

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

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VONETTA PROWELL,

Plaintiff,

-vs-

ADVANCED FERTILITY SERVICES, P.C. a/k/a  
ADVANCED FERTILITY SERVICES INC,  
HUGH D. MELNICK, M.D. and WENDY SIGMAN,

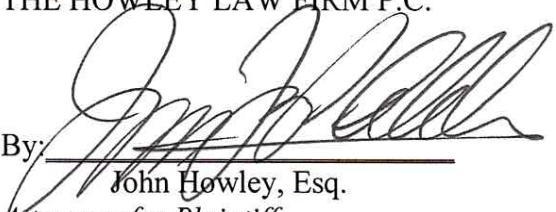
Defendants.  
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**SUMMONS**  
:  
Index No.

YOU ARE HEREBY SUMMONED and required to serve on plaintiff's attorney a verified answer to the verified complaint in this action within twenty (20) days after service of this summons, exclusive of the day of service, or within thirty (30) days after service is complete if this summons is not personally delivered to you within the State of New York. In case of your failure to answer, judgment will be taken against you by default for the relief demanded in the verified complaint.

Dated: New York, New York  
July 14, 2016

THE HOWLEY LAW FIRM P.C.

By:   
John Howley, Esq.  
*Attorneys for Plaintiff*  
350 Fifth Avenue, 59<sup>th</sup> Floor  
New York, New York 10118  
(212) 601-2728

Trial is desired in the County of New York. The basis of venue designated above is that at least one defendant resides in New York County.

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

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VONETTA PROWELL,

Plaintiff,

-vs-

ADVANCED FERTILITY SERVICES, P.C. a/k/a  
ADVANCED FERTILITY SERVICES INC,  
HUGH D. MELNICK, M.D. and WENDY SIGMAN,

Defendants.

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:  
: **VERIFIED**  
: **COMPLAINT**

: Index No.

Plaintiff Vonetta Prowell, by her undersigned attorneys, as and for her verified complaint against the defendants, alleges as follows:

1. This is an action for damages and other remedies for sex and pregnancy discrimination and retaliation in violation of the New York State Human Rights Law, N.Y. Exec. Law §§ 290, *et seq.* and the New York City Human Rights Law, N.Y.C. Admin. Code §§ 8-101, *et seq.*, and for intentional infliction of emotional distress.

2. This action arises out of a fertility clinic's harassment of a pregnant employee in an effort to force her to quit. When she complained to management about the harassment, the fertility clinic's owner, Dr. Hugh D. Melnick, and manager, Wendy Sigman, terminated plaintiff's employment in retaliation for exercising her right to be free from pregnancy discrimination.

3. Plaintiff seeks judgment against all defendants, jointly and severally, awarding her: compensatory and punitive damages in amounts to be determined at trial; reasonable attorneys' fees and the costs of this action as authorized by N.Y. Exec. Law § 297.10 and N.Y.C. Admin. Code § 8-502; an injunction prohibiting each defendant from

discriminating or retaliating against plaintiff in the future; and such further relief as this Court deems just.

**The Parties**

4. Plaintiff VONETTA PROWELL (“Ms. Prowell”) is a medical assistant formerly employed by the defendants.

5. Defendant ADVANCED FERTILITY SERVICES, P.C. a/k/a ADVANCED FERTILITY SERVICES INC. (the “Company”) is a professional corporation organized under the laws of the State of New York with a principal place of business at 1625 Third Avenue, New York, New York 10128. At all times relevant to this complaint, the Company was plaintiff’s employer within the meaning of N.Y. Exec. Law § 292(5) and N.Y.C. Administrative Code § 8-102(5).

6. Defendant HUGH D. MELNICK, M.D. (“Dr. Melnick”) is a physician licensed to practice medicine in the State of New York and, upon information and belief, the sole owner and operator of the Company. At all times relevant to this complaint, Dr. Melnick was plaintiff’s employer within the meaning of N.Y. Exec. Law § 292(5) and N.Y.C. Administrative Code § 8-102(5).

7. Defendant WENDY SIGMAN (“Ms. Sigman”) is a manager of the Company. At all times relevant to this complaint, Ms. Sigman was plaintiff’s employer within the meaning of N.Y. Exec. Law § 292(5) and N.Y.C. Administrative Code § 8-102(5).

### **Facts Common to All Causes of Action**

8. Plaintiff was employed by the defendants as a medical assistant for approximately two and one-half years.
9. Plaintiff worked from 10:30 a.m. to 4:00 p.m. from Monday through Friday.
10. On Tuesdays and Thursdays, plaintiff sometimes worked until 5:30 or 6:30 p.m. as needed. She also worked occasionally on Saturdays when needed.
11. Plaintiff's job performance was satisfactory at all times.
12. Defendants never raised any complaints about plaintiff's job performance.
13. Defendants never cautioned or warned plaintiff that she was at risk of being fired.
14. In late March 2016, plaintiff informed the Company and defendant Sigman that she was pregnant.
15. Upon information and belief, defendant Sigman told defendant Melnick that plaintiff was pregnant.
16. After learning that plaintiff was pregnant, Ms. Sigman began harassing plaintiff. Ms. Sigman told plaintiff that she spent too much time in the bathroom. Ms. Sigman told plaintiff that she was not allowed to use the bathroom anymore when Dr. Melnick called.
17. The other medical assistants used the bathroom as much or more than plaintiff did. The other medical assistants were never harassed about going to the bathroom. No one at the Company ever told the other medical assistants that they could not use the bathroom when Dr. Melnick called.



18. Ms. Sigman and the Company refused to accommodate plaintiff's occasional need to use the bathroom, drink water, or consume snacks because of her pregnancy. The other medical assistants were permitted to take long lunch breaks and disappear for extensive periods of time without any comment or reprimand.

19. In late April 2016, plaintiff told Ms. Sigman that she thought she was being harassed and discriminated against because she was pregnant. Plaintiff told Ms. Sigman that she was surprised because they had always worked well together in the past.

20. Ms. Sigman told plaintiff not to worry because "Dr. Melnick loves you." Ms. Sigman did not mention any performance, attendance, or other issues. Ms. Sigman said that she was just stressed out from running the practice.

21. Upon information and belief, Ms. Sigman told Dr. Melnick in late April 2016 that plaintiff had complained of pregnancy discrimination.

22. After plaintiff raised her complaint of pregnancy discrimination, the Company reduced plaintiff's hours from five days per week to three days per week.

23. The defendants cut short plaintiff's work days, at times sending her home at 1:00 p.m. when she was supposed to work until 4:00 p.m.

24. The defendants did not reduce the hours of the other medical assistants.

25. One of the other medical assistants had worked for the Company for less than one year.

26. The defendants' reduction of plaintiff's hours had the effect of reducing her compensation by more than 40%, to the point where she would be unable to support herself through her pregnancy.

27. Upon information and belief, the defendants reduced plaintiff's work hours and compensation intentionally to force her to quit before she could request a leave of absence to give birth and care for her child.

28. Plaintiff was unable to work on June 16, 2016 because of an illness. She texted Ms. Sigman at 6:26 a.m. to let her know that she had to take a sick day.

29. Ms. Sigman replied with an unfriendly non-sequitur. Her text said: "Going forward [I] don't think we should schedule you for afternoon late hours."

30. At 2:17 p.m. that same day, Ms. Sigmund informed plaintiff by text that she had discussed plaintiff's absence with Dr. Melnick, and that plaintiff's employment was terminated.

31. The defendants' harassment and retaliatory termination of plaintiff's employment at a time when she needs an income and health insurance to prepare for the birth of her child has caused plaintiff severe emotional distress.

**FIRST CAUSE OF ACTION AGAINST  
ALL DEFENDANTS FOR DISCRIMINATION IN VIOLATION  
OF THE NEW YORK CITY HUMAN RIGHTS LAW**

32. Plaintiff repeats and realleges each and every allegation in paragraphs 1 through 31 above as if fully restated herein.

33. The defendants' conduct constitutes sex and pregnancy discrimination in violation of the New York City Human Rights Law.

34. Defendants Hugh D. Melnick, M.D. and Wendy Sigman actually participated in the discriminatory conduct.

35. The stated reasons for the defendants' conduct were not the true reasons, but instead were pretext to hide the defendants' discriminatory animus.

**SECOND CAUSE OF ACTION AGAINST  
ALL DEFENDANTS FOR RETALIATION IN VIOLATION  
OF THE NEW YORK CITY HUMAN RIGHTS LAW**

36. Plaintiff repeats and realleges each and every allegation in paragraphs 1 through 35 above as if fully restated herein.

37. The defendants' conduct constitutes retaliation against the plaintiff because she engaged in activities protected by the New York City Human Rights Law.

38. Defendants Hugh D. Melnick, M.D. and Wendy Sigman actually participated in the retaliatory conduct.

39. The stated reasons for the defendants' conduct were not the true reasons, but instead were pretext to hide the defendants' retaliatory animus.

**THIRD CAUSE OF ACTION AGAINST  
ALL DEFENDANTS FOR DISCRIMINATION IN VIOLATION  
OF THE NEW YORK STATE HUMAN RIGHTS LAW**

40. Plaintiff repeats and realleges each and every allegation in paragraphs 1 through 39 above as if fully restated herein.

41. The defendants' conduct constitutes sex and pregnancy discrimination in violation of the New York State Human Rights Law.

42. Defendants Hugh D. Melnick, M.D. and Wendy Sigman actually participated in the discriminatory conduct.

43. The stated reasons for the defendants' conduct were not the true reasons, but instead were pretext to hide the defendants' discriminatory animus.

**FOURTH CAUSE OF ACTION AGAINST  
ALL DEFENDANTS FOR RETALIATION IN VIOLATION  
OF THE NEW YORK STATE HUMAN RIGHTS LAW**

44. Plaintiff repeats and realleges each and every allegation in paragraphs 1 through 43 above as if fully restated herein.

45. The defendants' conduct constitutes retaliation against the plaintiff because she engaged in activities protected by the New York State Human Rights Law.

46. Defendants Hugh D. Melnick, M.D. and Wendy Sigman actually participated in the retaliatory conduct.

47. The stated reasons for the defendants' conduct were not the true reasons, but instead were pretext to hide the defendants' retaliatory animus.

**FIFTH CAUSE OF ACTION  
AGAINST ALL DEFENDANTS FOR  
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

48. Plaintiff repeats and realleges each and every allegation in paragraphs 1 through 47 above as if fully restated herein.

49. Defendants Hugh D. Melnick, M.D. and Wendy Sigman engaged in extreme and outrageous conduct towards plaintiff with the intent to cause, or with disregard of a substantial probability of causing, severe emotional distress.

50. Each of the defendants condoned, approved, and ratified the wrongful conduct of the others.

51. Plaintiff suffered severe emotional distress as a direct and proximate result of defendants' conduct.

**Jury Demand**

52. Plaintiff is entitled to and demands a jury trial.



**Prayer for Relief**

**WHEREFORE** plaintiff Vonetta Prowell requests judgment against all defendants, jointly and severally, awarding her compensatory and punitive damages in amounts to be determined at trial; reasonable attorneys' fees and the costs of this action as authorized by N.Y. Exec. Law § 297.10 and N.Y.C. Admin. Code § 8-502; an injunction prohibiting each defendant from discriminating or retaliating against plaintiff in the future; and such further relief as this Court deems just.

Dated: New York, New York  
July 14, 2016

THE HOWLEY LAW FIRM P.C.

By: 

John Howley, Esq.

*Attorneys for Plaintiff*

350 Fifth Avenue, 59<sup>th</sup> Floor

New York, New York 10118

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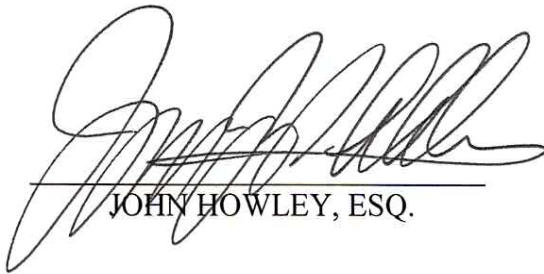
**Verification**

JOHN HOWLEY, ESQ., an attorney duly admitted to practice before the Courts of the State of New York, affirms under penalty of perjury as follows:

I am the attorney for plaintiff Vonetta Prowell in the foregoing action. I maintain law offices at 350 Fifth Avenue, 59<sup>th</sup> Floor, County of New York, State of New York. This verification is made by me as plaintiff's attorney because the plaintiff does not reside within the County of New York, which is the county in which I maintain my law office.

I have read the foregoing complaint and know the contents thereof. The same are true to my knowledge, except as to matters stated to be alleged upon information and belief, and as to those matters I believe them to be true.

Dated: New York, New York  
July 14, 2016

  
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JOHN HOWLEY, ESQ.