

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS-----X
KIRSTIN POLLOCK,

Plaintiff,

-against-

AGREI CONSULTING, INC., and ISRAEL HESKIEL
*Individually,*Defendants.
-----X


Index No.

Plaintiff designates: KINGS
COUNTY as the Place of trialSUMMONSThe basis of the venue is:
The County in which a Defendant
is Domiciled

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 inconvenience relief demanded in the complaint.

Dated: New York, New York
September 3, 2015PHILLIPS & ASSOCIATES,
ATTORNEYS AT LAW, PLLC

By:

Marjorie Mesidor, Esq.
Attorneys for Plaintiff
45 Broadway, Suite 620
New York, New York 10006
(212) 248-7431
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Defendants' Addresses:

Agrei Consulting, Inc.

Via Secretary of State

Israel Heskiel

Via Place of Employment

68 Jay Street, Suite 201

Brooklyn, NY, 11210

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COMPLAINT

**PLAINTIFF
DEMANDS A TRIAL
BY JURY**

Plaintiff, KIRSTIN POLLOCK, by and through her attorneys, PHILLIPS & ASSOCIATES, Attorneys at Law, PLLC, hereby complains of the Defendants, upon information and belief, as follows:

NATURE OF THE CASE

1. Plaintiff POLLOCK brings this action charging that Defendants violated the New York City Human Rights Law, New York City Administrative Code § 8-107, *et. seq.* and seeks damages to redress the injuries Plaintiff has suffered as a result of sexual harassment and retaliation by the Defendants.

PARTIES

2. That at all times relevant hereto, Plaintiff KIRSTIN POLLOCK (hereinafter "POLLOCK") is a resident of the State of New York, County of Brooklyn.
3. That at all times relevant hereto, Defendant AGREI CONSULTING, INC. ("AGREI CONSULTING") is a domestic corporation, duly existing pursuant to, and by virtue of, the laws of the State of New York.
4. Defendant AGREI CONSULTING has its principal place of business in the DUMBO area of

Brooklyn.

5. Upon information and belief, AGREI CONSULTING employs 4 or more employees.
6. That at all times relevant hereto, Plaintiff POLLOCK is an employee of Defendant AGREI CONSULTING.
7. That at all times relevant hereto, Defendant ISRAEL HESKIEL ("HESKIEL") was and is a resident of the State of New York.
8. That at all times relevant hereto, Defendant HESKIEL was and is the CEO of Defendant AGREI CONSULTING.
9. That at all times relevant hereto, Defendant HESKIEL was Plaintiff POLLOCK'S supervisor and/or held supervisory authority over Plaintiff.
10. Defendants AGREI CONSULTING and HESKIEL are collectively referred to herein as "Defendants."

MATERIAL FACTS

11. On or about July 7, 2015, Plaintiff first met Defendant HESKIEL at "Fashion Tuesdays" a fashion event at Skybar in Manhattan.
12. Defendant HESKIEL informed Plaintiff that he was looking for a new assistant and asked Plaintiff to forward him her resume. During their conversation, Defendant HESKIEL told Plaintiff that "Gayle" is the Chief Financial Officer ("CFO") at his company. Plaintiff later learned that Gayle is Defendant HESKIEL's wife.
13. On or about July 10, 2015, Plaintiff had an interview via SKYPE with Gayle and Defendant HESKIEL. It was then that Plaintiff was introduced to Gayle as Defendant HESKIEL's wife.
14. After the interview, Plaintiff was offered a job earning \$35,000 a year with her first day to begin July 20, 2015.

15. The week before Plaintiff was to begin her job, she was contacted by Defendant HESKIEL several times. During this week, Defendant HESKIEL was at a conference in Florida. Under the pretext of the conversation being job related, Defendant HESKEL attempted to engage Plaintiff into conversations of a personal nature.
16. On or about July 11, 2015, Defendant HESKIEL FaceTimed Plaintiff while he was clearly intoxicated to inform Plaintiff that he was trying to divorce his wife.
17. On or about July 13, 2015, Defendant HESKIEL asked Plaintiff to download a “security program” onto her personal computer. Plaintiff later discovered that this download was not a security program but instead was a monitoring agent that would grant Defendant HESKIEL access to her entire computer including her personal emails and files.
18. Plaintiff asked Dimitri, from Defendants’ Information Technology department, to remove the software from her personal computer. After the software was uninstalled from Plaintiff’s personal computer, Plaintiff was informed by Dimitri that Defendant HESKIEL inquired as to why the monitoring software was deleted from her computer.
19. Defendant HESKIEL sent Plaintiff various unwanted text messages attempting to engage her in flirtations. Plaintiff understood these messages to be unwanted romantic and sexual advances.
20. By way of example, on or about July 13, 2015, Defendant HESKIEL texted Plaintiff, “For events I always try to dress as attractive as I can ;)”. Plaintiff understood this to mean that Defendant HESKIEL required her to dress “as attractive as” she can.
21. On or about Sunday July 19, 2015, Defendant HESKIEL texted Plaintiff, “I told you. You take good care of me and I will reciprocate☺” “Lots of perks with me”. Plaintiff understood

this to mean that if she acquiesced to Defendant HESKIEL's advances her continued employment would be secure.

22. In or about July 20, 2015, Plaintiff began working for AGREI CONSULTING as a Marketing Specialist / Executive Assistant.
23. On or about July 21, 2015, Defendant HESKIEL asked Plaintiff to go to a business networking event with him.
24. Plaintiff immediately noticed that Gayle, Defendant HESKIEL's wife, was suddenly cold towards her.
25. On July 21, 2015, Defendant HESKIEL texted Plaintiff, "So remember I asked you to let me know if you saw anything inappropriate that I thought I deleted..." "Well I had deleted an accidental photo I took while trying out my selfie stick for the first time" [...] "I don't want anyone else seeing that". Plaintiff felt uncomfortable by these text messages as Plaintiff believed that HESKIEL was referring to inappropriate pictures.
26. On or about July 22, 2015, Plaintiff met with Gayle for a web design training. Instead of a training session, Gayle spent the majority of the meeting lecturing Plaintiff on what she should wear to work. Specifically, Gayle told Plaintiff that she should wear pants around her husband. Gayle continued to tell Plaintiff that she would prefer if Plaintiff wore her hair back and keep her makeup natural. Gayle multiple times told Plaintiff how insecure she was and how important her marriage was to her.
27. Plaintiff believed that had she not been female, Gayle would not have required her to wear pants around Defendant HESKIEL; nor would she have asked Plaintiff to maintain a specific hairstyle or regulated Plaintiff's makeup.

28. Gayle then informed Plaintiff that if Plaintiff told Defendant HESKIEL about their conversation than he [Defendant HESKIEL] “would never forgive Gayle” and Gayle would in turn never trust Plaintiff again.
29. Plaintiff was confused and uncomfortable by her conversation with Gayle considering she had always dressed appropriately for work.
30. Plaintiff was also insulted by Gayle’s instructions to dress in a manner that would ease her insecurities about her relationship with her husband; a revelation that Plaintiff believed would not have been given to a male.
31. On or about July 27, 2015, Plaintiff informed Defendant HESKIEL that she would like to speak with him about a conversation she had with Gayle. Plaintiff met Defendant HESKIEL for lunch and Plaintiff explained the conversation she had with Gayle the Wednesday before and her objection to same.
32. Later that day, Defendant HESKIEL invited Plaintiff for a massage at a massage parlor across from Defendants’ 466 Lexington office. Defendant HESKIEL told Plaintiff that it was a “work perk”. Plaintiff felt uncomfortable and obligated to go since she just began a new job and her direct supervisor was asking her to go.
33. When Plaintiff got to the massage parlor she had assumed that she and Defendant HESKIEL would be in two separate rooms. Instead, Plaintiff was led into one single massage room where Defendant HESKIEL had arranged a couple’s massage.
34. Defendant HESKIEL immediately undressed himself and stood before Plaintiff fully nude. Defendant HESKIEL was standing naked while talking to Plaintiff. Plaintiff was fully clothed and was sitting on the opposite massage table at this time and in shock.

35. The masseuse told Plaintiff that she needed to undress. Still in shock, Plaintiff stealthily began to undress while covering herself with a towel.
36. Plaintiff laid down on the table with a towel covering her completely. In contrast, Defendant HESKIEL was lying on the table without any clothes or towel completely exposing his buttocks. Unsure of how to get herself out of this offensive and uncomfortable predicament, Plaintiff hoped that the session would end quickly.
37. Later that day, Defendant HESKIEL texted Plaintiff, "I told her [Gayle] yesterday I want to separate". Plaintiff did not inquire as to Defendant HESKIEL's marital status. In the context of Defendants, continued text message and him exposing himself to Plaintiff, Ms. Pollack understood HESKIEL's comment to be in furtherance of his unwanted sexual advances.
38. Later that same evening, Defendant HESKIEL texted Plaintiff, "love you too" "Oops Sorry" "Wrong Window". In light of Defendant HESKIEL's continued unwanted advances, Plaintiff believed Defendant's message to have been deliberate.
39. On July 28, 2015, Defendant HESKIEL texted Plaintiff, "Dress sexy". Plaintiff understood this to be a directive from Defendant HESKIEL as to the type of attire Plaintiff should wear to work.
40. On or about July 31, 2015, Plaintiff installed Photoshop on the intern's desktop computer which is located behind Plaintiff's desk. Plaintiff had installed the program on the intern's computer because Plaintiff was using a laptop and the software was too large for her computer.
41. Later that day, Defendant HESKIEL texted Plaintiff, "you look good today! ;)" Plaintiff understood his comment to be another unwanted advance.
42. On or about August 3, 2015, Plaintiff was the only one in the office. At the end of the day, Plaintiff went to turn off the computer behind her which she had been using to access

Photoshop. Defendant HESKIEL has remote access to that same computer. The screen of this computer is completely visible to Plaintiff when she sits at her desk in the office.

43. Defendant HESKIEL had remotely accessed his Dropbox folder which contained photos of his penis. Defendant HESKIEL had opened the photos of his penis on the screen, making the photos visible to Plaintiff. Plaintiff saw these photos on the screen. Plaintiff was offended and repulsed by these obscene photos and understood these photos to be left on the computer deliberately for her to discover. Upon information and belief, Plaintiff and the intern were the only ones who used that the computer.

44. Upon information and belief, Defendant HESKIEL was aware that photos of his penis had been opened to the intern's computer, in full view of Plaintiff. This was supported by the text he sent Plaintiff asking her if she had "seen anything" when she turned off the computer. Plaintiff did not want to engage in an uncomfortable conversation and told Defendant that she did not see anything.

45. On or about August 4, 2015, Plaintiff was again the only individual in the office. Defendant HESKIEL asked Plaintiff to get a massage with him. Plaintiff rejected the offer. Defendant HESKIEL later asked Plaintiff to get a massage with him for a second time over FaceTime. Again, Plaintiff rejected the offer.

46. Defendant HESKIEL then informed Plaintiff that he was going to remote access the computer behind her to conduct some personal matters. Defendant HESKIEL had available to him, his own personal computer which was farther away from Plaintiff and not visible to her. Plaintiff believed Defendant HESKIEL's desire to remotely access a computer in her line of vision, was to again display obscene images to Plaintiff's discomfort.

47. Defendant HESKIEL again accessed DropBox. Plaintiff began to build up in anxiety. She was afraid to look up at the computer, for fear that there would be more penis pictures.
48. A few moments later, while getting some water noticed a photo of a girl in underwear on the screen Defendant HESKIEL had remotely accessed. Plaintiff believed that Defendant HESKIEL had intentionally left it open so that Plaintiff would see the picture.
49. Later that day, Plaintiff had to use the computer to access Photoshop. As such, Plaintiff closed out the explicit photos of girls in lingerie from the screen.
50. Defendant HESKIEL then texted Plaintiff the following messages: "I want to go get a massage", "I was thinking just before the Ogilvy call..", "So your welcome to join me", "or come after". Plaintiff declined Defendants offer for a massage. Plaintiff understood his comment to be another unwanted advance.
51. Later that same day, Plaintiff told Defendant HESKIEL that it was national chocolate chip day and that tomorrow would be "national underwear day" and "national oyster day". As part of Plaintiff's job, she was to report the national days on the company's social media.
52. Defendant HESKIEL then asked Plaintiff if that meant that he should come to work in his underwear. Plaintiff understood his comment to be another unwanted advance.
53. On or about August 6, 2015, Defendant HESKIEL was working from home when he FaceTimed Plaintiff. Since Defendant HESKIEL is not always in the office he would frequently communicate with Plaintiff via Skype or FaceTime.
54. While Plaintiff and Defendant HESKIEL were on a Skype call, Defendant HESKIEL stood up to "adjust the camera" so that the only thing in front of the camera was a full frontal of Defendant in his navy blue underwear.

55. On or about August 10, 2015, Plaintiff uploaded a modelling photo to her personal Facebook. Plaintiff then received a Facebook message from Defendant HESKIEL stating, "Great picture! Too bad you don't dress like that for work! Haha".
56. Plaintiff developed uncontrollable anxiety in preparation to go to work everyday. Her speech became increased in pace. It was difficult for her to concentrate and when communicating she would lose her train of thought easily.
57. Plaintiff became increasingly more afraid that Defendant HESKIEL would "cross the line", further and further. Unable to control her anxiety, on August 12, 2015, Plaintiff left work early.
58. On August 13, 2015, Plaintiff called into work sick due to her anxiety of working for Defendants.
59. Upon information and belief, Defendant HESKIEL knew of Plaintiff's discomfort and anxiety around him. He was clearly aware of Plaintiff's objections to his advances and her avoidance of him.
60. In retaliation to Plaintiff's rebuff of Defendant HESKIEL's advance, on or about August 12, 2015, Plaintiff's delegate access to Defendant HESKIEL's email was revoked. A key part of Plaintiff's job was to check Defendants' email. Plaintiff's administrative access to post Defendant AGREI CONSULTING's Facebook page was also revoked. The ability to manage and post on the Facebook page was also part of Plaintiff's job duties.
61. Upon information and belief, Defendant HESKIEL had revoked Plaintiff's access to make Plaintiff fearful of losing her job.
62. At all times relevant hereto, Plaintiff POLLOCK was an exemplary employee.
63. Throughout her tenure with Defendants, Plaintiff always received compliments for her work

performance and got along well with all of her co-workers.

64. Plaintiff POLLOCK felt, and continues to feel, offended, disturbed, and humiliated by the blatantly unlawful and discriminatory acts of Defendants.
65. Plaintiff POLLOCK has been unlawfully discriminated against, retaliated against, humiliated, and degraded, and as a result, suffers loss of rights and emotional distress.
66. Defendants' actions and conduct were intentional and intended to harm Plaintiff POLLOCK.
67. As a result of Defendants' actions, Plaintiff POLLOCK feels extremely degraded, victimized, embarrassed, and emotionally distressed.
68. As a result of the Defendants' discriminatory treatment of Plaintiff POLLOCK, she has suffered severe emotional distress and physical ailments.
69. 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.
70. As a result of the above, Plaintiff POLLOCK has been damaged in an amount in excess of the jurisdiction of the Court.
71. Defendants' conduct has been malicious, willful, outrageous, and conducted with full knowledge of the law. As such, Plaintiff POLLOCK demands Punitive Damages as against all Defendants, jointly and severally.

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

72. 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.

73. The Administrative Code of City of New York § 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.

74. Defendants engaged in an unlawful discriminatory practice in violation of the Administrative Code of City of New York § 8-107(1) by creating and maintaining discriminatory working conditions, and otherwise discriminating against Plaintiff because of her gender.

**SECOND CAUSE OF ACTION FOR RETALIATION
UNDER THE NEW YORK CITY ADMINISTRATIVE CODE**

75. 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.
76. 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. . ."
77. 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 Plaintiff's employer.

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

78. 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.

79. The Administrative Code of City of New York § 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 Administrative Code of City of New York § 8-107(6) by aiding, abetting, inciting, compelling and coercing the above discriminatory, unlawful and retaliatory conduct.

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

81. 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.
82. The Administrative Code of City of New York § 8-107(13) provides for employer liability for discriminatory conduct by an employee, agent or independent contractor. This subsection states:
- 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.

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

INJURY AND DAMAGES

84. As a result of the acts and conduct complained of herein, Plaintiff has suffered and will continue to suffer emotional pain, suffering, inconvenience, injury to her reputation, loss of enjoyment of life, and other non-pecuniary losses. Plaintiff has further experienced severe emotional and physical distress.

JURY DEMAND

Plaintiff demands a trial by jury.

WHEREFORE, Plaintiff respectfully requests a judgment against the Defendants:

A. Declaring that Defendants engaged in unlawful employment practice prohibited by 42 U.S.C. §1981 and The Administrative Code of City of New York, § 8-107 et seq., in that the Defendants discriminated against and harassed against Plaintiff, on the basis of her gender

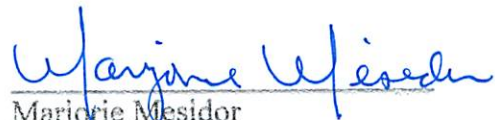
(female) and retaliated against her;

- B. Awarding damages to the Plaintiff for all lost wages and benefits resulting from Defendants' unlawful discrimination and to otherwise make her whole for any losses suffered as a result of such unlawful employment practice;
- C. Awarding Plaintiff compensatory damages 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 attorney's fees, costs, and expenses incurred in the prosecution of the action;
- 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

September 2, 2015

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



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VERIFICATION

I, Kristin Pollock, a citizen of the United States and resident of the State of New York, am the plaintiff in this action. I have read the foregoing Verified Complaint and declare under penalty of perjury under the laws of the United States of America that the foregoing facts are correct and true to the best of my knowledge and belief.

Date: 09 / 03 / 2015



Kirstin Pollock