

JUDGE HELLERSTEIN

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

X 14 CV 5756
Case No.

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JEFFREY RODRIGUEZ,

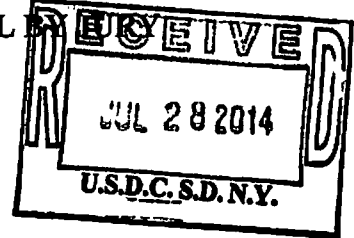
Plaintiff,

COMPLAINT

-against-

JACQUELINE DAUHAJRE MD P.C., and
JACQUELINE DAUHAJRE, *Individually*.

PLAINTIFF DEMANDS
A TRIAL



Defendants.
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Plaintiff, JEFFREY RODRIGUEZ (hereinafter "Plaintiff") by and through his attorneys, PHILLIPS & ASSOCIATES, Attorneys at Law, PLLC, hereby complains of Defendants JACQUELINE DAUHAJRE MD P.C. and JACQUELINE DAUHAJRE, upon information and belief, as follows:

NATURE OF THE CASE

1. Plaintiff complains pursuant to Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (amended in 1972, 1978 and by the Civil Rights Act of 1991, Pub. L. No. 102-166) ("Title VII") and the New York City Human Rights Law, New York City Administrative Code § 8-107, *et. seq.* ("NYCHRL"), and seeks damages to redress the injuries he has suffered as a result of being Discriminated against on the basis of his Gender.

JURISDICTION AND VENUE

2. Jurisdiction of this Court is proper under 42 U.S.C. §2000e-5(f)(3), and 28 U.S.C. §§ 1331 and 1343.
3. The Court has supplemental jurisdiction over the claims of Plaintiff brought under city

law pursuant to 28 U.S.C. § 1367.

4. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. § 1391(b) as it is a judicial district where a substantial part of the events or omissions giving rise to the claims occurred.

PROCEDURAL PREREQUISITES

5. Plaintiff filed charges of discrimination upon which this Complaint is based with the Equal Employment Opportunities Commission (hereinafter "EEOC").
6. Plaintiff received a Notice of Right to Sue from the EEOC, dated July 21, 2014, with respect to the herein charges of discrimination. A copy of the Notice is annexed hereto.
7. This Action is being commenced within ninety (90) days of receipt of said Right to Sue.

PARTIES

8. At all times relevant, Plaintiff was and is a resident of the State of New York and the County of Bronx.
9. At all times relevant, Defendant JACQUELINE DAUHAIJRE MD P.C. ("JD MD PC") was and is a domestic business corporation duly existing under, and by virtue of, the laws of the State of New York.
10. At all times relevant, Defendant JD MD PC owns and/or operates a medical office called "Centro Medico Dominicano" ("CMD") located at 629 West 185th Street, New York, NY 10033.
11. At all times relevant, Defendant JACQUELINE DAUHAIJRE ("DAUHAIJRE") was and is a resident of the State of New York.
12. At all times relevant, Defendant DAUHAIJRE was and is an employee of Defendant JD MD PC, holding the position of "owner."

13. At all times relevant, Defendant DAUHAIJRE held and/or exercised supervisory authority over Plaintiff, as well as had the power to hire, fire, and/or directly affect the terms and conditions of Plaintiff's employment.
14. Defendant JD MD PC and Defendant DAUHAIJRE are herein referred to together as "Defendants."

MATERIAL FACTS

15. In February 2014, Plaintiff learned of a job opening at CMD through a person who was a mutual friend ("the friend") of Plaintiff and Defendant DAUHAIJRE. Notably, the friend arranged for Plaintiff to go to CMD and interview for a staff position, or alternatively, to go to CMD to begin working.
16. On or about February 4, 2014, Plaintiff arrived at CMD.
17. On that day, Plaintiff was either interviewed and "auditioned" for a staff position at CMD, or alternatively, was hired and began training.
18. Upon information and belief, at this time, only females were employed at CMD.
19. Upon Plaintiff's arrival at CMD on or about February 4, 2014, Plaintiff met with Defendant DAUHAIJRE. In their meeting, Defendant DAUHAIJRE discussed what Plaintiff's pay would be, his hours of work, and the locations where he would be working. After asking Plaintiff a series of questions about his skills and abilities, Defendant DAUHAIJRE told Plaintiff, "Go train with [a person named] Addy." Defendant DAUHAIJRE then told Plaintiff that on Monday, February 10, 2014, he would be training with her (Defendant DAUHAIJRE) at a separate office and "assist[ing her] with surgery." Defendant DAUHAIJRE ended their meeting by saying, "Welcome!"
20. Notably, Defendant DAUHAIJRE told Plaintiff that he would be earning \$25,000 per year

in salary.

21. Throughout the day Defendant DAUHJRE and other staff workers approached Addy and asked how Plaintiff was doing. On each instance Addy responded that Plaintiff was doing well. Specifically, on one occasion Addy replied, "He learned everything very quick, he is doing great!"
22. On one instance, Defendant DAUHJRE approached Plaintiff and asked him, "How is everything going?" to which Plaintiff replied, "Great!" Defendant DAUHJRE responded by telling him, "Good, keep it up!"
23. At the end of the day, a co-worker of Addy's named Ivonne told Plaintiff that "everything looked good."
24. That evening, the friend contacted Plaintiff to tell him that he would not be working for Defendants.
25. **Plaintiff asked the friend if he knew why. In response, the friend forwarded on to Plaintiff a text message that he (the friend) had received from Defendant DAUHJRE. The text message read: "U know ... [Plaintiff] was good but the fact that he was a guy didn't work for us ... it was so unstabilizing for us all ... sooooo weird ... and he learned everything!!! But it just didn't click ... our vaginas rejected him."**
26. Shortly after learning that he would not be working for Defendants, Plaintiff text-messaged Addy. Specifically, on or about February 6, 2014, Plaintiff text-messaged to Addy, "Sorry if it's late, just wanted to say thanks for the training and you cool people." In response, Addy text-messaged to Plaintiff, "**Hey Jeffrey!! I was gonna text u too to say the same!! These bitches here are scared of Dick I guess lol.**"

27. Although there was no ambiguity based on Defendant DAUHJRE's previous text-message as to why Plaintiff was not going to be working for Defendants, this text message clarified Defendants' reasoning for Plaintiff's non-employment—to wit—because he was not a female.
28. Plaintiff became disturbed and distressed by the obvious and blatant discrimination he had suffered on the basis of his gender.
29. Based on the foregoing, Plaintiff's employment was unlawfully terminated on the basis of his gender by Defendants. In the alternative, Defendants unlawfully refused to hire Plaintiff on the basis of his gender.
30. As a result of the acts and conduct complained of herein, Plaintiff has suffered a loss of salary, emotional pain, suffering, inconvenience, loss of enjoyment of life, and other non-pecuniary losses. Plaintiff has further experienced severe emotional distress.
31. Defendants' conduct has been malicious, willful, outrageous, and conducted with full knowledge of the law. As such, Plaintiff demands Punitive Damages as against all Defendants, jointly and severally.
32. As a result of the above, Plaintiff has been damaged in an amount which exceeds the jurisdiction limits of the Court.

**AS A FIRST CAUSE OF ACTION
FOR DISCRIMINATION UNDER TITLE VII
(Not Against Individual Defendant)**

33. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this Complaint.
34. This claim is authorized and instituted pursuant to the provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et. seq.*, for relief based upon the unlawful

employment practices of the above-named Defendants. Plaintiff complains of Defendants' violation of Title VII's prohibition against discrimination in employment based, in whole or in part, upon an employee's gender.

35. Defendants engaged in unlawful employment practices prohibited by 42 U.S.C. § 2000e, *et seq.*, by discriminating against Plaintiff because of his gender.

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

36. 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.
37. The New York City Administrative Code § 8-107(1) provides that "It shall be an unlawful discriminatory practice: (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, 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."
38. Defendants engaged in an unlawful discriminatory practice in violation of New York City Administrative Code § 8-107(1)(a) by discriminating against Plaintiff because of his gender.

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

39. 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.
40. The New York City Administrative Code § 8-107(6) provides that it shall be unlawful

discriminatory practice: "For any person to aid, abet, incite, compel, or coerce the doing of any of the acts forbidden under this chapter, or attempt to do so."

41. Defendants engaged in an unlawful discriminatory practice in violation of New York City Administrative Code § 8-107(6) by aiding, abetting, inciting, compelling and coercing the above discriminatory and unlawful conduct.

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

42. 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.
43. The New York City Administrative Code § 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.

- c. An employer shall be liable for an unlawful discriminatory practice committed by a person employed as an independent contractor, other than an agent of such employer, to carry out work in furtherance of the employer's business enterprise only where such discriminatory conduct was committed in the course of such employment and the employer had actual knowledge of and acquiesced in such conduct.

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

JURY DEMAND

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

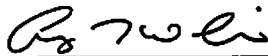
WHEREFORE, Plaintiff respectfully requests a judgment against the Defendants:

- A. Declaring that Defendants engaged in unlawful employment practices prohibited by Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et seq.*, and the New York City Administrative Code § 8-107, *et seq.*, in that Defendants discriminated against Plaintiff on the basis of his gender;
- B. Awarding damages to Plaintiff for all lost wages and benefits resulting from Defendants' unlawful discrimination and to otherwise make him whole for any losses suffered as a result of such unlawful employment practices;
- C. Awarding Plaintiff compensatory damages for mental, emotional and physical injury, distress, pain and suffering and injury to his reputation in an amount to be proven;

- D. Awarding Plaintiff punitive damages;
- E. Awarding Plaintiff attorneys' fees, costs, and expenses incurred in the prosecution of the action; and
- F. Awarding Plaintiff such other and further relief as the Court may deem equitable, just and proper to remedy Defendants' unlawful employment practices.

Dated: New York, New York
July 24, 2014

**PHILLIPS & ASSOCIATES,
ATTORNEYS AT LAW, PLLC**

By: 

Casey Wolnowski, Esq.
Attorneys for Plaintiff
PHILLIPS & ASSOCIATES,
ATTORNEYS AT LAW, PLLC
45 Broadway, Suite 620
New York, New York 10006
(212) 248-7431
cwolnowski@tpglaws.com

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Jeffrey Rodridguez
1810 Lafayette Avenue,
Apt 6-J
Bronx, NY 10473

From: New York District Office
33 Whitehall Street
5th Floor
New York, NY 10004

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No. 520-2014-01908
EEOC Representative Charles K. Diamond, Investigator
Telephone No. (212) 336-3771

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

- More than 180 days have passed since the filing of this charge.
[X] Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.
[X] The EEOC is terminating its processing of this charge.
The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.
The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for wilful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

Kevin J. Berry, District Director

7-21-2014 (Date Mailed)

Enclosures(s)

cc: Casey Wolnowski, Esq.
PHILLIPS & ASSOCIATES
45 Broadway Suite 620
New York, NY 10006

Director of Human Resources
JACQUELINE DAUHAJURE MD
140 East 80th Street
New York, NY 10075

Louis C. La Pietra
LA PIETRA & KREIGER PC
30 Glenn Street Suite 105
White Plains, NY 10603