COURTNEY ABRAMS,**

**Defendants.**  
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To the above named Defendant(s)

**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(s) within twenty (20) days after the service of this Summons, exclusive of the day of service (or within thirty (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 relief demanded in the Complaint.

Dated: November 13, 2013  
New York, New York

  
\_\_\_\_\_  
Liane Fisher, Esq.  
Michael Taubenfeld, Esq.  
SERRINS FISHER, LLP  
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TO: Loehmann's Holdings Inc.  
2500 Halsey St.  
Bronx, NY 10461

Loehmann's Inc.  
2500 Halsey St.  
Bronx, NY 10461

Jay Erlichman  
40 East 76<sup>th</sup> St., Apt. 9  
New York, NY 10021-2712

Tricia Trainor  
2101 Broadway  
New York, NY 10023

Courtney Abrams  
2101 Broadway  
New York, NY 10023

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

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**BERNICE LOWE, ANGELA FLETCHER  
and ROSEMARY MANGUM,**

**Index No.:**

**COMPLAINT**

**Plaintiffs,**

**Jury Trial Demanded**

**-against-**

**LOEHMANN'S HOLDINGS INC., LOEHMANN'S, INC.,  
JAY ERLICHMAN, TRICIA TRAINOR, and  
COURTNEY ABRAMS,**

**Defendants.**

-----X  
Bernice Lowe ("Plaintiff Lowe"), Angela Fletcher ("Plaintiff Fletcher"), and Rosemary Mangum ("Plaintiff Magnum) (collectively "Plaintiffs"), by and through their attorneys, SERRINS FISHER LLP, complain of Loehmann's Holdings, Inc. and Loehmann's Inc. (collectively "Defendant Loehmann's) and Jay Erlichman ("Defendant Erlichman"), Tricia Trainor ("Defendant Trainor"), and Courtney Abrams ("Defendant Abrams") (collectively "Individual Defendants") (all together "Defendants") as follows:

**NATURE OF THE ACTION**

1. This action is brought to challenge Defendants' practice of age discrimination in the terms, conditions, and privileges of Plaintiffs' employment in violation of the Administrative Code of the City of New York, § 8-101 *et seq.* ("NYCHRL").
2. Pursuant to § 8-502(c) of the City Law, prior to filing this complaint with the court, Plaintiffs served a copy of this complaint on the City of New York Commission on Human Rights and on the City of New York Corporation Counsel.

## **PARTIES**

### ***Plaintiffs***

3. Plaintiff Lowe is currently fifty-seven (57) years old and a resident of the State of New York, Kings County.
4. Plaintiff Fletcher is fifty-four (54) years old and a resident of the State of New York, Bronx County.
5. Plaintiff Mangum is seventy-six (76) years old and a resident of the State of New York, Bronx County.

### ***Defendants***

6. Upon information and belief, Defendants Loehmann's Holdings Inc. and Loehmann's Inc. (collectively "Loehmann's") are, and at all relevant times alleged herein were, Delaware corporations authorized to do business in the State of New York.
7. Defendant Loehmann's is a chain of department stores operating throughout 12 states, selling discounted designer clothing, shoes, and accessories.
8. Upon information and belief, Defendant Jay Erlichman is a resident of the State of New Jersey. At all times relevant to this action, Defendant Erlichman served as a District Manager for Defendants.
9. Defendant Trainor served as the General Manager of Defendant Loehmann's Upper West Side store location.
10. Defendant Abrams served as the Head of Human Resources of Defendant Loehmann's Upper West Side store location.
11. During all relevant times, Defendant Loehmann's employed more than four (4) people for each working day in each of twenty or more calendar weeks in the current or

preceding calendar year, and constituted an employer within the definition of the NYCHRL.

12. Defendants Erlichman, Trainor and Abrams may be held individually liable under the NYCHRL as employers, given that each had power to do more than carry out personnel decisions made by others.
13. Defendants recommended, partook, or otherwise participated in the adverse actions against Plaintiffs.
14. Defendants were agents, servants, and/or employees of each other.
15. The Individual Defendants were acting within the course and/or scope of their authority as agents, servants, and/or employees of Defendant Loehmann's.
16. Defendants may be held jointly and severally liable to Plaintiffs for losses sustained as a proximate result of Defendants' conduct.

### **FACTUAL ALLEGATIONS**

17. In or about March 2011, Jerry Politzer left his position as Chief Executive Officer ("CEO") of Defendant Loehmann's.
18. On or about June 7, 2011, Defendant Loehmann's hired Steven M. Newman ("Mr. Newman") to serve as the company's new CEO.
19. Upon information and belief, when Defendant Erlichman made the announcement about the new CEO to employees at the Chelsea store, he commented that Mr. Newman was "a lot younger" than the previous CEO.
20. Since then, Defendant Loehmann's has focused on creating a more youthful corporate image and marketing toward a younger female demographic. This goal has been achieved in many ways including but not limited to: airing television commercials



featuring young models and increasing its social media presence to target younger customers.

21. On or about August 22, 2012, Defendant Loehmann's was featured in the Style Section of the *New York Times*. Consistent with Defendant Loehmann's focus on youth, the piece heavily focused on the age of the new Chelsea store personal shopper, Carly Zell, who upon information and belief is in her mid to late 20's. The article emphasized that Zell "is barely 10 years out of high school," "young enough to be the daughter of many of her clientele," and "too young to remember the glory days of the 90-year-old Loehmann's."
22. In addition, the article highlighted Ms. Zell as Defendant Loehmann's youngest personal shopper, making her its "powerful secret weapon." The article also described Ms. Zell as a personal shopper who shows clients things that are "very young," with Zell acknowledging that she may be viewed "as a little young and hip for [Defendant Loehmann's] traditional shoppers."
23. Plaintiffs, all of whom are over 50 years old, did not fit Defendant Loehmann's new youthful corporate image. As a result, Plaintiffs were targeted for termination based on age.
24. Even though Defendants purport to have legitimate, non-discriminatory reasons for terminating each Plaintiff, Defendants impermissibly targeted Plaintiffs for termination.
25. Plaintiffs' age was, at least, a motivating factor in terminating Plaintiffs' employment.
26. Referring to Plaintiff Lowe and Fletcher's protected classifications, Defendant Trainor remarked to a few of Defendant Loehmann's employees, in sum and substance, that Defendants had to get "rid" of Plaintiffs Lowe and Fletcher.

***Plaintiff Lowe***

27. Donna Filomio, former manager of Defendant Loehmann's Upper West Side store, hired Plaintiff Lowe as a sales associate in July 2007.
28. Plaintiff Lowe was qualified for her job and met Defendants' reasonable performance expectations. Plaintiff Lowe received positive reviews from Ms. Filomio, and in 2010, she was promoted from associate to accessory specialist/floor supervisor.
29. Plaintiff Lowe's duties as an accessory specialist/floor supervisor included displaying new merchandise, overseeing the duties of associates, and assisting associates at the cashier.
30. In October 2011, Ms. Filomio was replaced by Defendant Trainor.
31. Around this same time, Defendant Loehmann's appointed Defendant Abrams as Head of Human Resources of the Upper West Side location.
32. Defendants Trainor and Abrams subjected Plaintiff Lowe to discriminatory treatment based on age, which included, but was not limited to:
  - a. Withdrawing Plaintiff Lowe's supervisory duties as floor manager while permitting younger accessory specialists to retain their supervisory duties;
  - b. Informing Plaintiff Lowe that she would be disciplined if she attempted to work overtime hours, even though other younger employees worked overtime without discipline; and
  - c. Issuing unwarranted and unsubstantiated written discipline. For example, in January 2012, Defendant Abrams gave Plaintiff Lowe a "write-up" for entering the damaged goods closet, even though the accessories supervisor instructed Plaintiff Lowe to review and tally damaged merchandise located in the damaged

goods closet.

33. In February 2012, Defendant Trainor commented, in the presence of Plaintiff Lowe, to a twenty-three (23) year old accessories specialist that she needed a “youth’s opinion” on a piece of merchandise, indicating that Defendant Trainor valued the opinions of younger workers over employees in Plaintiff Lowe’s age category.
34. Plaintiff Lowe reported the “youth’s opinion” comment, in addition to other discriminatory treatment to which she was subjected, to Defendant Loehmann’s complaint department, which then forwarded the complaint to Defendant Erlichman.
35. Defendant Erlichman scheduled a meeting with Plaintiff Lowe in which he downplayed Plaintiff Lowe’s concerns regarding Defendant Trainor’s comment and Defendants’ other discriminatory treatment.
36. No investigation or further action was taken by Defendant Loehmann’s to address Defendant Trainor’s discriminatory comment or Defendant Loehmann’s other unlawful conduct.
37. Roughly two months after this meeting, Plaintiff Lowe’s co-worker, Remeka [LNU], engaged Plaintiff Lowe in a verbal argument during business hours. Plaintiff Lowe suggested that they take their dispute to the office.
38. Remeka then falsely accused Plaintiff Lowe of threatening to hit her. Plaintiff Lowe told Defendant Abrams that Rameka’s accusation was false.
39. Defendant Abrams responded by telling Plaintiff Lowe that, “at her age,” Plaintiff Lowe should not be responding to a co-worker’s verbal comments and that she should have just gone to the office.
40. Defendants then terminated Plaintiff Lowe’s employment.



41. Defendant Abrams told Plaintiff Lowe that the reason for the termination was Remeka's false allegation.
42. Defendants terminated Plaintiff Lowe based on her age and because of her discrimination complaints.

***Plaintiff Fletcher***

43. Defendants hired Plaintiff Fletcher in February 2003 as an office manager and human resources coordinator for Defendant Loehmann's Riverdale store location.
44. Subsequently, Plaintiff Fletcher was transferred to work in Defendant Loehmann's Upper West Side store location.
45. Plaintiff Fletcher's duties included opening the cash registers, tracking the petty cash account, documenting employee attendance, and preparing payroll.
46. Plaintiff Fletcher was qualified for her position, met Defendants' reasonable performance expectations, and received positive reviews from Ms. Filomio.
47. Beginning in October 2011, Defendants subjected Plaintiff Fletcher to adverse treatment on account of her age, which included, but was not limited to:
  - a. Issuing a disciplinary warning to her because she worked overtime hours to attend to a lengthy customer line at the cash registers, despite the fact that she was pre-authorized to do so;
  - b. Denying her request to transfer to another store location; and
  - c. Placing her on a ninety (90) day probationary period.
48. At the time Plaintiff Fletcher was placed on probation, Defendant Erlichman informed Plaintiff Fletcher that, no matter what she did, Defendants would be terminating her employment at the end of the ninety (90) day period.

49. He stated that, if she quit sooner, she could collect unemployment.
50. Upon Plaintiff Fletcher's refusal to resign, Defendants terminated her employment, effective March 13, 2012.

***Plaintiff Mangum***

51. Defendants hired Plaintiff Mangum in 1993 as a sales associate for Defendant Loehmann's Riverdale store location.
52. Plaintiff Mangum was qualified for her position, met Defendants' reasonable performance expectations, and received positive reviews and promotions throughout her tenure.
53. By 2003, Plaintiff Mangum worked as a customer service representative. Her duties included answering phones and training employees.
54. On August 17, 2012, Defendants terminated Plaintiff Mangum's employment because she allegedly distributed too many unauthorized discounts to customers. During her termination meeting, Plaintiff Mangum was instructed to write a document confessing to the allegations and was dictated the precise language to use in drafting her confession.
55. Plaintiff Mangum disputes having distributed unauthorized discounts to customers.
56. She had been authorized to give discounts throughout her employment with Defendant Loehmann's pursuant to Company custom and policy.
57. She had never before been told that the manner in which she distributed discounts was unauthorized or improper.
58. Defendant Loehmann's did not inform her as to any changes in policy regarding the distribution of customer discounts.
59. Defendants terminated Plaintiff Mangum's employment without having issued prior

written warnings to her regarding the reason for her termination.

60. The Regional Manager informed Plaintiff Mangum that Defendants would give her a positive recommendation as she searched for other employment, which raises an inference that Defendants' reason for terminating her employment was illegitimate.
61. Upon information and belief, Plaintiff Magnum's duties were distributed to younger employees after she was terminated.

### **FIRST CLAIM FOR RELIEF**

#### **(Age Discrimination under NYCHRL as to all Plaintiffs)**

62. Plaintiffs repeat and reallege by reference each and every allegation contained in the foregoing paragraphs and incorporate the same as though fully set forth herein.
63. Defendants, through their agents, engaged in a continuous pattern of age discrimination.
64. By the acts and practices described above, Defendants took adverse employment actions against Plaintiffs based on their age.
65. Defendants knew their actions constituted discrimination. Thus, Defendants willfully disregarded Plaintiffs' statutorily protected rights.
66. As a proximate result of Defendants' unlawful acts of discrimination, Plaintiffs suffered and continue to suffer substantial losses in past and future earnings and other fringe benefits.
67. Plaintiffs have suffered mental anguish, pain, suffering and monetary damages as a result of Defendants' discrimination.

### **SECOND CLAIM FOR RELIEF**

#### **(Retaliation under NYCHRL as to Plaintiff Lowe)**

68. Plaintiffs repeat and reallege by reference each and every allegation contained in the

foregoing paragraphs and incorporate the same as though fully set forth herein.

69. Defendants, through their agents, retaliated against Plaintiff Lowe because of her complaints of discrimination.
70. Defendants knew their actions constituted retaliation. Thus, Defendants willfully disregarded Plaintiffs' statutorily protected rights.
71. As a proximate result of Defendants' unlawful acts of retaliation, Plaintiff Lowe suffered and continues to suffer substantial losses in past and future earnings and other fringe benefits.
72. Plaintiff Lowe has suffered mental anguish, pain, suffering and monetary damages as a result of Defendants' retaliation.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs respectfully request that the Court enter judgment:

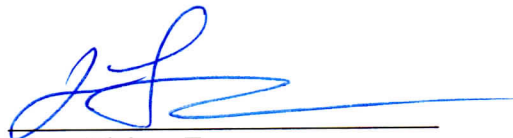
- a. Declaring the acts and practices described in this complaint to be violations of the New York City Human Rights Law;
- b. Awarding Plaintiffs back pay, front pay, compensatory damages, liquidated damages, punitive damages, and damages for mental anguish, pain, and suffering as a result of Defendants' unlawful conduct, in an amount exceeding the jurisdictional prerequisites;
- c. Awarding Plaintiffs such interest as allowed by law;
- d. Awarding Plaintiffs their reasonable attorneys' fees and costs; and
- e. Granting such other and further relief as this Court deems necessary and proper.

#### **DEMAND FOR TRIAL BY JURY**

Plaintiffs demand a trial by jury.



Dated: November 13, 2013  
New York, New York



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