

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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FRANCESCA PARRA,

Case No.

Plaintiff,

**COMPLAINT**

-against-

ACCESS STAFFING, LLC, and CRYSTAL HERNANDEZ,  
*Individually,*

**PLAINTIFF DEMANDS  
A TRIAL BY JURY**

Defendants.  
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Plaintiff FRANCESCA PARRA ("Plaintiff"), by and through her attorneys, Phillips & Associates, Attorneys at Law, PLLC, hereby complains of Defendants, upon information and belief as follows:

**NATURE OF THE CASE**

1. Plaintiff complains pursuant to the Age Discrimination in Employment Act, as amended, 29 U.S.C. § 621, *et seq.* ("ADEA"), and the New York City Human Rights Law, New York City Administrative Code § 8-107, *et seq.*, and seeks damages to redress the injuries she has suffered as a result of being **Discriminated Against** by her employer solely on the basis of her **Age (Twenty-One)** and **Retaliated Against** for opposing age discrimination.

**JURISDICTION AND VENUE**

2. Jurisdiction of this Court is proper under 29 U.S.C. § 626(c) and 28 U.S.C. §§ 1331 and 1343.
3. The Court has supplemental jurisdiction over Plaintiff's claims brought under city law pursuant to 28 U.S.C. § 1367.
4. Venue is proper in this district, pursuant to 28 U.S.C. § 1391(b), as it is a judicial district

in which 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 (“EEOC”).
6. Plaintiff received a Notice of Right to Sue from the EEOC, dated June 24, 2015, with respect to the herein charges of discrimination. A copy of this Notice is annexed hereto.
7. This action is being commenced within 90 days of receipt of said Notice.

**PARTIES**

8. Plaintiff was and is a resident of the State of New York and County of Queens.
9. At all times relevant, Defendant ACCESS STAFFING, LLC (“ACCESS”) was and is a domestic limited liability company duly existing under, and by virtue of, the laws of the State of New York.
10. At all times relevant, Defendant ACCESS owned, operated, and/or maintained an office located at 360 Lexington Avenue, 8<sup>th</sup> floor, New York, 10017 (“the office”).
11. At all times relevant, Defendant CRYSTAL HERNANDEZ (“HERNANDEZ”) was and is employed by Defendant ACCESS, holding the position of “office manager.”
12. At all times relevant, Defendant HERNANDEZ held supervisory authority over Plaintiff and had the power to hire, fire, and/or directly affect the terms and conditions of Plaintiff’s employment.
13. Defendant ACCESS and Defendant HERNANDEZ shall be herein referred to together as “Defendants.”

**MATERIAL FACTS**

14. Plaintiff’s date of birth is May 9, 1992.

15. In or around May 2013, Plaintiff was hired by Defendant ACCESS as a receptionist in a temporary capacity and began working at the office.
16. In or around August 2013, Plaintiff's employment with Defendant ACCESS became permanent. Notably, at that point, Defendant HERNANDEZ became Plaintiff's supervisor and Plaintiff began earning \$14.28 per hour.
17. Upon information and belief, only two other individuals were directly supervised by Defendant HERNANDEZ, aged 36 and 47, respectively. Defendant HERNANDEZ' age was 45.
18. Plaintiff's work performance was satisfactory throughout her employment at the office.
19. Plaintiff experienced a harassment-free workplace from May 2013 throughout the Fall 2013 and until sometime in October 2013. Notably, sometime in or around October 2013, one of Plaintiff's co-workers asked her her age. Plaintiff responded that she was twenty-one (21) years old.
20. Approximately one week following this disclosure, Plaintiff began being discriminated against on the basis of her age by her supervisor Defendant HERNANDEZ. Namely, Plaintiff was caused to experience disparate treatment and an unlawful hostile work environment.
21. Specifically, Plaintiff began being constantly subjected to comments by Defendant HERNANDEZ such as "You're such a baby," and "You're so young" in a condescending and deriding manner.
22. In or around November 2013, Defendant HERNANDEZ began referring to herself as Plaintiff's "work mother" in a demeaning and derogatory manner. Plaintiff was the only person to whom Defendant HERNANDEZ did this.

23. Furthermore, Defendant HERNANDEZ constantly and repeatedly referred to Plaintiff not by name but as “little girl.”
24. On one particular instance, Plaintiff had to speak on the phone with a family member regarding an emergency. After finishing this phone call, Defendant HERNANDEZ remarked in a deriding manner to Plaintiff that she (Plaintiff) was “not a mother,” and only mothers have real emergencies. She followed this up by telling Plaintiff that “little girls don’t have emergencies.”
25. On another particular instance, one of Plaintiff’s co-workers needed to take a phone call in order to speak with her (the co-worker’s) son and asked Defendant HERNANDEZ if that was alright. Defendant HERNANDEZ replied that was fine because “that’s a mother’s duty,” then turned to Plaintiff and said, “You (referring to Plaintiff), on the other hand, are not a mother and you wouldn’t have any emergency calls.”
26. Defendant HERNANDEZ also habitually and repeatedly called Plaintiff not by her name but by “Sangana,” which, upon information and belief, is a Spanish-language pejorative for a “stupid or foolish person.” Plaintiff was the only person in the office to which Defendant HERNANDEZ referred to by this nickname.
27. Also, on numerous instances, Defendant HERNANDEZ complimented Plaintiff for her work performance, yet always followed it up with an age-related insult. Usually, Defendant HERNANDEZ complimented Plaintiff by telling her that she was a “hard worker,” just “not seasoned,” and that “seasoning comes with age.”
28. The nicknames, name-calling, and deriding remarks regarding Plaintiff’s age were made by Defendant HERNANDEZ to her at least twice each and every week beginning in or around October/ November 2013 and continued throughout 2014 until Plaintiff’s

employment termination in or around the beginning of November 2014.

29. Plaintiff constantly and repeatedly opposed or protested Defendant HERNANDEZ' remarks and deriding behavior. Specifically, Plaintiff repeatedly asked Defendant HERNANDEZ to stop calling her "little girl" as it bothered her. In response, Defendant HERNANDEZ usually stated something to the effect of "Yes, but you *are* a little girl."
30. Moreover, on multiple instances, Plaintiff asked Defendant HERNANDEZ to be treated that same as everyone else, to which Defendant HERNANDEZ dismissed her complaints.
31. Furthermore, Plaintiff suffered disparate treatment at the hands of Defendant HERNANDEZ on account of her age.
32. Notably, Defendant HERNANDEZ tasked Plaintiff with responsibilities such as cleaning the bathroom and cleaning the refrigerator. These tasks were not part of her job description and she was the only employee under Defendant HERNANDEZ' supervision routinely tasked with these jobs.
33. In or around October 2014, Plaintiff began training newly-hired employees. Around this time, Plaintiff asked Defendant HERNANDEZ if she could get a raise in light of the new tasks of training people. Defendant HERNANDEZ curtly responded, "You should be happy you're still here" and denied her request to be considered for a raise.
34. Shortly thereafter, Plaintiff had become fed up with the constant negative remarks about her age and the name-calling, and in response to a deriding comment by Defendant HERNANDEZ, Plaintiff stated abruptly, "I'm getting tired of you speaking to me like I'm a child."
35. Approximately two weeks later, on or about November 6, 2014, Defendant HERNANDEZ told Plaintiff that she needed to speak to someone from Human Resources

(“HR”). At this meeting with an HR representative, Plaintiff was told she was fired and “today [would] be [her] last day.”

36. Surprised by this, Plaintiff asked why she was being fired. The HR representative told her that she (Plaintiff) was an at-will employee that Defendant ACCESS did not need to give her a reason.
37. Upon information and belief, Defendant HERNANDEZ had Plaintiff fired on account of her age (early 20s) and in retaliation for her opposing/ protesting discrimination at the hands of Defendant HERNANDEZ, especially her abruptly standing up for herself in or around the middle of October 2014, mere weeks before she was fired.
38. Plaintiff has been unlawfully discriminated against on the basis of her age and unlawfully retaliated against.
39. Defendants’ actions and conduct were intentional and aimed at harming Plaintiff.
40. As a result of Defendants’ actions, Plaintiff feels extremely humiliated, degraded, victimized, embarrassed, emotionally distressed, and has suffered various physical ailments.
41. As a result of Defendants’ unlawful conduct, Plaintiff has suffered the adverse effects of discrimination and the quality of her life, self-esteem and self-respect have been adversely impacted because she was subjected to the intimidating and humiliating types of conduct described herein. This experience has been, and will continue to be a source of humiliation, anguish, and financial loss to Plaintiff.
42. As a result of the acts and conduct complained of herein, Plaintiff has suffered a loss of income, the loss of a salary, bonus, benefits, and other compensation which such employment entails, and Plaintiff has also suffered future pecuniary losses, emotional

pain, suffering, inconvenience, loss of enjoyment of life, and other non-pecuniary losses.

Plaintiff has further experienced severe emotional and physical distress.

43. As a result of the above, Plaintiff has been damaged in an amount which exceeds the jurisdictional limits of the Court.
44. Defendants' conduct has been malicious, willful, outrageous, and conducted with full knowledge of the law. As such, the Plaintiff demands punitive damages as against all Defendants, jointly and severally.

**AS A FIRST CAUSE OF ACTION FOR RETALIATION**

**UNDER THE ADEA**

**(Not Against Individual Defendant)**

45. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this Complaint as if more fully set forth herein at length.
46. Plaintiff had a good-faith belief that her opposition/ protesting discrimination violated the ADEA.
47. Defendants retaliated against Plaintiff for having engaged in the protected activity described herein.
48. Defendants' actions constitute retaliation against Plaintiff in violation of the ADEA.
49. Upon information and belief, Defendants' retaliatory conduct was willful. Plaintiff is therefore entitled to liquidated damages pursuant to 29 U.S.C. § 626(b).
50. By reason of the foregoing, Defendants are liable to Plaintiff, in amounts to be determined at trial, for back pay, reinstatement or front pay, lost benefits, liquidated damages, pre-judgment interest, attorneys' fees and costs.

**AS A SECOND CAUSE OF ACTION FOR DISCRIMINATION**

**UNDER THE NEW YORK CITY ADMINISTRATIVE CODE**

51. 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.

52. 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.”
53. 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 her age.

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

54. 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.
55. The New York City Administrative Code § 8-107(7) provides that it shall be unlawful discriminatory practice: “For an employer ... to discriminate against any person because such person has opposed any practices forbidden under this chapter ...”
56. Defendants engaged in an unlawful discriminatory practice in violation of New York City Administrative Code § 8-107(7) by discriminating against Plaintiff because of Plaintiff’s opposition to the unlawful employment practices of Defendants.

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

57. 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.



58. 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.”
59. 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 FIFTH CAUSE OF ACTION FOR DISCRIMINATION  
UNDER THE NEW YORK CITY ADMINISTRATIVE CODE**

60. 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.
61. 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.

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

**JURY DEMAND**

63. Plaintiff demands a trial by jury.

**WHEREFORE**, Plaintiff respectfully requests a judgment against Defendants:

- A. Declaring that Defendants engaged in unlawful employment practices prohibited by the ADEA and the New York City Human Rights Law in that Defendants harassed and discriminated against Plaintiff due to her gender and retaliated against her for objecting to/ protesting such discrimination;
- B. Awarding damages to Plaintiff for all lost wages and benefits resulting from Defendants' unlawful discrimination and retaliation and to otherwise make her whole for any losses suffered as a result of such unlawful employment practices;
- C. Awarding damages to Plaintiff for mental, emotional and physical injury, distress, pain

and suffering and injury to her 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 14, 2015

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

By:



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EEOC Form 161 (11/09)

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: **Franchesca Parra**  
**9729 Allendale Street**  
**Jamaica, NY 11435**

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.

EEOC Representative

Telephone No.

**520-2015-02270**

**Maritza Rondon-Velazquez,**  
**Investigator**

**(212) 336-3678**

## THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

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The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

☐

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

☐

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐

Other (briefly state)

## - NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **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.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful 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.

On behalf of the Commission

*Kevin J. Berry*  
**Kevin J. Berry,**  
**District Director**

**JUN 24 2015**

Enclosures(s)

(Date Mailed)

cc:

**Director of Human Resources**  
**ACCESS STAFFING, LLC**  
**360 Lexington Ave, 8th Floor**  
**New York, NY 10017**

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