

investigation. Instead, Ms. Thaw arranged a meeting between herself, Ms. Andre, and Ms. Thermidor on October 21, 2014.

4. During the meeting, Ms. Thaw sat idly by while Ms. Thermidor bombarded Ms. Andre with insults, including calling Ms. Andre – right in front of HR – a “**slut.**”

5. This meeting was later referred to by MSKCC as a “counseling session” for Ms. Andre, despite the fact that it was called because she had complained of unlawful discrimination.

6. Over the next three months, Ms. Andre was subjected to a blatant campaign of unlawful retaliation.

7. On the morning of December 3, 2014, Ms. Andre informed Ms. Thermidor that she was pregnant. In response, Ms. Thermidor stated, in sum and substance,

“Does that mean you will need to take maternity leave? Don’t worry, you won’t be here that long anyway.”

8. Later that day, Ms. Andre was given her annual performance review. She received a rating of 2.4, much worse than the rating of 3.7 she had received the year before. Also on that same day, Ms. Andre was given a written warning based on totally fabricated performance deficiencies. The absurdity of the write-up is illustrated best by the following passage:

“Marie needs to improve on her communication skills and style. She needs to take the take the [sic] time to check her work for spelling and grammatical errors.”

(emphasis added).

9. Two months later, Ms. Andre was fired based on the bogus performance issues raised in the December 3, 2014 write-up, which was a transparent pretext for retaliation against her based upon her complains regarding Ms. Thermidor.

NATURE OF THE ACTION

10. This is an action for declaratory, injunctive and equitable relief, as well as monetary damages, to seek redress against Defendants for unlawful sexual harassment and retaliation committed against her by Defendants, in violation of: (i) Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.* (“Title VII”); (ii) Title VII as amended by the Pregnancy Discrimination Act of 1974 (“PDA”); (iii) the New York State Human Rights Law, New York Executive Law §§ 290 *et seq.* (“NYSHRL”); and the New York City Human Rights Law, New York Administrative Code §§ 8-101 *et seq.* (“NYCHRL”).

JURISDICTION AND VENUE

11. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343 as this action involves federal questions regarding the deprivation of Plaintiff’s rights under federal law. This Court has supplemental subject matter jurisdiction over Plaintiff’s related state and local law claims pursuant to 28 U.S.C. § 1367(a).

12. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to this action, including the unlawful employment practices alleged herein, occurred in this district.

ADMINISTRATIVE PROCEDURES

13. On April 9, 2015, Plaintiff filed a charge of discrimination with the Equal Employment Opportunity Commission (“EEOC”). This discrimination charge arose out of the same facts alleged herein. On May 18, 2015, Plaintiff received a Notice of Right to Sue from the EEOC. This action was filed within 90 days of receipt of Plaintiff’s EEOC Notice of Right to Sue.

14. Pursuant to NYCHRL § 8-502, Plaintiff will serve a copy of this Complaint upon the New York City Commission on Human Rights and the New York City Law Department, Office of the Corporation Counsel within ten days of its filing, thereby satisfying the notice requirements of this action.

15. Plaintiff has complied with any and all other prerequisites to filing this action.

PARTIES

16. Plaintiff Marie Andre resides in Nassau County, State of New York. Plaintiff was formerly employed by Defendant MSKCC as a Medical Secretary from in or about June 2011 to February 2015, when Defendants unlawfully terminated her employment. At all relevant times, Plaintiff met the definition of an “employee” under all applicable statutes.

17. Defendant MSKCC is a not-for-profit corporation with its principal place of business in New York County, New York, duly organized and existing under and by virtue of the laws of the State of New York. At all relevant times, Defendant MSKCC has met the definition of an “employer” and a “covered entity” under all applicable statutes.

18. Upon information and belief, Defendant Ramondy Thermidor is a resident of the State of New York. Defendant Thermidor was Ms. Andre’s supervisor and directly participated in the unlawful conduct described herein.

FACTUAL ALLEGATIONS

Background and Sexual Harassment at MSKCC

19. In or around June 2011, Ms. Andre commenced her employment at MSKCC as a Medical Secretary.

20. Ms. Andre’s performance in that position was excellent.

21. Indeed, prior to Ms. Andre's unlawful termination, she had never been written up or disciplined, and her performance reviews were positive.

22. Unfortunately, however, throughout her employment at MSKCC, Ms. Andre was subjected to unlawful sexual harassment at the hands of her supervisor, Ms. Thermidor.

23. To begin, Ms. Thermidor routinely referred to Ms. Andre as "babe" or "hon" rather than calling Ms. Andre by her name, Marie.

24. Ms. Andre repeatedly complained to Ms. Thermidor about this behavior, but Ms. Thermidor continued to address Ms. Andre in this inappropriate and unwelcome matter.

25. Ms. Thermidor also repeatedly subjected Ms. Andre to inappropriate sexual advances.

26. For instance, Ms. Thermidor would often rub Ms. Andre's shoulders or back.

27. Again, Ms. Andre complained about this behavior, but it did not cease.

28. Throughout the summer and fall of 2014, Ms. Thermidor's inappropriate sexual behavior escalated.

29. During this time period, Ms. Thermidor rubbed her hands across Ms. Andre's breasts and backside multiple times.

30. Ms. Thermidor also openly ogled Ms. Andre, staring up and down Ms. Andre's body as though undressing her in her mind.

31. Ms. Thermidor would often bring Ms. Andre into empty offices, look down her shirt and remark that she could "see [Ms. Andre's] tits."

32. These deplorable acts of sexual harassment made Ms. Andre feel uncomfortable, unsafe, embarrassed and degraded.

Ms. Andre Engages in Protected Activity and Suffers Immediate Retaliation

33. In October 2014, no longer able to withstand Ms. Thermidor's relentless sexual harassment, Ms. Andre complained to Cindi Thaw, a Human Resources ("HR") representative at MSKCC. Ms. Andre specifically complained that she was being sexually harassed by Ms. Thermidor.

34. Rather than engaging in an investigation, Ms. Thaw arranged a meeting between herself, Ms. Andre, and Ms. Thermidor.

35. During the meeting, Ms. Thaw sat idly by while Ms. Thermidor bombarded Ms. Andre with insults. Ms. Thermidor called Ms. Andre a "slut" and criticized her for supposedly wearing provocative clothing to work.

36. This was a complete fabrication, as Ms. Andre was regularly complimented on her outfits by Patricia Soto, Ms. Andre's boss. Moreover, Ms. Andre's mode of dress was in line with the clothing worn by the other Medical Secretaries.

37. Immediately after this meeting, Ms. Thermidor began subjecting Ms. Andre, who had never previously been written up, to a campaign of unlawful retaliation in an obvious effort to create a paper trail to support her eventual termination.

38. This retaliation included written criticism in November 2014 for a number of completely unfounded issues. Among these issues were errors in the calendar that were made by Paleicia Reid, another Medical Secretary who was promoted just after Ms. Andre's complaints. Moreover, Ms. Andre was initially assigned Ms. Reid's workload, but not provided with the title or salary that Ms. Reid received for doing that same work. In fact, another brand-new Medical Secretary was promoted to Ms. Reid's title instead of Ms. Andre.

39. On the morning of December 3, 2014, Ms. Andre informed Ms. Thermidor that she was pregnant. In response, Ms. Thermidor stated, in sum and substance, “Does that mean you will need to take maternity leave? Don’t worry, you won’t be here that long anyway.”

40. Later that day, Ms. Andre was given her annual performance review. She received a 2.4, much worse than the 3.7 she had received the year before.

41. Moreover, the 2.4 rating was not only plainly unjustified, but also completely inconsistent with the feedback Ms. Andre received from the doctors she assisted, which was supposed to provide the basis for the review.

42. For instance, one doctor gave Ms. Andre rating of all 4s and 5s, and stated, “Marie is hardworking and she has improved remarkably over the last year.”

43. Another gave Ms. Andre ratings of all 4s and 5s, and stated, “Ms. Andre is a reliable and efficient assistant . . . whenever she provided coverage, I knew I had nothing to worry about.”

44. During the performance review meeting, Ms. Andre told Ms. Thermidor that she was going to challenge the review with Human Resources. Ms. Thermidor responded, “It doesn’t matter who you call, nobody can help you.”

45. On the same day that Ms. Andre informed Ms. Thermidor that she was pregnant, and just over a month after complaining of unlawful sexual harassment, Ms. Andre received a formal written warning containing completely fabricated performance deficiencies.

46. Of note, the December 3, 2014 written discipline critiqued Ms. Andre in the following manner: “Marie needs to improve on her communication skills and style. She needs to **take the take the [sic]** time to check her work for spelling and grammatical errors.” (emphasis added). The December 3, 2014 write-up also referred to the October 21, 2014 meeting –

scheduled because Ms. Andre complained of sexual harassment, and during which Ms. Thermidor called Ms. Andre a “slut” – as a “counseling session.”

47. In addition to the fabricated discipline, Ms. Andre was subjected to an extremely hostile and retaliatory work environment after she made her complaint of unlawful sexual harassment.

48. For example, the day after the October 21, 2014 meeting, Ms. Andre’s chair – which is specially designed to accommodate Ms. Andre’s back injury – was taken away. Despite repeated complaints to Human Resources and Compliance Services, the chair was never returned.

49. Ms. Thermidor also began excluding Ms. Andre from many meetings, and encouraged the staff to harass Ms. Andre.

50. As a result, Ms. Andre was subjected to constant bullying, including being called “stupid,” incompetent” and a “slut” by both Ms. Thermidor and her colleagues on a daily basis.

51. Ms. Andre complained about all of this retaliatory treatment to Human Resources and her manager, Ms. Soto.

52. Instead of properly addressing the situation, Ms. Thermidor issued a final written warning to Ms. Andre on January 20, 2015.

53. After Ms. Andre was given the warning, Ms. Thermidor called her and gleefully laughed and exclaimed: “I finally got Pat to approve the final warning. I’ve got you now. There’s no coming back from that.”

54. True to her word, Ms. Thermidor fired Ms. Andre on February 11, 2015.

FIRST CAUSE OF ACTION
(Discrimination and Harassment in Violation of Title VII)

55. Plaintiff hereby repeats and re-alleges each and every allegation in all of the preceding paragraphs as if fully set forth herein.

56. Defendants have engaged in discrimination against Plaintiff on the basis of gender in violation of the Title VII by, *inter alia*, creating, fostering, condoning, accepting, and/or ratifying a discriminatory and hostile work environment.

57. As a direct and proximate result of Defendants' unlawful discriminatory conduct, Plaintiff has suffered, and continues to suffer, harm for which she is entitled to an award of monetary damages.

58. As a direct and proximate result of Defendants' unlawful discriminatory conduct, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress for which she is entitled to an award of monetary damages.

59. Defendants' unlawful discriminatory actions constitute reckless, intentional, malicious, willful and/or wanton violations of Title VII for which Plaintiff is entitled to an award of punitive damages.

SECOND CAUSE OF ACTION
(Retaliation in Violation of Title VII)

60. Plaintiff hereby repeats and re-alleges each and every allegation in all of the preceding paragraphs as if fully set forth herein.

61. Defendants have engaged in retaliation against Plaintiff for engaging in activity protected under Title VII by, *inter alia*, failing to promote her, subjecting her to fabricated and unwarranted criticism, subjecting her to a further hostile work environment and terminating her employment.

62. As a direct and proximate result of Defendants' unlawful retaliatory conduct, Plaintiff has suffered, and continues to suffer, harm for which she is entitled to an award of monetary damages.

63. As a direct and proximate result of Defendants' unlawful retaliatory conduct, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress for which she is entitled to an award of monetary damages.

64. Defendants' unlawful retaliatory actions constitute reckless, intentional, malicious, willful and/or wanton violations of Title VII for which Plaintiff is entitled to an award of punitive damages.

THIRD CAUSE OF ACTION
(Discrimination in Violation of the PDA)

65. Plaintiff hereby repeats and re-alleges each and every allegation in all of the preceding paragraphs as if fully set forth herein.

66. Defendants have engaged in discrimination against Plaintiff on the basis of pregnancy in violation of the PDA by, *inter alia*, failing to promote her, subjecting her to fabricated and unwarranted criticism, subjecting her to a further hostile work environment and terminating her employment.

67. As a direct and proximate result of Defendants' unlawful discriminatory conduct, Plaintiff has suffered, and continues to suffer, harm for which she is entitled to an award of monetary damages.

68. As a direct and proximate result of Defendants' unlawful discriminatory conduct, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress for which she is entitled to an award of monetary damages.

69. Defendants' unlawful discriminatory actions constitute reckless, intentional, malicious, willful and/or wanton violations of the PDA for which Plaintiff is entitled to an award of punitive damages.

FOURTH CAUSE OF ACTION
(Retaliation in Violation of the PDA)

70. Plaintiff hereby repeats and re-alleges each and every allegation in all of the preceding paragraphs as if fully set forth herein.

71. Defendants have engaged in retaliation against Plaintiff for engaging in activity protected under the PDA by, *inter alia*, failing to promote her, subjecting her to fabricated and unwarranted criticism, subjecting her to a further hostile work environment and terminating her employment.

72. As a direct and proximate result of Defendants' unlawful retaliatory conduct, Plaintiff has suffered, and continues to suffer, harm for which she is entitled to an award of monetary damages.

73. As a direct and proximate result of Defendants' unlawful retaliatory conduct, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress for which she is entitled to an award of monetary damages.

74. Defendants' unlawful retaliatory actions constitute reckless, intentional, malicious, willful and/or wanton violations of the PDA for which Plaintiff is entitled to an award of punitive damages.

FIFTH CAUSE OF ACTION
(Discrimination in Violation of the NYSHRL)

75. Plaintiff hereby repeats and re-alleges each and every allegation in all of the preceding paragraphs as if fully set forth herein.

76. Defendants have engaged in discrimination against Plaintiff on the basis of gender and pregnancy in violation of the NYSHRL by, *inter alia*, failing to promote her, subjecting her to fabricated and unwarranted criticism, creating, fostering, condoning, accepting, and/or ratifying a discriminatory and hostile work environment and terminating her employment.

77. As a direct and proximate result of Defendants' unlawful discriminatory conduct, Plaintiff has suffered, and continues to suffer, harm for which she is entitled to an award of monetary damages.

78. As a direct and proximate result of Defendants' unlawful discriminatory conduct, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress for which she is entitled to an award of monetary damages.

SIXTH CAUSE OF ACTION
(Retaliation in Violation of the NYSHRL)

79. Plaintiff hereby repeats and re-alleges each and every allegation in all of the preceding paragraphs as if fully set forth herein.

80. Defendants have engaged in retaliation against Plaintiff for engaging in activity protected under the NYSHRL by, *inter alia*, failing to promote her, subjecting her to fabricated and unwarranted criticism, subjecting her to a further hostile work environment and terminating her employment.

81. As a direct and proximate result of Defendants' unlawful retaliatory conduct, Plaintiff has suffered, and continues to suffer, harm for which she is entitled to an award of monetary damages.

82. As a direct and proximate result of Defendants' unlawful retaliatory conduct, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress for which she is entitled to an award of monetary damages.

SEVENTH CAUSE OF ACTION
(Discrimination in Violation of the NYCHRL)

83. Plaintiff hereby repeats and re-alleges each and every allegation in all of the preceding paragraphs as if fully set forth herein.

84. Defendants have engaged in discrimination against Plaintiff on the basis of gender and pregnancy in violation of the NYCHRL by, *inter alia*, failing to promote her, subjecting her to fabricated and unwarranted criticism, creating, fostering, condoning, accepting, and/or ratifying a discriminatory and hostile work environment and terminating her employment.

85. As a direct and proximate result of Defendants' unlawful discriminatory conduct, Plaintiff has suffered, and continues to suffer, harm for which she is entitled to an award of monetary damages.

86. As a direct and proximate result of Defendants' unlawful discriminatory conduct, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress for which she is entitled to an award of monetary damages.

87. Defendants' unlawful discriminatory actions constitute reckless, intentional, malicious, willful and/or wanton violations of the NYCHRL for which Plaintiff is entitled to an award of punitive damages.

EIGHTH CAUSE OF ACTION
(Retaliation in Violation of the NYCHRL)

88. Plaintiff hereby repeats and re-alleges each and every allegation in all of the preceding paragraphs as if fully set forth herein.

89. Defendants have engaged in retaliation against Plaintiff for engaging in activity protected under the NYSHRL by, *inter alia*, failing to promote her, subjecting her to fabricated

and unwarranted criticism, subjecting her to a further hostile work environment and terminating her employment.

90. As a direct and proximate result of Defendants' unlawful retaliatory conduct, Plaintiff has suffered, and continues to suffer, harm for which she is entitled to an award of monetary damages.

91. As a direct and proximate result of Defendants' unlawful retaliatory conduct, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress for which she is entitled to an award of monetary damages.

92. Defendants' unlawful retaliatory actions constitute reckless, intentional, malicious, willful and/or wanton violations of the NYCHRL for which Plaintiff is entitled to an award of punitive damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court enter judgment in her favor and against Defendant, containing the following relief:

A. A declaratory judgment that the actions, conduct and practices of Defendant complained of herein violate the laws of the United States and the State and City of New York;

B. An award of damages in an amount to be determined at trial, plus prejudgment interest, to compensate Plaintiff for all monetary and/or economic damages;

C. An award of damages in an amount to be determined at trial, plus prejudgment interest, to compensate Plaintiff for all non-monetary and/or compensatory damages, including, but not limited to, compensation for her mental anguish and emotional distress, humiliation, embarrassment, stress and anxiety, loss of self-esteem, self-confidence and personal dignity, and emotional pain and suffering and any other physical and mental injuries;

D. An award of damages to be determined at trial, plus prejudgment interest, to compensate Plaintiff for harm to her professional and personal reputations and loss of career fulfillment;

E. An award of punitive damages;

F. An award of costs that Plaintiff has incurred in this action, as well as Plaintiff's reasonable attorneys' fees to the fullest extent permitted by law; and,

G. Such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues of fact and damages stated herein.

Dated: June 11, 2015
New York, New York

Respectfully submitted,

WIGDOR LLP

By: 
Lawrence M. Pearson
Michael J. Willemin

85 Fifth Avenue
New York, NY 10003
Telephone: (212) 257-6800
Facsimile: (212) 257-6845
lpearson@wigdorlaw.com
mwillemin@wigdorlaw.com

Counsel for Plaintiff