

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

CAITRIN KENNEDY,

Plaintiff,

v.

THE STATE OF NEW YORK, et. al.,

Defendants.

Case No.: 1:14-cv-00990

AMENDED COMPLAINT

PLAINTIFF CAITRIN KENNEDY, by her attorneys, THE REDDY LAW FIRM LLC complains against THE STATE OF NEW YORK; THE NEW YORK STATE ASSEMBLY; SHELDON SILVER, individually and as Speaker of THE NEW YORK STATE ASSEMBLY; DENNIS GABRYSZAK, individually and as former Assembly Member of The New York State Assembly; and ADAM LOCHER, individually and as a former Chief of Staff of The New York State Assembly, (collectively “Defendants”) as follows:

NATURE OF CLAIMS

1. Dennis Gabryszak, a former member of the New York State Assembly through the use of his public office, committed egregious acts of sexual harassment against Caitrin Kennedy, a woman who worked in his district office in 2013. Gabryszak is also alleged to have sexually harassed six (6) other women who worked in his district office from 2007-2013—before Plaintiff began her employment position there. Gabryszak’s harassment of Plaintiff included *inter alia* unwanted sexual advances; offensive comments about massages, strippers and other women; as well as other

unwelcome sexual gestures. He is alleged to have inflicted similar vulgar treatment on the six (6) other female employees that came before Plaintiff.

2. Gabryszak's abuse and sexual harassment of women was enabled, condoned and allowed by Adam Locher, Chief of Staff for Dennis Gabryszak as well as Sheldon Silver, Speaker of the New York State Assembly.
3. Plaintiff complained of the sexual harassment she was forced to endure and the hostile work environment that permeated her work environment to her immediate supervisor, Locher on numerous occasions. The six (6) above-mentioned female employees who faced this same sexual abuse complained to Locher as well. Locher failed to take any action, report the conduct to the Assembly, or otherwise protect their civil rights. With explicit (and tacit) knowledge of sexual harassment, Locher turned a blind eye. He later stated that he received no training from The New York State Assembly as how to handle sexual harassment complaints at the workplace.
4. Sheldon Silver, as Speaker of the Assembly has created a *de facto* policy or custom in which sexual harassment by senior officials and particularly, Assemblymen within the Assembly is tolerated and condoned. This is evident by his failure to take proper action in the face of sexual harassment complaints by women employees, complaints that span nearly a decade. Furthermore, despite the existence of a written sexual harassment policy at The New York State Assembly, Silver failed to follow

the policy and instead maintained a workplace culture where harassment of women employees was rampant, as exhibited by the total of seven (7) women who have alleged sexual abuse against Dennis Gabryszak.

5. Plaintiff brings this action pursuant to the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States (“Equal Protection Clause”) and 42 U.S.C. § 1983 (“Section 1983”); Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000 *et. seq.* (“Title VII”) and New York State Human Rights Law, Article 15, Section 296 *et seq.* (“NYSHRL”), seeking redress for unlawful discrimination on the basis of gender inclusive of the creation of a hostile work environment through sexual harassment. Plaintiff therefore now seeks declaratory relief, compensatory damages, punitive damages and any and all appropriate legal and equitable relief pursuant to state and federal laws.

JURISDICTION AND VENUE

6. Jurisdiction is conferred on this Court by 28 U.S.C § 1331, 1343. This Court also has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 to adjudicate Plaintiff’s claims under New York state laws.
7. Venue is proper in the Western District of New York pursuant to 28 U.S.C. §1391(b)(1) because, upon information and belief, Locher and Gabryszak both reside within the Western District of New York. Additionally, this Court is also the appropriate venue pursuant to 28 U.S.C. §1391(b)(2) because a substantial part of the events or omissions giving rise to the claims occurred in this judicial district.

THE PARTIES

8. Plaintiff Caitrin Kennedy (“Plaintiff”), age 25 (twenty-five) is an individual female who at all relevant times resided in the city of Buffalo, County of Erie in New York.
9. Defendant, The State of New York (“Defendant State”) is a state government based in Albany, NY which governs and controls The New York State Assembly.
10. Defendant, The New York State Assembly (“Defendant Assembly”) is the lower house of the New York State legislature with 150 (one-hundred fifty) assembly members from single-member districts (“Assembly Member”). Each Assembly Member utilizes a staff to aid them in making governmental decisions, drafting legislation and connecting to their respective constituents.
11. Defendant Sheldon (“Defendant Silver”) is the Speaker of Defendant Assembly and as an Assembly Member, represents the 65th assembly district, comprising of most of lower Manhattan. Silver is the highest-ranking member and has power to do more than carry out personnel decisions made by others at The New York State Assembly. He has the authority to hire, fire, transfer employees (including Gabryszak), and make determinations regarding pay. At all relevant times, Defendant Silver was acting under color of state law and in his individual personal capacity.
12. Defendant Dennis Gabryszak (“Defendant Gabryszak”) is an individual who at all relevant times was a resident of Erie County and the State of

New York. He is the former Assembly Member for the 143rd district, which is located in Erie County. Until his resignation in January of 2014, he had a regional office at 2560 Walden Avenue, Cheektowaga, NY 14225. In his role as Assembly Member, Defendant Gabryszak had supervisory authority over Plaintiff. At applicable times, Defendant Gabryszak acted under color of state law and also in his individual personal capacity.

13. Defendant Adam Locher (“Defendant Locher”) is an individual who at all relevant times was a resident of Erie County and the State of New York. From 2007 until January 2014, Defendant Locher held the position of Chief of State of Defendant Assembly for Defendant Gabryszak. In that role, Defendant Locher had supervisory authority over Plaintiff. At applicable times, Defendant Locher acted under color of state law and also in his individual personal capacity.

14. At all relevant times, Defendant Gabryszak was employed by or supervised by Defendant Silver, Defendant Assembly and Defendant State.

15. At all relevant times, Plaintiff was employed by Defendant Assembly and/or Defendant State. Defendant State is listed as her employer on her paystubs, paid her salary, provided health benefits and otherwise functioned as her employer.

16. At all relevant times, Plaintiff was employed by and/or supervised by Defendant Gabryszak.

17. At all relevant times, Plaintiff was supervised by Defendant Locher.

FACTUAL ALLEGATIONS

18. From the start of Plaintiff's employment until the close of the district office in December 2013, Defendant Gabryszak subjected Plaintiff to frequent and severe sexual harassment, creating a hostile work environment. The below paragraphs provide key examples of his illegal conduct.

19. On or about September 30, 2013, Plaintiff commenced employment with Defendant Assembly and Defendant State as the Director of Community Relations with Defendant Gabryszak as her supervisor and Defendant Locher acting as her immediate manager/supervisor. Defendants Gabryszak and Locher both interviewed Plaintiff on more than one occasion. After receiving approval from Defendant Assembly and Defendant State for Plaintiff's requested salary amount, an employment offer was made to and accepted by Plaintiff.

20. Immediately after her hire, Plaintiff traveled to complete the requisite new employee documentation at the Capitol Building in Albany, New York. There, she also met with Defendant Gabryszak. This informal orientation process lasted two (2) days, during which time Plaintiff selected her job title from a publication of employment positions at Defendant Assembly.

21. During the course of her orientation, Plaintiff was never provided with any information regarding sexual harassment procedures at Defendant Assembly or Defendant State, including how to safely report any such complaints.

22. While in Albany, Defendant Gabryszak invited Plaintiff to a couple's massage. She felt incredibly uncomfortable, declining his offer adamantly in hopes that he would understand that she was not interested in any such type of activity and refrain from such solicitation in the future.
23. Upon completion of her initial informal orientation, Plaintiff began her position in the regional office in Cheektowaga, New York, working alongside Defendant Gabryszak and Defendant Locher on a regular basis.
24. During the first week of Plaintiff's employment, Defendant Gabryszak repeatedly asked her whether or not she had a boyfriend. When she indicated that she did not have a boyfriend, he insisted that she should "become pregnant."
25. Also, during this time and thereafter, Defendant Gabryszak frequently interjected remarks about strip clubs and prostitutes into conversations at the workplace, including occasional invitations to Plaintiff to attend strip clubs with him.
26. By mid-October 2013, Plaintiff was making formal complaints to Defendant Locher of the frequent sexual harassment she was forced to endure by Defendant Gabryszak but was rebuffed. He informed Plaintiff that "was just how Dennis (Defendant Gabryszak) was."
27. On or about November 15, 2013, while attending a benefit for the Young Women's Christian Association, Defendant Gabryszak suggested that Plaintiff accompany him on a weekend vacation. She again declined and expressed her discomfort.

28. Later that evening, Defendant Gabryszak purchased a raffle basket for Plaintiff despite her protestations that she had no interest in such a gift from him. After he completed the inappropriate purchase, an attendee asked Defendant Gabryszak if he was married to Plaintiff. He then responded "not yet" and continued to leer at Plaintiff. This all occurred at a public work event in front of fellow colleagues and other professionals to Plaintiff's shock and embarrassment.

29. In November 2013, Defendant Gabryszak remarked to Plaintiff that if workers in the sex trade were to unionize, he would no longer be able to afford their services.

30. Defendant Gabryszak's conduct became more outrageous over time. It was severe and pervasive, affecting the terms and conditions of her employment. Plaintiff was unsure of how to further address the sexual harassment since her complaints to Defendant Locher had proved ineffective. She attempted to speak to Defendant Locher on several more occasions to no avail. Thereafter, Plaintiff made every attempt to avoid Defendant Gabryszak but her primary job duties could not be accomplished without regular interaction with him.

31. Despite the hostile work environment, Plaintiff performed her job duties. She received positive performance evaluations from Defendant Gabryszak and Defendant Locher. Defendant Gabryszak ultimately got authorization to give her a raise in November of 2013. He also promised additional

raises and a bump in salary in the near future, particularly when he was re-elected. He assured her that she would remain employed in 2014.

32. In November and December 2013, Defendant Gabryszak would often discuss his fantasy football teams with Plaintiff and other staff members. The names of his teams were always all related to oral sex and female genitalia.

33. On several occasions throughout the course her employment, Plaintiff was forced to view pictures on the office camera that Defendant Gabryszak used regularly. The pictures always depicted scantily clad women in various positions in hotel rooms.

34. On or about December 11, 2013, Defendant Gabryszak required that Plaintiff, Defendant Locher and fellow co-worker, Virginia Curtis ("Curtis") attend a staff holiday party in New York City, for which travel and an extensive stay in a hotel was required. Plaintiff was told that attendance was mandatory but that she would not have to pay for anything except for her own travel to New York City. Ultimately, however, Defendant Gabryszak refused to pay for all the required activities except one dinner.

35. Plaintiff traveled by plane to New York City and immediately met her co-workers and Defendant Gabryszak at a restaurant in the Times Square area for lunch that day. She still had her luggage on her person.

36. Following lunch, Defendant Gabryszak insisted that Plaintiff return to his hotel to leave her suitcase so they could all walk around the city freely. Plaintiff suggested leaving her suitcase behind the front desk of the hotel

but he insisted that it be taken it to his hotel room. Later that day, Defendant Gabryszak had planned the mandatory holiday staff dinner.

37. Immediately, Plaintiff feared for her safety as Defendant Gabryszak had taken her possessions and she felt she lacked any control over her welfare.

38. In the evening of that same day, the staff headed to the planned holiday dinner in the Rockefeller Center area. On the way there, Defendant Gabryszak spotted a photographer at Rockefeller Center. He compelled Plaintiff and Curtis to pose for pictures together. He then instructed Plaintiff incorporates the preceding paragraphs as if fully set forth herein to sit on his lap and kiss Curtis. When Plaintiff would not agree, Defendant Gabryszak then indicated that he wanted Plaintiff and Curtis to “touch butts” during the photograph. These incidents occurred in a public setting and in front of Defendant Locher.

39. Throughout the holiday dinner, Plaintiff was forced to endure lewd conversation and sexual comments by Defendant Gabryszak and the male friends that he invited to the staff dinner. Plaintiff felt offended and threatened as Defendant Gabryszak and his friends continued to make sexual comments about her at the dinner table.

40. Following dinner, Plaintiff had no choice but to retrieve her suitcase from Defendant Gabryszak’s hotel room. She asked that he bring the suitcase to the lobby but he refused, forcing her to go to his room. Upon arriving in the hotel room, Plaintiff was scared and unsure how she would escape

from his grasp. She quickly ran in the room, grabbed her suitcase and ran out without saying anything in order to prevent any further conversation and potential harassment. Being alone with Defendant Gabryszak made Plaintiff fear for her safety. Furthermore, having traveled to New York City after the false promise that he would pay all expenses made her vulnerable and scared, considering his conduct was worsening. Plaintiff avoided Defendant Gabryszak from the rest of the trip as she felt she had fulfilled her employment obligation.

41. On or about December 16, 2013, Plaintiff entered Defendant Gabryszak's office on a work-related matter to find him engaged in a conversation with another man. Before she even spoke, the man remarked, "Dennis, you told me you had an animal working here, but you didn't tell me she was a fox", clearly referring to Plaintiff. Defendant Gabryszak and this man had obviously been discussing Plaintiff and her attractive appearance.

42. On or about December 17, 2013, at a holiday party in Amherst, New York, Defendant Gabryszak remarked, in the presence of a number of female constituents, that he found Plaintiff's attire sexy, and that she should "come to work dressed like that."

43. On or about December 18, 2013, while attending a holiday luncheon at the Holiday Inn Buffalo-Intl Airport, Defendant Gabryszak invited Plaintiff to join him in a hot tub. She declined his invitation.

44. On or about December 24, 2013, Plaintiff filed a Notice of Intention to File a Claim with the New York State Court of Claims regarding the sexual

harassment she was enduring by Defendant Gabryszak. By that time, Defendant Gabryszak's degrading conduct had psychologically and emotionally impacted Plaintiff.

45. On or about January 12, 2014, in the wake of the extensive and corroborating allegations of sexual harassment, Defendant Gabryszak resigned as the Assembly Member for the 143rd District of New York State.

46. At the time of Defendant Gabryszak's resignation, Plaintiff was placed on a six-week administrative leave, the expiration of which would leave her unemployed despite the fact that it had been previously established that Plaintiff would continue to be employed in relation to Defendant Gabryszak's political efforts in 2014 and thereafter. The resignation only resulted from the sexual harassment claims.

47. As a result of Defendant Gabryszak's conduct, Plaintiff incurred extensive economic and emotional damages.

48. On or about January 13, 2014, Plaintiff filed charges of discrimination on the basis of gender against Defendant New York State and New York State Assembly with the United States Equal Employment Opportunity Commission ("EEOC").

49. Plaintiff now files this timely action within 90 (ninety) days of receipt of a Notice of Right to Sue Letter from the EEOC.

Allegations Involving Defendant Gabryszak and Defendant Locher

50. Defendant Gabryszak has served the 143rd district in the Defendant Assembly since 2007. He was elected to the Cheektowaga Town Board

in 1984 and served as Supervisor of Cheektowaga from 1993-2006. Prior to that, he served as a trustee on the Board of Trustees for Depew, New York.

51. During his entire tenure with Defendant Assembly, Defendant Gabryszak has exhibited a pattern of sexual misconduct with female employees.

52. In 2007, Emily C. Trimper ("Trimper") began her employment with Defendant Gabryszak as District Office Coordinator. In her Notice of Claim to the New York State Court of Claims filed on or about January 2, 2014, Trimper alleged that she was sexually harassed by Defendant Gabryszak from her first day of employment until she was constructively discharged in March 2007. Defendant Locher was aware of the sexual harassment endured by Trimper at the hands of Defendant Gabryszak but failed to take any action to investigate or otherwise protect her.

53. In July 2009, Trina Tardone ("Tardone") began her employment as Director of Communications for Defendant Gabryszak. In her Notice of Claim to the New York State Court of Claims filed on or about January 2, 2013, Tardone alleged that Defendant Gabryszak subjected her to a continuous pattern of sexual harassment until her constructive discharge in December of 2010. She further stated that she reported the behavior to Defendant Locher who stated "ignore it, that is the way Dennis is", similar to his response to Plaintiff. Defendant Locher failed to take any steps to report the inappropriate conduct or otherwise provide a remedy.

54. In June 2010, Jamie L. Campbell (“Campbell”) began her employment as Legislative Director for Defendant Gabryszak. In her Notice of Claim to the New York State Court of Claims filed on or about December 20, 2014, she stated that Defendant Gabryszak sexually harassed her from her first date of employment until her constructive discharge in October of 2013. She also complained of the unlawful treatment to Defendant Locher who failed to take any action. Apparently, Defendant Locher would comment that he “was worried about the things that Dennis (Defendant Gabryszak) would do or say” but still never took action.

55. In 2011, Annalise C. Freling (“Freling”) began working as Director of Communications for Defendant Gabryszak. In her Notice of Claim to the New York State Court of Claims filed on or about December 20, 2014, she stated that Defendant Gabryszak sexually harassed her from her first date of employment until her constructive discharge in March of 2013. She also complained of the treatment to Defendant Locher who failed to take any action. Apparently, he would state that “Dennis (Defendant Gabryszak) could get carried away from time to time and to ignore him” but “if she didn't like it, she could always look for another job.”

56. In May of 2013, Kimberly Snickles (“Snickles”) worked for Defendant Gabryszak as Director of Communications. Just as he did with the five (5) women employed before her, Defendant Gabryszak continued his pattern of lecherous conduct against Snickles. In her Notice of Claim to the New York State Court of Claims filed on or about December 20, 2014, she

stated that Defendant Gabryszak sexually harassed her from her first date of employment until her constructive discharge in October of 2013. She also reported the sexually harassing conduct to Defendant Locher who stated "he didn't want to be a part of a sexual harassment complaint" and refused to take any further action.

57. These former female employees were all subject to lewd and offensive sexual misconduct by Defendant Gabryszak who used his position as a public officer to subject each woman to a pattern of brazen and unlawful sexual harassment.

58. For over six (6) years, while Defendant Gabryszak sexually abused female employees, Defendant Locher used his position as Chief of Staff aided, abetted, condoned, accepted and approved his conduct. Defendant Locher exhibited a blatant disregard for the civil rights of Plaintiff and the six (6) women who were harassed before her. Had Defendant Locher taken prompt and swift action when Trimper first reported Defendant Gabryszak's misconduct in 2007, six (6) subsequent women would not have been subjected to the same pattern of sexual harassment that has caused extensive economic and emotional damage. Defendant Locher failed to follow Defendant Assembly's policy regarding sexual harassment or the relevant state and federal laws.

59. Following the filing of documents in the New York State Court of Claims by all seven (7) women harassed by Defendant Gabryszak, Defendant Locher publicly stated that he had never received any training from

Defendant State or Defendant Assembly as to how to handle complaints of sexual harassment.

60. Each of the seven (7) women including Plaintiff complained of Defendant Gabryszak's conduct, putting Defendant Assembly and Defendant State on actual and constructive notice of Defendant Gabryszak's pattern of continuous, severe and unlawful discrimination of female employees. Remedial action was never taken.

Allegations Involving Sheldon Silver

61. Defendant Silver has served in the New York State Assembly since 1977 and as Speaker of the Assembly since 1994. As Speaker of the Assembly, Defendant Silver is the highest-ranking member; has broad powers over all members of the Assembly; and has the authority to select chair people, decide bills and generally control the activities of the Assembly. In this capacity, Defendant Silver also makes decisions regarding the hiring, firing, and transfer of employees as well as the day-to-day decisions involving compensation and attendance. He is also charged with overseeing policies for Assembly Members and employees.

62. Defendant Silver promulgated a sexual harassment policy that governs Defendant Assembly. The policy, in *pertinent part*, states:

The Assembly shall conduct awareness trainings for all Members and employees. Unit heads and supervisory employees shall take affirmative steps to insure that all employees are informed of the Assembly policy on sexual harassment, to assist employees who complain of prohibited conduct, and to maintain in each office a working environment free from sexual harassment.

The policy, in *pertinent part* also states:

A complaint of sexual harassment and/or retaliation against a Member of the Assembly shall be referred to the Assembly Standing Committee on Ethics and Guidance for investigation.

Lastly and of equal importance, the policy states, in *pertinent part*:

The Assembly shall conduct a sexual harassment awareness training program and every Member and employee shall receive such training. Such program shall be conducted so as to ensure that every Member and employee understands the seriousness of the problem of sexual harassment, how to recognize and address it, rights and responsibilities under the law and the Assembly Policy, and how to bring a complaint. Failure to attend such training program or re-scheduled sessions thereof shall subject a Member or employee to appropriate sanctions so as to compel and insure attendance and participation in such training by all Members and employees. Training shall be conducted separately for Members, supervisory and non-supervisory employees, and interns, with emphasis on the respective rights and responsibilities of each group.

63. Despite Defendant Silver advocating for this important sexual harassment policy and re-issuing it as recently as March of 2011, he failed to properly train Assembly Members and employees or otherwise take any steps to protect or remedy sexual harassment, particularly within the district offices. He failed to properly train Defendant Gabryszak or Defendant Locher on sexual harassment in the workplace. His conduct violated the policy of Defendant Assembly as well as applicable state and federal laws.

64. In fact, Defendant Silver has a history of condoning the unlawful gender-based discrimination inflicted by male Assembly Members onto female employees. Defendant Silver, at every turn has failed to take appropriate actions to address sexual harassment claims, thereby creating a workplace culture where this abuse is tolerated and condoned. Certain

male Assembly Members have abused their authority through lewd sexual behavior under Defendant Silver's supervision.

65. The abusive workplace culture at Defendant Assembly dates back as far as 2001 when Defendant Silver's chief counsel, Michael Boxley ("Boxley") was accused of sexual assault by employee, Elizabeth Crothers ("Crothers"). Crothers also accused Defendant Silver of "sweeping her complaint under the rug in order to protect himself and the Assembly". Upon information and belief, Defendant Silver failed to take effective investigatory or remedial action. A few years later, a rape allegation by another female employee against Boxley led to his guilty plea.

66. In 2004, Defendant Silver amended the sexual harassment policy in a superficial attempt to address the culture of sexual harassment that had by then permeated the New York State Assembly. By way of example, the amendment banned after-hours fraternization between legislators, staff and interns. Yet, this did very little to protect the female employees of Defendant State and Defendant Assembly.

67. In 2008, despite Defendant Assembly's Ethics and Guidance Committee's finding that Assembly Member Sam Hoyt ("Hoyt") had a sexually inappropriate affair with an intern in 2003, Hoyt only received a mere slap on the wrist—a ban from having future interns. Under the rules of Defendant Assembly, Defendant Silver has the authority to discipline members for engaging in sexual harassment but upon information and belief, he refused to take effective disciplinary action.

68. In 2009, Assembly Member Micah Kelner (“Kelner”) was accused of sexual harassment by his female junior staff member. Despite the formal filing of complaints to Chief Counsel who reports to Defendant Silver as well as extensive evidence displaying the inappropriate and sexually deviant behavior, Defendant Silver, upon information and belief failed to launch an investigation or otherwise take effective action.

69. Defendant Silver’s conduct sends a clear message that there are no real consequences for sexual harassment at Defendant Assembly and that female employees will not be protected when opposed by male senior Assembly Members and their authority.

70. A few years later, Defendant Silver would be engulfed in yet another sexual harassment scandal when he agreed to not only pay out a private settlement with public funds but also agreed to keep the allegations of sexual harassment against Assembly Member Vito Lopez (“Lopez”) by two (2) female employees a secret. Upon information and belief, Defendant Silver did not refer the matter to the Ethics Committee or otherwise take meaningful action to address the sexual harassment allegations.

71. Facing no repercussions, Lopez allegedly sexually harassed two (2) other female employees, Victoria Burhans (“Burhans”) and Chloe Rivera (“Rivera”). Burhans and Rivera both have accused Lopez of repeated comments about their physical appearance, bodies, attire and private relationships; repeated unwelcome sexual advances; and inappropriate and unwelcome physical contact. Upon information and belief, Defendant

Silver failed to take reasonable care to protect Burhans and Rivera (and other women) from sexual harassment and abuse when he executed a cover-up of the initial allegations of sexual harassment to protect Lopez. Defendant Silver failed to follow the sexual harassment policy of Defendant Assembly.

72. As indicated by the pattern of conduct above, Defendant Silver has created a *de facto* policy where sexual harassment is condoned, tolerated and even accepted and allowed in violation of Plaintiff's civil rights to be free of sexual harassment in the workplace. His conduct directly contradicts the sexual harassment policy of Defendant Assembly. His failure to take appropriate action has caused the degradation, sexual abuse and emotional distress of numerous female employees including Plaintiff whom have had little recourse when the very conduct that harms them has become the workplace norm. His conduct was unreasonable, creating a hostile work environment for Plaintiff.

FIRST CAUSE OF ACTION

**Violation of Title VII Against Defendants The State of New York and
The New York State Assembly for Unlawful Discrimination
(Hostile Work Environment and Sexual Harassment)**

73. Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

74. Defendants have discriminated against Plaintiff on the basis of her gender in violation of Title VII by subjecting Plaintiff to a hostile work environment including but not limited to creating, fostering, condoning, accepting, ratifying and/or otherwise failing to prevent or remedy a hostile work environment that includes *inter alia* severe and pervasive sexual

harassment of Plaintiff and by failing to train employees regarding the prevention of sexual harassment and discrimination.

75. Defendants has violated Title VII by failing to adequately train, supervise, control, discipline or otherwise penalize the conduct, acts, and failure to act of employees as described in this Complaint.

76. As a direct and proximate result of Defendants' unlawful discriminatory conduct in violation of Title VII, Plaintiff has suffered and continues to suffer monetary and/or economic harm, for which she is entitled to an award of monetary damages and other relief.

77. As a direct and proximate result of Defendants' unlawful discriminatory conduct in violation of Title VII, Plaintiff has suffered and continues to suffer severe mental anguish and emotional distress, including but not limited to depression, humiliation, embarrassment, stress and anxiety, loss of self-esteem, loss of self-confidence and emotional pain and suffering, for which she is entitled to an award of monetary relief and other relief.

SECOND CAUSE OF ACTION
Violation of New York Human Rights Law Against
Defendant Dennis Gabryszak for Unlawful Discrimination
(Hostile Work Environment and Sexual Harassment)

78. Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

79. By and through the course of conduct as alleged above, Defendant Gabryszak discriminated against Plaintiff in the terms and conditions of her employment based on her gender, including by the creation of a hostile work environment in violation of NYSHRL.

80. Defendant Gabryszak is liable under NYSHRL as an employer and as an individual who aided and abetted in the creation of hostile work environment.

81. As a direct and proximate result of Defendant Gabryszak's unlawful discriminatory conduct in violation of NYSHRL, Plaintiff has suffered and will continue to suffer monetary and/or economic harm, for which she is entitled to an award of monetary damages and other relief.

82. As a direct and proximate result of Defendant Gabryszak's unlawful discriminatory conduct in violation of NYSHRL, Plaintiff has suffered and will continue to suffer severe mental anguish and emotional distress, including but not limited to depression, humiliation, embarrassment, stress and anxiety, loss of self-esteem, loss of self-confidence and emotional pain and suffering, for which she is entitled to an award of monetary relief and other relief.

THIRD CAUSE OF ACTION
Violation of New York Human Rights Law Against
Defendant Adam Locher For Unlawful Discrimination
(Hostile Work Environment and Sexual Harassment)

83. Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

84. By and through the course of conduct as alleged above, Defendant Locher, acting individually and in his personal capacity willfully violated NYSHRL by aiding and abetting in subjecting Plaintiff to unlawful discrimination and creation of a hostile work environment based on her gender and by failing to take remedial action to remedy the sexual harassment, despite his actual and constructive notice.

85. As a direct and proximate result of Defendant Locher's unlawful discriminatory conduct in violation of NYSHRL, Plaintiff has suffered and continues to suffer monetary and/or economic harm, for which she is entitled to an award of monetary damages and other relief.

86. As a direct and proximate result of Defendant Locher's unlawful discriminatory conduct in violation of NYSHRL, Plaintiff has suffered and continues to suffer severe mental anguish and emotional distress, including but not limited to depression, humiliation, embarrassment, stress and anxiety, loss of self-esteem, loss of self-confidence and emotional pain and suffering, for which she is entitled to an award of monetary relief and other relief.

FOURTH CAUSE OF ACTION
Violation of New York Human Rights Law Against
Defendant Sheldon Silver For Unlawful Discrimination
(Hostile Work Environment and Sexual Harassment)

87. Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

88. By and through the course of conduct as alleged above, Defendant Silver discriminated against Plaintiff in the terms and conditions of her employment based on her gender, including by the creation of a hostile work environment in violation of NYSHRL.

89. Defendant Silver is liable under NYSHRL as an employer (as the highest ranking member) and as an individual who aided and abetted in the creation of hostile work environment.

90. As a direct and proximate result of Defendant Silver's unlawful discriminatory conduct in violation of NYSHRL, Plaintiff has suffered and

will continue to suffer monetary and/or economic harm, for which she is entitled to an award of monetary damages and other relief.

91. As a direct and proximate result of Defendant Silver's unlawful discriminatory conduct in violation of NYSHRL, Plaintiff has suffered and will continue to suffer severe mental anguish and emotional distress, including but not limited to depression, humiliation, embarrassment, stress and anxiety, loss of self-esteem, loss of self-confidence and emotional pain and suffering, for which she is entitled to an award of monetary relief and other relief.

FIFTH CAUSE OF ACTION
Violation of 42 U.S.C. § 1983 (Equal Protection)

92. Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

93. By the conduct described above, Defendant Gabryszak, Defendant Locher, and Defendant Silver, all acting under color of state law and in their individual capacities carried out the aforementioned conduct of unlawful discrimination and sexual harassment against Plaintiff on the basis of gender, altering the terms and conditions of her employment and creating a hostile work environment.

94. By the acts and practices described above, Defendant Locher, in his individual capacity and under of state law, discriminated against Plaintiff in the terms and conditions of her employment on the basis of her gender, including creating and/or condoning a hostile work environment thus depriving Plaintiff of her rights under the Equal Protection Clause, in violation of 42 U.S.C § 1983.

95. Defendant Silver, acting in his individual capacity and under color of state law created a policy or custom in which Defendants Gabryszak and Locher were led to believe there were no repercussions in sexually harassing female employees. Defendant Silver exhibited a deliberate indifference to complaints of sexual harassment and the constitutional rights of Plaintiff. He failed to properly supervise and train Defendant Gabryszak and Defendant Locher, acting with a discriminatory intent and deprived Plaintiff of her rights under the Equal Protection Clause of 42 U.S.C §1983.

96. As a direct and proximate result of Defendants' unlawful discriminatory conduct in violation of 42 U.S.C §1983, Plaintiff has suffered and continues to suffer monetary and/or economic harm, for which she is entitled to an award of monetary damages and other relief.

97. As a direct and proximate result of Defendants' unlawful discriminatory conduct in violation of 43 U.S.C §1983, Plaintiff has suffered and continues to suffer severe mental anguish and emotional distress, including but not limited to depression, humiliation, embarrassment, stress and anxiety, loss of self-esteem, loss of self-confidence and emotional pain and suffering, for which she is entitled to an award of monetary relief and other relief.

98. Defendants engaged in these practices with malice and with reckless indifference to Plaintiff's federally protected rights.

JURY DEMAND

99. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff does hereby demands a jury trial in this action.

PRAYER FOR RELIEF

WHEREFORE Plaintiff respectfully requests that the Court issues judgment for Plaintiff as follows:

- A. Declaring the acts and practices complained of herein in violation of Section 1983, Title VII and NYSHRL;
- B. Awarding Plaintiff damages for back pay, other compensatory damages including damages for emotional distress, and punitive damages, in an amount to be determined at trial;
- C. Awarding Plaintiff her reasonable attorney fees, expert fees, and other costs of this action as well as pre-judgment and post-judgment interest; and
- D. Awarding such other and further relief as is appropriate and equitable.

DATED: Buffalo, New York
April 27, 2015

/s/ Prathima Reddy
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