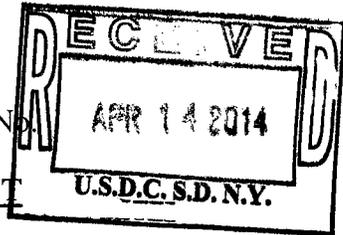


ABRAMS

14 CV 2625

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



NATASHA VELEZ,
Plaintiff,

Civil Action No. APR 14 2014

vs.

COMPLAINT

CHIPOTLE MEXICAN GRILL, INC; CHIPOTLE
SERVICES, LLC; and CHIPOTLE MEXICAN
GRILL OF COLORADO, LLC,
Defendants.

JURY TRIAL DEMANDED

Plaintiff, Natasha Velez, by and through her attorneys, The Legal Aid Society and
Friedman Kaplan Seiler & Adelman, LLP, alleges and states as follows:

PRELIMINARY STATEMENT

1. Natasha Velez, a domestic violence victim, brings this action for domestic
violence and disability discrimination against her former employer, Chipotle Mexican Grill, Inc.
(and its subsidiaries Chipotle Services, LLC and Chipotle Mexican Grill of Colorado, LLC
(referred to collectively, with Chipotle Mexican Grill, Inc., as “Chipotle”)), for firing her in
violation of the New York State Human Rights Law, N.Y. Exec. Law §§ 290 *et seq.*
 (“NYSHRL”), and the New York City Human Rights Law, N.Y. City Admin. Code §§ 8-101 *et*
seq. (“NYCHRL”).

2. Ms. Velez worked as a “crew member” at a Chipotle restaurant located in New
York, New York. Ms. Velez’s job duties included, among other things, manual food preparation,
food and drink services, customer service, and working the cash register.

3. On January 1, 2013, Ms. Velez was the victim of a domestic violence incident
wherein she was assaulted by her then-boyfriend, who choked and threatened her, fracturing her
left index finger in the process. Following the assault, Ms. Velez promptly sought medical

treatment at a nearby emergency room where her finger was splinted and she was referred to a hand surgery clinic for a follow-up evaluation.

4. On her next scheduled workday, Ms. Velez arrived at Chipotle early, with her finger still splinted, and told her manager that she had been a victim of a domestic violence incident. Ms. Velez showed her manager, who was already aware that Ms. Velez was in a violent domestic relationship, both a copy of the police report she had filed regarding the incident, as well as documentation of her emergency room visit, and told him she had scheduled an upcoming appointment to have her finger evaluated.

5. Ms. Velez's doctors determined that she was unable to return to work until January 28, 2013. When Ms. Velez returned to Chipotle, she showed her manager a copy of an order of protection she had been granted earlier that same day, prohibiting her assailant from entering Ms. Velez's place of employment. In response, Ms. Velez's manager told her that she had "too many issues outside of work" and fired her.

6. By this action, Ms. Velez seeks to recover damages caused by Chipotle's unlawful conduct, including compensation for her lost wages and emotional distress, punitive damages, attorneys' fees, and costs.

JURISDICTION AND VENUE

7. The Court has jurisdiction over each of Plaintiff's claims pursuant to 28 U.S.C. § 1332(a). The parties are completely diverse in citizenship and the amount in controversy exceeds \$75,000.

8. Venue lies in this judicial district pursuant to 28 U.S.C. § 1391(b) as this action arose, in substantial part, within the Southern District of New York, where the unlawful practices alleged herein occurred.

9. Contemporaneously with the filing of this complaint, Ms. Velez served a copy upon 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 Section 8-502(c) of the New York City Administrative Code.

PARTIES

10. Plaintiff Natasha Velez is an individual who currently resides and at all relevant times resided in Manhattan, in the State of New York.

11. Ms. Velez is a “domestic violence victim” within the meaning of the NYSHRL, and a “victim of domestic violence” within the meaning of the NYCHRL. Ms. Velez is also an individual with a “disability” within the meaning of the NYSHRL and the NYCHRL, and until the termination of her employment, was an “employee” of Chipotle.

12. Defendant Chipotle Mexican Grill, Inc. is a Delaware corporation with its principal place of business in Denver, Colorado.

13. Upon information and belief, Defendants Chipotle Services, LLC (formerly known as CMG Service Co., LLC) and Chipotle Mexican Grill of Colorado, LLC are subsidiaries of Chipotle Mexican Grill, Inc. and are Colorado limited liability companies having their principal places of business in Denver, Colorado.

14. Upon information and belief, Defendants operate over 1,500 Chipotle Mexican Grill restaurants throughout the United States. Defendants are each registered to do business in, and, upon information and belief, presently operate over 80 restaurants in, the state of New York.

15. Upon information and belief, Chipotle owns and operates a restaurant located at 281 Broadway, New York, NY, 10007, and a restaurant located at 1497 Third Avenue, New York, NY, 10028.

16. Upon information and belief, Chipotle employs approximately 45,000 individuals and is therefore an “employer” as defined by the NYSHRL and the NYCHRL.

FACTUAL ALLEGATIONS

17. In or around April 2012, Ms. Velez was hired as a “crew member” at the Chipotle restaurant located at 281 Broadway, New York, NY, 10007. She earned \$8.50 per hour. Her job duties required the use of both her hands in a fast-paced work environment, including manual food preparation (*i.e.*, chopping vegetables, preparing guacamole, and other similar responsibilities), food and drink service, customer service, and working the register. Ms. Velez was also occasionally required to lift heavy boxes.

18. In or around September 2012, Ms. Velez was transferred to the Chipotle restaurant located at 1497 Third Avenue, New York, NY, 10028, and given a raise to \$9.00 per hour, although her job title and duties stayed the same.

19. Ms. Velez’s manager at the Third Avenue Chipotle restaurant, Delmas (last name unknown), was aware that Ms. Velez was in a violent domestic relationship. In or around December 2012, Ms. Velez’s then-boyfriend came to the Third Avenue Chipotle restaurant during her shift, asking for her. Ms. Velez told Delmas that her then-boyfriend had been violent with her in the past, that she did not want to speak to him, and requested that Delmas ask him to leave the restaurant. Delmas agreed to ask but said that he could not “make” the former boyfriend leave.

20. On January 1, 2013, Ms. Velez was the victim of a domestic violence incident, recorded in a police report, wherein her then-boyfriend choked and threatened her in her home. As a result of the incident, Ms. Velez suffered, among other things, a fracture to her left index finger. She called the police and sought prompt medical attention for her injuries at a nearby emergency room, where she was provided a finger splint and prescribed pain medication. Her

treating physician also advised her to keep the splint on until she could attend a follow-up appointment at a hand surgery clinic, which was scheduled on January 14, 2013 (the clinic's next available appointment date).

21. Ms. Velez's next scheduled work day at Chipotle was January 7, 2013. On that day, she went to her workplace before her shift was to start and spoke with Delmas. She told Delmas about the domestic violence incident that had transpired on January 1, 2013, including that her then-boyfriend had assaulted her and broken her finger, which was now wrapped in a splint. Ms. Velez showed Delmas the police report from the incident as well as a record of her visit to the emergency room, and she informed him that she would need to be out of work until at least January 14, 2013, when her next doctor's appointment was scheduled. Delmas responded that Ms. Velez should bring a doctor's note to Chipotle after her January 14, 2013 appointment.

22. On January 14, 2013, Ms. Velez attended her follow-up appointment at the hand surgery clinic (still wearing a finger splint) and received a referral for physical therapy. Ms. Velez's doctor also gave her a note stating that she would be unable to work until January 28, 2013. Ms. Velez brought this note on that same day to Delmas at Chipotle, who said that she should return to Chipotle on January 28, 2013, pursuant to her doctor's instructions.

23. On January 23, 2013, Ms. Velez attended her physical therapy appointment and was told she could remove the finger splint on her left index finger going forward.

24. On January 28, 2013, Ms. Velez obtained an order of protection against the man who had assaulted her on January 1, 2013 (the "Order"). The Order prohibited, among other things, the assailant from appearing at Ms. Velez's home, school, or place of employment. Ms. Velez sought this order of protection in part because, as noted, she wanted to make sure that he could not come to her workplace asking for her, as he had done in the past.

25. Later on January 28, 2013, Ms. Velez, now ready and able to work, went to her workplace to get her upcoming work schedule, as per Delmas' earlier instructions. When she arrived, however, Delmas said he needed to speak to her. Ms. Velez then showed Delmas the Order. Delmas, in response, told Ms. Velez that she had "too many issues outside work" and terminated her employment, effective immediately. Ms. Velez pleaded with Delmas not to fire her, but he responded that there was "nothing he could do."

26. By engaging in the conduct described above, Chipotle discriminated against Ms. Velez on the basis of her actual and/or perceived status as a domestic violence victim, including by terminating her employment.

27. By engaging in the conduct described above, Chipotle also discriminated against Ms. Velez on the basis of her actual and/or perceived disability, including by terminating her employment.

28. As a result of her termination, Ms. Velez has experienced significant emotional distress, including sleeplessness, crying, depression, anxiety, and feelings of despair and hopelessness. Through its agent, Delmas, Chipotle knew or should have known that terminating Ms. Velez's employment because of her status as a domestic violence victim and/or because of her disability would cause Ms. Velez to suffer such distress.

First Count

**Violation of the New York State Human Rights Law,
N.Y. Exec. L. § 296 (Domestic Violence Victim Status)**

29. Ms. Velez incorporates the preceding paragraphs by reference.

30. Ms. Velez is a "domestic violence victim" as defined by Section 292(34) of the NYSHRL in that she is a victim of an act that would constitute a family offense pursuant to Section 812(1) of the Family Court Act, and her employer knew her to be as such.

31. The NYSHRL provides that “it that shall be an unlawful discriminatory practice for an employer” to discharge an employee on the basis of his or her “domestic violence victim status.” N.Y. Exec. L. § 296(1)(a).

32. Chipotle violated the NYSHRL, including by terminating Ms. Velez’s employment because of her status as a domestic violence victim.

33. Ms. Velez has been, and continues to be, damaged as a result of Chipotle’s unlawful acts, including past and future lost wages and benefits, and past and future physical and emotional distress.

Second Count

Violation of the New York City Human Rights Law, N.Y. City Admin. Code § 8-107.1 (Domestic Violence Victim Status)

34. Ms. Velez incorporates the preceding paragraphs by reference.

35. Ms. Velez is a “victim of domestic violence” as defined by Section 8-107.1(b) of the NYCHRL, and her employer knew and/or perceived her to be as such.

36. The NYCHRL provides that “[i]t shall be an unlawful discriminatory practice for an employer, or an agent thereof, . . . to discharge from employment, or to discriminate against an individual in compensation or other terms, conditions, or privileges of employment because of the actual or perceived status of said individual as a victim of domestic violence.” N.Y.C. Admin. Code § 8-107.1(2). Additionally, employers “shall make reasonable accommodation to enable a person who is a victim of domestic violence . . . to satisfy the essential requisites of a job provided that the status as a victim of domestic violence . . . is known or should have been known” by the employer. *Id.* § 8-107.1(3)(a).

37. Chipotle violated the NYCHRL, including by terminating Ms. Velez's employment because of her actual and/or perceived status as a domestic violence victim, and/or by failing to make reasonable accommodations.

38. Ms. Velez has been, and continues to be, damaged as a result of Chipotle's unlawful acts, including past and future lost wages and benefits, and past and future physical and emotional distress, and the attorneys' fees and costs of bringing this action.

39. Chipotle's intentional and unlawful conduct constitutes a malicious and/or recklessly indifferent violation of Ms. Velez's rights under the NYCHRL and therefore entitles Ms. Velez to an award of punitive damages pursuant to Section 8-502(a) of the NYCHRL.

Third Count

Violation of the New York State Human Rights Law, N.Y. Exec. L. § 296 (Disability Discrimination)

40. Ms. Velez incorporates the preceding paragraphs by reference.

41. Ms. Velez's physical or medical impairment(s) as described in this Complaint, suffered as a result of a domestic violence incident, constitute a disability within the meaning of Section 292(21) of the NYSHRL, and/or were regarded by her employer to constitute such a disability. *Id.*

42. The NYSHRL provides that "it that shall be an unlawful discriminatory practice for an employer . . . to discharge from employment" any individual on the basis of that individual's "disability," and to "refuse to provide reasonable accommodation to the known disabilities of an employee." N.Y. Exec. L. §§ 296(1)(a), 296(3)(a).

43. Chipotle violated the NYSHRL, including by terminating Ms. Velez's employment because of her actual and/or perceived disability, and/or by failing to accommodate Ms. Velez's actual and/or perceived disability.

44. Ms. Velez has been, and continues to be, damaged as a result of Chipotle's unlawful acts, including past and future lost wages and benefits, and past and future physical and emotional distress.

Fourth Count

**Violation of the New York City Human Rights Law,
N.Y. City Admin. Code § 8-107 (Disability Discrimination)**

45. Ms. Velez incorporates the preceding paragraphs by reference.

46. Ms. Velez's physical or medical impairment(s) as described in this Complaint, suffered as a result of a domestic violence incident, constitute a disability within the meaning of Section 8-102(16) of the NYCHRL, and/or were perceived by her employer to constitute such a disability.

47. The NYCHRL provides that "[i]t shall be an unlawful discriminatory practice [f]or an employer or an employee or an agent thereof, because of the actual or perceived . . . disability . . . of any person, . . . to discharge from employment such person or to discriminate against such person in compensation or in terms, conditions or privileges of employment." N.Y.C. Admin. Code § 8-107(1)(a). The NYCHRL further requires employers to "make reasonable accommodations to enable a person with a disability to satisfy the essential requisites of a job." *Id.* § 8-107(15)(a).

48. Chipotle violated the NYCHRL, including by terminating Ms. Velez's employment because of her actual and/or perceived disability, and/or by failing to accommodate Ms. Velez's actual and/or perceived disability.

49. Ms. Velez has been, and continues to be, damaged as a result of Chipotle's unlawful acts, including the loss of past and future wages and benefits, and past and future physical and emotional distress, and the attorneys' fees and costs of bringing this action.

50. Chipotle's intentional and unlawful conduct constitutes a malicious and/or recklessly indifferent violation of Ms. Velez's rights under the NYCHRL and therefore entitles Ms. Velez to an award of punitive damages pursuant to Section 8-502(a) of the NYCHRL.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

51. Declare that the acts complained of herein constitute violations of the NYSHRL and the NYCHRL;

52. Order Defendants to compensate Plaintiff for her damages, including her past and future loss of wages and benefits, and her past and future physical and emotional distress;

53. Reinstate Plaintiff to a position comparable to her former position or, in lieu of reinstatement, award her front pay;

54. Enter judgment in favor of Plaintiff for such amount as may be awarded for punitive damages;

55. Award to Plaintiff all costs and reasonable attorneys' fees incurred in connection with this action;

56. Award to Plaintiff such interest as is allowed by law; and

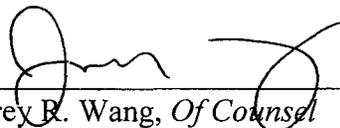
57. Grant such additional or alternative relief as may appear to this Court to be just and equitable.

JURY DEMAND

Plaintiff demands a trial by jury.

Dated: New York, New York
April 14, 2014

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