

THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

BRETT ERASMUS,

Plaintiff,

-against-

DEUTSCHE BANK AMERICAS  
HOLDING CORP,  
and MICHAEL FEHRMAN, individually

Defendants.

-----X

**AMENDED**  
**COMPLAINT**

**PLAINTIFF DEMANDS**  
**A JURY TRIAL**

Plaintiff, Brett Erasmus, through his counsel, LAW OFFICE OF JOHN C. LUKE, JR., ESQ. hereby submits this Amended Complaint and complains of the DEFENDANTS, upon information and belief, as follows:

#### NATURE OF 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”), The New York State Executive Law, and the New York City Human Rights Law, New York City Administrative Code § 8-502(a), et. seq. (“NYCHRL”), and seeks damages to redress the injuries Plaintiff suffered as a result of being exposed to a hostile work environment, sexual harassment, retaliation, and wrongful discharge.
2. Jurisdiction of this action is conferred upon this Court as this action involves a federal question under Title VII of the Civil Rights Act. The Court also has supplemental jurisdiction over the State and City Causes of Action.

3. Venue is proper in this District base upon Defendants residency and place of business within New York County, State of New York, within the Southern District of New York. 28 U.S.C. §1391(b).
4. On or about August 5, 2014, Plaintiff filed charges with the EEOC against Defendants as set forth herein.
5. On or about December 2, 2014, Plaintiff filed a second charge with the EEOC against Defendants as set forth herein.
6. On or about November 24, 2014, the EEOC mailed a Right to Sue Letter to Plaintiff.
7. On or about November 27, 2014, Plaintiff received a Right to Sue Letter from the EEOC.
8. Plaintiff satisfied all administrative prerequisites and is filing this case within ninety (90) days of receiving the Right to Sue Letter.

### **PARTIES**

9. Plaintiff is a heterosexual male who resides in the State of New York.
10. At all times material, Defendant DEUTSCHE BANK AG, NEW YORK BRANCH incorrectly named Deutsche Bank Americas Holding Corporation in Plaintiff's original Complaint (herein also referred to as "DEUTSCHE BANK", "DEFENDANT, or DEFENDANTS") is a foreign business corporation, duly existing pursuant to, and by virtue of, the laws of New Delaware that does business in the State of New York.
11. At all times material, Defendant Deutsche Bank's employee Michael FEHRMAN

(herein after also referred to as “FEHRMAN”, “DEFENDANT”, or “DEFENDANTS” was and is an employee at Deutsche Bank.

12. At all times material, Defendant FEHRMAN held supervisory authority over Plaintiff.
13. At all times material, Plaintiff was an employee for DEFENDANTS at their New York City office.

### FACTS

14. In or around April 4, 2005, Plaintiff began his employment with Defendant DEUTSCHE BANK at 60 Wall Street, New York, New York 10005 in the accounting policy and advisory group known as APAG which gave accounting advice to the trading desks.
15. From the beginning of Plaintiff’s employment, Plaintiff always obtained stellar performance reviews for his productivity and professionalism with DEFENDANTS.
16. In or around the beginning of 2010 through 2014, Plaintiff’s Co-worker began to act sexually inappropriate towards Plaintiff.
17. Co-worker is a homosexual male.
18. Co-worker began to make sexual gestures and advances towards Plaintiff while in the office.
19. On numerous occasions, Co-worker leered at Plaintiff in a sexual manner.
20. Co-worker’s sexual harassment extended beyond merely looking at Plaintiff in a sexual manner.

21. By way of example, Co-worker commented to Plaintiff **“I AM HAVING SO MUCH SEX ALL THE TIME”** while leering at Plaintiff in a sexually suggestive manner.
22. By way of example, while Plaintiff talked to another employee Co-worker interrupted the conversation with sexually focused dialogue.
23. During the conversation Co-worker stated, **“TO GET INTO A NIGHTCLUB JUST PUT A SOCK IN YOUR PANTS AND PRETEND LIKE YOU HAVE A REALLY BIG DICK AND THEN WHEN THE BOUNCER SEES IT YOU ARE GUARANTEED TO GET IN TO THE CLUB.”**
24. **CO-WORKER THEN PROCEEDED TO MOTION TO PLAINTIFF WHEN POINTING TO HIS PENIS.**
25. Plaintiff rejected these sexual advances and became increasingly offended by these continuing and escalating sexual advances by Co-worker.
26. In retaliation, Co-worker made Plaintiff’s work experience unbearable and hostile.
27. Co-worker defamed Plaintiff’s good name and professional reputation.
28. On numerous occasions, Co-worker further tortuously interfered with Plaintiff’s prospective business relationships and dealings.
29. Due to the erroneous, retaliatory, negative reviews, Plaintiff’s salary and bonuses began to diminish.
30. As a result, Defendant FEHRMAN provided Plaintiff with negative performance reviews, claiming Plaintiff was not a team player when in fact he was and remained a team player throughout his employment.
31. By way of example, Plaintiff personally provided frequent technical accounting

training sessions to other employees within the firm (many of them in very senior positions).

32. To be specific, in the summer of 2014, Plaintiff spent hours in training sessions with around one hundred (100) people in total in the Credit Risk Management Group of the bank educating them on certain accounting topics in which Plaintiff is an expert.

**33. Co-worker's sexual harassment of Plaintiff continued in 2014.**

**34. By way of example, co-worker on several occasions stood by Plaintiff's desk and pretended to hold his penis while pointing it at Plaintiff.**

**35. By way of example, co-worker on several occasions stood by Plaintiff's desk and made inappropriate sexual comments to Plaintiff.**

36. Plaintiff always rebuffed Co-workers attempts to engage in sexually focused conduct.

37. Ultimately, on July 30, 2014, Plaintiff complained to Defendant DEUTSCHE BANK'S employee Defendant FEHRMAN in regard to the sexual harassment he endured from Co-worker.

38. During this time period Defendant FEHRMAN began imposing unattainable goals on Plaintiff.

39. As a result of Plaintiff's complaint, Defendant FEHRMAN withheld Plaintiff's participation in department activities that impact his work assignments.

40. Plaintiff's work was negatively impacted by his exclusion from those meetings.

41. Defendant FEHRMAN started ignoring Plaintiff's request for updates on assignments.

42. In or around October 2014, Plaintiff sought therapy to deal with the stress created by DEFENDANTS.
43. On November 12, 2014, Plaintiff and DEFENDANTS engaged in a mediation at the EEOC.
44. On or around November 26, 2014, Defendant FEHRMAN demanded that Plaintiff sign an impromptu performance review without warning.
- 45. IN LATE NOVEMBER, DEFENDANTS RETURNED CO-WORKER TO AN OFFICE DIRECTLY NEXT TO PLAINTIFF'S CUBICLE DESPITE PLAINTIFF'S ALLEGATIONS OF SEXUAL HARASSMENT.**
46. This decision by DEFENDANTS reopened the door to Plaintiff's mental anguish and abuse despite his recent on the record complaints.
47. On December 15, 2014, Plaintiff remarked to Defendant FEHRMAN in a biweekly APAG group meeting that Plaintiff was involved in an external/internal investigation involving DEFENDANTS.
48. On December 17, 2014, DEFENDANTS terminated Plaintiff in retaliation for Plaintiff engaging in protected activities.
49. Defendant DEUTSCHE BANK employee FEHRMAN abused his power as Plaintiff's supervisor.
50. DEFENDANTS' actions and conduct were intentional and intended to harm Plaintiff.
51. No reasonable person in Plaintiff's shoes should be expected to work under such harassing and retaliatory conditions.
52. Plaintiff feels emotionally overwhelmed, depressed, anxious and distraught which is due to the condescending, hostile and general unprofessional treatment that he

received from his supervisor FEHRMAN as a result of retaliation for the complaint made regarding Co-worker sexually harassing Plaintiff.

53. As a result of DEFENDANTS' discriminatory and intolerable treatment of Plaintiff, Plaintiff suffered and continues to suffer severe emotional distress.
54. Plaintiff is experiencing severe anxiety and depression due to the discriminatory, unprofessional, degrading, condescending and hostile treatment towards Plaintiff by DEFENDANTS.
55. DEFENDANTS' actions were and are intended to create a hostile working environment that no reasonable person would tolerate.
56. It is clear that DEFENDANTS have a pattern and practice of discrimination.
57. As DEFENDANTS' conduct has been malicious, willful, outrageous, and conducted with full knowledge of the law, Plaintiff demands punitive damages as against Defendant. Plaintiff seeks reinstatement, back pay, front pay, all lost wages and earning capacity, punitive damages, damages for emotional distress, physical injuries, medical expenses and attorney's fees.
58. The above are just some of the examples of unlawful conduct to which DEFENDANTS subjected Plaintiff on an ongoing continuous basis.

**AS A FIRST CAUSE OF ACTION**  
**FOR DISCRIMINATION UNDER TITLE VII**

59. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.
60. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e-3(a)

provides that it shall be unlawful employment practice for an employer:

“(1) to . . . discriminate against any of his employees . . . because [s]he has opposed any practice made an unlawful employment practice by this subchapter, or because [s]he has made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this subchapter.”

61. DEFENDANT DEUTSCHE BANK engaged in unlawful employment practice prohibited by 42 U.S.C. §2000e et seq. by retaliating against Plaintiff with respect to the terms, conditions or privileges of employment because of his opposition to the unlawful employment practices of DEFENDANT.

**AS A SECOND CAUSE OF ACTION**  
**FOR DISCRIMINATION UNDER TITLE VII**

62. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.
63. Title VII states in relevant part as follows: SEC. 2000e-2. [Section 703] (a) Employer practices It shall be an unlawful employment practice for an employer - (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, or national origin; . . .
64. DEFENDANT DEUTSCHE BANK engaged in unlawful employment practices prohibited by 42 U.S.C. §2000e et seq., by allowing sexual harassment and causing a hostile work environment.



**AS A THIRD CAUSE OF ACTION**  
**FOR DISCRIMINATION UNDER NEW YORK STATE LAW**

65. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.
66. New York State Executive Law §296(7) provides that it shall be an unlawful discriminatory practice: "For any person engaged in any activity to which this section applies to retaliate or discriminate against any person because [s]he has opposed any practices forbidden under this article."
67. DEFENDANTS engaged in an unlawful discriminatory practice by wrongfully retaliating against Plaintiff.

**AS A FOURTH CAUSE OF ACTION**  
**FOR DISCRIMINATION UNDER NEW YORK STATE LAW**

68. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.
69. New York State Executive Law §296(6) provides that it shall be an unlawful discriminatory practice:
- "For any person to aid, abet, incite compel or coerce the doing of any acts forbidden under this article, or attempt to do so."
70. DEFENDANTS engaged in an unlawful discriminatory practice in violation of New York State Executive Law §296(6) by aiding and abetting, inciting, compelling and coercing the discriminatory conduct.

**AS A FIFTH CAUSE OF ACTION**  
**FOR DISCRIMINATION UNDER NEW YORK STATE LAW**

71. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.
72. Executive Law § 296 provides that "1. It shall be an unlawful discriminatory practice:  
"(a) For an employer or licensing agency, because of the age, race, creed, color, national origin, sex, or disability, or marital status of any individual, to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment."
73. DEFENDANTS engaged in an unlawful discriminatory practice by discriminating against the Plaintiff through sexual harassment and hostile work environment.
74. Plaintiff hereby makes a claim against DEFENDANTS under all of the applicable paragraphs of Executive Law Section 296.

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

75. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.
76. The New York City Administrative Code Title 8, §8-107(1)(e) provides that it shall be unlawful discriminatory practice: "For an employer . . . , to discharge . . . or otherwise discriminate against any person because such person has opposed any

practices forbidden under this chapter. . . "0020

77. DEFENDANTS engaged in an unlawful discriminatory practice in violation of New York City Administrative Code Title 8, §8-107(1) (e) by discriminating against the Plaintiff because of Plaintiff's opposition to the unlawful employment practices of Plaintiff's employer.

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

78. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.
79. The New York City Administrative Code Title 8, §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."
80. DEFENDANTS engaged in an unlawful discriminatory practice in violation of New York City Administrative Code Title 8, §8-107(6) by aiding, abetting, inciting, compelling and coercing the above discriminatory, unlawful and retaliatory conduct.

**AS AN EIGHTH CAUSE OF ACTION  
FOR DISCRIMINATION UNDER THE  
NEW YORK CITY ADMINISTRATIVE CODE SUPERVISORY LIABILITY**

81. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.
82. Section 8-107(13) entitled Employer liability for discriminatory conduct by

employee, agent or independent contractor provides:

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:

- i. the employee or agent exercised managerial or supervisory responsibility; or
- ii. 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
- iii. 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.

83. DEFENDANTS violated the above section as set forth herein.

**AS A NINTH CAUSE OF ACTION**  
**UNDER THE NEW YORK CITY ADMINISTRATIVE CODE**  
**INTERFERENCE WITH PROTECTED RIGHTS**

84. 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.

85. New York City Administrative Code Title 8-107(19) Interference with protected rights.
86. It shall be an unlawful discriminatory practice for any person to coerce, intimidate, threaten or interfere with, or attempt to coerce, intimidate, threaten or interfere with, any person in the exercise or enjoyment of, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected pursuant to this section.
87. DEFENDANT violated the section cited herein as set forth.

**AS A TENTH CAUSE OF ACTION FOR DISCRIMINATION UNDER NEW YORK CITY LAW**

88. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.
89. The Administrative Code of City of NY § 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 alienate 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."
90. DEFENDANTS engaged in an unlawful discriminatory practice in violation of New York City Administrative Code Title 8, §8-107(1)(a) by creating and maintaining discriminatory working conditions, and otherwise discriminating against the Plaintiff because of sexual harassment and hostile work environment.

91. Plaintiff hereby makes a claim against DEFENDANTS under all of the applicable paragraphs of New York City Administrative Code Title 8.

**JURY DEMAND**

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

**WHEREFORE**, Plaintiff demands judgment against Defendants, jointly and severally in an amount to be determined at the time of trial plus interest, punitive damages, attorneys' fees, costs, and disbursements of action; and for such other relief as the Court deems just and proper.

Dated: New York, New York  
May 29, 2015

JOHN C. LUKE, JR., ESQ.  
johnclukejr@newyorkcityemploymentlaw.com  
LAW OFFICE OF JOHN C. LUKE, JR. ESQ.  
30 Broad Street, 35th Floor  
New York, New York 10004  
Tel.: (212) 587-0760  
Attorneys for *Plaintiff*