

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

MEGAN DAVIS,

Plaintiff(s),

-against-

RUE LA LA, INC.,

Defendant(s).

Index No.

Summons

Date Index No. Purchased:

2018 MAR 22 P 2:03

CLERK OF SUPREME COURT
STATE OF NEW YORK

To the above named Defendant(s)

RUE LA LA, INC.
c/o New York Secretary of State

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue is Defendant's place of business and location of occurrence which is 58 West 40th Street, 14th Floor, New York, New York 10018

Dated: New York, New York

March 22, 2018

Schwartz, Perry & Heller LLP

by

Davida S. Perry

Attorneys for Plaintiff

3 Park Avenue, 27th Fl.
New York, New York 10016
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2018 MAR 22 P 12:54

RECEIVED NYSCEF: 03/22/2018

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

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MEGAN DAVIS,

Index No.:

Plaintiff,

VERIFIED COMPLAINT

-against-

RUE LA LA, INC.,

Defendant.

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Plaintiff, Megan Davis, as and for her Verified Complaint, respectfully alleges, and upon information and belief as follows:

2018 MAR 22 P 2:03
STATE OF NEW YORK
COMMUNICATIONS UNIT

IDENTITY OF THE PARTIES

1. At all relevant times mentioned herein, Plaintiff Megan Davis (“Davis”) was employed by Defendant Rue La La, Inc. (hereinafter “Rue La La”) in the County, City and State of New York, until her unlawful termination on December 4, 2017.

2. At all relevant times mentioned herein, Rue La La was and is a Massachusetts corporation engaged in the business of, among other things, selling clothing, accessories, and beauty products online, and is authorized to conduct business in the State of New York and maintains an office in the County, City and State of New York, where Davis worked.

BACKGROUND RELEVANT TO ALL CAUSES OF ACTION

3. Davis commenced her employment with Rue La La in January 2014 as a Buyer in Rue La La’s Women’s Accessories and Beauty division, and was later promoted to Senior Buyer and then again promoted to Divisional Merchandise Manager (“DMM”), all in the same division.

2018 MAR 22 P 2:55
STATE OF NEW YORK
COMMUNICATIONS UNIT

4. In her role as DMM, Davis reported to SVP Bari Schorr (“Schorr”).

5. Davis was fully qualified for her position with Rue La La, as confirmed by, among other things, her education, which included a focus in Retail Merchandising, her professional experience, which included more than 10 years of working for some of the leading retail brands and clothing companies, as well as two significant promotions over the course of her employment with Rue La La and being recognized for her work by receiving a “Rue Award” from Rue La La’s senior management.

6. In August 2017, Davis and Alexandra Butzirus (“Butzirus”), an Assistant Sunglasses Buyer who ultimately reported to Davis and with whom Davis was friendly outside of work, traveled to Los Angeles, California to attend the Purpose Beauty Trade Show (the “Trade Show”).

7. While in Los Angeles, Davis and Butzirus attended the Trade Show, had formal and informal meetings arranged with salespeople from vendors that do business with Rue La La and went to dinners and social events outside of the Trade Show itself.

8. Given that Davis and Butzirus were otherwise friends, away together in Los Angeles and meeting others in their industry, their activities during their free time included social drinking, including when Davis and Butzirus went out to dinner with two other industry professionals, where all were drinking alcoholic beverages.

9. Over the course of the rest of the trip to Los Angeles, Butzirus and Davis did not discuss the aforementioned dinner and the rest of the trip concluded as anticipated.

10. However, immediately after Davis and Butzirus returned to New York from Los Angeles, Davis felt Butzirus was avoiding her, and that Butzirus may have been bothered by unresolved issues with Davis regarding the dinner.

11. Therefore, about one week after returning to New York, Davis met with Butzirus and they spoke about Butzirus' perception of what had happened at the dinner, wherein Butzirus told Davis that she felt Davis had acted inappropriately at the dinner, though Davis had no such recollection.

12. At the conclusion of the conversation between Davis and Butzirus, Davis believed that she had resolved any lingering issues that Butzirus may have had, and Davis and Butzirus continued to work together without issue over the next week.

13. However, about one week after Davis and Butzirus spoke (about two weeks after returning to New York), Rue La La Director of Human Resources Keri Servais ("Servais") requested to meet with Davis, wherein she advised Davis that Butzirus had complained to Rue La La about Davis being intoxicated during and after the dinner in Los Angeles (where Davis, Butzirus and two other individuals had been drinking), and during the meeting Servais told Davis that "how [Davis] reacted to [this conversation] was going to determine how to move forward."

14. During the meeting, Servais made it clear to Davis that Rue La La believed that Davis suffers from alcoholism.

15. Davis was blindsided and completely devastated by the complaint because she had already discussed the dinner in Los Angeles with Butzirus, and genuinely believed that any issues that may have existed as a result of the trip to Los Angeles had been resolved.

16. Davis became emotional during the meeting with Servais and felt pressured to acquiesce to Rue La La's preconceived opinions because Servais made it clear that Davis' job was on the line.

17. Accordingly, in fear of losing her job, Davis reluctantly agreed that she may have a problem with alcohol, even though that is not what Davis reasonably believed.

18. Rue La La unilaterally placed Davis on a one week paid leave and required her to seek treatment for alcoholism.

19. Davis relented to Rue La La's requirement that she seek treatment in an effort to keep her job, and was first evaluated by a Rue La La Employee Assistance Program Member named Jakara, who advised Davis that she did not think Davis needed treatment or rehabilitation for alcoholism or alcohol abuse.

20. Davis was then evaluated by Meredith Brown (“Brown”), a therapist referred to Davis by Jakara, who also confirmed that Davis does not suffer from alcoholism.

21. After the meetings with Jakara and Brown, and while still out on leave, Davis spoke with Servais by telephone where she unequivocally advised Servais that her medical providers had both told Davis that she did not require did not require in-patient or out-patient treatment for alcoholism.

22. When Servais told Davis that Davis “required a plan moving forward,” Davis advised her that the plan, as recommended by Brown, was that Davis would continue to see Brown for anxiety and interpersonal boundary issues.

23. Despite advising Rue La La about the results of the aforementioned evaluations, Rue La La continued to perceive that Davis had the disability of alcoholism.

24. Davis took great care to refute the perception and presumption that she was disabled and suffering from alcoholism, which included dressing overly professional and executing business transactions with her account partners in a timely manner and with the utmost care, and indeed, Davis’ sales numbers continued to exceed the professional and business expectations set by Rue La La.

25. Despite Davis' efforts, Rue La La persisted on its belief that Davis suffered from the disability of alcoholism.

26. In the months that followed Davis notifying Rue La La that she does not suffer from alcoholism, Rue La La created and supported a hostile work environment where Davis was treated less well than her peers because of Rue La La's wrongful perception that Davis was disabled and suffering from alcoholism, which included, by way of example:

- Servais telling Davis that she believes Davis has "the gene," alluding to Servais' confidential prior knowledge that Davis' mother had suffered with substance abuse, and equating Davis' mother's condition with her misconception that Davis is suffering from alcoholism, even though Servais was well aware that Davis' medical providers had refuted such a diagnosis;
- After learning that Davis would be attending her close friend's wedding, Servais asking Davis "are you going to be OK going and not drinking?";
- Schorr and Servais continuously questioning Davis about whether she was still seeking treatment for alcoholism;
- Servais threatening Davis that "it is better to ask permission first before making a mistake" with drinking, which also perpetuated the false assumption that Davis suffered from alcoholism and needed to keep Servais fully updated on any ongoing struggles she may have with her perceived disease; and
- Allowing Davis' personal life to become the subject of intra-office rumors and gossip, all of which Davis was forced to endure because of Rue La La.

The acts mentioned above are not all-inclusive, but instead are only examples of the many reprehensible and unlawful acts committed by Servais and Rue La La, confirming that Davis was treated less well because of the false perception that Davis has a disability.

17. On October 24, 2017 Servais met with Davis again and said that there have been “red flags,” which, according to Servais, were grammatical errors in an email sent from Davis’ cell phone and Davis reportedly tripping while walking outside of Rue La La’s office building.

18. Servais pushed Davis to accept an “extended leave,” despite Davis’ continued assertions that she did not suffer from alcoholism, which was supported by the professionals that Rue La La required Davis to see.

19. On November 3, 2017, Servais, in the presence of Nicole Zussman (“Zussman”), Rue La La’s Chief People Officer (and who was not employed with Rue La La contemporaneously with the Trade Show), again requested that Davis meet with her and Zussman, and this time Davis was told that a 60-day treatment program was “mandated” again because of the same “red flags,” to which Davis said, “it feels like you are shoving rehab down my throat.”

20. Rue La La terminated Davis on December 4, 2017, because Davis refused Rue La La’s ultimatum that she take short term leave for the purpose of entering a rehabilitation facility or be terminated, even though Davis maintained that every health care evaluation conducted at the behest of Rue La La confirmed that she did not suffer from alcoholism, and Davis advised that she would not even qualify for the type of leave she was required to take because she is not recovering from alcoholism.

21. As a result of Rue La La's discriminatory conduct, Davis has suffered the adverse effects of perceived disability discrimination, the quality of her life has been irreparably damaged and her self-esteem, self-respect and well-being have been damaged because she was subjected to the humiliating and demeaning type of conduct described herein, all of which will continue and remain a source of humiliation, distress and financial loss to Davis into the future, so that the quality of Davis's life has been negatively impacted as a result of the discrimination and retaliation to which Davis was subjected by Rue La La.

22. Here, the acts of Rue La La were done so clearly with malice and reckless indifference in the face of a perceived risk that its actions would violate Davis' protected rights under the New York City Human Rights Law, that, in addition to all the damages inflicted upon Davis and in addition to all the measure of relief to which Davis may properly be entitled herein, Rue La La should also be required to pay punitive damages as punishment for its discriminatory conduct in order to deter it and others similarly situated from engaging in such conduct in the future.

**AS FOR THE FIRST CAUSE OF ACTION ON BEHALF OF DAVIS
AGAINST RUE LA LA FOR PERCEIVED DISABILITY DISCRIMINATION
IN VIOLATION OF CHAPTER 1, TITLE 8, §8-107(1)(a)
OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK**

23. Davis repeats, re-alleges and incorporates in full paragraphs 1 through 22 of this Complaint as though fully set forth at length herein.

24. At the time Davis was subjected to the discriminatory conduct described herein, she was in a protected class under the New York City Human Rights Law because of her perceived disability.

25. Throughout the time of her employment with Rue La La and up to the time of her termination, Davis was fully qualified for her position and was in a position to continue working in that capacity.

26. Rue La La treated Davis less well because it perceived her as disabled, which culminated in Davis's termination, all of which was adverse employment action that was permitted and condoned by Rue La La.

27. The circumstances surrounding Rue La La's conduct towards Davis, including HR's discriminatory conduct and remarks to Davis, gives rise to a very real inference that the actual basis for Rue La La's conduct against Davis was Rue La La's unlawful perception that Davis needed to undergo extensive treatment for alcoholism and would otherwise require an extensive amount of time to recover.

28. The aforementioned acts of Rue La La constitute unlawful discrimination against Davis in violation of Chapter I, Title 8 of the Administrative Code of the City of New York, §8-107(1)(a) (referred to herein as "The New York City Human Rights Law"), which provides, *inter alia* that:

It shall be unlawful discriminatory practice . . . [f]or an employer or an employee or agent thereof, because of perceived disability. . . of any person . . . to discharge from employment such person or to discriminate against such person in compensation or in terms, conditions or privileges of employment.

29. As a result of Rue La La's violations of the New York City Human Rights Law §8-107(1)(a), Rue La La is liable to Davis pursuant §8-502(a) of said statute for "damages, including punitive damages," and pursuant to §8-502(f) of the statute for "costs and reasonable attorney's fees," as provided for under the law.

30. Davis has been caused to suffer injuries resulting in emotional anguish and suffering, and has been humiliated, demeaned and otherwise degraded because of Rue La La's outrageous conduct in violation of Davis's human rights, all of which impacted her well-being and the quality of her life.

31. As a direct and proximate result of Rue La La's discriminatory conduct complained of herein, Davis has suffered damages, injuries and losses, both actual and prospective, which include damage to her career and the emotional pain and suffering she has been caused to suffer and continues to suffer, all of which Davis alleges to be in the amount of Two Million Dollars (\$2,000,000).

32. Here, the egregious and outrageous conduct of Rue La La was committed so clearly with reckless indifference in the face of a perceived risk that its actions would violate Davis's protected rights under the New York City Human Rights Law and, in addition to the damages

inflicted upon Davis and in addition to the measures of relief to which Davis may properly be entitled herein, Rue La La should also be required to pay punitive damages as punishment for its reprehensible conduct in the further amount of Three Million Dollars (\$3,000,000). in order to deter Rue La La and others similarly situated from such conduct in the future.

33. Davis, therefore, seeks judgment against Rue La La on this cause of action, including, among other things, for compensatory damages in the sum of Two Million Dollars (\$2,000,000), and the additional further sum of Three Million Dollars (\$3,000,000). in punitive damages, together with costs, pre-judgment interest and reasonable attorney's fees on this first cause of action, making a total claim of Five Million Dollars (\$5,000,000).

WHEREFORE, Plaintiff Megan Davis demands judgment against Defendant Rue La La, Inc. on the First Cause of Action, in the sum of Two Million Dollars (\$2,000,000) in compensatory damages and the further and additional sum of Three Million Dollars (\$3,000,000) in punitive damages for a total of Five Million Dollars (\$5,000,000), plus pre-judgment interest, the costs of this action and reasonable attorney's fees; and for such relief as this Court deems just and proper.

SCHWARTZ PERRY & HELLER, LLP

Attorneys for Plaintiff

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

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MEGAN DAVIS,

Index No.:

Plaintiff,

VERIFICATION

-against-

RUE LA LA, INC.,

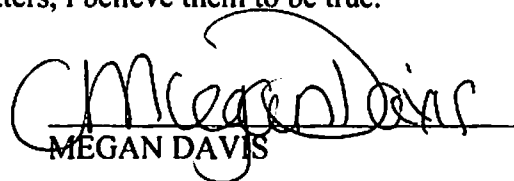
Defendant.

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STATE OF NEW YORK)
)ss.
COUNTY OF NEW YORK)

MEGAN DAVIS, being duly sworn, says:

I am the Plaintiff in the within action; I have read the foregoing Complaint and know the contents thereof; the same is true to my knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters, I believe them to be true.


MEGAN DAVIS

Sworn to me this 9th
day of March 2018


NOTARY PUBLIC

DANIEL H. KOVEL
Notary Public, State of New York
No. 02K08350589
Qualified in New York County
Commission Expires Nov. 14, 2020