UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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EVA MARIE E. RUSSO-LANE,

Plaintiff,

-against-

THE CITY OF NEW YORK; ARNOLD S. WECHSLER, as Director, Employee Management Division, being sued individually and in his official capacities as employees of Defendant CITY OF NEW YORK

Defendants'

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FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.
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BROOKLYN OFFICE

Complaint

Jury Trial Demand

11 - 6191

GARAUFIS, J.

J. ORENSTEIN, M.J.

The plaintiff EVA MARIE E. RUSSO-LANE by her attorney The Sanders Firm, P.C., as and for her complaint against defendants' THE CITY OF NEW YORK and ARNOLD S. WECHSLER, respectfully set forth and allege that:

INTRODUCTION

This is an action for equitable relief and money damages on behalf of the plaintiff EVA MARIE E. RUSSO-LANE, (hereinafter referred to as "plaintiff") who was and is being deprived of her statutory rights as an employee as a result of defendants' THE CITY OF NEW YORK and ARNOLD S. WECHSLER'S gender discrimination.

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. Title VII of the Civil Rights Act of 1964 (hereinafter referred to as "Title VII") providing for injunctive and other relief against discrimination in employment on the basis of gender; and

   b. the Civil Rights Act of 1871, 42 U.S.C. § 1983, providing for the protection

of all persons in her 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 1871.

6. Plaintiff alleges that on or about April 28, 2011, she sought assistance from the United States Equal Employment Opportunity Commission (hereinafter referred to as the "EEOC").

7. Plaintiff alleges that on or about September 23, 2011, she received a Dismissal and Notice of Right to Sue from the United States Department of Justice.

PLAINTIFF

8. Plaintiff EVA MARIE E. RUSSO-LANE is a female citizen of the United States of America and is over twenty-one (21) years of age, a resident of Kings County and is an employee of defendant THE CITY OF NEW YORK (hereinafter referred to as the "CITY") more specifically

the Police Department City of New York (hereinafter referred to as the "NYPD"). For the purposes of this litigation, defendant CITY may be identified interchangeably using CITY or NYPD to identify the employer which is the CITY.

DEFENDANTS'

9. Defendant CITY was and is a municipal corporation organized and existing under and by virtue of the law of the State of New York, and at all relevant times Plaintiff's employer, with its central offices in the county of New York, and diverse other offices and facilities throughout the world.

10. Defendant ARNOLD S. WECHSLER, as Director, Employee Management Division.

BACKGROUND

11. Plaintiff alleges that on or about October 20, 1997, she was hired as an Agency Attorney Intern.

12. Plaintiff is temporarily assigned to the Military and Extended Leave Desk (MELD) while on maternity leave but, once her maternity leave is over, she will return to her assignment as an Agency Attorney Level 4 with the Civil Enforcement Unit.

13. Plaintiff alleges that throughout her employment she has been rated well above average.

14. Plaintiff alleges that throughout her employment Assistant Deputy Commissioner Legal Matters Thomas P. Doepfner and Assistant Commissioner Civil Enforcement Unit Robert Messner had several discussions with her promising to consider her for promotion to Executive Agency Counsel but, have not done so due to alleged budgetary considerations.

15. Plaintiff alleges that either in or around Late November or Early December 2010,

Assistant Commissioner Messner sent an UF 49 Interoffice Memorandum to Assistant Deputy Commissioner Doepfner recommending that she be promoted to Executive Agency Counsel.

16. Plaintiff alleges Assistant Deputy Commissioner Doepfner supported Assistant Commissioner Messner's recommendation and forwarded it to defendant CITY through defendant ARNOLD S. WECHSLER for final approval.

17. Plaintiff alleges that both Assistant Deputy Commissioner Doepfner and Assistant Commissioner Messner were fully aware that she was eight months pregnant but, felt that her temporary disability would not affect her ability to perform the duties and responsibilities of Executive Agency Counsel.

18. Plaintiff alleges that shortly thereafter, defendants' CITY and ARNOLD S. WECHSLER through their designee a female employee assigned to the Employee Management Division interviewed her at the Civil Enforcement Unit.

19. Plaintiff alleges that immediately thereafter, the female employee also interviewed Assistant Commissioner Messner.

20. Plaintiff alleges that both interviews went very well and believed that she would be promoted on or about December 23, 2010.

21. Plaintiff alleges that on or about December 9, 2010, she was told by Assistant Commissioner Messner that defendant ARNOLD S. WECHSLER would not approve the promotion because she was scheduled to begin maternity leave shortly after the promotion ceremony.

22. Plaintiff alleges that defendant ARNOLD S. WECHSLER told Assistant Commissioner Messner "Why should we promote her if she is going out on maternity leave in January?"

23. Plaintiff alleges that Assistant Commissioner Messner also told her that defendant ARNOLD S. WECHSLER reviewed her Sick Record and felt that she "used too much sick time."

24. Plaintiff alleges that the sick time used was reasonable and related her pregnancy.

25. Plaintiff alleges that on or about December 23, 2010, the promotion ceremony was held at One Police Plaza and she was not promoted.

26. Plaintiff alleges that her name did not appear on the FINEST Message announcing promotions throughout the Department.

27. Plaintiff alleges that no one spoke with her regarding defendants' CITY and ARNOLD S. WECHSLER'S failure to promote her.

28. Plaintiff alleges that on or about January 10, 2011, she left for maternity leave.

29. Plaintiff alleges that on or about January 20, 2011, she gave birth.

30. Plaintiff alleges that on or about April 29, 2011, defendant CITY through defendant ARNOLD S. WECHSLER promoted Doram Tamari, a male to the position of Executive Agency Counsel.

31. Plaintiff alleges that defendants' CITY and ARNOLD S. WECHSLER failed to promote her to Executive Agency Counsel due to her gender.

VIOLATIONS AND CLAIMS ALLEGED

COUNT I
GENDER DISCRIMINATION
IN VIOLATION OF
TITLE VII OF THE CIVIL RIGHTS ACT OF 1964

32. Plaintiff re-alleges Paragraphs 1 through 31 and incorporates them by reference as Paragraphs 1 through 31 of Count I of this Complaint.

33. Plaintiff alleges that defendant CITY through its agents engaged in a pattern and

practice of discrimination against her with respect to the terms, conditions and privileges of employment because of her gender.

34. Plaintiff alleges that defendant CITY through its agents' intentional actions caused her to be denied a rightly earned promotion to Executive Agency Counsel.

35. Plaintiff alleges that as a result of the acts of defendant CITY through its agents' she suffered emotional distress, humiliation and embarrassment, medical and legal expenses, and out of pocket expenses for telephone, postage, and other costs of pursuing the claims herein.

COUNT II
GENDER DISCRIMINATION
IN VIOLATION OF
THE CIVIL RIGHTS ACT OF 1871, 42 U.S.C. § 1983

36. Plaintiff re-alleges Paragraphs 1 through 35 and incorporates them by reference as Paragraphs 1 through 35 of Count II of this Complaint.

37. Plaintiff alleges that defendant ARNOLD S. WECHSLER under color of law personally interfered with and deprived her of her constitutional rights, including the right to be free from deprivation of life, liberty, and property.

38. Plaintiff alleges that defendant ARNOLD S. WECHSLER acting individually and in his official capacity as a public official of defendant CITY under color of law, and having been fully advised that she was being deprived of her constitutional rights, either acted in a concerted, malicious intentional pattern to further discriminate against her, or knowing such discrimination was taking place, knowingly omitted to act to protect her from continuing deprivations of her rights.

39. Plaintiff alleges that defendant ARNOLD S. WECHSLER in acting to deprive her of her rights, acted intentionally, knowingly, willfully, and with gross disregard of her rights.

40. Plaintiff alleges that as a result of the acts of defendant ARNOLD S. WECHSLER

under color of law, she 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 III
GENDER DISCRIMINATION
IN VIOLATION OF
NEW YORK STATE EXECUTIVE LAW § 296

41. Plaintiff re-alleges Paragraphs 1 through 40 and incorporates them by reference as Paragraphs 1 through 40 of Count III of this Complaint.

42. 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 gender.

43. Plaintiff alleges that defendants' CITY and ARNOLD S. WECHSLER through their agents' intentional actions caused her to be denied a rightly earned promotion to Executive Agency Counsel.

44. Plaintiff alleges that as a direct and proximate result of the unlawful employment practices of defendants' CITY and ARNOLD S. WECHSLER, she suffered the indignity of gender discrimination and great humiliation.

45. Plaintiff alleges that defendants' CITY and ARNOLD S. WECHSLER'S violations caused her mental anguish, emotional distress, and loss of employment opportunities.

COUNT IV
GENDER DISCRIMINATION
IN VIOLATION OF
NEW YORK CITY ADMINISTRATIVE CODE § 8-107

46. Plaintiff re-alleges Paragraphs 1 through 45 and incorporates them by reference as Paragraphs 1 through 45 of Count IV of this Complaint.

47. 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 gender.

48. Plaintiff alleges that defendants' CITY and ARNOLD S. WECHSLER through their agents' intentional actions caused her to be denied a rightly earned promotion to Executive Agency Counsel.

49. Plaintiff alleges that as a direct and proximate result of the unlawful employment practices of defendants' CITY and ARNOLD S. WECHSLER, she suffered the indignity of gender discrimination and great humiliation.

50. Plaintiff alleges that defendants' CITY and ARNOLD S. WECHSLER'S violations caused her mental anguish, emotional distress, and loss of employment opportunities.

JURY TRIAL

51. 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' CITY and ARNOLD S. WECHSLER jointly and severally, in an amount to be determined at trial, plus any and all available statutory remedies, both legal and equitable, and interests and costs.

Dated: December 19, 2011
New York, NY

Respectfully submitted,

By: _____
Eric Sanders (ES0224)

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