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U.S. District Court

Eastern District of New York

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Case Name: Goodman v. Emmons et al
Case Number: 1:11-cv-00317-ARR-JMA
Filer: Ronald Goodman
Document Number: 10

Docket Text:

AMENDED COMPLAINT against Michelle J. Emmons, Richy Garlarza, Iris Jiminez Hernandez, NYC Health and Hospital, filed by Ronald Goodman. (Sanders, Eric)

1:11-cv-00317-ARR-JMA Notice has been electronically mailed to:

Ashley Jean Hale ahale@law.nyc.gov

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----x
RONALD GOODMAN

Plaintiff,

Amended Complaint

Jury Trial Demand

-against-

11 cv 00317 (ARR)(JMA)

Sr. Judge Allyne R. Rose

THE NEW YORK CITY HEALTH & HOSPITALS CORPORATION; IRIS R. JIMINEZ-HERNANDEZ, as Senior Vice President, North Brooklyn Health Network d/b/a Woodhull Medical and Mental Hygiene Center; RICHARD GALARZA, as former Director of Security, North Brooklyn Health Network d/b/a Woodhull Medical and Mental Hygiene Center and MICHELLE J. EMMONS, as Senior Associate Director, Human Resources, North Brooklyn Health Network d/b/a Woodhull Medical and Mental Hygiene Center, each being sued individually and in their official capacities as employees of THE NEW YORK CITY HEALTH & HOSPITALS CORPORATION

Defendants'
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The plaintiff RONALD GOODMAN by his attorney The Sanders Firm, P.C., as and for his Amended Complaint against Defendants' THE NEW YORK CITY HEALTH & HOSPITALS CORPORATION; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS, respectfully set forth and allege that:

INTRODUCTION

This is an action for equitable relief and money damages on behalf of the plaintiff RONALD GOODMAN, (hereinafter referred to as "plaintiff") who was and is being deprived of his statutory rights as an employee as a result of Defendants' THE NEW YORK CITY HEALTH & HOSPITALS CORPORATION; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS' S race discrimination and abuse of authority.

JURISDICTION AND VENUE

1. The jurisdiction of this Court is invoked pursuant to 18 U.S.C. § 1965, 28 U.S.C. §§ 1331, 1343 and 2202 to secure protection of and to redress deprivation of rights secured by:

- a. the Civil Rights Act of 1866, 42 U.S.C. § 1981, providing for the protection of all person's right to make and enforce contracts under the color of State Law; and
- b. the Civil Rights Act of 1871, 42 U.S.C. § 1983, providing for the protection of all persons in his civil rights and the redress of deprivation of rights under color of law.

2. The unlawful employment practices, violations of Plaintiff's civil rights complained of herein were committed within the Eastern and Southern Districts of New York.

3. The pendent jurisdiction of the federal district court is invoked with respect to the Plaintiff's claims under New York State Executive Law § 296 and New York City Administrative Code § 8-107, pursuant to 28 U.S.C. 1367, because the entire action before the court comprises one constitutional and civil rights case, and the claims arise out of the same common nucleus of facts and are such that the Plaintiff would ordinarily be expected to try them in one judicial proceeding.

PROCEDURAL REQUIREMENTS

4. Plaintiff has filed suit with this Court within the applicable statute of limitations period.

5. Plaintiff is not required to exhaust any administrative procedures prior to suit under the Civil Rights Act of 1866, the Civil Rights Act of 1871, NYHRL or the NYCHRL.

PLAINTIFF

6. Plaintiff RONALD GOODMAN is a male citizen of the United States of America

and is over twenty-one (21) years of age, a resident of Kings County and is a former employee of Defendant THE NEW YORK CITY HEALTH & HOSPITALS CORPORATION (hereinafter referred to as the "HHC") more specifically the North Brooklyn Health Network (hereinafter referred to as the "NBHN"). For the purposes of this litigation, Defendant HHC may be identified interchangeably using HHC or NBHN to identify the employer which was the HHC.

DEFENDANTS'

7. Defendant HHC was and is a public benefit corporation organized and existing under and by virtue of the laws of the State of New York, and at all relevant times was plaintiff's employer, with its central offices in the county of New York, and diverse other offices and facilities throughout the State of New York.

8. Defendants' IRIS R. JIMINEZ-HERNANDEZ, as Senior Vice President, North Brooklyn Health Network d/b/a Woodhull Medical and Mental Hygiene Center; RICHARD GALARZA, as former Director of Security, North Brooklyn Health Network d/b/a Woodhull Medical and Mental Hygiene Center and MICHELLE J. EMMONS, as Senior Associate Director, Human Resources, North Brooklyn Health Network d/b/a Woodhull Medical and Mental Hygiene Center, each being sued individually and in their official capacities as employees of Defendant HHC.

BACKGROUND

9. Plaintiff is an African-American male.

10. Plaintiff alleges that on or about October 11, 1988, he was appointed as a Hospital Police Officer for defendant HHC.

11. Plaintiff alleges that in or around 2000 after the merger with Cumberland Hospital he was assigned to the NBHN aka Woodhull Medical and Mental Hygiene Center.

12. Plaintiff alleges that the NBHN aka the Woodhull Medical and Mental Hygiene Center is located in Bedford Stuyvesant, Brooklyn, N.Y., and services a large Hispanic population.

13. Plaintiff alleges that shortly thereafter, he met defendant RICHARD GALARZA a Hispanic Male with no law enforcement background and a questionable reputation with the police officers for violating people's rights.

14. Plaintiff alleges that the NBHN police staff was comprised of primarily African-American male police officers.

15. Plaintiff alleges that as part of his initial training he was required to complete the Hospital Police Peace Officer Training Program.

16. Plaintiff alleges that as part of the training, there was a component that addressed Article 35 of the New York State Penal entitled "Justification Use of Force."

17. Plaintiff alleges that at each stage of his employment, part of his duties and responsibilities included dealing with unruly patients.

18. Plaintiff alleges that despite defendant HHC'S training, the application of that training was sporadic at best.

19. Plaintiff alleges that defendant HHC did not want the Hospital Police to use force against unruly patients.

20. Plaintiff alleges that defendant HHC'S position caused operational problems for the Hospital Police.

21. Plaintiff alleges that defendant HHC'S position caused workplace safety problems for the police officers as well as the other hospital staff.

22. Plaintiff alleges that defendant HHC through defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS would unfairly discipline African-American police officers especially the males whenever they were accused of violating company policies.

23. Plaintiff alleges that defendant HHC through defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS would rarely if ever discipline Hispanic police officers especially the males whenever they were accused of violating company policies.

24. Plaintiff alleges that defendant HHC through defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS would unfairly discipline African-American police officers especially the males whenever they used force to protect themselves or others against unruly patients consistent with defendant HHC training.

25. Plaintiff alleges that defendant HHC through defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS would rarely if ever discipline Hispanic police officers especially the males whenever they used force to protect themselves or others against unruly patients consistent with defendant HHC training.

26. Plaintiff alleges that defendant HHC through defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS would intentionally interfere with African-American police officers especially the males' due process rights by creating a false set of facts and circumstances in order to severely discipline them.

27. Plaintiff alleges that defendant HHC through defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS would "lose" evidence that could be used to clear the police officer of any wrong-doing.

28. Plaintiff alleges defendant HHC through defendant IRIS R. JIMINEZ-HERNANDEZ was aware of these practices but did nothing to stop them.

29. Plaintiff alleges that since early 2005 defendant HHC through defendants' IRIS R. JIMINEZ-HERNANDEZ and RICHARD GALARZA and others engaged in a concerted effort to have him terminated because he challenged unfair labor practices at the Woodhull Medical and Mental Hygiene Center as well as the unsafe security procedures in the workplace.

30. Plaintiff alleges that at this point in his career, he had no formal disciplinary record.

31. Plaintiff alleges that on or about February 15, 2005 he made a complaint to defendant HHC through defendants' IRIS R. JIMINEZ-HERNANDEZ and MICHELLE J. EMMONS about defendant RICHARD GALARZA harassing him in the workplace.

32. Plaintiff alleges that on or about March 25, 2005 defendant HHC through IRIS R. JIMINEZ-HERNANDEZ and MICHELLE J. EMMONS notified him that they did not find that defendant RICHARD GALARZA harassed him.

33. Plaintiff alleges that on or about June 15, 2005 he was charged by defendant HHC through defendants' IRIS R. JIMINEZ-HERNANDEZ and RICHARD GALARZA with multiple charges of serious misconduct related to failing to guard a prisoner.

34. Plaintiff alleges that defendant HHC through defendants' IRIS R. JIMINEZ-HERNANDEZ and RICHARD GALARZA charged him with serious misconduct although the video surveillance clearly showed that an unruly patient entered the emergency treatment area without authorization and assaulted him.

35. Plaintiff alleges that after placing him in handcuffs, he was directed by Sergeant Smith to un-cuff the prisoner.

36. Plaintiff alleges that Sergeant Smith's order violated all tenets of security protocols.

37. Plaintiff alleges that Sergeant Smith then assigned him to guard this unruly uncuffed prisoner alone in an open unsecured area.

38. Plaintiff alleges that while trying to find a more secure area to guard this unruly patient, he was able to escape.

39. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ and RICHARD GALARZA was aware of these facts but, chose not to formally charge Sergeant Smith with multiple charges of misconduct, instead they specifically targeted him because of his prior complaints.

40. Plaintiff alleges that on or about June 29, 2006 defendant HHC tried him in the Office of Administrative Trials and Hearings aka the OATH Court.

41. Plaintiff alleges that in defendants' IRIS R. JIMINEZ-HERNANDEZ and RICHARD GALARZA'S fervor and zeal to terminate his employment, they intentionally ensured that Sergeant Smith would not be available to testify.

42. Plaintiff alleges that instead defendant HHC produced defendant RICHARD GALARZA (or as Captain Feliciano coined him a criminal) who did nothing more but, intentionally mislead the court about the policies and practices regarding securing hospitalized prisoners.

43. Plaintiff alleges that on or about August 1, 2006 the Administrative Law Judge convinced that defendant RICHARD GALARZA'S testimony was truthful found him guilty of failing to properly guard a prisoner, recommending that he be suspended for eight days despite

defendants' HHC through defendants' IRIS R. JIMINEZ-HERNANDEZ and RICHARD GALARZA'S recommendation that he be suspended for thirty days.

44. Plaintiff alleges that defendant HHC through defendants' IRIS R. JIMINEZ-HERNANDEZ and RICHARD GALARZA racial animosity only intensified because they did not succeed in securing his termination.

45. Plaintiff alleges that the unfair discipline actions against him continued.

46. Plaintiff alleges that on or about September 9, 2006 he was placed in the unfortunate position again of dealing with an unruly patient, Patient No.: 3686, a Hispanic Female.

47. Plaintiff alleges that Nurse Magarita Bradley a direct eyewitness was not interviewed.

48. Plaintiff alleges that defendant HHC through defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS intentionally did not interview Nurse Bradley because she would have supported his version of events.

49. Plaintiff alleges that defendant HHC through defendants' RICHARD GALARZA and MICHELLE J. EMMONS acting as investigators, intentionally did not interview anyone that would have supported his version of events.

50. Plaintiff alleges that defendant HHC through defendants' RICHARD GALARZA and MICHELLE J. EMMONS acting as investigators, interviewed the unruly patient who freely admitted to engaging in violent behavior towards the medical staff who was trying to treat her.

51. Plaintiff alleges that defendant HHC through defendants' IRIS R. JIMINEZ-HERNANDEZ was aware of these facts.

52. Plaintiff alleges that defendant HHC through defendant's IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS despite having the aforementioned knowledge they collectively decided that plaintiff engaged in serious misconduct while assisting the medical staff because he used physical force by slapping Patient No.: 3686 in the face causing her stop assaulting the nurse.

53. Plaintiff alleges that defendant HHC through defendant IRIS R. JIMINEZ-HERNANDEZ then authorized his suspension from September 14, 2006 through October 13 2006.

54. Plaintiff alleges that on or about October 2, 2006 defendant HHC through defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS then served him with formal charges of serious misconduct.

55. Plaintiff alleges that much to his surprise, he was also charged with other offenses not known to him at the time, ranging from failing to perform a proper search and a host of other petty offenses.

56. Plaintiff alleges that defendant HHC through defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS continued with their fervor and zeal to terminate his employment.

57. Plaintiff alleges that during the interim period of time, he was told by his supervisors and other employees that defendant HHC through defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS are going to terminate him.

58. Plaintiff alleges that on or about December 21, 2006 at the Step One Hearing defendant HHC through defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS suggested that he should resign or be terminated.

59. Plaintiff refused.

60. Plaintiff alleges that he believed that defendant HHC through defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS would do anything to secure his termination.

61. Plaintiff alleges that on or about February 5, 2007 defendants' HHC and IRIS R. JIMINEZ-HERNANDEZ relying upon defendant MICHELLE J. EMMONS biased investigation even though she has no law enforcement background determined that he used excessive force against Patient Nos.: 8706 and 3686 as well as other forms of usually non enforced alleged petty offenses.

62. Plaintiff alleges that on or about August 7, 2007 through September 14, 2007 in the OATH Court defendant HHC through defendants' RICHARD GALARZA and MICHELLE J. EMMONS intentionally interfered with his right of access to the courts by withholding exculpatory evidence that could have exonerated him of any wrong-doing.

63. Plaintiff alleges that defendant HHC through defendants' RICHARD GALARZA and MICHELLE J. EMMONS or their designee(s) "lost" a photo array, exculpatory evidence that could have led to his total exoneration with respect to Patient No.: 3686.

64. Plaintiff alleges that defendant HHC through defendants' RICHARD GALARZA and MICHELLE J. EMMONS or their designee(s) "lost" a written statement prepared by Patient No.: 3686.

65. Plaintiff alleges that defendant HHC through defendant MICHELLE J. EMMONS withheld the interview of Patient No.: 3686 a statement that was totally inconsistent with her courtroom testimony.

66. Plaintiff received the interview after Patient No.: 3686 was already cross-examined and released by the court.

67. Plaintiff alleges that defendant HHC through MICHELLE J. EMMONS knew that Patient No.: 3686 testimony was totally inconsistent with her interview but, did nothing to stop it.

68. Plaintiff alleges that the court then refused to strike the misleading testimony of Patient No.: 3686.

69. Plaintiff alleges that defendant HHC through defendant MICHELLE J. EMMONS intentionally interfered with witness Nurse Margarita Bradley intimidating her in such a manner that she did not want to testify for the plaintiff with regard to his use of force against Patient No.: 3686 but, did so reluctantly.

70. Plaintiff alleges that defendant HHC through defendant MICHELLE J. EMMONS intentionally interfered with witness Adama Forgah, who told her two months prior to the OATH Hearing that he was a direct eyewitness to the incident between plaintiff and Patient No.: 8706 another unruly patient but, defendant MICHELLE J. EMMONS intimated that his testimony would not jive with their version and therefore, he would not be called as a witness.

71. Plaintiff alleges that the defendant HHC through defendant MICHELLE J. EMMONS wanted to present a false set of circumstances that he “knocked Patient No.: 87606 down” when in fact he was trying to restrain him.

72. Plaintiff alleges that defendant HHC through defendant MICHELLE J. EMMONS intentionally interfered with witness Adama Forghah intimidating him in such a manner that he did not want to testify for the plaintiff but, did so reluctantly.

73. Plaintiff alleges that again as in the last case against him defendant HHC produced defendant RICHARD GALARZA as a witness who did nothing more than intentionally mislead the court regarding the use of force.

74. Plaintiff alleges that only through cross-examination of defendant HHC witnesses, the Court was able to find out that a Hispanic supervisor very well could have injured Patient No.: 8706 a fact not uncovered in the alleged biased investigation of defendant HHC through defendants' RICHARD GALARZA and MICHELLE J. EMMONS who conveniently overlooked it.

75. Plaintiff alleges that on or about September 21, 2007 defendant HHC through defendant MICHELLE J. EMMONS submitted their closing statement to the court trying to support their circular reasoning for sustaining all charges of misconduct against him.

76. Plaintiff alleges that on or about December 14, 2007 the Court determined that he used excessive force against Patient No.: 3686 and recommended termination.

77. Plaintiff alleges that during defendant HHC through defendants' IRIS R. JIMINEZ; RICHARD GALARZA and MICHELLE J. EMMONS'S relentless campaign to have him terminated, unbeknownst to him, defendant RICHARD GALARZA was engaged in insurance fraud.

78. Plaintiff alleges that on or about January 17, 2008 defendant RICHARD GALARZA was arrested in a joint operation conducted by the Police Department City of New

York and the New York State Department of Insurance along with 60 other criminal defendants' for engaging in insurance fraud.

79. Plaintiff alleges that defendant RICHARD GALARZA was accused of falsely filing and reporting that his 2005 Infiniti was stolen from a park and ride lot in the Bronx while he was working for defendant HHC.

80. Plaintiff alleges that defendant RICHARD GALARZA fraudulently obtained a \$27,875 settlement from the Government Employees Insurance Company aka GEICO.

81. Plaintiff alleges that in accordance with defendant HHC policy, defendant RICHARD GALARZA had to notify defendant HHC and IRIS R. JIMINEZ-HERNANDEZ about his arrest.

82. Plaintiff alleges that even if defendant RICHARD GALARZA did not self-report as required by defendant HHC policy, the Police Department City of New York automatically notifies respective city agencies whenever their employees' are arrested by the NYPD.

83. Plaintiff alleges that defendant HHC and defendant IRIS R. JIMINEZ-HERNANDEZ had actual and constructive knowledge of defendant RICHARD GALARZA'S arrest.

84. Plaintiff alleges that such an arrest seriously calls into question the credibility of defendant RICHARD GALARZA'S statements against him including the courtroom testimony in both of the OATH cases against him.

85. Plaintiff alleges that despite this important development with a central witness against him defendant HHC through defendant IRIS R. JIMINEZ-HERNANDEZ simply discounted the impact on his case.

86. Plaintiff alleges that on or about January 23, 2008 defendant HHC through defendant IRIS R. JIMINEZ-HERNANDEZ terminated his employment.

VIOLATIONS AND CLAIMS ALLEGED

**COUNT I
RACE DISCRIMINATION
IN VIOLATION OF
THE CIVIL RIGHTS ACT OF 1866, 42 U.S.C. § 1981**

87. Plaintiff re-alleges Paragraphs 1 through 86 and incorporates them by reference as Paragraphs 1 through 86 of Count I of this Amended Complaint.

88. Plaintiff alleges that by the aforesaid discriminatory acts and omissions of defendants' HHC; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS acting individually and in their official capacities intentionally interfered with his right to enforce contracts under the color of state law because of his race.

89. Plaintiff alleges that the purpose of defendants' HHC; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS in so acting was to prevent him, through economic and psychological intimidation, from seeking the equal protection of the laws.

90. Plaintiff alleges that pursuant to their conduct, defendants' HHC; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS acted to deprive him of his civil rights, by repeated and insidious acts of harassment, intimidation, bad faith and threats.

91. Plaintiff alleges that as a result of the aforesaid acts, depriving him of his civil rights, he suffered mental anguish, emotional distress, and loss of employment opportunities.

**COUNT II
RETALIATION
IN VIOLATION OF
THE CIVIL RIGHTS ACT OF 1866, 42 U.S.C. § 1981**

92. Plaintiff re-alleges Paragraphs 1 through 91 and incorporates them by reference as Paragraphs 1 through 91 of Count II of this Amended Complaint.

93. Plaintiff alleges that defendants' HHC; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS engaged in various retaliatory actions against him acting individually and in their official capacities as a result of his opposition to race discrimination.

94. Plaintiff alleges that the purpose of defendants' HHC; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS in so acting was to prevent him through economic and psychological intimidation, from seeking the equal protection of the laws.

95. Plaintiff alleges that pursuant to their conduct, defendants' HHC; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS acted to deprive him of his civil rights, by repeated and insidious acts of harassment, intimidation, bad faith and threats.

96. Plaintiff alleges that as a result of the aforesaid acts, depriving him of his civil rights, he suffered mental anguish, emotional distress, and loss of employment opportunities.

**COUNT III
HOSTILE WORK ENVIRONMENT
IN VIOLATION OF
THE CIVIL RIGHTS ACT OF 1866, 42 U.S.C. § 1981**

97. Plaintiff re-alleges Paragraphs 1 through 96 and incorporates them by reference as Paragraphs 1 through 96 of Count III of this Amended Complaint.

98. Plaintiff alleges that defendants' HHC; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS engaged in various severe and hostile actions against him acting individually and in their official capacities as a result of his opposition to race discrimination.

99. Plaintiff alleges that the purpose of defendants' HHC; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS in so acting was to prevent him through economic and psychological intimidation, from seeking the equal protection of the laws.

100. Plaintiff alleges that pursuant to their conduct, defendants' HHC; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS acted to deprive him of his civil rights, by repeated and insidious acts of harassment, intimidation, bad faith and threats.

101. Plaintiff alleges that as a result of the aforesaid acts, depriving him of his civil rights, he suffered mental anguish, emotional distress, and loss of employment opportunities.

**COUNT IV
RACE DISCRIMINATION
IN VIOLATION OF
THE CIVIL RIGHTS ACT OF 1871, 42 U.S.C. § 1983**

102. Plaintiff re-alleges Paragraphs 1 through 101 and incorporates them by reference as Paragraphs 1 through 101 of Count IV of this Amended Complaint.

103. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS under color of law, personally interfered with and deprived him of his constitutional rights, including the rights to be free from deprivation of life, liberty, and property without due process of law.

104. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD

GALARZA and MICHELLE J. EMMONS acting individually and in their official capacities as public officials of Defendant HHC under color of law, and having been fully advised that he was being deprived of his constitutional rights, either acted in a concerted, malicious intentional pattern to further discriminate against him or knowing such discrimination was taking place, knowingly omitted to act to protect him from continuing deprivations of his rights.

105. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS in acting to deprive him of his rights, acted intentionally, knowingly, willfully, and with gross disregard of his rights.

106. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS acted in an outrageous and systematic pattern of discrimination, oppression, bad faith and cover-up, directed at him and continuing from in or around Early 2005 until her was terminated.

107. Plaintiff alleges that as a result of the acts of defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS under color of law, he suffered emotional distress, monetary damage, and incurred medical and legal expenses, and out of pocket expenses for telephone, postage, and other costs of pursuing the claims herein.

**COUNT V
RETALIATION
IN VIOLATION OF
THE CIVIL RIGHTS ACT OF 1871, 42 U.S.C. § 1983**

108. Plaintiff re-alleges Paragraphs 1 through 107 and incorporates them by reference as Paragraphs 1 through 107 of Count V of this Amended Complaint.

109. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS under color of law, personally interfered with and deprived him of his constitutional rights, including the rights to be free from deprivation of life,

liberty, and property without due process of law.

110. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS acting individually and in their official capacities as public officials of Defendant HHC under color of law, and having been fully advised that he was being deprived of his constitutional rights, either acted in a concerted, malicious intentional pattern to further discriminate against him or knowing such discrimination was taking place, knowingly omitted to act to protect him from continuing deprivations of his rights.

111. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS in acting to deprive him of his rights, acted intentionally, knowingly, willfully, and with gross disregard of his rights.

112. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS acted in an outrageous and systematic pattern of discrimination, oppression, bad faith and cover-up, directed at him and continuing from in or around Early 2005 until her was terminated.

113. Plaintiff alleges that as a result of the acts of defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS under color of law, he suffered emotional distress, monetary damage, and incurred medical and legal expenses, and out of pocket expenses for telephone, postage, and other costs of pursuing the claims herein.

**COUNT VI
HOSTILE WORK ENVIRONMENT
IN VIOLATION OF
THE CIVIL RIGHTS ACT OF 1871, 42 U.S.C. § 1983**

114. Plaintiff re-alleges Paragraphs 1 through 113 and incorporates them by reference as Paragraphs 1 through 113 of Count VI of this Amended Complaint.

115. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD

GALARZA and MICHELLE J. EMMONS under color of law, personally interfered with and deprived him of his constitutional rights, including the rights to be free from deprivation of life, liberty, and property without due process of law.

116. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS acting individually and in their official capacities as public officials of Defendant HHC under color of law, and having been fully advised that he was being deprived of his constitutional rights, either acted in a concerted, malicious intentional pattern to further discriminate against him or knowing such discrimination was taking place, knowingly omitted to act to protect him from continuing deprivations of his rights.

117. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS in acting to deprive him of his rights, acted intentionally, knowingly, willfully, and with gross disregard of his rights.

118. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS acted in an outrageous and systematic pattern of discrimination, oppression, bad faith and cover-up, directed at him and continuing from in or around Early 2005 until her was terminated.

119. Plaintiff alleges that as a result of the acts of defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS under color of law, he suffered emotional distress, monetary damage, and incurred medical and legal expenses, and out of pocket expenses for telephone, postage, and other costs of pursuing the claims herein.

**COUNT VII
ABUSE OF AUTHORITY
IN VIOLATION OF
THE CIVIL RIGHTS ACT OF 1871, 42 U.S.C. § 1983**

120. Plaintiff re-alleges Paragraphs 1 through 119 and incorporates them by reference

as Paragraphs 1 through 119 of Count VII of this Amended Complaint.

121. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS under color of law, personally interfered with and deprived him of his constitutional rights, including the rights to be free from deprivation of life, liberty, and property without due process of law.

122. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS acting individually and in their official capacities as public officials of Defendant HHC under color of law, and having been fully advised that he was being deprived of his constitutional rights, either acted in a concerted, malicious intentional pattern to further discriminate against him or knowing such discrimination was taking place, knowingly omitted to act to protect him from continuing deprivations of his rights.

123. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS in acting to deprive him of his rights, acted intentionally, knowingly, willfully, and with gross disregard of his rights.

124. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS acted in an outrageous and systematic pattern of discrimination, oppression, bad faith and cover-up, directed at him and continuing from in or around Early 2005 until her was terminated.

125. Plaintiff alleges that as a result of the acts of defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS under color of law, he suffered emotional distress, monetary damage, and incurred medical and legal expenses, and out of pocket expenses for telephone, postage, and other costs of pursuing the claims herein.

**COUNT VIII
PROCEDURAL DUE PROCESS
IN VIOLATION OF
THE CIVIL RIGHTS ACT OF 1871, 42 U.S.C. § 1983**

126. Plaintiff re-alleges Paragraphs 1 through 125 and incorporates them by reference as Paragraphs 1 through 125 of Count VIII of this Amended Complaint.

127. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS under color of law, personally interfered with and deprived him of his constitutional rights, including the rights to be free from deprivation of life, liberty, and property without due process of law.

128. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS acting individually and in their official capacities as public officials of Defendant HHC under color of law, and having been fully advised that he was being deprived of his constitutional rights, either acted in a concerted, malicious intentional pattern to further discriminate against him or knowing such discrimination was taking place, knowingly omitted to act to protect him from continuing deprivations of his rights.

129. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS in acting to deprive him of his rights, acted intentionally, knowingly, willfully, and with gross disregard of his rights.

130. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS acted in an outrageous and systematic pattern of discrimination, oppression, bad faith and cover-up, directed at him and continuing from in or around Early 2005 until her was terminated.

131. Plaintiff alleges that as a result of the acts of defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS under color of law, he

suffered emotional distress, monetary damage, and incurred medical and legal expenses, and out of pocket expenses for telephone, postage, and other costs of pursuing the claims herein.

**COUNT IX
SUBSTANTIVE DUE PROCESS
IN VIOLATION OF
THE CIVIL RIGHTS ACT OF 1871, 42 U.S.C. § 1983**

132. Plaintiff re-alleges Paragraphs 1 through 131 and incorporates them by reference as Paragraphs 1 through 131 of Count IX of this Amended Complaint.

133. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS under color of law, personally interfered with and deprived him of his constitutional rights, including the rights to be free from deprivation of life, liberty, and property without due process of law.

134. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS acting individually and in their official capacities as public officials of Defendant HHC under color of law, and having been fully advised that he was being deprived of his constitutional rights, either acted in a concerted, malicious intentional pattern to further discriminate against him or knowing such discrimination was taking place, knowingly omitted to act to protect him from continuing deprivations of his rights.

135. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS in acting to deprive him of his rights, acted intentionally, knowingly, willfully, and with gross disregard of his rights.

136. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS acted in an outrageous and systematic pattern of discrimination, oppression, bad faith and cover-up, directed at him and continuing from in or around Early 2005 until her was terminated.

137. Plaintiff alleges that as a result of the acts of defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS under color of law, he suffered emotional distress, monetary damage, and incurred medical and legal expenses, and out of pocket expenses for telephone, postage, and other costs of pursuing the claims herein.

**COUNT X
IMPROPER SUPERVISION
IN VIOLATION OF
THE CIVIL RIGHTS ACT OF 1871, 42 U.S.C. § 1983**

138. Plaintiff re-alleges Paragraphs 1 through 137 and incorporates them by reference as Paragraphs 1 through 137 of Count X of this Amended Complaint.

139. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS under color of law, personally interfered with and deprived him of his constitutional rights, including the rights to be free from deprivation of life, liberty, and property without due process of law.

140. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS acting individually and in their official capacities as public officials of Defendant HHC under color of law, and having been fully advised that he was being deprived of his constitutional rights, either acted in a concerted, malicious intentional pattern to further discriminate against him or knowing such discrimination was taking place, knowingly omitted to act to protect him from continuing deprivations of his rights.

141. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS in acting to deprive him of his rights, acted intentionally, knowingly, willfully, and with gross disregard of his rights.

142. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS acted in an outrageous and systematic pattern of

discrimination, oppression, bad faith and cover-up, directed at him and continuing from in or around Early 2005 until her was terminated.

143. Plaintiff alleges that as a result of the acts of defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS under color of law, he suffered emotional distress, monetary damage, and incurred medical and legal expenses, and out of pocket expenses for telephone, postage, and other costs of pursuing the claims herein.

**COUNT XI
IMPROPER TRAINING
IN VIOLATION OF
THE CIVIL RIGHTS ACT OF 1871, 42 U.S.C. § 1983**

144. Plaintiff re-alleges Paragraphs 1 through 143 and incorporates them by reference as Paragraphs 1 through 143 of Count XI of this Amended Complaint.

145. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS under color of law, personally interfered with and deprived him of his constitutional rights, including the rights to be free from deprivation of life, liberty, and property without due process of law.

146. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS acting individually and in their official capacities as public officials of Defendant HHC under color of law, and having been fully advised that he was being deprived of his constitutional rights, either acted in a concerted, malicious intentional pattern to further discriminate against him or knowing such discrimination was taking place, knowingly omitted to act to protect him from continuing deprivations of his rights.

147. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS in acting to deprive him of his rights, acted intentionally, knowingly, willfully, and with gross disregard of his rights.

148. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS acted in an outrageous and systematic pattern of discrimination, oppression, bad faith and cover-up, directed at him and continuing from in or around Early 2005 until her was terminated.

149. Plaintiff alleges that as a result of the acts of defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS under color of law, he suffered emotional distress, monetary damage, and incurred medical and legal expenses, and out of pocket expenses for telephone, postage, and other costs of pursuing the claims herein.

**COUNT XII
IMPROPER DISCIPLINE
IN VIOLATION OF
THE CIVIL RIGHTS ACT OF 1871, 42 U.S.C. § 1983**

150. Plaintiff re-alleges Paragraphs 1 through 149 and incorporates them by reference as Paragraphs 1 through 149 of Count XII of this Amended Complaint.

151. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS under color of law, personally interfered with and deprived him of his constitutional rights, including the rights to be free from deprivation of life, liberty, and property without due process of law.

152. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS acting individually and in their official capacities as public officials of Defendant HHC under color of law, and having been fully advised that he was being deprived of his constitutional rights, either acted in a concerted, malicious intentional pattern to further discriminate against him or knowing such discrimination was taking place, knowingly omitted to act to protect him from continuing deprivations of his rights.

153. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD

GALARZA and MICHELLE J. EMMONS in acting to deprive him of his rights, acted intentionally, knowingly, willfully, and with gross disregard of his rights.

154. Plaintiff alleges that defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS acted in an outrageous and systematic pattern of discrimination, oppression, bad faith and cover-up, directed at him and continuing from in or around Early 2005 until her was terminated.

155. Plaintiff alleges that as a result of the acts of defendants' IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS under color of law, he suffered emotional distress, monetary damage, and incurred medical and legal expenses, and out of pocket expenses for telephone, postage, and other costs of pursuing the claims herein.

**COUNT XIII
RACE DISCRIMINATION
IN VIOLATION OF
NEW YORK STATE EXECUTIVE LAW § 296**

156. Plaintiff re-alleges Paragraphs 1 through 155 and incorporates them by reference as Paragraphs 1 through 155 of Count XIII of this Amended Complaint.

157. Plaintiff alleges that New York State Executive Law § 296, makes it unlawful to discriminate against any individual in the terms, conditions, or privileges of employment because of their race.

158. Plaintiff alleges that defendants' HHC; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS discriminated against him because of his race.

159. Plaintiff alleges that as a direct and proximate result of the unlawful employment practices of defendants' HHC; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS, he suffered the indignity of race discrimination and great humiliation.

160. Plaintiff alleges that defendants' HHC; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS'S violations caused him mental anguish, emotional distress, and loss of employment opportunities.

**COUNT XIV
RETALIATION
IN VIOLATION OF
NEW YORK STATE EXECUTIVE LAW § 296**

161. Plaintiff re-alleges Paragraphs 1 through 160 and incorporates them by reference as Paragraphs 1 through 160 of Count XIV of this Amended Complaint.

162. Plaintiff alleges that New York State Executive Law § 296, makes it unlawful to discriminate against any individual in the terms, conditions, or privileges of employment because of their race.

163. Plaintiff alleges that the law also makes it unlawful to create an atmosphere where retaliation is encouraged and/or tolerated.

164. Plaintiff alleges that defendants' HHC; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS engaged in various retaliatory actions against him as a result of his opposition to race discrimination and as a result of him filing such complaints with Human Resources.

165. Plaintiff alleges that as a direct and proximate result of the unlawful employment practices of defendants' HHC; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS, he suffered the indignity of race discrimination and great humiliation.

166. Plaintiff alleges that defendants' HHC; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS'S violations caused him mental anguish, emotional distress, and loss of employment opportunities.

**COUNT XV
HOSTILE WORK ENVIRONMENT
IN VIOLATION OF
NEW YORK STATE EXECUTIVE LAW § 296**

167. Plaintiff re-alleges Paragraphs 1 through 166 and incorporates them by reference as Paragraphs 1 through 166 of Count XV of this Amended Complaint.

168. Plaintiff alleges that New York State Executive Law § 296, makes it unlawful to discriminate against any individual in the terms, conditions, or privileges of employment because of their race.

169. Plaintiff alleges that the law also makes it unlawful to create an atmosphere where race discrimination and/or retaliation are encouraged and/or tolerated.

170. Plaintiff alleges that defendants' HHC; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS engaged in various hostile actions against him as a result of his opposition to race discrimination and as a result of him filing such complaints with Human Resources.

171. Plaintiff alleges that as a direct and proximate result of the unlawful employment practices of defendants' HHC; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS, he suffered the indignity of race discrimination and great humiliation.

172. Plaintiff alleges that defendants' HHC; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS'S violations caused him mental anguish, emotional distress, and loss of employment opportunities.

**COUNT XVI
RACE DISCRIMINATION
IN VIOLATION OF
NEW YORK CITY ADMINISTRATIVE CODE § 8-107**

173. Plaintiff re-alleges Paragraphs 1 through 172 and incorporates them by reference

as Paragraphs 1 through 172 of Count XVI of this Amended Complaint.

174. Plaintiff alleges that New York City Administrative Code § 8-107, makes it unlawful to discriminate against any individual in the terms, conditions, or privileges of employment because of their race.

175. Plaintiff alleges that defendants' HHC; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS discriminated against him because of his race.

176. Plaintiff alleges that as a direct and proximate result of the unlawful employment practices of defendants' HHC; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS, he suffered the indignity of race discrimination and great humiliation.

177. Plaintiff alleges that defendants' HHC; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS'S violations caused him mental anguish, emotional distress, and loss of employment opportunities.

**COUNT XVII
RETALIATION
IN VIOLATION OF
NEW YORK CITY ADMINISTRATIVE CODE § 8-107**

178. Plaintiff re-alleges Paragraphs 1 through 177 and incorporates them by reference as Paragraphs 1 through 177 of Count XVII of this Amended Complaint.

179. Plaintiff alleges that New York City Administrative Code § 8-107, makes it unlawful to discriminate against any individual in the terms, conditions, or privileges of employment because of their race.

180. Plaintiff alleges that the law also makes it unlawful to create an atmosphere where retaliation is encouraged and/or tolerated.

181. Plaintiff alleges that defendants' HHC; IRIS R. JIMINEZ-HERNANDEZ;

RICHARD GALARZA and MICHELLE J. EMMONS engaged in various retaliatory actions against him as a result of his opposition to race discrimination and as a result of him filing such complaints with Human Resources.

182. Plaintiff alleges that as a direct and proximate result of the unlawful employment practices of defendants' HHC; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS, he suffered the indignity of race discrimination and great humiliation.

183. Plaintiff alleges that defendants' HHC; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS'S violations caused him mental anguish, emotional distress, and loss of employment opportunities.

**COUNT XVIII
HOSTILE WORK ENVIRONMENT
IN VIOLATION OF
NEW YORK CITY ADMINISTRATIVE CODE § 8-107**

184. Plaintiff re-alleges Paragraphs 1 through 183 and incorporates them by reference as Paragraphs 1 through 183 of Count XVIII of this Amended Complaint.

185. Plaintiff alleges that New York City Administrative Code § 8-107, makes it unlawful to discriminate against any individual in the terms, conditions, or privileges of employment because of their race.

186. Plaintiff alleges that the law also makes it unlawful to create an atmosphere where race discrimination and/or retaliation are encouraged and/or tolerated.

187. Plaintiff alleges that defendants' HHC; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS engaged in various hostile actions against him as a result of his opposition to race discrimination and as a result of his filing such complaints with Human Resources.

188. Plaintiff alleges that as a direct and proximate result of the unlawful employment

practices of defendants' HHC; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS, he suffered the indignity of race discrimination and great humiliation.

189. Plaintiff alleges that defendants' HHC; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS'S violations caused him mental anguish, emotional distress, and loss of employment opportunities.

JURY TRIAL


190. Plaintiff demands a trial by jury of all issues in this action that are so triable.

PRAYER FOR RELIEF

Wherefore, plaintiff demands compensatory and punitive damages from defendants' HHC; IRIS R. JIMINEZ-HERNANDEZ; RICHARD GALARZA and MICHELLE J. EMMONS jointly and severally, plus any and all available statutory remedies, both legal and equitable, interests and costs.

Dated: September 6, 2011
New York, NY

Respectfully submitted,

By: 
Eric Sanders (ES0024)

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