

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DEYSHAN WILLIAMS,

Plaintiff,

Case No.

-against-

COMPLAINT

ACLARA SMART GRID SOLUTIONS, LLC, and
JOE GONZALEZ, *in his individual and
professional capacity,*

JURY TRIAL DEMANDED

Defendants.

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Plaintiff Deyshan Williams by his attorneys, Filippatos PLLC, hereby alleges against Defendants Aclara Smart Grid Solutions, LLC, (“Aclara” or the “Company”) and Joe Gonzalez (the “Individual Defendant”) as follows:

NATURE OF THE CASE

1. This is a case in which Aclara systemically and unlawfully discriminated and retaliated against Plaintiff Deyshan Williams because he was unlucky enough to come down with a debilitating bout of Long Haul COVID-19 and took protected medical leave to recover.

2. Mr. Williams seeks damages, as well as injunctive and declaratory relief, to redress the injuries he has suffered – physical, emotional, reputational, career-wise, and pecuniary – for being discriminated and retaliated against by Defendants because of his disability and for taking protected leave.

3. Defendants’ actions have violated the Family Medical Leave Act (“FMLA”), 29 U.S.C. §§ 2601, *et seq.*, the Americans with Disabilities Act of 1990 (“ADA”), 42 U.S.C. §§ 12101, *et seq.*, the New York State Human Rights Law, New York State Executive Law, §§ 296 *et seq.* (“NYSHRL”); and the New York City Human Rights Law, Administrative Code §§ 8-107, *et seq.* (“NYCHRL”)

JURISDICTION, VENUE, AND PROCEDURAL PREREQUISITES

4. This Court has jurisdiction of this matter pursuant 42 U.S.C. § 2000e-5(f)(3), and 28 U.S.C. §§ 1331.

5. This Court has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367(a) because those claims are so related to the federal claims contained in this action, which are within the original jurisdiction of the Court, that they form part of the same case or controversy under Article III of the United States Constitution.

6. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) as Defendants reside within the Southern District of New York, and/or the acts complained of occurred therein.

7. By Plaintiff: (a) timely filing a Charge of Discrimination with the Equal Employment Opportunity Commission ("EEOC") on June 25, 2021; (b) receiving a Notice of Right to Sue from the EEOC on October 20, 2022; and (c) filing this Complaint which includes the ADA claims within 90 days of the issuance of the Notice of Right to Sue, Plaintiff has satisfied all the procedural prerequisites for the commencement of the instant action.

THE PARTIES

8. Plaintiff is a resident of the State of New York and County of Orange.

9. At all times relevant hereto, Plaintiff was an employee of Aclara

10. At all times relevant hereto, Aclara was and is a domestic for-profit software company maintaining its principal place of business at 77 West Port Plaza Drive, Suite 500, St. Louis, Missouri 63146. Aclara had operations in the State of New York up until this year.

11. Aclara is a software company, which, upon information and belief, employs over 1000 individuals on a full-time or full-time equivalent basis and thus is subject to all statutes upon which Plaintiff is proceeding herein.

12. Upon information and belief, Defendant Joe Gonzalez was and is an individual residing

in the State of New York, as well as an employee of Defendant Aclara, holding the position of “Operations Manager,” and, as such, had the authority to hire, terminate, and affect the terms and conditions of Plaintiff’s employment or to otherwise influence the decision making regarding same.

MATERIAL FACTS

I. Aclara Hires Plaintiff and Promotes Him Within One Year

13. Aclara hired Plaintiff in July 2017 as a Technician. In April 2018, Plaintiff was promoted to Supervisor. Plaintiff first worked in Rockland County, overseeing a team of 25-30 Technicians who installed gas and electric meters in homes, businesses, commercial areas, and parks. In August 2020, Plaintiff worked in Bronx County where he supervised a team of 12-13 Technicians.

14. Plaintiff reported to Joe Gonzalez, Operations Manager, who in return reported to Brad Wilson, Site Manager.

II. Aclara Fails to Provide Plaintiff with 14 Days Paid Sick Leave or Offer Medical Leave for Having COVID-19

15. In late-January 2021, Plaintiff became severely ill with COVID-19.

16. Plaintiff was so ill that he needed more than ten days to quarantine.

17. Nonetheless, on January 29, 2021, Aclara notified Plaintiff that he had to return to work on February 3, 2021, without determining whether Plaintiff would be able to return to work on that date.

18. Plaintiff was suffering from excruciating headaches and could barely get out of bed. At no time did the Company notify Plaintiff that he was eligible for FMLA leave if he remained too ill to return to work.

19. At no point did Aclara notify Plaintiff that he could use accrued sick or personal time to cover any absences he needed beyond the 14-day COVID-19 sick leave pay mandated by New York State.

20. Aclara also refused to pay Plaintiff his statutory 14-day sick pay until he returned from his leave in violation of the New York Labor Law.

III. Aclara Denies Plaintiff's Request for FMLA Leave and Retaliates Against Him for Doing So by Unlawfully Firing Him

21. On February 12, 2021, Defendant Gonzalez was heard stating that Plaintiff was no longer an active Aclara employee, was a “muppet” – *i.e.*, useless and foolish – and that no one needed to listen to him. Defendant Gonzalez further disparaged Plaintiff as being a poor supervisor.

22. Around this time, Aclara applied pressure to Plaintiff to return to work immediately and referred to his illness as an “ongoing issue.” However, Aclara failed to advise Plaintiff of his right to take FMLA-protected medical leave for his serious medical condition.

23. On February 23, 2021, Aclara instructed Plaintiff to submit a doctor's note clearing him to return to work on February 24th. Later that day, Plaintiff notified Aclara that he could not see his doctor until March 2, 2021. Aclara never replied to Plaintiff.

24. Instead, on March 1, 2021, Aclara fired Plaintiff and accused him of “resign[ing] from [his] position as of 03/01/2021.” Aclara accused Plaintiff of violating Attendance Guidelines by allegedly failing to report to work on February 24, 25, and 26.

25. Plaintiff immediately responded that he had told the Company he could not submit a doctor's note before March 2 and thus could not be cleared to return to work before then.

26. Then on March 2, 2021, Plaintiff's doctor, because of his debilitating headaches, dizzy spells and sensitivity to light caused by COVID-19, cleared him to work from home but not to drive for at least a month.

27. Aclara refused to acknowledge Plaintiff's doctor's note or his reasonable accommodation request to work from home.

28. Plaintiff was eligible for, and still on, FMLA-protected leave when he was terminated.

29. Long-haul COVID-19 causes major life impairments (in Plaintiff's case, debilitating headaches) and is a qualifying disability under the ADA. Yet, Aclara utterly failed to engage in the interactive process or have a cooperative dialogue with Plaintiff.

30. Aclara's unlawful decision to terminate his employment has caused Plaintiff to suffer severe emotional distress, depression, low self-esteem, isolation, anxiety, humiliation, and weight loss.

FIRST CAUSE OF ACTION
INTERFERENCE UNDER THE FAMILY AND MEDICAL LEAVE ACT
Against All Defendants

31. Plaintiff repeats and realleges the allegations contained in the foregoing paragraphs of the Complaint as if fully set forth herein.

32. Section 2612(D) of the Family and Medical Leave Act, states in pertinent part: "an eligible employee shall be entitled to a total of 12 work weeks of leave during any 12-month period . . . because of a serious health condition that makes the employee unable to perform the functions of the position of such employee."

33. Section 2615(a) of the Family and Medical Leave Act, states in pertinent part:
Interference with rights.

- (i) Exercise of rights. It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this subchapter.

34. Plaintiff and Defendants Aclara and Gonzalez are all subject to the FMLA.

35. Defendants interfered with Plaintiff's rights under the FMLA by not providing him with required documentation upon determining that he needed to use FMLA leave, and for not notifying Plaintiff that he could take FMLA leave.

SECOND CAUSE OF ACTION
RETALIATION UNDER THE FAMILY AND MEDICAL LEAVE
Against All Defendants

36. Plaintiff repeats and realleges the allegations contained in the foregoing paragraphs of

the Complaint as if fully set forth herein.

37. Section 2615(a) of the Family and Medical Leave Act, states in pertinent part:

(i) Discrimination. It shall be unlawful for any employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this subchapter

38. Plaintiff exercised his rights under the FMLA when he requested leave after falling ill.

39. Plaintiff suffered an adverse employment action when he was fired by Aclara.

40. Aclara discriminated against Plaintiff for invoking his FMLA rights by terminating his employment knowing he was cleared to come back to work and intended to do so.

41. As such, Plaintiff has been damaged as set forth herein.

**THIRD CAUSE OF ACTION
FAILURE TO PROVIDE A REASONABLE ACCOMMODATION
IN VIOLATION OF THE ADA
Against Aclara**

42. Plaintiff repeats and realleges the allegations contained in the foregoing paragraphs of the Complaint as if fully set forth herein.

43. On March 2, 2021, Plaintiff was diagnosed with Long Haul COVID-19 and was prescribed medication, making him a qualified individual with a disability within the meaning of the ADA.

44. During the weeks leading to his March 1, 2021, firing, Plaintiff explained to Aclara that he could not obtain a doctor's appointment before March 2, 2021, at which point he might be cleared to return to work. However, Aclara ignored Plaintiff's requests for a reasonable accommodation for extended leave and/or the ability to work from home.

45. Defendants failed to engage in the interactive process.

46. As a result of the acts and conduct complained of herein, Plaintiff has suffered and will continue to suffer damages including but not limited to economic and pecuniary losses; severe

emotional, psychological, and physical stress, distress, anxiety, pain, and suffering; the inability to enjoy life's pleasures; and other non-pecuniary losses and special damages.

47. Accordingly, as a result of Defendants' unlawful conduct, Plaintiff has been damaged as set forth herein and is entitled to the maximum compensation available under this law, including punitive damages and attorneys' fees and litigation costs.

FOURTH CAUSE OF ACTION
RETALIATION IN VIOLATION OF THE ADA
Against Aclara

48. Plaintiff repeats and realleges the allegations contained in the foregoing paragraphs of the Complaint as if fully set forth herein.

49. Plaintiff suffered from a disability, was perceived as suffering from a disability and/or had a record of a disability as defined by the ADA.

50. Aclara retaliated against Plaintiff for his engagement in protected activities, including, but not limited to, requesting a reasonable accommodation and protected medical leave, and opposing Aclara's discrimination against him.

51. As a direct and proximate result of Aclara's unlawful retaliatory conduct in violation of the ADA, Plaintiff has suffered, and continues to suffer, monetary and/or economic harm, including, but not limited to, loss of past and future income, compensation and benefits for which Plaintiff is entitled to an award of damages.

52. As a direct and proximate result of Aclara's unlawful retaliatory conduct in violation of the ADA, Plaintiff has suffered, and continues to suffer, mental anguish and emotional distress, including, but not limited to, depression, humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-confidence, and emotional pain and suffering for which Plaintiff is entitled to an award of damages.

FIFTH CAUSE OF ACTION
DISCRIMINATION IN VIOLATION OF THE NYCHRL
Against All Defendants

53. Plaintiff repeats and realleges the allegations contained in the foregoing paragraphs of the Complaint as if fully set forth herein.

54. The New York City Administrative Code § 8-107(1) provides that:

It shall be an unlawful discriminatory practice: (a) For an employer or an employee or agent thereof, because of the actual or perceived age, race, creed, color, national origin, gender, **disability**, marital status. . . of any person, to refuse to hire or employ or to bar or to discharge from employment such person or to discriminate against such person in compensation or in terms, conditions or privileges of employment. (emphasis added).

55. Aclara engaged in an unlawful discriminatory practice in violation of the NYCHRL by discriminating against Plaintiff because of his disability (Long Haul COVID-19), entitling Plaintiff to all available damages.

SIXTH CAUSE OF ACTION
DISCRIMINATION UNDER THE NYSHRL
Against All Defendants

56. Plaintiff repeats and realleges the allegations contained in the foregoing paragraphs of the Complaint as if fully set forth herein.

57. N.Y. Executive Law § 296 provides that:

It shall be an unlawful discriminatory practice: “(a) For an employer or licensing agency, because of an individual’s age, race, creed, color, national origin, sexual orientation, military status, sex, **disability**, predisposing genetic characteristics, familial status, marital status, or status as a victim of domestic violence, to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment.”

58. As described above, Aclara discriminated against Plaintiff on the basis of his disability (Long Haul COVID-19) in violation of the NYSHRL, entitling Plaintiff to all available damages.

SEVENTH CAUSE OF ACTION
RETALIATION UNDER THE NYCHRL
Against All Defendants

59. Plaintiff repeats and realleges the allegations contained in the foregoing paragraphs of the Complaint as if fully set forth herein.

60. The New York City Administrative Code § 8-107(7) provides that it shall be unlawful discriminatory practice” for an employer . . . to discriminate against any person because such person has opposed any practices forbidden under this chapter . . .”

61. Aclara retaliated against Plaintiff for engaging in protected activity, ultimately resulting in Plaintiff’s unlawful firing, in violation of the NYCHRL, entitling him to all available damages.

EIGHTH CAUSE OF ACTION
RETALIATION UNDER THE NYSHRL
Against All Defendants

62. Plaintiff repeats and realleges the allegations contained in the foregoing paragraphs of the Complaint as if fully set forth herein.

63. Plaintiff requested an accommodation in the form of extended medical leave and/or the ability to work from home pending his clearance by his doctor to return to work.

64. The foregoing conduct constitutes protected activity within the meaning of the NYSHRL.

65. In violation of the NYHSRL, Aclara retaliated against Plaintiff for engaging in protected activity by terminating his employment.

66. Aclara’s retaliatory and discriminatory act or acts would be reasonably likely to deter a person from engaging in protected activity.

67. Plaintiff is entitled to all recoverable damages.

NINTH CAUSE OF ACTION
AIDING AND ABETTING UNLAWFUL DISCRIMINATION AND RETALIATION
UNDER THE NYCHRL
Against Individual Defendants

68. Plaintiff repeats and realleges the allegations contained in the foregoing paragraphs of the Complaint as if fully set forth herein.

69. By the actions described above, among others, Defendant Gonzalez knowingly or recklessly aided and abetted and directly participated in the unlawful discrimination and retaliation to which Plaintiff was subjected in violation of the NYCHRL.

70. As a direct and proximate result of Defendant Gonzalez's unlawful conduct in violation of the NYCHRL, Plaintiff has suffered, and continues to suffer, monetary and/or economic harm, for which he is entitled to an award of damages, in addition to reasonable attorney's fees and expenses.

71. As a direct and proximate result of Defendant Gonzalez's unlawful conduct in violation of the NYCHRL, Plaintiff has suffered, and continues to suffer, mental anguish and severe emotional distress, for which he is entitled to an award of damages.

72. Defendant Gonzalez's unlawful and retaliatory actions constitute malicious, willful and wanton violations of the NYCHRL, for which Plaintiff is entitled to an award of punitive damages.

TENTH CAUSE OF ACTION
AIDING AND ABETTING UNLAWFUL DISCRIMINATION AND RETALIATION
UNDER NYSHRL
Against Individual Defendants

73. Plaintiff repeats and realleges the allegations contained in the foregoing paragraphs of the Complaint as if fully set forth herein.

74. By the actions described above, among others, Defendant Gonzalez knowingly or recklessly aided and abetted and directly participated in the unlawful discrimination and retaliation to which Plaintiff was subjected in violation of the NYSHRL.

75. As a direct and proximate result of Defendant Gonzalez's unlawful conduct in violation of the NYSHRL, Plaintiff has suffered, and continues to suffer, monetary and/or economic harm, for which he is entitled to an award of damages, in addition to reasonable attorney's fees and expenses.

76. As a direct and proximate result of Defendant Gonzalez's unlawful conduct in violation of the NYSHRL, Plaintiff has suffered, and continues to suffer, mental anguish and severe emotional distress, for which he is entitled to an award of damages.

77. Defendant Gonzalez's unlawful and retaliatory actions constitute malicious, willful and wanton violations of the NYSHRL, for which Plaintiff is entitled to an award of punitive damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests a judgment against the Defendants:

A. Awarding damages to Plaintiff for lost pay caused by Defendant's unlawful discrimination and retaliation, and to otherwise make him whole for any monetary losses suffered as a result of such unlawful employment practices;

B. Awarding Plaintiff compensatory damages for mental, emotional, and physical injury, distress, pain and suffering and injury to his reputation, career prospects, and earning potential in an amount to be proven at trial;

C. Awarding Plaintiff punitive damages;

D. Awarding Plaintiff liquidated damages;

E. Awarding Plaintiff attorneys' fees, costs, disbursements, and expenses incurred in the prosecution of this action; and

F. Awarding Plaintiff such other and further relief as the Court may deem equitable, just, and proper to remedy Defendant's unlawful employment practices against her.

JURY DEMAND

Plaintiff requests a jury trial on all issues to be tried.

Dated: January 11, 2023
White Plains, New York

Tanvir H. Rahman

A handwritten signature in black ink, appearing to read "Tanvir H. Rahman", is enclosed in a thin black rectangular border.

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