

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X

CHEVOR POMPEY,

Plaintiff,

-against-

COUNTY OF WESTCHESTER, JOHN NONNA &
BERTINA CAPUANO, in their individual and
professional capacities,

Defendants.

-----X

No.

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff, Chevor Pompey, by his attorneys, Filippatos PLLC, hereby complains of
Defendants County of Westchester, John Nonna, and Bertina Capuano, by alleging and averring
as follows:

NATURE OF ACTION

1. In a thought-provoking twist, Plaintiff Chevor Pompey, a long-tenured Assistant County Attorney with the Westchester County Law Department, brings the instant action against his former employer and several former colleagues/supervisors for engaging in a concerted years' long campaign to suppress him by denying him the same terms, conditions, benefits, and privileges of employment as was afforded to similarly situated white Assistant County Attorneys merely because of the color of his skin (Black).

2. Even though Mr. Pompey's performance at the Westchester County Law Department over his nearly 20-year tenure was unassailable, Mr. Pompey was, repeatedly, time after time, passed over for well-deserved promotions and transfers to desirable openings in other departments, all while less-qualified and less-experienced white individuals were shown nothing

but red-carpet treatment.

3. This deplorable conduct is a modern-day form of segregation, plain and simple. The fact that the same governmental entity that is supposed to "have charge of and conduct all of the civil law business of the County of Westchester and its departments," is the same entity who has been perpetrating such abhorrent conduct against Mr. Pompey based on his race, is shameful. Those who have stood by and allowed this pattern and practice of unlawful racial discrimination to persist must answer for their conduct and be held accountable.

4. To achieve these goals, Mr. Pompey brings this action to obtain redress for Defendants' blatant violation of his right to be free from racial discrimination in his workplace, in violation of Section 1981 of the Civil Rights Act of 1866, 42 U.S.C. § 1981 ("Section 1981") and the New York State Human Rights Law, Exec. Law § 296, et seq. (the "NYSHRL")

JURISDICTION AND VENUE

5. Jurisdiction of this Court is proper under 29 U.S.C. §§ 2617 and 28 U.S.C. §§ 1331 as Plaintiff alleges claims pursuant to Section 1981 of the Civil Rights Act of 1866.

6. The Court has supplemental jurisdiction over the claims Plaintiff has brought under state law pursuant to 28 U.S.C. § 1367.

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

ADMINISTRATIVE REQUIREMENTS

8. Simultaneously with the filing of this action, Plaintiff will file a charge of discrimination with the Equal Employment Opportunity Commission ("EEOC") against Defendants alleging the same violations of his civil rights as alleged herein.

9. When the EEOC concludes its investigation and/or issues Plaintiff a Notice of Right to Sue, Plaintiff intends to amend this Complaint to add claims under Title VII for unlawful race discrimination.

10. Plaintiff has met any and all other prerequisites or administrative requirements necessary to bring forth his claims in this action, including, but not limited to, any New York state Notice of Claim requirements.

PARTIES

11. At all times relevant hereto, Plaintiff Chevor Pompey is and has been an adult resident of the State of New York, County of Westchester.

12. At all times relevant hereto material, Defendant County of Westchester is a municipal corporate subdivision of the State of New York duly existing by reason of and pursuant to the laws of the State of New York. The County of Westchester operates the Westchester County Attorney's Office, otherwise known as Westchester County Law Department (the "Law Department"), which has its office at 148 Martine Ave, 6th floor, White Plains, NY 10601.

13. At all times relevant hereto, Plaintiff was an employee of the County of Westchester and its Law Department.

14. At all times relevant hereto, Defendant John M. Nonna was an employee of the County of Westchester and its Law Department, holding the position of County Attorney.

15. Defendant Nonna was Plaintiff's supervisor and/or had supervisory authority over him at all relevant times hereto. Defendant Nonna had the authority to hire, terminate, and/or affect the terms and conditions of Plaintiff's employment, or to otherwise influence the decisionmaker of the same.

16. At all times relevant hereto, Defendant Bertina Capuano was and is currently an employee of the County of Westchester and its Law Department, holding the position of Assistant Chief Deputy County Attorney.

17. Defendant Capuano was Plaintiff's supervisor and/or had supervisory authority over him at all relevant times hereto. Defendant Capuano had the authority to hire, terminate, and/or affect the terms and conditions of Plaintiff's employment, or to otherwise influence the decisionmaker of the same.

18. Defendants Nonna and Capuano (the "Individual Defendants") are both white. Upon information and belief, the Individual Defendants reside in Westchester County, New York.

FACTUAL ALLEGATIONS

I. Following Years of Stellar Performance in the Same Role, Mr. Pompey Repeatedly Seeks Out Other Professional Growth Opportunities Within the Law Department, but is Rebuffed Each Time by Law Department Leaders, Who Award These Opportunities to White or Latina Employees

19. In or about June 2004, the Westchester County Law Department hired Plaintiff as an Assistant County Attorney in its Family Court Bureau.

20. Over the course of the next 11 years, Mr. Pompey wholeheartedly committed himself to both personal and professional development, consistently enhancing his legal skills and expertise. With unwavering determination, he navigated a wide array of family law cases, diligently conducting trials and producing numerous well-crafted briefs. Each case presented fresh challenges, which he embraced with enthusiasm, further expanding his legal knowledge and refining his advocacy skills. Through his persistent dedication and relentless pursuit of excellence, Mr. Pompey transformed into a highly skilled and accomplished attorney within the Law Department.

21. In 2015, following 11 years of dedicated service, Mr. Pompey believed he had acquired the skills and qualifications to take on a broader, more senior role, and applied for an open Senior Assistant County Attorney position. Unfortunately, Plaintiff was not selected for the position, which would have constituted a promotion. Instead, the position was awarded to a white female attorney from the Family Court Bureau.

22. In January 2020, Defendant Capuano, a white female, became the Assistant Chief Deputy County Attorney at the Law Department's Family Court Bureau.

23. Initially, Ms. Capuano created an impression of promise and support, expressing her interest in facilitating the professional development of the attorneys under her supervision. On her first day of work, in fact, she made a statement to her staff indicating her willingness to assist anyone who desired cross-training in other bureaus at the Law Department, which seemed encouraging to the team.

24. In response to Ms. Capuano's declaration, Mr. Pompey eagerly raised his hand, expressing his interest in receiving cross-bureau training. Ms. Capuano acknowledged his request by uttering what would become her tagline: "I'll look into it."

25. Despite Mr. Pompey's enthusiasm and sincere interest in receiving cross-bureau training, he endured several months without any communication from Ms. Capuano about his request, leaving him in a state of uncertainty and silence.

26. Feeling increasingly frustrated by the absence of communication, on or about June 12, 2020, Mr. Pompey reached out to Ms. Capuano apprising her of his, at the time, lengthy 16-year tenure within the Family Court Bureau and expressing his interest in an available position in the more prestigious Contracts and Real Estate Bureau.

27. Ms. Capuano, in her familiar refrain, responded: "I'll look into it."

28. Regrettably, several more months went by without Mr. Pompey receiving any communication or updates from Ms. Capuano.

29. Then, on or about January 5, 2021, the Law Department announced that five Assistant County Attorneys within the Family Court Bureau were receiving promotions to Senior County Attorney and two Associate County Attorneys were being promoted to Deputy County Attorney. However, of the seven total promotions, six were given to white women, and one to a Latina woman.

30. Plaintiff, several other Black Assistant County Attorneys, and white male Assistant County Attorneys were among the longest-tenured attorneys in the Family Court Bureau at the time promotions were announced. Many expressed bewilderment and shock because they did not even know that promotions were being considered for attorneys in the Bureau.

31. Mr. Pompey possessed more seniority at the Law Department than four of the five women who were promoted to Senior Assistant County Attorney.

32. In addition, the fifth woman who was promoted to Senior Assistant County Attorney possessed approximately one month more seniority at the Law Department than Mr. Pompey. Further, Mr. Pompey participated in the training of at least three of the attorneys promoted to Senior County Attorney. The breadth of his experience and workload at the Law Department equaled or surpassed all five, raising concerns about the discriminatory nature of these promotion decisions.

33. The two remaining white women who were promoted from Associate County Attorney to Deputy County Attorney on or about January 5, 2021, had only served as Associate County Attorneys for approximately one year. The rapid ascent of these two attorneys was unprecedented in the history of the Law Department, with many Associate County Attorneys

serving decades without ever being elevated to Deputy County Attorney. The clear “white women privilege” practiced by the Capuano administration was unapologetically blatant.

34. On or about January 8, 2021, Mr. Pompey prepared his year-end memo for the 2020 calendar year. In this memo, Mr. Pompey highlighted his accomplishments and responsibilities. Mr. Pompey detailed his successful handling of various duties within the Child Support Unit, as well as his additional contributions to the Juvenile Delinquency Unit. Mr. Pompey also expressed his interest in a transfer to the Contracts and Real Estate Bureau, reiterating his desire to pursue new professional opportunities within the office. The memo was emailed to both Mr. Nonna and Stacey Dolgin-Kmetz, the Chief Deputy County Attorney.

35. Mr. Nonna promptly acknowledged receipt of Mr. Pompey’s message and assured him that he would be considered for future openings in the Contracts and Real Estate Bureau. Mr. Nonna suggested that, in the interim, Mr. Pompey take a contract law continuing legal education (CLE) course to further enhance his knowledge and skills in that area of practice. Mr. Pompey heeded this advice and completed several CLE courses related to contract law.

36. Despite completing several CLE courses, Mr. Pompey heard nothing but radio silence concerning his transfer requests for the next year.

37. On or about February 2, 2021, Mr. Pompey submitted his Family Court Bureau year-end memo to Ms. Capuano. In addition to highlighting his accomplishments for the 2020 calendar year, Mr. Pompey also informed Ms. Capuano about the dearth of promotions for experienced attorneys within the child support unit.

38. On or about February 12, 2021, a grievance was filed by Local 456, International Brotherhood of Teamsters, against the Law Department for failing to properly post promotional opportunities pursuant to Article 4, Section 2 of the underlying contract.

39. On or about April 16, 2021, Mr. Pompey received his Family Court Bureau performance evaluation from Ms. Capuano, which covered the 2020 calendar year. In Mr. Pompey's year-end evaluation, Ms. Capuano acknowledged his exceptional work performance and specifically highlighted his valuable contributions in assisting the Juvenile Delinquency Unit.

40. Despite rating Mr. Pompey as a strong performer, Ms. Capuano failed to address Mr. Pompey's expressed desire for a promotional opportunity or his request to be considered for a transfer to the Contracts and Real Estate Bureau. The lack of communication from Ms. Capuano about Mr. Pompey's interest in a role within the Contract and Real Estate Bureau was particularly disheartening and puzzling.

41. Subsequently, on or about July 13, 2021, a Stipulation of Settlement was reached between the Law Department and Local 456 resolving the February 12, 2021 grievance.

42. Further, on or about January 5, 2022, the Westchester County Attorney's Office announced that it was promoting a white male attorney and a white female attorney from Assistant County Attorney to Senior Assistant County Attorney in the Family Court Bureau.

43. Incredibly, Mr. Pompey had far greater seniority than the white female attorney, and one month less seniority than the white male attorney. This promotion announcement yet again raised alarms about the promotion process, which was anything but transparent and robust, and intentionally ignored Mr. Pompey's longer tenure and greater level of experience within the Law Department.

44. On or about January 14, 2022, Mr. Pompey submitted his year-end memo for the 2021 calendar year to Mr. Nonna and Ms. Dolgin-Kmetz via email. In that memo, Mr. Pompey outlined his annual accomplishments and expressed that he looked forward to promotional

opportunities and exposure to other bureaus within the Law Department as he approached 18 years of service.

45. Shortly thereafter, on or around January 31, 2022, Mr. Pompey submitted his 2021 Year End Self Evaluation Memo to Ms. Capuano. In this detailed memo, Mr. Pompey listed his numerous achievements and contributions in 2021 while working in the Child Support Unit within the Family Court Bureau. Mr. Pompey specifically highlighted the additional responsibilities for which he volunteered, including part-time work with the Juvenile Delinquency Unit as well as certain administrative duties.

46. Like clockwork, Mr. Pompey concluded his memo by, yet again, reiterating his aspiration to obtain a promotion and/or gain exposure to different bureaus within the Law Department, and reasserting his eagerness for a new and meaningful opportunity for professional growth.

47. Lamentably, despite Mr. Pompey's continuous efforts to reach out to Ms. Capuano to communicate his interest in furthering his professional development, her response was simply, yet again, "I'll look into it."

48. Then, on or about April 18, 2022, Ms. Capuano completed Mr. Pompey's performance evaluation for the 2021 calendar year, in which she highlighted Mr. Pompey's numerous successes, noting his ability to identify and address issues effectively based on his extensive experience.

49. Ms. Capuano also encouraged Mr. Pompey to expand his sphere of influence and take on a mentoring role.

50. Ms. Capuano specifically wrote: “Chevor adapts to changes in the work environment, manages competing demands, accepts criticism and feedback,” and therefore, “fully meets expectations.”

51. Ms. Capuano also applauded Mr. Pompey’s exceptional communication skills and dependability, which were areas in which he was rated as exceeding expectations. Notably, Ms. Capuano also rated Mr. Pompey a “5” in the critical areas of judgment and negotiation skills.

52. Despite the high praise she gave Mr. Pompey, Ms. Capuano nevertheless failed to follow up or provide any further response regarding Mr. Pompey’s multiple request for a transfer and/or professional development opportunities, leaving his career progression and development unresolved.

53. The continued silence was deafening, raising even more red flags about the legitimacy and fairness of personnel decisions made at the Law Department.

II. Even Though Mr. Pompey is More Than Qualified For and Immediately Expresses His Strong Desire to Fill the Newly Vacant Role in the Contracts Bureau, the Law Department Hires an Inexperienced, Female, White Attorney, Further Crushing Mr. Pompey’s Aspirations

54. In April 2022, Mr. Pompey learned about a potential opening in the Contracts and Real Estate Bureau following the retirement of a colleague. Mr. Pompey immediately expressed his interest in the vacant position to Ms. Tami Altschiller, Assistant Chief Deputy County Attorney and Head of the Contracts Bureau, who is also a white female.

55. A week later, Mr. Pompey interviewed for the vacant position in the Contracts and Real Estate Bureau. He was interviewed by a panel consisting of Mr. Nonna, Ms. Dolgin-Kmetz, and Ms. Altschiller.,

56. As Mr. Pompey waited to hear his fate, in or about June 15, 2022, another Senior Assistant County Attorney position became available within the Law Department’s Family Court

Bureau. Mr. Pompey immediately applied for this position as well, which would have been a promotion for him.

57. Finally, on or about October 19, 2022, the Law Department announced yet again that it hired a white female for the vacant position in the Contracts and Real Estate Bureau, crushing Mr. Pompey's hopes and aspirations for finally joining that prestigious bureau.

58. The white female who was hired had graduated from law school *in 2020* and, upon information and belief, had no prior experience in contracts law.

59. The decision to hire an inexperienced white female candidate was all the more devastating since there was no telling whether Mr. Pompey would ever have such a golden opportunity to join the Contracts and Real Estate Bureau presented to him again.

60. Upon information and belief, the Contracts and Real Estate Bureau has never hired a Black attorney.

61. Upon information and belief, approximately 90% of all Black attorneys hired by the Law Department are pigeonholed into the Family Court Bureau, where there are far less opportunities for career development and lucrative positions outside the office compared to the exclusively white Contracts and Real Estate Bureau.

62. On or about November 28, 2022, the Westchester County Attorney's Office announced that Stephanie Perez, a Latina woman, was hired for the vacant Senior Assistant County Attorney position for which Mr. Pompey had also applied.

63. Upon information and belief, Ms. Perez never even had to apply for the job, as Ms. Capuano simply offered her the role directly.

64. Mr. Pompey was never even given an interview for that open position.

III. Mr. Pompey Can No Longer Bite His Tongue and Complains to Law Department Leadership About Its Disparate Hiring Practices in Which White Employees are Repeatedly Favored Over Black Employees, But Complains to No Avail

65. On or around December 7, 2022, Mr. Pompey reached out to Mr. Nonna via email for feedback regarding the interview he gave back in April 2022 for the Contracts and Real Estate Bureau Attorney position, as well as his application for a promotion to Senior Assistant County Attorney.

66. In his email to Mr. Nonna, Mr. Pompey expressed his belief that hiring and promotion practices at the Law Department were unfair to certain protected groups, namely African Americans and men.

67. Mr. Nonna responded days later claiming that he never received Mr. Pompey's application for the promotion to Senior Assistant County Attorney (even though there is no question that Mr. Pompey submitted his promotion application to Human Resources ("HR")). Mr. Nonna agreed to meet with Mr. Pompey the following week.

68. Mr. Nonna and Mr. Pompey, along with Ms. Capuano, eventually met on December 15, 2022. Mr. Pompey bravely voiced his concerns about the apparent bias in the office's selection process for promotions as well as the recurring and inexplicable denial of career advancement opportunities. Mr. Pompey communicated his fears that there may be inherent biases and/or unfair practices at play that were stymieing him from career development opportunities despite his unquestioned qualifications and dedication to his work.

69. In response to Mr. Pompey's complaints, Ms. Capuano tried to assuage Mr. Pompey by telling him that the office would consider him for a promotion within three to six months, but that Mr. Pompey must actively participate in community outreach efforts until then.

70. Mr. Pompey initially agreed to participate in the community outreach activities, even though such activities were beyond his job description and would require him to work outside regular work hours, including evenings and weekends, all in the naïve hope that this was a turning point, and that his supervisors would finally treat him fairly and make decisions based on merit, and not race.

71. However, after second thought, Mr. Pompey realized that he had never heard of any other attorney in the Law Department ever having to go to the lengths of engaging in community outreach as a prerequisite for a promotion. This realization further cemented his conclusion that the promotion and transfer procedures at the Law Department were discriminatory and corrupt.

72. Later that month, in a closed-door meeting, the Law Department promoted three white females from Senior Assistant County Attorney to Associate County Attorney in the Family Court Bureau. This was each woman's *second* promotion at the Law Department in less than two years.

73. In comparison, the Law Department had not promoted Mr. Pompey even once in his nearly two-decade tenure.

74. Additionally, during the same meeting, the Law Department promoted another white female from Assistant County Attorney to Senior Assistant County Attorney and elevated a white male from Senior Assistant County Attorney to Associate County Attorney in the Family Court Bureau. Again, Mr. Pompey possessed far more seniority in the Law Department than the white female attorney.

75. The Law Department was handing out promotions to white employees as if they were Halloween candy.

IV. The Law Department Retaliates Against Mr. Pompey for Complaining Again About Its Discriminatory Practices, and Forces Him Out by Leaving Him with Essentially No Choice But to Quit

76. In response to the latest round of promotions, Mr. Pompey contacted Mr. Nonna again to request a meeting. Mr. Pompey also told Mr. Nonna that there was now a clear pattern within the Law Department of awarding promotions to white or Latina, primarily female attorneys, while those from other racial and protected groups such as African Americans, Jews, disabled attorneys, as well as men, were callously excluded.

77. Several long-tenured co-workers who shared Mr. Pompey's concerns agreed to be and were copied on the email.

78. The next day, Mr. Nonna responded by reflexively denying the allegations of discrimination, and declined to meet with the group, but offered to meet individually with each attorney copied on the email to address their concerns.

79. That same day, Ms. Capuano blatantly retaliated against Mr. Pompey for engaging in such protected activity by cancelling their previously scheduled meeting to discuss promotions, which was set for December 22, 2023, effectively obliterating any hope that Mr. Pompey had for a career growth opportunity within the Law Department.

80. Subsequently, in early-February 2023, Mr. Pompey prepared his Year-End Self Evaluation Memo to Mr. Nonna wherein he complained yet again about the systemic discrimination that persisted within the Law Department, and particularly in relation to the Family Court Bureau.

81. Mr. Pompey also alleged that recommendations for promotion were being unduly influenced by Deputy County Attorney Elizabeth Barbanes, a white female.

82. Mr. Pompey alleged that Ms. Barbanes, who oversaw the Child Support Unit, was discriminating against employees who were Black, Jewish, parents of young children, or had medical issues/disabilities, as well as men.

83. Unsurprisingly, Mr. Nonna failed to address Mr. Pompey's discrimination complaints or even call Mr. Pompey to inquire into or investigate the serious allegations.

84. On or about February 17, 2023, Mr. Pompey applied again for a promotion to Senior Assistant County Attorney in response to an online job posting. The Law Department acknowledged that his application was received, but he did not receive an interview.

85. Ultimately, after receiving nothing but radio silence in response to his continuous requests for promotions and/or transfers, as well as in response to his calls for an investigation into his allegations of racial discrimination at the Law Department, Mr. Pompey realized that he simply had no future or opportunity for career development and growth at the Law Department. And, if anything, Law Department leaders were keen on forcing him out by actively retaliating against him for engaging in protected activity.

86. As such, Mr. Pompey was left with no choice but to tender his resignation from the Westchester Law Department to Mr. Nonna and Ms. Capuano on February 24, 2023.

87. This marked the end of a nearly two-decade long tenure at the Law Department fraught with invidious racial discrimination at all levels in the office, and countless examples of less experienced, less tenured, white, primarily female attorneys receiving promotion after promotion, all while Mr. Pompey never even sniffed one.

88. Adding insult to injury, on Mr. Pompey's last day of work, March 10, 2023, Ms. Capuano instructed Mr. Pompey's immediate supervisor to confiscate his work identification card

and work laptop and escort him out of the office like a common criminal precisely at 5:00 PM. Mr. Pompey was given approximately 10 minutes' notice of this procedure.

89. Recognizing the deeply disturbing nature of the Law Department's truly cruel actions against such a long-tenured, loyal, well-liked, and dedicated employee, a co-worker kindly offered to help collect Mr. Pompey's belongings and accompanied him to his car carrying some of his personal items. Without the help of his co-worker, Mr. Pompey would not have been able to even enter the parking lot.

90. Upon information and belief, on or about March 13, 2023, Ms. Capuano interviewed another attorney who had applied for the same Senior Assistant County Attorney position that Mr. Pompey had applied for a month earlier. However, there was no discussion about this attorney needing to complete community outreach efforts to be considered for a promotion, unlike what Ms. Capuano had told Mr. Pompey.

91. Upon information and belief, on or about March 14, 2023, a second attorney was interviewed for the Senior Assistant County Attorney position by Ms. Capuano, but yet again the topic of the attorney needing to engage in community outreach in order to be promoted was never broached.

92. Upon information and belief, on or about March 15, 2023, a third attorney was interviewed for the Senior Assistant County Attorney position by Ms. Capuano, but, as you can expect, the topic of the attorney needing to engage in community outreach in order to be promoted never saw the light of day.

FIRST CAUSE OF ACTION
DISCRIMINATION UNDER SECTION 1981
(Against All Defendants)

93. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint as if fully set forth herein.

94. As alleged herein, Defendants engaged in unlawful employment practices prohibited by Section 1981 by discriminating against Plaintiff because of his race and color(Black/African American).

95. 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 (past and future), 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.

96. As a result of Defendants' unlawful conduct in violation of Section 1981, Plaintiff has been damaged as set forth herein and is entitled to the maximum amount of damages available to him, including, but not limited to, punitive damages and attorneys' fees and costs.

SECOND CAUSE OF ACTION
RETALIATION UNDER SECTION 1981
(Against All Defendants)

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

98. As alleged herein, Defendants unlawfully retaliated against Plaintiff in violation of Section 1981 after Plaintiff engaged in protected activity by complaining about race and color discrimination in the workplace.

99. 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 (past and future), 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.

100. As a result of Defendants' unlawful conduct in violation of Section 1981, Plaintiff has been damaged as set forth herein and is entitled to the maximum amount of damages available to him under the law, including, but not limited to, punitive damages and attorneys' fees and costs.

THIRD CAUSE OF ACTION
DISCRIMINATION UNDER THE NYSHRL
(Against All Defendants)

101. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint as if fully set forth herein.

102. 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, marital status, or domestic violence victim status, 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."

103. As alleged herein, Defendants engaged in an unlawful discriminatory practice by discriminating against Plaintiff because of his race, color, and gender with respect to the terms and conditions of his employment, including promotion and transfer decisions.

104. 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 (past and future), 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.

105. As a result of Defendants' unlawful conduct in violation of the NYSHRL, Plaintiff has been damaged as set forth herein and is entitled to the maximum amount of damages available to him, including, but not limited to, punitive damages and attorneys' fees and costs.

FOURTH CAUSE OF ACTION
RETALIATION UNDER THE NYSHRL
(Against All Defendants)

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

107. As alleged herein, Defendants unlawfully retaliated against Plaintiff in violation of the NYSHRL after Plaintiff engaged in protected activity by complaining about race, color, and gender discrimination in the workplace.

108. 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 (past and future), 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.

109. As a result of Defendants' unlawful conduct in violation of the NYSHRL, Plaintiff has been damaged as set forth herein and is entitled to the maximum amount of damages available to him under the law, including, but not limited to, punitive damages and attorneys' fees and costs.

FIFTH CAUSE OF ACTION
AIDING AND ABETTING UNDER THE NYSHRL
(Against Individual Defendants Only)

110. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint as if fully set forth herein.

111. New York State Executive Law § 296(6) provides that it shall be an unlawful discriminatory practice: “For any person to aid, abet, incite compel or coerce the doing of any acts forbidden under this article, or attempt to do so.”

112. Defendants Nonna and Capuano each engaged in unlawful employment practices in violation of the NYSHRL by aiding, abetting, inciting, compelling, and/or coercing the discriminatory and retaliatory conduct against Plaintiff set forth herein.

113. 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 (past and future), 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.

114. As a result of the Individual Defendants’ unlawful conduct in violation of the NYSHRL, Plaintiff has been damaged as set forth herein and is entitled to the maximum amount of damages available to him under the law, including, but not limited to, punitive damages and attorneys’ fees and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests a judgment against Defendants:

A. Declaring that Defendants engaged in, and enjoining Defendants from continuing to engage in, unlawful employment practices prohibited by Section 1981 and the New York State

Human Rights Law in that Defendants discriminated and retaliated against Plaintiff on the basis of his race, color, and gender;

B. Awarding damages to Plaintiff for all lost wages and benefits resulting from Defendants' unlawful discrimination and retaliation and to otherwise make him whole for any losses suffered as a result of such unlawful employment practices;

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

D. Awarding Plaintiff punitive 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 Defendants' unlawful employment practices against him.

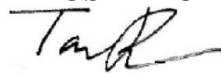
JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues of fact and damages stated herein.

Dated: October 23, 2023
White Plains, New York

Respectfully submitted,

FILIPPATOS PLLC



By: _____

Tanvir H. Rahman
199 Main Street, Suite 800
White Plains, New York 10601
T.F/: 914.984.1111
trahman@filippatoslaw.com
Attorneys for Plaintiff