

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
JOANN SCLAFANI,

Plaintiff,

-against-

GLENN J. MARIE,

Defendant.
-----X

VERIFIED COMPLAINT

Index No.: _____

Plaintiff, JOANN SCLAFANI, by her attorney, LAW OFFICES OF IANNUZZI and IANNUZZI, complaining of defendant, GLENN J. MARIE, respectfully alleges that:

UPON INFORMATION AND BELIEF
AT ALL THE TIMES HEREINAFTER MENTIONED

1. This action has been brought to remedy discrimination by Defendant on the basis of sex, in the terms, conditions, and privileges of employment in violation of the New York State Human Rights Law, N.Y. Executive Law §296 *et. seq.* ("Executive Law"), and the New York City Human Rights Law, N.Y. Admin Code §8-1-101 *et. seq.* ("Administrative Code").

FACTS APPLICABLE TO ALL CAUSES OF ACTION

2. Plaintiff, JOANN SCLAFANI, was and still is a natural person, a female, and a resident of the County of Richmond, State of New York, residing at 290 Candon Avenue Staten Island, NY 10309.

3. Defendant, GLENN J. MARIE, DDS, was and still is a natural person, licensed to

practice Dentistry in the State of New York, maintaining multiple offices, the principal place of his practice currently located at 739 Woodrow Road, Staten Island, N.Y. 10312.

4. Defendant's practice is well know and Defendant is a successful pediatric dentist, maintaining his dental practice under the name J. Marie, DDS, Pediatric Dental. In and at said practice, Defendant employs more than 20 individuals.

5. In addition to caring for the dental requirements of children, Defendant Marie caters to television and show business personalities, including those actresses who appear on the program "Mob Wives", and their families.

6. In such practice, Defendant had the power to (1) discipline employees; (2) set rates of pay; (3) grant bonuses to employees; and(4) hire and fire employees, including Plaintiff herein.

7. PlaintiffSCLAFANI was an employee of the Defendant at the above referenced dental office as a part-time Dental Hygienist ("RDH") from approximately December 2013, until she was forced to quit such employment, on or about February 11, 2015.

BACKGROUND OF THIS ACTION

8. Plaintiff is an experienced and well qualified RDH, as well as having been a dedicated employee of Defendant.

9. Plaintiff has attained an Associate Degree in Applied Science, majoring in Dental Hygiene.

10. Plaintiff was previously employed at other dental offices, then after being married and having three (3) children, ceased such employment.

11. However, after marital problems which resulted in divorce proceedings, Plaintiff waived alimony from her husband. Although Plaintiff receives child support from the father of her

children, she was forced to rejoin the workforce to provide properly for herself and her family.

12. Plaintiff was hired by Defendant in December 2013 as a part-time RDH, where she earned fifty (\$50.00) dollars per hour, working 3 to 4 days a week, or generally at least 20-30 hours a week, and at least two (2) Saturdays per month.

UNWANTED LEWD TEXT MESSAGES AND LASCIVIOUS PHOTOS

13. Soon after being hired, Plaintiff began receiving unwanted personal text messages and sexually toned advances from Defendant. Not responding or reacting to such activities by Defendant, in or about April 2014, Defendant became overtly aggressive in his sexual advances towards Plaintiff.

14. Such advances by the Defendant would come either verbally in person, by physical gestures, or via electronic text messages. Some such texts are attached hereto as Exhibit 1.

15. The subject matter of these messages usually concerned subjects such as Plaintiff's breasts or buttocks, or a continual barrage of invitations for a clandestine, out-of-office rendezvous.

16. Most, if not all, messages contained some form of offensive inappropriate requests or sexual innuendoes.

17. Such texts were not limited to after hours or down time at work, Defendant's offices are equipped with surveillance cameras in most, if not all, the operating rooms of his various facilities, in order for Defendant to be able to monitor the activities of his employees.

18. Some inappropriate texts sent from the Defendant occurred while Plaintiff was working with patients, as Defendant leered at the surveillance videos, requesting Plaintiff do inappropriate acts, such as exposing her breasts, while conducting her job.

19. Plaintiff attempted to fend off the unwanted attention by Defendant, attempting to casually but firmly terminate Defendant's inappropriate, harassing behavior, while at the same time,

protecting her earning capacity, advising Defendant in polite but firm manner that Plaintiff was not interested in an out-of-office relationship, reminding Defendant that he was married.,

TWO SPECIFIC INSTANCES OF SEXUAL HARASSMENT

First Instance

20. During or about the end of January, 2015, Defendant requested Plaintiff give his teeth a cleaning.

21. At the commencement of the cleaning, Defendant sat down in the chair usually utilized for patients, while Plaintiff went to another room for equipment and supplies needed for the hygienic procedure.

22. Upon returning into the room, Plaintiff discovered that Defendant had gratuitously exposed his penis, requesting that Plaintiff "clean" it.

23. At which point, very upset and feeling threatened, Plaintiff immediately left her place of work.

Second Instance

24. After the above incident, Defendant cajoled Plaintiff to return to work at his office by various promises of good future behavior, the promise of a promotion to full-time employee, and a raise in salary.

25. Notwithstanding such promises, continued - actually accelerated - his now constant, highly inappropriate, and offensive behavior toward Plaintiff.

26. On or about February 2, 2015, the Defendant, while on vacation in Aruba, contacted Plaintiff and asked if he could send her a picture, to which the Plaintiff responded that she did not

want to see his picture.

27. However, Defendant again took his harassment to the breaking point by texting a photo to the Plaintiff of his exposed genitals.

28. Parenthetically, after this photograph was sent by Defendant, Plaintiff refused and did not respond to Defendant.

29. In response to Plaintiff's refusal to respond, Defendant continued to attempt to contact Plaintiff, writing off his inappropriate behavior as fun and that Plaintiff should simply give in to Defendant's advances

RENEGED BONUS

30. In Defendant's office, all employees other than Defendant received winter bonuses at the end of 2014.

31. In a conversation via text, Plaintiff explained her displeasure at not having received the winter bonus, which had been promised to her, and which all her co-workers received.

32. Instead of rectifying the situation, Defendant stated via text that he would give Plaintiff her said bonus, but only in person.

36. This condition was followed by more lewd text messages wherein the Defendant explained that he had waited in the nude, for Plaintiff to arrive.

33. Parenthetically, Plaintiff did not in fact receive any bonus, even by the time of her forced, constructive firing in February, 2015.

SUBSEQUENT TO QUITTING

34. Subsequent to being forced to leave her said employment as a result of Defendant's

offensive harassment, Plaintiff has been seeking other employment as a RDH.

36. To date however, Plaintiff has not been able to procure any such employment which permits her to work in or near her home so that she can properly care for her children while also being employed.

37. While Plaintiff has interviewed in many locations on Staten Island, where she lives and had been working, Plaintiff has not be able to find any gainful employment because of the tight-knit Dental community of Staten Island and the influence of Defendant himself.

38. Parenthetically, Plaintiff's Unemployment Benefits have also all but run out.

AS AND FOR A FIRST CAUSE OF ACTION

FAILURE TO PROVIDE A NON-DISCRIMINATORY WORK ENVIRONMENT IN VIOLATION OF THE EXECUTIVE LAW

39. Plaintiff repeats and realleges each and every allegation stated above with the same force and effect as if fully set forth herein.

40. Defendant's acts in failure to provide a non-discriminatory work environment for Plaintiff, is in violation of New York Executive Law §296 *et. seq.*

41. As a result of the foregoing, under the Executive Law, Plaintiff is entitled to compensatory damages in amounts to be determined at trial, plus the cost of this action.

AS AND FOR A SECOND CAUSE OF ACTION

FAILURE TO PROVIDE A NON-DISCRIMINATORY WORK ENVIRONMENT IN VIOLATION OF THE ADMINISTRATIVE CODE

42. Plaintiff repeats and realleges each and every allegation stated above with the same

force and effect as if fully set forth herein.

43. Defendant, by intentionally discriminating against and failing to provide a non-discriminatory work environment for Plaintiff, is in violation of the New York City Administrative Code.

44. As a result of the foregoing, under the Administrative Code, Plaintiff is entitled to compensatory damages and punitive damages in amounts to be determined at trial, plus the cost of this action, including attorney's fees.

AS AND FOR A THIRD CAUSE OF ACTION

ADVERSE EMPLOYMENT ACTION IN VIOLATION OF THE EXECUTIVE LAW

45. Plaintiff repeats and realleges each and every allegation stated above with the same force and effect as if fully set forth herein.

46. Defendant, by intentionally discriminating against and failing to provide a non-discriminatory work environment for Plaintiff, in violation of Executive Law §296, *et. seq.*, has caused Plaintiff to suffer loss of salary and gainful employment.

47. Plaintiff has, and will continue to, suffer irreparable injury and monetary damages as a result of the Defendant's offensive, inexcusable actions.

48. As a result of the foregoing, adverse employment actions, Plaintiff is entitled to compensatory damages and punitive damages in amounts to be determined at trial, plus the cost of this action, including attorney's fees.

AS AND FOR A FOURTH CAUSE OF ACTION

**ADVERSE EMPLOYMENT ACTION IN
VIOLATION OF THE ADMINISTRATIVE CODE**

49. Plaintiff repeats and realleges each and every allegation stated above with the same force and effect as if fully set forth herein.

50. Defendant, by intentionally discriminating against and failing to provide a non-discriminatory work environment, in violation of Administrative Code § 8-1-101 *et. seq.*, creating a hostile work environment, which caused Plaintiff to suffer loss of salary and gainful employment.

51. Plaintiff now suffers and will continue to suffer irreparable injury and monetary damages, as a result of Defendant's actions.

52. As a result of the foregoing, under the Administrative Code, Plaintiff is entitled to compensatory damages and punitive damages in the amounts to be determined at trial, plus the costs of this action, including attorney's fees.

AS AND FOR A FIFTH CAUSE OF ACTION

**HARASSMENT AND HOSTILE WORK ENVIRONMENT IN VIOLATION OF THE
EXECUTIVE LAW**

53. Plaintiff repeats and realleges each and every allegation stated above with the same force and effect as if fully set forth herein.

54. Defendant's intentional acts of discrimination against Plaintiff, consisting of verbal abuse, use of demeaning language, and harassment because of Plaintiff's sex, is in violation of Executive Law §296 *et. seq.*

55. Said harassment was perceived by the Plaintiff, as it would by any reasonable person,

to be hostile, offensive, and pervasive.

56. As a result of the foregoing adverse employment actions, Plaintiff is entitled to compensatory damages, in amounts to be determined at trial, plus the cost of this action.

AS AND FOR A SIXTH CAUSE OF ACTION

HARASSMENT AND HOSTILE WORK ENVIRONMENT IN VIOLATION OF THE ADMINISTRATIVE CODE

57. Plaintiff repeats and realleges each and every allegation stated above with the same force and effect as if fully set forth herein.

58. Defendant's intentional acts of discrimination against Plaintiff, consisting of verbal abuse, use of demeaning language, and harassment because of Plaintiff's sex, is in violation of Administration Code §8-1-101 *et. seq.*

59. Said harassment was perceived by the Plaintiff, as it would by any reasonable person, to be hostile, offensive, and pervasive.

60. As a result of the foregoing, under the Administrative Code, Plaintiff is entitled to compensatory damages and punitive damages in amounts to be determined at trial, plus the cost of this action, including attorneys fees.

AS AND FOR A SEVENTH CAUSE OF ACTION

RETALIATION IN VIOLATION OF THE EXECUTIVE LAW

61. Plaintiff repeats and realleges each and every allegation stated above with the same force and effect as if fully set forth herein.

62. Defendant's discriminatory adverse employment actions taken against Plaintiff, up to and including Plaintiff's actual and/or constructive discharge, were retaliatory in nature in that they were motivated in whole or in part by Plaintiff's complaints of, and/or opposition to, the discrimination suffered at the hands of Defendant.

63. As such, Defendant's retaliatory treatment of the Plaintiff was in violation of Executive Law §296 *et. seq.*

64. As the result of the foregoing adverse employment actions, Plaintiff is entitled to compensatory damages, in amounts to be determined at trial, plus the costs of this action.

AS AND FOR A EIGHTH CAUSE OF ACTION

RETALIATION IN VIOLATION OF THE EXECUTIVE LAW

65. Plaintiff repeats and realleges each and every allegation stated above with the same force and effect as if fully set forth herein.

66. Defendant's discriminatory adverse employment actions taken against Plaintiff, up to and including Plaintiff's actual and/or constructive discharge, were retaliatory in nature in that they were motivated in whole or in part by Plaintiff's complaints of, and/or opposition to, the discrimination suffered at the hands of Defendant.

67. As such, Defendant's retaliatory treatment of the Plaintiff was in violation of the Administrative Code §8-1-101 *et. seq.*

68. As a result of the foregoing, under the Administrative Code, Plaintiff is entitled to compensatory damages and punitive damages in the amounts to be determined at trial, plus the costs of this action, including attorney's fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff seeks judgment against the Defendant as follows:

a. On the first, third, fifth, and seventh causes of action against Defendant, money damages in an amount to be determined by the jury at trial, but which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction, plus the costs of this action;

b. On the second, fourth, sixth, and eight causes of action against Defendant, money damages in an amount to be determined by the jury at trial, but which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction, plus punitive damages and the costs of this action, including attorney's fees.

c. Enjoining and permanently restraining the unlawful employment practices described herein;

d. Directing Defendant to place Plaintiff in the position they would have occupied, but for the Defendant's discriminatory treatment;

e. Directing Defendant to take such action as is necessary to insure that the effects of the unlawful employment practices complained of herein are eliminated and do not continue to affect Plaintiff's employment opportunities; and

f. Directing the Defendant to make the Plaintiff whole for all earnings she would have received but for the Defendant's discriminatory and retaliatory treatment, including but not limited to future and past lost wages, lost salary increases, pension benefits, 401K Contributions, stock options, lost professional opportunities, and seniority.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on the issues in this action.

New York, New York
January 11, 2016

IANNUZZI and IANNUZZI, ESQS.
Nicholas P Iannuzzi II, J.D.
Attorneys for Plaintiff
233 Broadway, Suite 2204
New York, New York 10279
(212)227-9595

ATTORNEY VERIFICATION

RE: Joanna Sclafani v. Glenn J. Marie

Index No.:

NICHOLAS P IANNUZZI II, an Attorney duly admitted to practice law before all the Courts of the State of New York, and elsewhere, affirms under penalties of perjury that:

1. I am an Partner of the Law Offices of Iannuzzi and Iannuzzi, Attorneys of Record for the Plaintiff, Joanna Sclafani.

2. I have read the foregoing Summons and Complaint and know the contents thereof; the same is true to deponent's own knowledge, except as to matters therein stated to be alleged on information and belief, and as to those matters deponent believes it to be true.

3. This verification is made by deponent and not by Plaintiff is because Plaintiff's attorney maintains his office in a county other than the county in which Plaintiff resides.

4. The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are a perusal of the file maintained by our office in connection with this lawsuit and a review of Plaintiff's hospital records.



Nicholas P Iannuzzi II

New York, New York
January 7, 2016