

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

-----X
MICHAEL S. DOUGLAS, JR.,

Plaintiff,

-against-

643 BROADWAY HOLDINGS LLC d/b/a BLEECKER
KITCHEN & CO. and JOSHUA BERKOWITZ,

Defendants.
-----X

Index No.

Date Purchased:

Plaintiff designates
New York County as place
of trial.

Venue in this action is
based upon residence of
Defendant(s).

SUMMONS


To the above named Defendant:

643 Broadway Holdings LLC
d/b/a Bleecker Kitchen & Co.
643 Broadway
New York, New York 10012

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your Answer on Plaintiff's undersigned counsel within twenty (20) days after the service of this Summons and Complaint, exclusive of the day of service (or within thirty (30) days after the service is complete if this Summons and Complaint is not personally delivered to you within the State of New York). 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: New York, New York
December 10, 2014

**THE DUGGER LAW FIRM,
PLLC**

By: 
Cyrus E. Dugger

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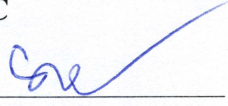
To the above named Defendant:

Joshua Berkowitz
643 Broadway
New York, New York 10012

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your Answer on Plaintiff's undersigned counsel within twenty (20) days after the service of this Summons and Complaint, exclusive of the day of service (or within thirty (30) days after the service is complete if this Summons and Complaint is not personally delivered to you within the State of New York). In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

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MICHAEL S. DOUGLAS, JR.,

Plaintiff,

COMPLAINT

Demand for Trial by Jury

-against-

643 BROADWAY HOLDINGS LLC d/b/a BLEECKER
KITCHEN & CO. and JOSHUA BERKOWITZ,

Defendants.

-----X

1. Plaintiff Michael S. Douglas, Jr., (“Plaintiff” or “Douglas”), by and through his attorneys The Dugger Law Firm, PLLC and Liddle & Robinson L.L.P., makes the following allegations against 643 Broadway Holdings LLC d/b/a Bleecker Kitchen & Co. (“Broadway Holdings”) and Joshua Berkowitz (“Berkowitz”).

PRELIMINARY STATEMENT

2. Broadway Holdings and Berkowitz subjected Douglas, and additional Broadway Holdings employees, to racial harassment and/or a racially hostile workplace and consequent constructive discharge in violation of the New York City Human Rights Law, N.Y.C. Admin. Code §§ 8-101 *et seq.* (“NYCHRL”).

JURISDICTION AND VENUE

3. This Court has jurisdiction of the Plaintiff’s claims, which arise under the N.Y.C. Admin. Code §§ 8-101 *et seq.*

4. Venue is proper because Defendant Broadway Holdings maintains its principal office in New York County and Berkowitz is a resident of New York County.

THE PARTIES

Plaintiff Douglas

5. Plaintiff is an adult individual who is a resident of Brooklyn, New York.

6. Plaintiff was an employee of Broadway Holdings within the meaning of the NYCHRL from March 2014 until August 2014.

Defendant Broadway Holdings (d/b/a Bleecker Kitchen & Co.)

7. Broadway Holdings is a limited liability company, which operates a restaurant d/b/a Bleecker Kitchen & Co. located at 643 Broadway, New York, New York.

8. Upon information and belief, Broadway Holdings also operates a bar d/b/a Sweetwater Social located in the basement of Bleecker Kitchen & Co.

9. Broadway Holdings was an employer of Douglas within the meaning of the NYCHRL.

10. Broadway Holdings' principal office is located at 643 Broadway, New York, New York.

Defendant Joshua Berkowitz

11. Berkowitz is an adult individual who is a resident of New York County.

12. Berkowitz is the majority co-owner of Broadway Holdings and/or Bleecker Kitchen & Co.

13. Berkowitz exercised managerial and/or supervisory responsibility with respect to Broadway Holdings, Bleecker Kitchen & Co., and/or Plaintiff.

14. Berkowitz had authority to make personnel decisions, not just carry out personnel decisions made by others, with respect to Broadway Holdings, Bleecker Kitchen & Co., and/or Plaintiff.

15. Berkowitz frequently worked from the 643 Broadway office of Broadway Holdings located within the Bleecker Kitchen & Co. restaurant.

16. Berkowitz is also a co-owner of Gold Bar located at 389 Broome St. New York, New York.

Berkowitz Was Unaware of Plaintiff's Race When He and/or Broadway Holdings Hired Him as a Restaurant Manager

17. Although Mr. Douglas is bi-racial, with mixed Black and Asian ancestry, he appears, to the causal observer, to be of only Asian descent.

18. During February 2014, Plaintiff interviewed for a position as a manager for Bleecker Kitchen & Co. with co-owners Berkowitz and Shaun Rose ("Rose").

19. During March 2014, Rose and/or Berkowitz hired Plaintiff as a restaurant manager for Bleecker Kitchen & Co.

20. When Berkowitz and/or Rose hired Plaintiff, they were not aware he is black.

Bleecker Kitchen & Co. Had Never Hired a Black Server or Manager Prior to Inadvertently Hiring a Black Manager in Mr. Douglas

21. Upon information and belief, from its opening in December 2013, until hiring Mr. Douglas in March 2014, Bleecker Kitchen & Co. did not hire a single black manager or server.

After Discovering Mr. Douglas Hired a Black Server, Berkowitz Racially Harassed Mr. Douglas and Counseled Mr. Douglas Not to Hire Black Servers

22. During June 2014, Plaintiff began an application process to hire new servers for the Bleecker Kitchen & Co. restaurant.

23. Plaintiff ultimately selected and hired two applicants: (1) Gisele Greasly (“Gisele”), who is black; and (2) Beata Zych (“Beata”), who is white.

24. On August 1, 2014, Gisele and Beata began training as servers in the restaurant.

25. On August 1, 2014, at approximately 4:00 pm, Berkowitz entered the Bleecker Kitchen & Co. restaurant office and inquired as to who “the new darker girl was.” Mr. Douglas responded that Gisele was a new hire training to be a server.

26. Berkowitz then said “I need to say something but let me close the door first.”

27. Berkowitz then closed the door to the restaurant office so that only Plaintiff and his co-manager Joey Alvarado (“Alvarado”) could hear him speak.

28. After closing the door, Berkowitz said “my father warned me about hiring people *like that*, people *like that* with big butts. Do you understand *what I mean? People with big butts* don’t work hard, don’t work fast.”

29. Berkowitz’s statements of “people like that” and “people like that with big butts” were coded references to black people.¹

30. Berkowitz’s statement articulated a racist stereotype that black people do not “work hard” or “work fast” and/or are lazy.

31. These statements sent a clear message and carried the distinct tone of racial motivations and implications.

32. Moreover, Plaintiff understood Berkowitz’s comments from the statements themselves, and Berkowitz’s demeanor, to be references to black people.

¹ See EEOC Compliance Manual: Section 15: Race & Color Discrimination (“Race-related statements include not only slurs and patently biased statements, but also ‘code words’ that are purportedly neutral on their face but which, in context, convey a racial meaning.”).

33. Therefore, absent Berkowitz's coded references to black people, Berkowitz stated: "my father warned me about hiring [black] people" and "[black people] don't work hard, don't work fast."

34. Berkowitz exited the restaurant office immediately following these statements.

Berkowitz Continued His Racial Harassment

35. On August 13, 2014, Broadway Holdings accountant Feliz, Broadway Holdings events coordinator Spiewak, as well as Broadway Holdings co-owners Justin Noel, Rose, and Berkowitz were present in the restaurant office with Plaintiff.

36. During a conversation amongst the group regarding kosher wine, co-owner Rose inquired of Douglas as to his racial background.

37. Mr. Douglas replied that his father is African-American and his mother is Filipino.

38. Upon hearing Plaintiff's response, Berkowitz turned to Mr. Douglas and said: "Wait, what are you? That's fucked up. You have some black in you and you're Spanish/Filipino. I'm sorry, that's really fucked up. If I married a non-Jewish woman, my parents would "sit shivah."

39. "Shivah" is a Jewish period for mourning a dead relative.

40. Berkowitz continued, and, directly invoking his discriminatory August 1 comments concerning the black server Gisele, stated: "With all due respect to your background, I still uphold what I said last week about a certain large-bottomed new waitress. Large bottoms don't move fast, large bottoms don't work hard. Do you agree? I mean, aren't the Irish all drunks? Aren't Russians all thieves? I just love saying the most fucked up shit imaginable."

41. Berkowitz continued and, referencing Rupert, a black promoter for Gold Bar who is of mixed heritage, said to Plaintiff “You know Rupert? I don’t even know what’s going on there.”

42. When Mr. Douglas responded to Berkowitz that Rupert is “half German, half Ghanaian,” Berkowitz responded: “That’s just crazy.”

43. Berkowitz’s statements articulated a racist stereotype that black people do not “work hard” or “fast” and/or are lazy.

44. Berkowitz’s statements also articulated opposition to racial mixing, bi-racial relationships, bi-racial heritage, and/or bi-racial marriages.

45. These statements sent a clear message and carried the distinct tone of racial motivations and implications.

46. This conduct rose above the level of petty slights and trivial inconveniences, and/or Defendants treated Plaintiff less well than other employees because of his race.

47. Defendants discriminated against Plaintiff by subjecting him to racial harassment and/or a racially hostile work environment.

48. The above-described conduct, both individually and collectively, rose to the level of a racially hostile work environment under the NYCHRL.

49. Berkowitz’s racial harassment was intentional, with malice, and/or reckless indifference to Plaintiff’s right to be free of racial harassment in the workplace.

Broadway Holdings and/or Berkowitz Constructively Discharged Plaintiff

50. On or about August 22, 2014, Plaintiff resigned and/or was constructively discharged from his position because of Berkowitz’s racial harassment and/or a racially hostile workplace.

CAUSE OF ACTION

**New York City Human Rights Law, N.Y.C. Admin. Code §§ 8-101 *et seq.*
(Race Discrimination)
(Bleecker Kitchen & Co. and Berkowitz)**

51. Plaintiff realleges and incorporates by reference all allegations in the preceding paragraphs.
52. Defendants discriminated against Plaintiff by subjecting him to racial harassment and/or a racially hostile work environment in violation of the NYCHRL.
53. Broadway Holdings is vicariously liable for Berkowitz's discrimination pursuant to N.Y.C. Admin. Code § 8-107(13)(b).
54. As an employer, owner, manager, supervisor, and/or agent with respect to Broadway Holdings d/b/a Bleecker Kitchen & Co., Berkowitz is personally liable pursuant to N.Y.C. Admin. Code § 8-107(1)(a).
55. As a result of Defendants' conduct, Plaintiff has suffered economic damages, and is entitled to recovery of such amounts, as well as recovery of compensatory damages, punitive damages, attorney's fees and costs, and other compensation pursuant to NYC Admin. Code § 8-502(a).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests the following relief:

- (a) Issuance of a declaratory judgment that the acts complained of herein are in violation of the NYCHRL;
- (b) An injunction permanently restraining these violations of the NYCHRL;
- (c) Damages related to Plaintiff's loss of compensation, including back pay;
- (d) Damages related to Plaintiff's emotional suffering and distress caused by Defendants'

actions;

(d) Punitive damages;

(e) Prejudgment interest at 9%;

(f) An award to Plaintiff of his reasonable attorneys' fees and costs; and


(j) All such other and further relief as the Court deems necessary and proper

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a jury trial

Dated: December 10, 2014
New York, New York

Respectfully submitted,

By: 
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