

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

-----X
CHARLES SCHWARZ,

Plaintiff,

-against-

Index No.:

SUMMONS

**Plaintiff Designates New
York County**

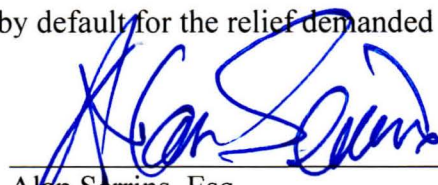
**CONSOLIDATED EDISON, INC. and CONSOLIDATED
EDISON COMPANY OF NEW YORK, INC.,**

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 Plaintiff's 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: February 19, 2015
New York, New York



Alan Serrins, Esq.
Corey Stein, Esq.
SERRINS FISHER, LLP
Attorneys for Plaintiff
233 Broadway, Suite 2340
New York, New York 10279
(212) 571-0700

TO: Consolidated Edison, Inc.
c/o Law Department
4 Irving Pl.
New York, New York 10003

Consolidated Edison Company of New York, Inc.
c/o Law Department
4 Irving Pl.
New York, New York 10003

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

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CHARLES SCHWARZ,

Plaintiff,

-against-

**CONSOLIDATED EDISON, INC. and CONSOLIDATED
EDISON COMPANY OF NEW YORK, INC.,**

Defendants.

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COMPLAINT

Plaintiff CHARLES SCHWARZ (“Plaintiff” or “Mr. Schwarz”), by and through his attorneys, SERRINS FISHER LLP, alleges against Defendants CONSOLIDATED EDISON, INC. (“Defendant Con Ed”) and CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. (“Defendant Con Ed of NY”) (collectively “Defendants” or the “Company”) as follows:

NATURE OF THE ACTION

1. This action is brought to challenge Defendants’ discriminatory termination of Plaintiff’s employment with Defendants because of his criminal conviction history in violation of the New York State Human Rights Law, Executive Law § 296 *et seq.* (“NYSHRL”) and the Administrative Code of the City of New York § 8-101 *et seq.* (“NYCHRL”).
2. Pursuant to § 8-502(c) of the NYCHRL, contemporaneously with filing this Complaint with the Court, Plaintiff served a copy of this Complaint on the New York City Commission on Human Rights and on Corporation Counsel for the City of New York.

PARTIES

3. Mr. Schwarz is an adult individual residing in Staten Island, New York.

4. Defendant Consolidated Edison, Inc. is a domestic corporation registered to do business in the State of New York and maintains a place of business located at 4 Irving Pl., New York, NY 10003.
5. Defendant Consolidated Edison Company of New York, Inc. is a domestic corporation registered to do business in the State of New York and maintains a place of business located at 4 Irving Pl., New York, NY 10003.
6. Defendants provide energy service to their customers, including electric, natural gas, and steam.
7. Defendants employed more than four (4) people for each working day in each of twenty (20) or more calendar weeks in the current and preceding calendar year, and are employers within the definitions of the NYSHRL and NYCHRL.
8. Defendants are jointly and severally liable to Plaintiff for losses sustained as a proximate result of their conduct.

FACTUAL ALLEGATIONS

9. This case stems from Defendants' unlawful termination of Plaintiff because of Plaintiff's more than a decade-old criminal conviction for perjury in the notorious case of the NYPD's police brutality against Abner Louima.
10. In or about July 2014, Plaintiff applied for a position with Defendants as a mechanic B L1-2 for their gas operations.
11. In his application, Plaintiff disclosed his perjury conviction in connection with the Abner Louima incident.

12. After completing a written examination, a screening interview, a physical ability test, a medical examination, and a CPR course, all of which were required by Defendants, in or about November 2014, Defendants hired Plaintiff for the mechanic B L1-2 position.

13. Within the first couple of weeks of Plaintiff's employment, Defendants terminated Plaintiff because his presence at the company would allegedly cause "potential disruption of business operations" and "damage to the Company's reputation."

14. Upon information and belief, Defendants terminated Plaintiff's employment due to his perjury conviction.

Background Regarding Plaintiff's Criminal History

15. From in or about July 1989 until in or about June 1999, Mr. Schwarz worked as a police officer for the NYPD.

16. On or about August 9, 1997, in the infamous case of Abner Louima, several NYPD police officers were charged with the unlawful beating and sexual sodomy of a Haitian immigrant named Abner Louima.

17. Mr. Schwarz was convicted of one (1) count of perjury in 2002 after a jury determined that Mr. Schwarz lied regarding the factual circumstances of the abuse of Mr. Louima.

18. Mr. Schwarz served a five (5) year sentence for his conviction.

Plaintiff's Application Process with Defendants

19. In or about July 2014, Mr. Schwarz applied for a position with Defendants as a mechanic B L1-2 for Defendant's gas operations.

20. In connection with this application, Mr. Schwarz was required to pass a written examination as well as complete numerous other requirements implemented by Defendants such as passing a physical ability test, road test, and medical examination and completing CPR training.

21. Mr. Schwarz successfully completed all of Defendants' requirements in connection with his application for employment.

22. On or about July 9, 2014, Mr. Schwarz took and passed Defendants' written examination for the mechanic B L1-2 Gas Operations position.

23. Mr. Schwarz also submitted a completed application to Defendants in which he disclosed his conviction for perjury.

24. Subsequently, on or about July 18, 2014, Mr. Schwarz successfully passed a screening interview with Defendants. At that time, Defendants did not make any indication that Mr. Schwarz's prior conviction would in any way impede his ability to gain employment for the position he sought.

25. Over the next three months, Mr. Schwarz took and passed a physical ability test, a medical examination, and a CPR course, all in connection with his application for employment with Defendants as a mechanic B L1-2 in Defendants' gas operations.

26. On or about November 17, 2014, Defendants officially hired Mr. Schwarz, and Mr. Schwarz attended an orientation in Defendants' facilities located at 4 Irving Pl., New York, NY.

27. On or about November 21, 2014, Mr. Schwarz was assigned to Defendants' gas operations in Manhattan, located at 750 East 16th St., New York, NY.

28. At all relevant times, Mr. Schwarz satisfactorily performed his job duties, which included but were not limited to, investigating inside and outside gas leaks, accompanied by a Mechanic A.

Defendants' Unlawful Termination of Plaintiff

29. On or about November 24, 2014, only approximately one (1) week after Plaintiff began working for Defendants, Plaintiff was approached by Robert McGrath, a construction supervisor, regarding Plaintiff's employment with Defendants.

30. Mr. McGrath told Plaintiff that "we need to talk" because everyone "downstairs" knew who he was, and his hiring "blew up the building" and "people are talking."

31. Upon information and belief, Mr. McGrath was referring to Plaintiff's alleged involvement in the Abner Louima case, including his conviction.

32. Approximately two weeks later, on or about December 10, 2014, Plaintiff received a phone call from Vincent Frankel, the Director of Employee and Labor Relations for Defendants, regarding Plaintiff's employment with Defendants.

33. Mr. Frankel notified Plaintiff that he was terminated due to "potential disruption of business operations" and "damage to the Company's reputation" if Plaintiff were allowed to continue to work there.

34. Mr. Frankel informed Plaintiff that the Company was concerned that Plaintiff's employment with Defendants would cause disruption among other employees and clients of Defendants.

35. Plaintiff told Mr. Frankel that he believed he was being terminated due to his controversial conviction, which Mr. Frankel did not deny.

36. Defendants terminated Plaintiff's employment effective December 10, 2014.

37. Upon information and belief, Defendants terminated Plaintiff due to his record of conviction.

FIRST CLAIM FOR RELIEF

(Criminal Conviction History Discrimination Under the NYSHRL)

38. Plaintiff repeats and realleges all paragraphs above as though fully set forth herein.

39. Pursuant to the NYSHRL § 296(15), “[i]t shall be an unlawful discriminatory practice for any person, agency, bureau, corporation or association, including the state and any political subdivision thereof, to deny any license or employment to any individual by reason of his or her having been convicted of one or more criminal offenses, or by reason of a finding of a lack of ‘good moral character’ which is based upon his or her having been convicted of one or more criminal offenses, when such denial is in violation of the provisions of article twenty-three-A of the correction law.”

40. Article 23-A (§ 752) of the correction law states that “[n]o application for any license or employment, and no employment or license held by an individual, to which the provisions of this article are applicable, shall be denied or acted upon adversely by reason of the individual’s having been previously convicted of one or more criminal offenses, or by reason of a finding of lack of ‘good moral character’ when such finding is based upon the fact that the individual has previously been convicted of one or more criminal offenses, unless: (1) there is a direct relationship between one or more of the previous criminal offenses and the specific license or employment sought or held by the individual; or (2) the issuance or continuation of the license or the granting or continuation of the employment would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.”

41. Plaintiff’s perjury conviction is unrelated to the position that he held with Defendants.

42. Defendant had no reason to believe, based on Plaintiff's perjury conviction, that Plaintiff's continued employment would pose an "unreasonable risk to property or the safety or welfare of specific individuals or the general public."

43. Notwithstanding the foregoing, by the acts and practices described above, Defendants unlawfully terminated Plaintiff's employment because of his criminal conviction history in violation of the NYSHRL.

44. Defendants knew that their actions constituted unlawful discrimination and/or acted with malice or reckless disregard for Plaintiff's statutorily protected rights.

45. As a proximate result of Defendants' acts of unlawful discrimination, Plaintiff has suffered and will continue to suffer irreparable injury, monetary damages, mental anguish, humiliation, and damage to his reputation as a proximate result of Defendants' discriminatory practices, unless and until this Court grants the relief hereinafter described.

SECOND CLAIM FOR RELIEF

(Criminal Conviction History Discrimination Under the NYCHRL)

46. Plaintiff repeats and realleges all paragraphs above as though fully set forth herein.

47. Pursuant to the NYCHRL § 8-107(10)(a), "[i]t shall be unlawful discriminatory practice for any person to deny any license or permit or employment to any person by reason of his or her having been convicted of one or more criminal offenses, or by reason of a finding of a lack of 'good moral character' which is based on his or her having been convicted of one or more criminal offenses, when such denial is in violation of the provisions of article twenty-three-a of the correction law."

48. Article 23-A (§ 752) of the correction law states that "[n]o application for any license or employment, and no employment or license held by an individual, to which the provisions of this

article are applicable, shall be denied or acted upon adversely by reason of the individual's having been previously convicted of one or more criminal offenses, or by reason of a finding of lack of 'good moral character' when such finding is based upon the fact that the individual has previously been convicted of one or more criminal offenses, unless: (1) there is a direct relationship between one or more of the previous criminal offenses and the specific license or employment sought or held by the individual; or (2) the issuance or continuation of the license or the granting or continuation of the employment would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public."

49. Plaintiff's perjury conviction is unrelated to the position that he held with Defendants.

50. Defendant had no reason to believe, based on Plaintiff's perjury conviction, that Plaintiff's continued employment would pose an "unreasonable risk to property or the safety or welfare of specific individuals or the general public."

51. Notwithstanding the foregoing, by the acts and practices described above, Defendants unlawfully terminated Plaintiff's employment because of his criminal conviction history in violation of the NYCHRL.

52. Defendants knew that their actions constituted unlawful discrimination and/or acted with malice or reckless disregard for Plaintiff's statutorily protected rights.

53. As a proximate result of Defendants' acts of unlawful discrimination, Plaintiff has suffered and will continue to suffer irreparable injury, monetary damages, mental anguish, humiliation, and damage to his reputation as a proximate result of Defendants' discriminatory practices, unless and until this Court grants the relief hereinafter described.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment:

- (a) awarding on the First and Second Causes of Action, compensatory, punitive, mental anguish and pain and suffering damages, as allowed by law, as a result of Defendants' discriminatory conduct, in an amount exceeding the jurisdictional requisites;
- (b) awarding Plaintiff reinstatement;
- (c) awarding Plaintiff such interest as allowed by law;
- (d) awarding Plaintiff his reasonable attorneys' fees and costs; and
- (e) granting such other and further relief as this Court deems necessary and proper.

Dated: February 19, 2015
New York, New York



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