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

HYUN JAE JUNG a/k/a MIJU BIJOU,

Plaintiff,

-against-

SOHO HOUSE NEW YORK LLC,

Defendant.

Case No.:

COMPLAINT

Plaintiff, HYUN JAE JUNG a/k/a MIJU BIJOU (hereinafter “Plaintiff”), by and through her undersigned attorney, hereby files this Complaint against Defendant, SOHO HOUSE NEW YORK LLC (hereinafter “Defendant”), and states as follows:

INTRODUCTION

1. This complaint seeks to remedy civil rights violations committed by Defendant against Plaintiff. Defendant denied Plaintiff equal access to the goods and services Defendant provides to its non-disabled customers at the Soho House club in Manhattan (hereinafter the “Club”). The Club provides a wide array of the goods and services offered by Defendant. Yet, Defendant’s employees denied access of the Club to Plaintiff and her emotional support animal, a French bulldog (hereinafter “ESA”). Defendant thus excluded Plaintiff from fully and equally accessing a place of public accommodation. Service dogs and emotional support animals are essential tools for people with disabilities, accompanying them in public places and facilitating

their assimilation into society.

2. Plaintiff is an individual who has a disability recognized by a licensed psychiatrist and who uses a valid emotional support animal. She brings this civil rights complaint against Defendant for failing to allow her ESA to remain on the Club premises located at 29-35 Ninth Avenue, New York, New York 10014.

3. Plaintiff uses the terms “emotional support animal” to refer to “animals that provide therapeutic benefits to their owner through affection and companionship Emotional support animals do not require specialized training. However, they do require a therapist letter in order to be considered valid.”¹

4. By failing to make the Club accessible to Plaintiff and her ESA, Defendant is violating basic equal access requirements under both state and city law.

5. New York State provided a clear mandate for the elimination of discrimination against individuals with disabilities with its New York State Human Rights Law and New York State Civil Rights Law. Such discrimination includes barriers to full integration, independent living, and equal opportunity for persons with disabilities, including those barriers created by restaurants, hotels, and other public accommodations that are inaccessible to people who use service dogs or emotional support animals. Similarly, the New York City Human Rights Law requires places of public accommodation to ensure access to goods, services, and facilities by making reasonable accommodations for persons with disabilities.

6. Plaintiff intended to dine at the Club with her ESA. However, Defendant refused to permit Plaintiff’s ESA to remain at the Club facilities. This complaint seeks declaratory and injunctive relief to correct Defendant’s policies and practices to include measures necessary to

¹ <https://www.esaregistration.org/faq>. (Last Accessed 05-31-18).

ensure compliance with state and city law, to include monitoring of such measures, and to update and remove accessibility barriers at the Club so that Plaintiff will be able to independently and privately access the Club with her ESA. This complaint also seeks compensatory damages to compensate Plaintiff for having been subjected to unlawful discrimination.

7. Plaintiff, by and through her undersigned counsel, hereby files this Complaint against Defendant and seeks injunctive relief, attorney's fees and costs (including, but not limited to, court costs and expert fees), and compensatory and punitive damages pursuant to the New York State Human Rights Law, N.Y. Exec. Law, Article 15 (Executive Law § 290 et seq.) (hereinafter "State Law"), and the New York City Human Rights Law, N.Y.C. Administrative Code § 8-101 et seq. (hereinafter "City Law").

JURISDICTION AND VENUE

8. This Court has jurisdiction over this controversy pursuant to New York CPLR § 301 because Defendant transacted business and committed the alleged acts in New York State. Defendant is a domestic corporation organized under the laws of the State of New York with a principal place of business located in New York County, New York.

9. Venue is proper under New York CPLR § 503. The circumstances giving rise to this action occurred in whole or in part in the county of New York in which this Court sits.

PARTIES

10. Plaintiff is and has been at all times material hereto a resident of New York County, New York. She has a disability recognized by a licensed psychiatrist and is authorized by a licensed psychiatrist to use an emotional support animal, a French bulldog named Pizza Giovannino.

11. Plaintiff uses her ESA for therapeutic effect while in public places. Plaintiff is and has been denied the full enjoyment of the facilities, goods, and services of the Club, as a result of Defendant's accessibility barriers. Defendant denied access of the Club to Plaintiff and her ESA.

12. Defendant is a domestic limited liability company organized under the laws of the State of New York with a principal place of business located at 29-35 Ninth Avenue, New York, New York 10014.

13. At all times material hereto, Defendant owns and operates the Club, which is a place of public accommodation. N.Y. Exec. Law § 292(9).

FACTUAL ALLEGATIONS

14. Defendant operates the Club, a private members' club for individuals in the creative industries, which is located at 29-35 Ninth Avenue, New York, New York 10014.

15. The Club is a service and benefit offered by Defendant throughout the United States, including New York State. The Club is owned, controlled, and/or operated by Defendant.

16. This case arises out of Defendant's policy and practice of refusing to full access to Plaintiff and her ESA, denying her equal access to the Club, as well as to the numerous goods, services, and benefits offered to by the Club.

17. At approximately 8:00 p.m. on Sunday, May 20, 2018, Plaintiff, accompanied by her ESA, dined at the Club. Plaintiff was in possession of the letter from her licensed psychiatrist stating that the ESA is a valid emotional support animal.

18. During Plaintiff's meal, Defendant's employee, Ms. Karen Pinckney-Sanchez, asked Plaintiff to "show me what your dog does of service to you." Plaintiff responded that the ESA provides therapeutic value, and that she was authorized by her licensed psychiatrist to

maintain an emotional support animal while in public. Ms. Pinckney-Sanchez then forced Plaintiff to leave.

19. Due to Ms. Pinckney-Sanchez's harassment, Plaintiff was forced to leave the Club in the middle of her meal. The next day, Plaintiff was informed that her membership at the Club was being terminated and she would not receive a refund of the seven months' access left on her membership.

20. As described above, Defendant had actual knowledge of the fact that Plaintiff required the assistance of an emotional support animal.

21. The conduct of Defendant's employee was unreasonable and discriminatory, and as a result thereto, Plaintiff was discriminated against and denied access to the Club.

22. Thus, Defendant's refusal to allow Plaintiff and her ESA access to the Club was willful, malicious, and oppressive.

23. As a result of Defendant's discrimination, Plaintiff suffered loss of dignity, mental anguish, financial loss, and other tangible injuries.

24. Plaintiff was and had been a member of Defendant's Club. Plaintiff wishes to return to the Club that denied her access, but Plaintiff continues to be injured in that Defendant terminated her membership due to the fact that she is accompanied by her ESA, in violation of her civil rights and city and state statutes.

COUNT I - VIOLATION OF NEW YORK STATE HUMAN RIGHTS LAW

(Violation of New York State Human Rights Law, N.Y. Exec. Law,

Article 15 (Executive Law § 292 *et seq.*)

25. Plaintiff realleges and incorporates by reference the foregoing allegations as though fully set forth herein.

26. N.Y. Exec. Law § 296(2)(a) provides that it is "an unlawful discriminatory

practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation . . . because of the . . . disability of any person, directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof.”

27. The Club is a place of public accommodation within the definition of N.Y. Exec. Law § 292(9), as it is a “wholesale and retail stores and establishments dealing with goods or services of any kind In no event shall an institution, club or place of accommodation be considered in its nature distinctly private if it has more than one hundred members, provides regular meal service and regularly receives payment for dues, fees, use of space, facilities, services, meals or beverages directly or indirectly from or on behalf of a nonmember for the furtherance of trade or business.”

28. Defendant is subject to New York Human Rights Law because it owns and operates the Club. Defendant is a person within the meaning of N.Y. Exec. Law § 292(1).

29. Defendant is violating N.Y. Exec. Law § 296(2)(a) in refusing access of the Club to Plaintiff and her ESA. This inaccessibility denies Plaintiff full and equal access to the facilities, goods, and services that Defendant makes available to the non-disabled public.

30. Specifically, under N.Y. Exec. Law § 296(2)(c)(I), unlawful discriminatory practice includes, among other things, “a refusal to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford facilities, privileges, advantages or accommodations to individuals with disabilities, unless such person can demonstrate that making such modifications would fundamentally alter the nature of such facilities, privileges, advantages or accommodations.”

31. In addition, under N.Y. Exec. Law § 296(2)(c)(II), unlawful discriminatory practice

also includes, “a refusal to take such steps as may be necessary to ensure that no individual with a disability is excluded or denied services because of the absence of auxiliary aids and services, unless such person can demonstrate that taking such steps would fundamentally alter the nature of the facility, privilege, advantage or accommodation being offered or would result in an undue burden.”

32. Defendant’s actions constitute willful intentional discrimination against Plaintiff on the basis of a disability in violation of the New York State Human Rights Law, N.Y. Exc. Law § 296(2) in that Defendant has refused to allow Plaintiff and her ESA full access to the Club.

33. Defendant has failed to take any prompt and equitable steps to remedy its discriminatory conduct. These violations are ongoing.

34. As such, Defendant discriminates, and will continue in the future to discriminate against Plaintiff on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, accommodations, and/or opportunities of the Club under § 296(2) *et seq.* and/or its implementing regulations. Unless the Court enjoins Defendant from continuing to engage in these unlawful practices, Plaintiff will continue to suffer irreparable harm.

35. The actions of Defendant were and are in violation of New York State Human Rights Law and therefore Plaintiff invokes her right to injunctive relief to remedy the discrimination.

36. Plaintiff is also entitled to compensatory damages, as well as civil penalties and fines pursuant to N.Y. Exc. Law § 297(4)(c) *et seq.* for each and every offense.

37. Plaintiff is also entitled to reasonable attorneys’ fees and costs.

38. Pursuant to N.Y. Exec. Law § 297 and the remedies, procedures, and rights set forth and incorporated therein Plaintiff prays for judgment as set forth below.

COUNT II - VIOLATION OF NEW YORK STATE CIVIL RIGHTS LAW

(Violation of New York State Civil Rights Law, NY CLS Civ R,

Article 4 (CLS Civ R § 40 *et seq.*)

39. Plaintiff served notice thereof upon the attorney general as required by N.Y. Civil Rights Law § 41.

40. Plaintiff realleges and incorporates by reference the foregoing allegations as though fully set forth herein.

41. N.Y. Civil Rights Law § 40 provides that “all persons within the jurisdiction of this state shall be entitled to the full and equal accommodations, advantages, facilities and privileges of any places of public accommodations, resort or amusement, subject only to the conditions and limitations established by law and applicable alike to all persons. No persons, being the owner, lessee, proprietor, manager, superintendent, agent, or employee of any such place shall directly or indirectly refuse, withhold from, or deny to any person any of the accommodations, advantages, facilities and privileges thereof. . . .”

42. N.Y. Civil Rights Law § 40-c(2) provides that “no person because of . . . disability, as such term is defined in section two hundred ninety-two of executive law, be subjected to any discrimination in his or her civil rights, or to any harassment, as defined in section 240.25 of the penal law, in the exercise thereof, by any other person or by any firm, corporation or institution, or by the state or any agency or subdivision.”

43. The Club located in New York is a sales establishment and public accommodation within the definition of N.Y. Civil Rights Law § 40-c(2).

44. Defendant is subject to New York Civil Rights Law because it owns and operates the Club. Defendant is a person within the meaning of N.Y. Civil Law § 40-c(2).

45. Defendant is violating N.Y. Civil Rights Law § 40-c(2) in refusing to allow Plaintiff

and her ESA full access to the Club, causing the Club to be completely inaccessible to Plaintiff. This inaccessibility denies Plaintiff full and equal access to the facilities, goods, and services that Defendant makes available to the non-disabled public.

46. In addition, N.Y. Civil Rights Law § 41 states that “any corporation which shall violate any of the provisions of sections forty, forty-a, forty-b or forty-two . . . shall for each and every violation thereof be liable to a penalty of not less than one hundred dollars nor more than five hundred dollars, to be recovered by the person aggrieved thereby. . . .”

47. Specifically, under NY Civil Rights Law § 40-d, “any person who shall violate any of the provisions of the foregoing section, or subdivision three of section 240.30 or section 240.31 of the penal law, or who shall aid or incite the violation of any of said provisions shall for each and every violation thereof be liable to a penalty of not less than one hundred dollars nor more than five hundred dollars, to be recovered by the person aggrieved thereby in any court of competent jurisdiction in the county in which the defendant shall reside. . . .”

48. Defendant has failed to take any prompt and equitable steps to remedy its discriminatory conduct. These violations are ongoing.

49. As such, Defendant discriminates, and will continue in the future to discriminate against Plaintiff on the basis of disability, as they are being directly or indirectly refused, withheld from, or denied the accommodations, advantages, facilities and privileges thereof in § 40 *et seq.* and/or its implementing regulations.

50. Plaintiff is entitled to compensatory damages of five hundred dollars per instance, as well as civil penalties and fines pursuant to N.Y. Civil Law § 40 *et seq.* for each and every offense.

COUNT III - VIOLATION OF NEW YORK CITY HUMAN RIGHTS LAW

(Violation of New York City Human Rights Law,
N.Y.C. Administrative Code § 8-102, *et seq.*)

51. Plaintiff realleges and incorporates by reference the foregoing allegations as if set forth fully herein.

52. N.Y.C. Administrative Code § 8-107(4)(a) provides that “It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place or provider of public accommodation, because of . . . disability . . . directly or indirectly, to refuse, withhold from or deny to such person, any of the accommodations, advantages, facilities or privileges thereof.”

53. The Club is a sales establishment and public accommodation within the definition of N.Y.C. Administrative Code § 8-102(9).

54. Defendant is subject to City Law because it owns and operates the Club. Defendant is a person within the meaning of N.Y.C. Administrative Code § 8-102(1).

55. Defendant is violating N.Y.C. Administrative Code § 8-107(4)(a) in refusing to allow Plaintiff and her ESA to access the Club. This inaccessibility denies Plaintiff full and equal access to the facilities, goods, and services that Defendant makes available to the non-disabled public. Specifically, Defendant is required to “make reasonable accommodation to the needs of persons with disabilities . . . any person prohibited by the provisions of § 8-107 *et seq.* from discriminating on the basis of disability shall make reasonable accommodation to enable a person with a disability to . . . enjoy the right or rights in question provided that the disability is known or should have been known by the covered entity.” N.Y.C. Administrative Code § 8-107(15)(a).

56. Defendant’s actions constitute willful intentional discrimination against Plaintiff on the basis of a disability in violation of the N.Y.C. Administrative Code § 8-107(4)(a) and § 8-107(15)(a) in that Defendant has refused to allow Plaintiff and her ESA access to the Club.

Defendant has failed to take any prompt and equitable steps to remedy its discriminatory conduct. These violations are ongoing.

57. As such, Defendant discriminates, and will continue in the future to discriminate against Plaintiff on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, accommodations, and/or opportunities of the Club under § 8-107(4)(a) and/or its implementing regulations. Unless the Court enjoins Defendant from continuing to engage in these unlawful practices, Plaintiff will continue to suffer irreparable harm.

58. The actions of Defendant were and are in violation of City Law and therefore Plaintiff invokes her right to injunctive relief to remedy the discrimination.

59. Plaintiff is also entitled to compensatory damages, as well as civil penalties and fines under N.Y.C. Administrative Code § 8-120(8) and § 8-126(a) for each offense.

60. Plaintiff is also entitled to reasonable attorneys' fees and costs.

61. Pursuant to N.Y.C. Administrative Code § 8-120 and § 8-126 and the remedies, procedures, and rights set forth and incorporated therein Plaintiff prays for judgment as set forth below.

COUNT IV - CAUSE OF ACTION

(Declaratory Relief)

62. Plaintiff realleges and incorporates by reference the foregoing allegations as if set forth fully herein.

63. An actual controversy has arisen and now exists between the parties in that Plaintiff contends, and is informed and believes that Defendant denies, that the Club denied Plaintiff the full and equal access to the goods, services, and facilities, which Defendant owns, operates, and/or controls, and fails to comply with applicable laws, including, but not limited to,

N.Y. Exec. Law § 296, *et seq.*, and N.Y.C. Administrative Code § 8-107, *et seq.*, prohibiting discrimination against the disabled.

64. A judicial declaration is necessary and appropriate at this time in order that each of the parties may know their respective rights and duties and act accordingly.

WHEREFORE, Plaintiff prays for judgment as set forth below.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests relief as follows:

65. A preliminary and permanent injunction to prohibit Defendant from violating the N.Y. Exec. Law § 296, *et seq.*, N.Y.C. Administrative Code § 8-107, *et seq.*, and the laws of New York;

66. A preliminary and permanent injunction requiring Defendant to take all the steps necessary to make all facilities owned and operated by Defendant fully comply with the requirements set forth by State and City Law, and its implementing regulations, so that they are readily accessible by Plaintiff and her ESA;

67. A declaration that Defendant owns, maintains, and/or operates all facilities in New York City in a manner which discriminates against Plaintiff and which fails to provide access for Plaintiff as required by N.Y. Exec. Law § 296, *et seq.*, N.Y.C. Administrative Code § 8-107, *et seq.*, and the laws of New York;

68. Compensatory damages in an amount to be determined by proof, including all applicable statutory damages and fines, to Plaintiff for violations of her civil rights under New York State Human Rights Law and City Law;

69. Plaintiff's reasonable attorneys' fees, statutory damages, expenses, and costs of suit as provided by state and city law;

70. For pre- and post-judgment interest to the extent permitted by law; and
71. Such other and further relief as the Court deems just and proper.

DATED: June 22, 2018

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