

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

Index No:
Date purchased:

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GRISEL CABAN,

Plaintiff designates: Kings
County as the place of trial

Plaintiff,

The basis of the venue is
Plaintiff's Residence

-against-

PUERTO RICAN FAMILY INSTITUTE, INC.,
and MARIOLI STERLING,

AMENDED SUMMONS
Defendant resides at:
KINGS County

Defendants.

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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 the plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 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: New York, New York
September 15, 2015

AKIN LAW GROUP
Attorneys for Plaintiff(s)

/s/ Garima Vir

By: Garima Vir, Esq.
45 Broadway, Suite 1420
New York, New York 10006
(212) 825-1400

Defendants' Addresses:

Puerto Rican Family Institute, Inc. [via Secretary of State]
145 W15th Street
New York, NY 10011

Marioli Sterling [At Place of Employment]
Puerto Rican Family Institute, Inc.
358 Grove Street
Brooklyn, NY 11237

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

-----X
GRISEL CABAN,

Plaintiff,

**AMENDED
VERIFIED COMPLAINT**

-against-

PUERTO RICAN FAMILY INSTITUTE, INC.
and MARIOLI STERLING,

Defendants.

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Plaintiff, by her attorneys, AKIN LAW GROUP PLLC, upon information and belief, complains of Defendants as follows:

1. Plaintiff complains pursuant to the laws of the State of New York and the Administrative Code of the City of New York, seeking damages to redress the injuries Plaintiff has suffered as a result of being discriminated against, and retaliated against by her employer on the basis of her national origin for reporting the discrimination to which she was subjected to.
2. That at all times hereinafter mentioned, Plaintiff CABAN is of a Puerto Rican national origin.
3. That at all times hereinafter mentioned, the Defendant PUERTO RICAN FAMILY INSTITUTE, INC., (hereinafter "PRFI") was and is a domestic not-for-profit corporation duly organized and existing under and by virtue of the laws of the State of New York.
4. That at all times hereinafter mentioned, the Defendant PRFI was and is a domestic not-for-profit corporation duly organized and existing under and by virtue of the laws of the State of New York.

5. That at all times hereinafter mentioned, the Defendant PRFI was and is an entity duly authorized to operate in the State of New York.
6. That at all times hereinafter mentioned, the Defendant PRFI was and is operating at the premises more commonly known as 358 Grove Street, Brooklyn, NY 11237, located in Kings County.
7. That at all times hereinafter mentioned, Defendant PRFI is a nonprofit service agency with mission to prevent family disintegration and enhance the self-sufficiency of the Latino community.
8. That at all times hereinafter mentioned, Defendant MARIOLI STERLING (hereinafter “STERLING”), was and is employed by Defendant PRFI.
9. That at all times hereinafter mentioned, Defendant STERLING is of Panama national origin.
10. That at all times hereinafter mentioned, Defendant STERLING, was and is employed as a Director at Defendant PRFI.
11. That at all times hereinafter mentioned, Defendant STERLING, was and is in a superior position over Plaintiff.
12. That at all times hereinafter mentioned, Defendant STERLING has authority to hire and fire employees at PRFI.
13. That at all times hereinafter mentioned, all acts and/or omissions by Defendants that give rise to this action occurred in Kings County.
14. In or around March 2003, Plaintiff commenced her employment with Defendant PRFI.
15. That at all times herein mentioned, Plaintiff was employed at Defendant PRFI as Senior Case Planner.
16. That at all times herein mentioned, Plaintiff CABAN was a stellar employee at Defendant PRFI.

17. That at all times herein mentioned, Plaintiff CABAN received numerous praises during her employment with Defendant PRFI.
18. That at all times herein mentioned, Plaintiff CABAN's performance was above average during her employment with Defendant PRFI.
19. That at all times herein mentioned, Plaintiff CABAN received a raise from \$30,000 to \$38,000 due to her diligent work at Defendant PRFI.
20. Commencing September 2014, Plaintiff CABAN became the target of discrimination and hostile work environment by the Defendants.
21. That at all times herein relevant, Defendants discriminated against Plaintiff CABAN because of her race and/or national origin.
22. That at all times herein relevant, Defendant STERLING would use discriminatory comments in reference to Plaintiff's Puerto Rican national origin.
23. That at all times herein relevant, Defendant STERLING would tell Plaintiff, "**you Puerto Ricans are Ghetto**",
24. That at all times herein relevant, Defendant STERLING would tell Plaintiff, "**all Puerto Ricans come here and abuse the system**".
25. That at all times herein relevant, Defendant STERLING would undermine Plaintiff's credentials because she graduated from Boricua College (a Puerto Rican college located in Brooklyn).
26. That at all times herein relevant, when Plaintiff began her Master's Program at Hunter College, Defendant Sterling told Plaintiff, "**I guess Hunter started accepting Ghetto people**".
27. That at all times herein relevant, no other non- Puerto Rican employees were criticized for their education.

28. That at all times herein relevant, Defendant STERLING would say to Plaintiff, “I don’t know why Esther Huerta (previous Director) hired you with your background [referring to Plaintiff’s national origin]”.
29. That at all times herein relevant, Defendant STERLING would use discriminatory comments and treat Puerto Rican clients with disrespect.
30. That at all times relevant, Defendant STERLING would refer to Puerto Ricans as, “**Pendeja**” **[dumbass/douche bag]**, “**Estupida**” **[stupid]**;
31. That at all times relevant, Defendant STERLING would not refer to members of other national origin in the same manner.
32. That at all times relevant, Defendant STERLING would make general disparaging and discriminatory remarks about Puerto Ricans.
33. That at all times relevant, Defendant STERLING would say “Puerto Ricans pretend they are crazy just to collect SSI [Supplemental Security Income]”.
34. That at all times relevant, Defendant STERLING would say “why do Puerto Rican always have so many kids and live out of the system”.
35. Defendant STERLING would express compassion for Hispanic, non-Puerto Rican, clients, while criticizing Puerto Rican clients.
36. That at all times herein relevant, the Defendants created a hostile work environment at Defendant PRFI.
37. That at all times herein relevant, Defendant STERLING would yell and curse at Plaintiff in front of other Defendant PRFI’s employees.
38. That at all times herein relevant, Defendant STERLING treated Plaintiff CABAN less favorably, than similarly situated to her, non-Puerto Rican, employees.

39. That at all times relevant, Defendant STERLING would criticize Plaintiff CABAN for dressing up “**like the Puerto Rican clients, showing their body**”,
40. That at all times relevant, Defendant STERLING would complement other non-Puerto Rican employees for dressing up in the same manner as Plaintiff CABAN.
41. That at all times herein relevant, Defendant STERLING would reprimand Plaintiff CABAN for a poor English, while not reprimanding non-Puerto Rican employee for similar grammatical or pronunciation errors.
42. That at all times herein relevant, the Defendants maintained a pattern of discriminatory conduct against Defendant PRFI’s employees because of their Puerto Rican national origin.
43. That at all times herein relevant, other Puerto Ricans employees have complained about similar discrimination by Defendant STERLING.
44. That at all times herein relevant, Plaintiff CABAN was unable to tolerate discrimination and hostile work environment by the Defendants, and gained courage to report the unlawful employment practices at Defendant PRFI.
45. On or about April 13, 2015 Plaintiff CABAN filed a complaint with Human Resources (hereinafter referred to as “HR”) at Defendant PRFI regarding discrimination and hostile work environment by the Defendants.
46. That at all times herein relevant, John Best [HR Director] conducted the investigation into Plaintiff’s complaints, and it was concluded that no discrimination and hostile work environment took place.
47. Immediately upon Plaintiff’s complaint, she became the target of a blatant retaliation against her by the Defendants.
48. That at all times herein relevant, Defendant STERLING would ignore Plaintiff’s work-related inquiries, saying, “**I don’t want to see you after the complaint**”.

49. That at all times herein relevant, Defendant STERLING purposefully switched Plaintiff's work hours to provide her maximum inconvenience.
50. That at all time herein relevant, Defendant STERLING took away a case from Plaintiff CABAN.
51. That at all times herein relevant, Defendant STERLING continued to create a hostile work environment at Defendant PRFI.
52. That at all times herein relevant, Defendant STERLING instructed other Defendant PRFI's employees to avoid and ignore Plaintiff at workplace, completely isolating her socially.
53. That at all times herein relevant, Defendant STERLING prevented Plaintiff CABAN from pursuing her fieldwork at Defendant PRFI.
54. That at all times herein relevant, Plaintiff was initially confirmed by Abigail Juarez-Karic (Program Director) to conduct her fieldwork at Brooklyn Mental Health Clinic. However, shortly after Ms. Abigail advised Plaintiff, "I don't want any problem with Ms. Sterling"; and informed she was unable to accommodate her further.
55. That at all times herein relevant, Defendant STERLING recommended Ms. Gema (Last Name Unknown), of Honduras national origin, for the fieldwork position at a Bronx cite, while denying Plaintiff CABAN same.
56. That at all times herein relevant, James Chavez (Program Director) offered Plaintiff CABAN a fieldwork opportunity at Manhattan Mental Health Clinic.
57. That at all times herein relevant, Defendant STERLING convinced Mr. Chavez Hernandez to refuse Plaintiff CABAN from having her fieldwork at Defendant's Manhattan Mental Health Clinic.
58. The discrimination and hostile work environment at Defendant PRFI escalated with time.

59. That at all times herein relevant, Defendant STERLING would refuse to review Plaintiff's work intentionally, so that Plaintiff CABAN would miss the deadlines in submitting work-related paperwork.
60. That at all times herein relevant, Defendant STERLING would return paperwork to Plaintiff CABAN with excessive corrections in order to make Plaintiff CABAN look as if she was not fit to do her job.
61. In or around August 2015, Plaintiff CABAN, in an attempt to mitigate her damages, tried to find another position, in order to complete her fieldwork with the Women Prison Association.
62. That at all times herein relevant, Defendant STERLING instructed Plaintiff CABAN's supervisor, Diane Ramirez, not to provide a reference.
63. That at all times herein relevant, supervisors at Defendant PRFI would provide references to employees without management's interference or permission.
64. In or around August 2015, Defendant PRFI constructively terminated the employment of Plaintiff CABAN as a course of further discrimination and retaliation.
65. Thereafter, Plaintiff was further retaliated against by Defendant PFRI when they refused to pay out her accrued vacation days.
66. Defendants created an unlawful hostile work environment for Plaintiff CABAN.
67. Defendants treated Plaintiff differently because of her race and national origin.
68. During Plaintiff CABAN's employment with the Defendants, Plaintiff was and continued to be regularly exposed to a discriminatory, offensive conduct and hostile work environment.
69. Plaintiff CABAN has been unlawfully harassed, discriminated and retaliated against, was humiliated, and has been degraded and belittled.

70. Plaintiff CABAN's situation at her job was intolerable as a result of the discrimination by Defendants to which she was subjected, and no reasonable person in Plaintiff's position could be expected to continue working under those conditions.
71. Throughout Plaintiff CABAN's employment with Defendants, Plaintiff would protest and complain to Defendants about this unlawful conduct to no avail.
72. The Defendants has caused damage and injury to Plaintiff CABAN by first subjecting her to discrimination, a hostile work environment and then again by protecting the individuals that caused and created the hostile work environment while retaliating against Plaintiff CABAN.
73. Defendants' actions and conduct were intentional and intended to harm Plaintiff CABAN.
74. As a result of Defendants' actions, Plaintiff CABAN felt extremely humiliated, degraded, victimized, embarrassed, and emotionally distressed.
75. As a result of the Defendants' discriminatory and intolerable treatment, Plaintiff CABAN has suffered and will continue to suffer emotional and psychological distress, emotional pain, anxiety, depression, embarrassment, humiliation, inconvenience, loss of enjoyment of life, and other non-pecuniary losses.
76. As a result of the above, Plaintiff CABAN has been damaged in an amount which exceeds the jurisdictional limits of all lower Courts.

AS A FIRST CAUSE OF ACTION
FOR DISCRIMINATION UNDER STATE LAW

77. Plaintiff CABAN 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.
78. Executive Law § 296 provides that it shall be an unlawful discriminatory practice: (a) For an employer or licensing agency, because of the age, race, creed, color, national origin, sexual orientation, military status, sex, disability, genetic predisposition or carrier status, 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.

79. Defendant engaged in an unlawful discriminatory practice by taking adverse employment action and otherwise discriminating against Plaintiff CABAN because of her race and national origin.
80. That as a direct result of the foregoing, Plaintiff CABAN has been damaged in an amount which exceeds the jurisdictional limits of all lower Courts.

**AS A SECOND CAUSE OF ACTION
FOR DISCRIMINATION UNDER STATE LAW**

81. Plaintiffs CABAN 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.
82. 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."

83. Defendant engaged in an unlawful discriminatory practice by taking adverse employment action, retaliating, and otherwise discriminating against Plaintiff CABAN because of Plaintiff's opposition to the unlawful employment practices of Defendants.
84. That as a direct result of the foregoing, Plaintiff CABAN has been damaged in an amount which exceeds the jurisdictional limits of all lower Courts.

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

85. Plaintiff CABAN 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.
86. 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 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."
87. Defendant engaged in an unlawful discriminatory practice in violation of New York City Administrative Code Title 8, §8-107(1)(a) by actually and constructively taking adverse employment action, creating and maintaining discriminatory working conditions, and otherwise discriminating against the Plaintiff CABAN because of her race and national origin.
88. That as a direct result of the foregoing, Plaintiff CABAN has been damaged in an amount which exceeds the jurisdictional limits of all lower Courts.

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

89. Plaintiff CABAN 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.
90. 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. . . "

91. Defendant engaged in an unlawful discriminatory practice in violation of New York City Administrative Code Title 8, §8-107(1)(e) by taking adverse employment action and otherwise discriminating against Plaintiff CABAN because of Plaintiff's opposition to the unlawful employment practices of Plaintiff's employer.
92. That as a direct result of the foregoing, the Plaintiff CABAN has been damaged in an amount which exceeds the jurisdictional limits of all lower Courts.

AS A FIFTH CAUSE OF ACTION FOR EMOTIONAL DISTRESS

93. Plaintiff CABAN repeats, reiterates and reallaeges all the above paragraphs as if said paragraphs were more fully set forth herein at length.
94. That at all times relevant herein, Defendants engaged in extreme and outrageous conduct.
95. Defendants intended to cause, or disregarded a substantial probability of causing, severe emotional distress to the Plaintiff CABAN.
96. That at all times hereinafter mentioned Plaintiff CABAN sustained, suffered, and continue to suffer severe emotional distress.
97. There exists a causal connection between the above conduct and said injuries.
98. That as a direct result of the foregoing, Plaintiff CABAN has been damaged in an amount which exceeds the jurisdictional limits of all lower Courts.

AS A SIXTH CAUSE OF ACTION FOR PUNITIVE DAMAGES

99. Plaintiff CABAN repeats, reiterates and reallaeges all the above paragraphs as if said paragraphs were more fully set forth herein at length.
100. That at all times hereinafter mentioned, Defendants knew that their actions constituted unlawful discrimination and unlawful retaliation in violation of the New York State

Executive Law §296 et seq. and the Administrative Code of the City of New York § 8-101 et seq.

101. That at all times hereinafter mentioned, Defendants acted with malice or reckless disregard with intentional in violation of New York State Executive Law §296 et seq. and the Administrative Code of the City of New York § 8-101 et seq.

102. As a result of the foregoing, the Plaintiff CABAN seeks declaratory relief, compensatory damages, punitive damages, and liquidated damages, together with reasonable attorneys' fees, costs of this action, pre-judgment and post-judgment interest, and other appropriate relief pursuant to New York State Executive Law §296 et seq. and the Administrative Code of the City of New York § 8-101 et seq.

INJURY AND DAMAGES

103. As a result of the acts and conduct complained of herein, the Plaintiff CABAN has suffered and will continue to suffer the loss and/or partial loss of a career and the loss and/or partial loss of a salary, bonuses, commissions, benefits and other compensation which such employment entails, out-of-pocket medical expenses and Plaintiff also suffered future pecuniary losses, emotional pain, suffering, inconvenience, injury to reputation, loss of enjoyment of life, and other non-pecuniary losses. Plaintiff has further experienced severe emotional and physical distress.

WHEREFORE, Plaintiff CABAN respectfully requests a judgment against the Defendants:

Declaring that the Defendants engaged in unlawful employment practice prohibited by state common law, New York State Executive Law §296 et. Seq. and the New York City Administrative Code Title 8, §8-107 et. Seq.; and that the Defendants harassed, discriminated against, took adverse employment action against, and retaliated against Plaintiffs on the basis of their race, color and sex;

- A. Awarding Plaintiff compensatory damages for mental, emotional and physical injury, distress, pain and suffering and injury to her reputation in an amount that exceeds the jurisdictional limit of all lower courts;
- B. Awarding Plaintiff punitive damages;
- C. Awarding the Plaintiff's attorney's fees, costs, and expenses; and
- D. Awarding Plaintiff such other and further relief as the Court may deem equitable, just and proper to remedy the Defendants' unlawful employment practices.

Dated: New York, New York
September 15, 2015

Respectfully Submitted

AKIN LAW GROUP PLLC
Attorneys for Plaintiff

/s/ Garima Vir

By: Garima Vir, Esq.
45 Broadway, Suite 1420
New York, NY 10006
(212) 825-1400

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
GRISEL CABAN,

Plaintiff,

VERIFICATION

-against-

PUERTO RICAN FAMILY INSTITUTE, INC.
and MARIOLI STERLING,

Defendants.

-----X

I, GARIMA VIR, being duly sworn deposed and state under the penalties of perjury that: I am an attorney duly admitted to practice law in the courts of New York State and am an associate at the AKIN LAW GROUP PLLC, the attorneys of record for the plaintiff in the within action;

I have read the foregoing, AMENDED VERIFIED COMPLAINT, and know the contents thereof; the same is true to my own knowledge, except as to the matters therein alleged to be on information and belief, and as to those matters I believe them to be true.

The reason this verification is made by me and not by the plaintiff is that the plaintiff resides in a county other than where we maintain our office.

The grounds of my belief as to all matters not stated upon my own knowledge are as follows: Conversations with the plaintiff, review of the file and all the pleadings and proceedings heretofore had herein.

Dated: New York, New York
September 15, 2015

/s/ Garima Vir

Garima Vir, Esq.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

Index No.:

-----X
GRISEL CABAN

Plaintiff,

-against-

PUERTO RICAN FAMILY INSTITUTE, INC.,
and MARIOLI STERLING,

Defendants.

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AMENDED SUMMONS AND VERIFIED COMPLAINT

AKIN LAW GROUP PLLC
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