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

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SAMUEL YEE

Plaintiff,

-against-

CITY OF NEW YORK, AMY LITWIN, Individually, KATHRYN FALASCA, Individually And MICHAEL MELOCOWSKY, Individually

Defendants'.

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Index No.

SUMMONS

Plaintiff designates New York County as the place of trial.

Venue is based on Plaintiff's Residence

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your Answer, or if the complaint is not served with the summons, to serve a notice of appearance on Plaintiff's attorney within twenty (20) days after service of this summons, exclusive of the day of service, (or within thirty (30) days after service is complete, if this summons is not personally delivered to you within the State of New York); and in case of your failure to answer, judgment will be taken against you by default for the relief demanded hereto.

Dated: New York, New York
February 11, 2023

Yours, etc.

/s/

John Scola
Law Office of John A. Scola, PLLC
Attorneys for Plaintiff Samuel Yee
90 Broad Street, Suite 1023
New York, New York 10004
(917) 423-1445

DEFENDANTS ADDRESS:
CITY OF NEW YORK
Corporation Counsel of the City
Of New York
100 Church Street
New York, NY 10007

AMY LITWIN
One Police Plaza
New York, NY 10038

KATHRYN FALASCA
One Police Plaza
New York, NY 10038

MICHAEL MELOCOWSKY
One Police Plaza
New York, NY 10038

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

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SAMUEL YEE,

Index No.:

Plaintiff,

VERIFIED COMPLAINT

-against-

JURY DEMAND

CITY OF NEW YORK, AMY LITWIN,
Individually, KATHRYN FALASCA, Individually
And MICHAEL MELOCOWSKY, Individually

Defendants'.

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The Plaintiff, SAMUEL YEE, by his attorneys the LAW OFFICE OF JOHN A. SCOLA, PLLC., as and for his verified complaint against defendants' CITY OF NEW YORK, AMY LITWIN, Individually, KATHRYN FALASCA, Individually, and MICHAEL MELOCOWSKY, Individually (collectively referred to as "Defendants") for gender discrimination, race discrimination, hostile work environment, and retaliation pursuant to New York State Executive Law §296, and New York City Administrative Code §8-107 et al.

INTRODUCTION

This is a civil rights action on behalf of Plaintiff SAMUEL YEE (hereinafter referred to as "Plaintiff") to vindicate his rights to be free from gender discrimination, race discrimination, a hostile work environment, and retaliation pursuant to New York State Executive Law §296, and New York City Administrative Code §8-107 et al. as well as multiple negligence claims against the Defendant CITY OF NEW YORK (hereinafter referred to as "CITY"), AMY LITWIN, Individually (hereinafter referred to as "LITWIN"), KATHRYN FALASCA, Individually (hereinafter referred to as "FALASCA"), and MICHAEL MELOCOWSKY, Individually (hereinafter referred to as "MELOCOWSKY"). More specifically, Plaintiff seeks

compensatory, emotional distress and punitive damages against all Defendants as well as attorney's fees related to the deprivation of Plaintiff's rights secured by New York State Executive Law § 296, and New York City Local Law §8-107 et al.

At all times herein, Plaintiff was a member of a protected class (race, gender, and skin color) who performed his job duties in an exemplary manner. Plaintiff was subjected to adverse actions as a result of and in retaliation for his membership in that protected classes as described below. Plaintiff was further retaliated against for engaging in protecting activity in a way that would deter others from engaging in protected activity.

PLAINTIFF

1. Plaintiff SAMUEL YEE is a male citizen of the United States of America, over twenty-one (21) years of age, resident of New York County who unlawfully suffered discrimination and retaliation while working as an Assistant Department Advocate for the New York City Police Department (hereinafter referred to as "NYPD").
2. Plaintiff is an Asian- American male over the age of 50 years old..

DEFENDANTS

3. Defendant the CITY OF NEW YORK is a municipal corporation organized and existing under and by virtue of the law of the State of New York.
4. Defendant, a white woman, AMY LITWIN, is a Deputy Commissioner in the New York City Police Department and is employed by the Defendant CITY OF NEW YORK.
5. Defendant, a younger white woman, KATHRYN FALASCA is a Director and Special Counsel in the New York City Police Department and is employed by the Defendant CITY OF NEW YORK.
6. Defendant, a white man, MICHAEL MELOCOWSKY, is an Executive Director in the

New York City Police Department and is employed by the Defendant CITY OF NEW YORK

7. Defendant CITY, and their agency the NYPD, are equal opportunity employers which prohibit discriminatory employment actions against, and treatment of, their employees and applicants for employment based on actual or perceived race, color, national origin, alienage or citizenship status, religion or creed, gender (including "gender identity" -- which refers to a person's actual or perceived sex, and includes self-image, appearance, behavior or expression, whether or not different from that traditionally associated with the legal sex assigned to the person at birth), disability, age (18 and over), military status, prior record of arrest or conviction, marital status, partnership status, genetic information or predisposing genetic characteristic, sexual orientation, status as a victim or witness of domestic violence, sex offenses or stalking, and unemployment status.

PLAINTIFF'S FACTUAL ALLEGATIONS

8. Plaintiff graduated from the American University, Washington College of Law in May 1995.

9. Plaintiff was first admitted as an attorney in the District of Columbia on October 5, 1995.

10. After becoming an attorney, Plaintiff worked as a volunteer attorney for the Montgomery County Office of the State's Attorney in Maryland from November 1995 to March 1996.

11. Plaintiff clerked for the Honorable Herbert Dixon Jr. Judge of the District of Columbia Superior Court from March 1996 until September 1997.

12. Plaintiff then worked in Florida for the Office of the State Attorney for the 18th Judicial

Circuit as an Assistant State Attorney from October 1997 until May 2000.

13. Plaintiff then worked in Maryland for the Office of the State's Attorney For Baltimore City from June 2000 until November 2007 as an Assistant State's Attorney.

14. In this role Plaintiff was responsible for trying over fifty (50) felony jury trials including over thirty (30) first degree murder trials as solo counsel.

15. In 2007, Plaintiff began his employment with the New York Attorney General's Office at which he handled complex white-collar investigations until May 2013.

16. Plaintiff worked in private practice for a short time thereafter before joining the NYPD.

17. Plaintiff joined the NYPD in February 2014 as an Assistant Advocate 1.

18. At the time he joined the NYPD, Plaintiff had over eighteen (18) years of experience as an attorney.

19. Plaintiff was promoted to an Assistant Advocate 2 in 2017.

20. Following a union complaint, Plaintiff was forced to join the union as an Agency Attorney 2.

21. From 2017 until he was transferred in a retaliatory manner, Plaintiff excelled in his role as an Assistant Department Advocate in the NYPD's Department Advocate's Office ("DAO").

22. From 2017 until he was transferred in a retaliatory manner, Plaintiff held the role of an Assistant Department Advocate,

23. As an Assistant Department Advocate, Plaintiff acts as a NYPD prosecutor wherein he prosecutes NYPD employees who are in violation of the NYPD's Patrol or Administrative Guide.

24. DAO's role is to address misconduct within the Department.

25. When a NYPD employee is subject to discipline following an investigation performed by one of the Departments' internal investigatory units (Internal Affairs Bureau ["IAB"], Equal Employment Opportunity Division ["EEOD"], etc.), the disciplinary proceedings are handled by DAO.

26. As an Assistant Department Advocate, Plaintiff acted as a prosecutor for the NYPD.

27. From the date he was hired until his retaliatory transfer, Plaintiff excelled at his role as an Assistant Department Advocate.

28. Plaintiff was responsible for handling significantly more cases than his peers as well as handling many sensitive, complex, or high-profile cases.

29. As a result of his stellar performance as an Assistant Department Advocate, Plaintiff is often required to work significant overtime as well as from his home as he is tasked with prosecuting the highest profile NYPD disciplinary cases and is entrusted to handle one of the DAO's heaviest caseloads.

30. As a result of this workload and the complexity and sensitivity of his cases, Plaintiff regularly worked long hours outside the normal workday in an effort to handle his ever-growing case load, including at home, to represent the Department zealously and effectively.

31. For the past seven (7) years, Plaintiff has received Well Above Standards Performance Evaluations.

32. In May 2020, Defendant LITWIN became the Deputy Commissioner of the Department Advocate's Office.

33. Prior to taking this position, Defendant LITWIN worked as a prosecutor for the Bronx County District Attorney's Office.

34. From the point Defendant LITWIN took control of the Department Advocates Office until the present date, she has engaged in a pattern of systematic discrimination against more qualified and experienced minority attorneys, including Plaintiff, to the benefit of younger, less experienced, and less qualified white women.

35. Defendant LITWIN in Summer of 2020, began to shift the structure of DAO so that the cases could be reassigned in order to place the younger, less experienced, and less qualified white women in more lucrative positions.

36. Defendant LITWIN began to systematically remove minority attorneys from having any contact with EEO (discrimination), domestic violence, and sex offenses cases.

37. There was no basis for this discriminatory treatment as the minority attorneys in DAO had a history of successfully handling victim-based cases.

38. Since being hired, Plaintiff has successfully prosecuted several domestic violence and equal employment opportunity (EEO) cases.

39. Defendant FALASCA was hired as an Agency Attorney 3 in January 2021.

40. The position handed to Defendant FALASCA was two (2) levels of above the entry level that Plaintiff and others had begun their careers.

41. Plaintiff was also promoted to Agency Attorney 3 on January 29, 2021.

42. It took Plaintiff three and a half (3.5) years to be promoted for the first time after he joined the NYPD, and it took three (3) additional years to be promoted to Agency Attorney 3.

43. Despite having seventeen (17) years more experience than Defendant FALASCA as an attorney and seven (7) years more with the NYPD, they held the same title.

44. For seven (7) months, Defendant FALASCA and Plaintiff held the same title until

Defendant LITWIN decided to promote her friend, Defendant FALASCA, repeatedly, to even-higher executive-level positions based on her race, skin color and gender.

45. Unknown to Plaintiff at that time, upon hiring, Defendant FALASCA was promised by Defendant LITWIN an additional promotion to Executive Agency Counsel as soon as this promotion became available.

46. In May 2021, a younger white woman-attorney Anna Krutaya was promoted from Agency Attorney 2 to Agency Attorney 3.

47. Krutaya was given the same title as Plaintiff despite having sixteen (16) less years as an attorney.

48. In the Summer 2021, Defendant LITWIN began to create a victim-focused specialization team in an effort to manufacture higher paying positions for younger white women attorneys.

49. The effects of this act were to remove minority attorneys from victim cases which were subsequently used as the basis to promote younger white women-attorneys at DAO in lieu of more qualified minority employees, including Plaintiff.

50. Until recently, DAO had three trial teams – Teams A, B, and C – as well as a Civilian Team.

51. The Trial Teams handle matters where the individual being subject to disciplinary proceedings is a uniformed member of the service.

52. Trial Team C, referred to as the Special Victims Team, specifically handles matters involving sex offenses, domestic violence, and EEO related matters.

53. The Civilian team handles cases in which civilian Department employees are being subjected to disciplinary proceedings.

54. Each Trial Team and the Civilian Team is supposed to have a Managing Attorney and Deputy Managing Attorney overseeing each Team.

55. Following the addition of Team C, white attorneys and especially younger white women were almost exclusively chosen for Team C despite having less seniority and less experience than similarly situated minority attorneys including Plaintiff.

56. On July 15, 2021, younger white woman attorney Lauren Silverstein was promoted from Agency Attorney 1 to Agency Attorney 2, less than two years after being hired by the NYPD.

57. By contrast, Plaintiff, was promoted to Agency Attorney 2, after 3.5 years.

58. Attorney Penny Bluford-Garrett, a Black woman, joined the NYPD as an attorney in 2005 and as of 2019 holds the title of Agency Attorney 4.

59. After joining the NYPD as an Attorney Agency 1, Attorney Penny Bluford-Garrett was promoted to Agency Attorney 2 on May 30, 2008 and Agency Attorney 3 on January 7, 2013.

60. Attorney Penny Bluford-Garrett was promoted to Agency Attorney IV on November 26, 2019.

61. In the Summer of 2021, a posting was listed for two (20 Executive Agency Counsel positions but was only posted for one (1) week on a New York City jobs site before it was abruptly taken down.

62. Due to the short time the posting was live, Plaintiff was unable to apply despite being the most qualified for the position.

63. Upon information and belief, the job posting was removed abruptly as Defendant LITWIN had already determined that one of positions would be given to a younger

white woman, Defendant FALASCA.

64. Plaintiff was unable to apply for this position as the job posting was posted and then quickly taken down within a week.

65. Around August 2, 2021, the job posting for Executive Agency Counsel was taken down abruptly.

66. On August 2, 2021, Defendant FALASCA was promoted to Executive Agency Counsel (M1).

67. Despite posting the job publicly, the Defendants knew that Defendant FALASCA would be given the position as it was already predetermined when Defendant FALASCA was initially hired.

68. The posting was a mere window dressing as it was predetermined that defendants were going to promote the younger white woman Defendant FALSACA.

69. The job posting for this position, which was predetermined by Defendant LITWIN, was only posted for a short time and as a result Plaintiff was unable to submit his application before it was removed.

70. With this promotion, Defendant FALASCA took charge of handling all future EEO cases and overseeing Team C cases.

71. Defendant FALSACA was not EEO certified before taking over this position.

72. Plaintiff, however, had completed the New York City Police Department Seven-Day Joint Cornell/NYPD Internal Investigations Course, yet was stripped of these cases.

73. Defendant FALASCA took the position from Plaintiff, allegedly because she had more experience than Plaintiff handling victims' cases previously at the Bronx County District Attorney's office.

74. Prior to joining the NYPD, Defendant FALASCA had nine (9) years' experience as an attorney.

75. Comparatively, Plaintiff had over twenty-six (26) years' experience as an attorney.

76. Before Defendant FALASCA was admitted to practice law, Plaintiff had already tried over thirty (30) murder cases as solo counsel in Baltimore City, Maryland.

77. The second Executive Agency Counsel position given to a white male, Daniel Maurer, who had worked over seventeen (17) years at DAO on October 11, 2021.

78. In the Summer of 2020, Anna Krutaya, was given a Deputy Managing Attorney position on a Trial Team to work under Managing Attorney Penny Bluford-Garrett, despite having significantly less experience as an attorney than Plaintiff.

79. Krutaya was chosen over Plaintiff who had more experience with the NYPD and as attorneys.

80. Similarly, in the Summer of 2021, Attorney Krutaya was appointed the Managing Attorney of Trial Team C, again with less relevant experience, including disciplinary trial experience, than Plaintiff.

81. On November 8, 2021, without any job posting announcing a third Executive Agency Counsel position, Defendant LITWIN hired attorney Emily Collins to an Executive Counsel Position.

82. Collins is a younger woman attorney with a lighter skin color.

83. The Defendants claim that Collins was interviewed by Defendant LITWIN as part of the previous Executive Agency Counsel search.

84. Defendant LITWIN, allegedly based on that interview, determined that she wanted to hire Collins but in an Agency Attorney IV role.

85. Defendant LITWIN then contacted NYPD Personnel Bureau and was told that it would be faster to hire Collins not as an Agency Attorney IV but as an Executive Agency Counsel.

86. As a result, Collins was hired as an Executive Agency Counsel.

87. Upon information and belief, no Agency Attorney IV nor Executive Agency Counsel position job posting was listed publicly for the position given to Collins.

88. In this role, attorney Collins became an executive level manager who oversaw trial work and helped with office management.

89. Collins, according to the NYPD's Legal Bureau, is in charge of Trials and Litigation.

90. This position is significantly higher than Plaintiff's title and given to Collins despite having no disciplinary trial experience.

91. Plaintiff was similarly situated to Collins in every way but for their race, skin color and gender, had more experience and was better qualified, yet he was passed over and not even considered for this unposted position to Executive Agency Counsel due to his race, skin color and gender.

92. Plaintiff in all regards was more qualified than Collins given that he had extensive trial experience, victim-based experience, training in EEO investigations and based on his greater experience at DAO.

93. Defendant LITWIN, without interviewing anyone else for this new role, hired Collins for the position that was created out of thin air.

94. The Defendants subsequently claimed that Collins was hired because she had more extensive trial experience and qualifications.

95. This proffered excuse for the hiring of Collins is pretextual for discrimination.

96. Prior to being hired for this executive role, Collins had only fifteen (15) years of experience as an attorney.

97. Contrary to Collins, Plaintiff had more than a dozen years more experience as an attorney and had substantial trial experience, including over fifty (50) jury trials and thirty (30) homicide cases as a solo counsel which is rare for someone who practices in New York.

98. Plaintiff further had significantly more disciplinary case experience.

99. Upon information and belief, Plaintiff had significantly more experience than Collins yet was denied the position due to his race, skin color and gender.

100. Upon information and belief, no minority candidate from DAO or elsewhere was interviewed prior to Collins being placed in this executive role.

101. Defendant LITWIN, since being hired, has systematically and adversely treated minority attorneys in DAO as they have been repeatedly passed over for promotion and, at times, removed from the unit.

102. Plaintiff was similarly situated to Defendant FALASCA and Collins in every way but for their race, skin color, and gender, and even had stronger experience and qualifications yet he was passed over for this promotion to Executive Agency Counsel due to his race, skin color, and gender.

103. Plaintiff in all regards was more qualified to run Team C or to be given an Executive Agency Counsel position given that he had extensive trial experience, victim-based experience, and had successfully completed the "New York City Police Department Seven-Day Joint Cornell/NYPD Internal Investigations Course, wherein he was trained in EEO investigations.

104. Upon information and belief, no other attorney in Team C including but not limited to Defendant FALASCA, had previously been trained in EEO investigations nor previously handled an EEO trial.

105. Plaintiff lost suffered significant economic damages as a result of not being promoted to Executive Agency Counsel due to his race, skin color, and gender.

106. Plaintiff filed a complaint of discrimination and nepotism with the New York City Department of Investigation on August 2, 2021.

107. The New York City Department of Investigation declined to investigate and recommended that Plaintiff file a complaint with an equal employment agency.

108. On October 1, 2021, Plaintiff was overheard by a former employee state that he believed Defendant LITWIN was racist based on her repeated harassment of his work.

109. The allegation against Defendant LITWIN was reported as an allegation of discrimination to Internal Affairs who subsequently informed the Office of Equal Employment.

110. Plaintiff was reluctant to file a complaint of discrimination with the Office of Equal Employment as Defendant MELOCOWSKY was close to, friendly with and/or seen leaving work with or visiting Defendants LITWIN and FALASCA.

111. In the Fall of 2021, minority Attorney Penny Bluford-Garrett need a secondary supervisor.

112. Bluford-Garett and/or Daniel Maurer recommended to Defendant LITWIN that Plaintiff be assigned to the role.

113. Defendant LITWIN, showing her discriminatory animus, stated that Plaintiff, despite decades of experience, could not be given a supervisor position.

114. As a result of Defendant LITWIN refusing to promote Plaintiff to a supervisory role, Plaintiff is ineligible for several positions in the NYPD and thwarts his upward mobility.

115. Plaintiff not only loses the chance to be promoted but also is not eligible for salary increases associated with these promotions that require previous supervisory experience.

116. Further, this lack of supervisory experience prevents from Plaintiff being promoted through positions at the NYPD Legal Bureau, Risk Management Bureau, other commands that require supervisory experience and hinders his ability to apply for outside positions which require supervisory experience.

117. Plaintiff filed a preliminary complaint with the New York City Commission on Civil Rights on November 17, 2021.

118. Plaintiff was not immediately contacted by the New York City Commission of Civil Rights and thus did not formalize his complaint with that agency.

119. As a result of the creation of Team C, minority employee are subjected to disparate treatment in their assignments and pay.

120. In these roles, white attorneys, and in particular younger women attorneys, are paid more money than their minority counterparts yet are responsible for less work.

121. The young white women attorneys for Team C are exempted from handling the types of misconduct cases which make up the vast majority of DAO's cases.

122. The attorneys for Team C are assigned simple cases which are straight forward and do not require complex investigations nor are they assigned command discipline cases which results in a significantly lesser case load.

123. Younger white women are also given higher base salaries than their minority

counterparts, including Plaintiff.

124. Specifically, Collins base salary at that time is $140,000 per year and Defendant FALASCA is paid a base salary of $133,877 per year.

125. By contrast Plaintiff's base salary is $117,541 per year, approximately $23,000 less than Collins and nearly $17,000 less than Defendant FALASCA, respectively.

126. Most of the minority employees are not paid at a comparable level to their white counterparts.

127. Attorney, Penny Bluford-Garrett, an African American woman, has a base salary of $125,681.

128. Attorney, Christopher Henry, an African American male, has a base salary of $110,000.

129. Attorney Javier Seymore, a Black male has a base salary of $125,681.

130. Attorney Jamie Moran, a Hispanic female, has a base salary of $113,665.

131. Attorney Ayisha Amjad is half Asian and half Hispanic female has a base salary of $84,748.

132. While minority attorneys do get overtime, this overtime is needed to get to the same level as the base pay given to younger white women attorneys who are favored by Defendant LITWIN.

133. Plaintiff was passed over for these positions due to his race, skin color, and gender.

134. Plaintiff was more qualified for these positions yet were passed over for the positions due to his race, skin color, and gender.

135. Plaintiff further had more relevant experience, more trial experience, was EEO trained and had more victim-based experience than the younger white women hand chosen by the Defendants.

136. Upon information and belief, Plaintiff is the only EEO trained attorney on a Trial Team in DAO.

137. Minority attorneys Plaintiff, Penny Bluford-Garrett, Christopher Henry, Javier Seymore, Jamie Moran, and Ayisha Amjad are paid less money than their white counterparts and tasked with greater responsibilities and handle more cases.

138. Minority attorneys, Plaintiff, Penny Bluford-Garrett, Christopher Henry, Javier Seymore, Jamie Moran, and Ayisha Amjad are all similarly situated to white attorneys Collins and Defendant FALSACA in that they have essentially the same duties, responsibilities, experience, (including for some of them as supervisors), and training, while also having significantly more experience and more applicable qualifications than their white counterparts.

139. In fact, the minority attorneys handle a more substantial case load, work longer hours, and are responsible for more complex cases than their white counterparts.

140. However, despite this increased workload and similar roles, minority attorneys are paid significantly less than their white counterparts and need to work overtime to be paid on par with their white colleagues' base salaries.

141. Minority attorneys in DAO are also not considered for promotions by Defendant LITWIN whereas younger white women with less experience are afforded these lucrative opportunities.

142. Following these discriminatory hires, Defendant LITWIN hired multiple other white women attorneys.

143. As part of zealously and effectively representing the Department and to be paid on par with his white colleagues, Plaintiff has to work overtime.

144. As a result of the disparate treatment, minority attorneys in the DAO have been forced to work in a hostile work environment as a result of their race, and skin color.

145. Each day these minority attorneys must go to work, wherein they are tasked with significantly greater workloads than their white peers while they are paid less.

146. These disparate assignments and pay has greatly impacted the minority employees' ability to perform their job.

147. Plaintiff is particularly affected as he has arguably the most experience of any Assistant Department Advocate.

148. From the time Defendant LITWIN took over the DAO, as well as before, until Plaintiff's retaliatory transfer this year, Plaintiff was responsible for the handling some of the DAO most scrutinized cases.

149. Also, Plaintiff was responsible for handling some of the NYPD's highest profile cases such as those matters involving the investigation of misconduct at the Special Victims Division.

150. As a part of a Special Victim Division case, Plaintiff successfully prosecuted Inspector Paul Saraceno and Sergeant Keri Thompson, each of whom were disciplined for serious misconduct.

151. Also, Plaintiff prosecuted Sergeant Benevolent Association former president Ed Mullins and assisted in the investigation and handling of cases involving dozens of other subjects related to the leak and improper accessing of records involving Mayor Bill DeBlasio's child.

152. In addition, Plaintiff prosecuted disgraced Commanding Officer of Equal Employment Opportunity Deputy Inspector James Kobel related to his racist postings.

153. Moreover, Plaintiff prosecuted Police Officer Salvatore Greco, who was terminated for his association with Roger Stone near and around the January 6, 2021 attack on the United States Capitol and for other serious misconduct.

154. Plaintiff also successfully handled the EEO disciplinary cases of Deputy Inspector Ralph Forgione, a Captain whose name cannot be disclosed, and Captain Julio Delgado.

155. Plaintiff also prosecuted Deputy Chief William Matusiak, which led to guilty findings for misconduct – something unheard of for such a high rank.

156. Additionally, Plaintiff prosecuted Police Officers Joseph Stokes and Jose Aracena for stealing money during an integrity test as part of an expedited prosecution in front of a criminal prosecution.

157. Plaintiff also successfully prosecuted by trial the domestic violence cases of Sergeant Omar Salem, Police Officer Robert Castillo, and Police Officer Eduardo Vite.

158. All of the aforementioned cases were successfully prosecuted by Plaintiff while he worked for Defendant LITWIN.

159. During the period he worked under Defendant LITWIN (June 2020 to November 2022), Plaintiff was the top attorney in terms of productivity for various productivity measurements from the DAO database records which including steered cases, cases to the First Deputy Commissioner, consultation recaps (cases processed and reviewed by DAO) and closings of cases.

160. Plaintiff filed a formal complaint of discrimination with the New York State Division of Human Rights on January 5, 2022.

161. In his complaint, Plaintiff details his complaints of race, gender and age discrimination which has resulted in him not being promoted and working in a hostile work

environment.

162. Plaintiff further highlights that NYPD attorneys of color Penny Bluford-Garrett, Christopher Henry, Javier Seymore, Jamie Moran, and Ayisha Amjad, among other non-attorney employees, have also been discriminated against in addition to Plaintiff.

163. As part of his complaint with the New York State Division of Human Rights, Plaintiff filed a parallel complaint with the Internal Affairs Bureau, which then assigned the case Internal Affairs Bureau Group 1.

164. Internal Affairs Group 1 is tasked with investigating employees whose rank is Captain or above and other sensitive cases.

165. Upon giving the complaint to Group 1, the Group began investigating in February 2022.

166. After Plaintiff provided names and information to investigators, he was informed the matter was being transferred to the Department of Citywide Administrative Services ("DCAS") in the Summer of 2022.

167. Specifically at this point, Plaintiff was informed that the NYPD Legal Bureau had the matter was transferred to DCAS.

168. Plaintiff was happy that the matter was being transferred outside of the NYPD for investigation and waited for DCAS to contact him.

169. DCAS never contacted Plaintiff.

170. Following Plaintiff's complaint, fellow minority attorney Penny Bluford-Garrett tried to stand up for Plaintiff and even pointed out some of the discriminatory treatment of Defendant LITWIN.

171. After she stood up for Plaintiff, attorney Bluford-Garrett was not allowed to replace her secondary supervisor on her Trial Team.

172. Defendant LITWIN chose to leave this supervisory role unfilled to avoid giving it to the most qualified candidate, Plaintiff.

173. The disparate treatment towards minorities was not limited to Plaintiff and Bluford-Garrett.

174. Defendant LITWIN initially tried to strip Hispanic woman Jamie Moran of her supervisory role by reorganizing DAO but ultimately did not do so.

175. Recently, Moran was forced to work under Collins on the Civilian Team despite Collins joining the NYPD eight (8) years after Moran and having the same amount of experience as an attorney.

176. Further, despite being admitted to practice law months before Collins, earns approximately twenty-seven thousand dollars ($27,000) less per year than Collins.

177. The Defendant CITY responded to Plaintiff New York State Division of Human Rights Complaint on March 7, 2022.

178. In the Defendant CITY response, the Defendants attempt to justify their discriminatory actions by asserting that Plaintiff was not promoted due to performance issues.

179. These explanations are pretextual as Plaintiff has received nothing but exemplary performance evaluations and was never disciplined in any way.

180. More specifically, Defendant MELOCOWSKY, the director of the Equal Employment Opportunity Division (“EEOD"), and close friend of Defendant LITWIN, falsely claimed that Plaintiff mishandled EEOD cases, had investigators conduct investigations unrelated to their EEOD duties and was allegedly rude to his investigators in a transparently desperate attempt to shift blame towards Plaintiff to mask their discriminatory animus.

181. This was the first time that Defendants MELOCOWSKY nor LITWIN ever mentioned these allegations and had never discussed such incidents with Plaintiff previously.

182. Specifically, Defendant MELOCOWSKY, falsely claimed that: "In or around July 2021, EEOD's Executive Director Michael Melocowsky raised concerns with DAO's executive staff regarding Complainant. Specifically, Director Melocowsky informed DAO executive staff, including Commissioner Litwin that: (1) Complainant routinely kept Director Melocowsky and EEOD's attorney out of the loop on cases, going straight to the investigators and often asking for them to perform tasks outside the scope of their role; (2) Complainant regularly failed to confer with EEOD on case recommendations; (3) Complainant repeatedly failed to contact victims in the cases; (4) Complainant, on multiple occasions, threatened EEOD investigators that he would report them to IAB, and indicated that he was well-connected there; and (5) that Complainant was regularly rude to investigators. Additionally, Complainant had made it known to EEOD staff that he had issues with EEOD investigators, believing that they routinely substantiated all of their cases because they were unable to perform a legal analysis."

183. These allegations are patently false and were formed solely by Defendant MELOCOWSKY to protect Defendant LITWIN.

184. Plaintiff has received seven (7) straight "Well Above Standard" performance evaluations since joining the NYPD as his work is exemplary.

185. These allegations make little sense as Plaintiff has always handled EEOD cases proficiently and had a great working relationship with EEOD investigators.

186. Moreover, inconsistent with Defendant MELOCOWSKY's claims, Plaintiff was allowed to continue to try or handle successfully numerous EEO cases .

187. Contrary to the assertions of Defendants, Plaintiff had run into issues with Defendant MELOCOWSKY as a result of the EEOD's repeated failure to properly investigate discrimination cases that Plaintiff was tasked with prosecuting.

188. Before July 2021, the month during which he allegedly yelled at Defendant MELOCOWSKY, Plaintiff had already distanced himself from and minimized contact with Defendant MELOCOWSKY as he was observed as having been improperly familiar with and close to Defendants LITWIN and FALASCA.

189. Plaintiff was never disciplined for any insubordination or discourteousness and was certainly never spoken to about this alleged incident that was first raised in the Defendants' position statement, eight (8) months after it allegedly happened.

190. Further, Plaintiff had minimized contacted with Defendant MELOCOWSKY as Plaintiff was responsible for prosecuting James Kobel, who had previously been Defendant MELOCOWSKY's subordinate in the EEOD, was caught posting numerous disparaging posts about race and other protected classes, and then lied about it.

191. As part of that prosecution, Plaintiff was made aware of conversations between Defendant MELOCOWSKY, James Kobel and/or former Deputy Commissioner Tanya Meisenholder wherein they were critical of Plaintiff.

192. These derogative conversations occurred after Plaintiff disagreed with EEOD findings which led to the Police Commissioner also rejecting several of the EEOD' findings.

193. Despite being in possession of the text messages conversations, Plaintiff has never read the actual conversations but had been told that they were about him and were derogatory.

194. Plaintiff was tasked regularly with analyzing the investigations of the EEOD office

which Plaintiff found to often be shoddy and lacked thoroughness in comparison to Internal Affairs Bureau and investigation unit cases.

195. In fact, the EEOD investigation often failed to utilize basic investigative techniques during their investigations.

196. Given the poor work performance of the EEOD office, Plaintiff would be forced to reach his own conclusion on investigations after taking and asking for extra steps to thoroughly investigate complaints given that Plaintiff was trained in EEO investigations.

197. As a result, the findings of Plaintiff often differed from the poor investigations that Defendant MELOCOWSKY would sign off on.

198. Plaintiff would then make contrary recommendations which were often accepted by the Police Commissioner's Office.

199. In accepting Plaintiff's recommendation, the Police Commissioner would reject the findings of the EEOD office and Defendant MELOCOWSKY and/or give Plaintiff the ability to charge whatever he wanted based on his own findings.

200. Contrary to the false claims of Defendant MELOCOWSKY, Sergeant Richard Beary, Sergeant Brian Koo, Sergeant Fuhad Hussain, Lieutenant Szadehur Rahman, Lieutenant Nan Hao Chen, Detective Raul Rolon, Sergeant Matthew Wong, Sergeant Edwige Anatsui, and Detective Elixandra DeJesus, all of whom are EEOD investigators, who have stated they enjoyed working with Plaintiff or who have praised him.

201. Each of these employees work under Defendant MELOCOWSKY's command as investigators of EEO matters and would directly negate his false assertions.

202. Plaintiff was first made aware of these allegations in the Defendants' New York State

Human Right Division Position Statement in response to Plaintiff's complaint of discrimination.

203. The Defendants claimed that Plaintiff would not have had to work so many hours outside of his regular tour if he worked more diligently during the day.

204. Unfortunately, due to the lack of experience of several attorneys in DAO, Plaintiff is forced to help so many other Assistant Department Advocates during normal work hours with their cases.

205. Even with this additional burden, Plaintiff closes more cases than any other Assistant Department Advocates.

206. Plaintiff could not submit his overtime hours for the dozens of hours of work that he completed over the overtime cap or while working at home in order to handle his significant case load and effectively and zealously represent the Department.

207. Additionally in the Defendants' position statement, Defendant LITWIN falsely claims that attorney productivity is not a performance metric for attorneys in DAO.

208. This is contrary to DAO practice as attorneys there are regularly analyzed based on performance metrics and are told that they need to move cases more quickly to improve on their performance metrics.

209. In fact, Defendant Litwin repeatedly has implemented many case procedures and deadlines to force her attorneys to move cases faster and has continually exhorted them to be more productive by expediting cases in less time.

210. This false claim by Defendant LITWIN was made in an effort to mask the discriminatory impact of her actions towards Plaintiff.

211. As of the date of the Defendant CITY's response, the DAO Team C had only white

attorneys.

212. Following, Plaintiff's complaint, a minority attorney was added to Team C.

213. On March 22, 2022, Plaintiff filed his New York State Division of Human Rights rebuttal to the Defendant CITY's position statement while handling the high-profile Sal Greco trial.

214. In his New York State Division of Human Rights rebuttal, which constitutes a protected activity, Plaintiff provides over thirty (30) witnesses who will negate the lies of Defendants LITWIN and MELOCOWSKY.

215. Recently, for the period between September 2021 and September 2022, Plaintiff yet again was given an annual performance evaluation which marked him "Well Above Standards," the highest possible rating.

216. This was the seventh straight annual evaluation which Plaintiff earned the "Well Above Standards,"

217. This is the highest possible rating that Plaintiff could receive.

218. This rating was unsurprising as Plaintiff had the highest performance metrics in DAO, had superior trial performance and handled most of the highest profile cases during the rating period while working under Defendant LITWIN.

219. In 2022, a job listing was placed for two (2) Executive Agency Counsel Positions.

220. Plaintiff promptly applied for these positions.

221. Plaintiff was subsequently informed by Nancy Slater that Defendant LIWTIN was "going in a different direction" and that Plaintiff would not be getting the promotion.

222. Plaintiff, again, was never interviewed for these positions.

223. On September 18, 2022, Plaintiff supplemented his rebuttal to the Defendant CITY's

position statement while handling the high-profile Sal Greco trial to add additional witnesses and a timeline of additional facts since March 2022.

224. Presumably, the Defendants had actual notice of Plaintiff's engagement in protected activity since the New York State Division of Human Rights knew the Defendants herein were opposing his EEO claim and therefore should have been given notice of the supplemental information.

225. On or about October 13, 2022, Plaintiff reached out to Internal Affairs Bureau Group 1 to check on the status of the DCAS investigation.

226. Plaintiff had not heard from DCAS since he was informed that its personnel were taking over the investigation during the Summer of 2022.

227. Plaintiff made the inquiry in October 2022 after he had heard rumors that DCAS returned the investigation to the NYPD.

228. Upon inquiring about the status of the investigation, Plaintiff was informed by that NYPD Legal Bureau Attorney David Goldfarb had ordered the investigation of Plaintiff's allegations closed or that no action would be taken upon them.

229. The basis for this action was that, since Plaintiff had filed an outside EEO case with the New York State Division of Human Rights, the Defendants did not need to or would not investigate Plaintiff's allegations.

230. On October 18, 2022, Plaintiff filed a complaint with Internal Affairs Bureau against the NYPD Legal Bureau for failing to act on EEO and/or non-EEO allegations that were investigated by Internal Affairs Bureau Group 1.

231. This complaint to the Internal Affairs Bureau about Plaintiff's pending EEO complaint that was investigated by the Internal Affairs Bureau and the NYPD Legal Bureau's lack

of action related thereto constitutes protected activity.

232. Despite his stellar performance, a little more than twenty-four (24) hours of his protected complaint against the NYPD Legal Bureau, on October 19, 2022, Plaintiff was transferred to a temporary assignment to assist the Department of Correction in their backlog of disciplinary cases.

233. Plaintiff was informed that his transfer was directed by the Commanding Officer of the NYPD Legal Bureau, Deputy Inspector John Kanganis.

234. The temporal proximity of Plaintiff's eviction and reassignment to his complaint highlights the retaliatory nature of the adverse action.

235. This transfer was caused by the Defendants in an effort to remove Plaintiff from DAO in retaliation for his complaints of discrimination.

236. Following notice of his reassignment, Defendant LITWIN ordered through Assistant Deputy Commissioner Nancy Slater that Plaintiff be forcibly evicted from his office at DAO.

237. More specifically, Plaintiff was forced, under supervision, to retrieve and pack his possessions in his office and was escorted out of the DAO by Assistant Deputy Commissioner Nancy Slater and Lieutenant Robert Wong.

238. Plaintiff was then informed by Assistant Deputy Commissioner Nancy Slater that he was barred from returning to the Command.

239. During this process, Plaintiff repeatedly stated that this action was unlawful retaliation.

240. Despite informing a supervisor that he was being unlawfully retaliated against, Plaintiff was never notified that a formal complaint of retaliation was filed with the EEOD which is contrary to NYPD policy.

241. These retaliatory measures would dissuade an employee from engaging in protected activity.

242. Further, as a result of this retaliatory transfer, dozens of cases and/or sensitive investigations had to be reassigned.

243. At the time of his sudden punitive and retaliatory physical transfer and reassignment, which occurred within a day of his complaint against the NYPD's Legal Bureau, Plaintiff had approximately five (5) NYPD disciplinary trials, which were scheduled from November 2, 2022 until December 7, 2022.

244. Plaintiff had prepared extensively for these trials, each of which had to be reassigned to a different attorney on the eve of these trials.

245. This reassignment was the equivalent of a "punishment post" for an attorney in DAO.

246. Plaintiff was reassigned to the Department of Correction as Contract Attorney to allegedly assist them while on loan from DAO.

247. While Plaintiff was technically remained with DAO, his job duties changed significantly, and Plaintiff no longer was able to try cases.

248. In his role with DOC, Plaintiff was no longer tasked with trying cases, and instead has been placed in an administrative role where he is underutilized.

249. Based on NYPD statistics of Plaintiff's performance, this greatly underutilizes Plaintiff's skills as arguably the NYPD's most successful disciplinary trial prosecutor.

250. After being shipped off to assist the Department of Correction, Plaintiff immediately made complaints of retaliation with the Deputy Commissioner of Equity and Inclusion and/or the EEOD as well as the Internal Affairs Bureau.

251. Following his complaint, Plaintiff was set to be interviewed by EEOD on October 21,

2022 at 1100 hours.

252. On that day, Plaintiff had his interview suddenly pushed back by several hours.

253. After being notified that his interview had been rescheduled to the afternoon, Plaintiff was suddenly visited, at his new office, by Defendant LITWIN at his new assignment for DOC.

254. Plaintiff found the interaction odd and done purposefully by Defendant LITWIN to intimidate Plaintiff as it related to his upcoming interview with EEOD to report his retaliatory forced eviction and ban from DAO as well as to "rub it in" that she had directed these unlawful actions.

255. Undeterred, Plaintiff spoke truthfully in his EEOD interview about the discriminatory treatment by Defendant LITWIN.

256. Following his complaints, Plaintiff was informed by NYPD Legal Bureau Commanding Officer Deputy Inspector John Kanganis that the transfer was only temporary, and the contract would last until January 2023 at which time he would be brought back to DAO.

257. Also, Plaintiff was told by Kanganis that the transfer would only be temporary and would not affect his ability to be promoted or his performance evaluations.

258. At the time of Plaintiff's reassignment, Deputy Inspector Kanganis, who is an attorney, had imputed knowledge of Plaintiff's New York State Division of Human Rights complaint.

259. Despite being told by Defendant LITWIN that this transfer was only temporary, Plaintiff would never return to the DAO office.

260. Plaintiff was formerly transferred out of the DAO on January 20, 2023 to the Criminal Justice Bureau.

261. Plaintiff was transferred in retaliation for his complaints of discrimination related to the treatment of people of color in the DAO.

262. Plaintiff in his role as in the Criminal Justice Bureau is no longer a trial attorney as he is now tasked with assisting in investigating allegations of misconduct and assisting the NYPD in defending lawsuits that arose out of the Criminal Justice Bureau facilities.

263. Plaintiff had his job duties dramatically altered as Plaintiff no longer is able to try cases.

264. This adverse action is sufficient to deter a person from engaging in protected activity.

265. The disparate treatment of minority employees, including plaintiff, is sufficiently severe and pervasive to create a hostile work environment.

266. More specifically, as a result of this transfer, Plaintiff will earn between $20,000 and $30,000 less per year due to less overtime and compensation time.

267. Each day, Plaintiff goes to work he is faced with the reality that his pay is substantially lower than his white peers and that he has no upward mobility within the NYPD.

268. Plaintiff is forced to watch white employees regular be able to earn more money and get promoted due to their race, skin color, and gender.

269. Additionally, Plaintiff is not eligible for promotional opportunities at the Criminal Justice Bureau nor is he able to earn a raise because he doesn't have supervisory experience.

270. On January 27, 2023, Lauren Silverstein, a young white woman attorney, was promoted to the same level attorney as Plaintiff, an Agency Attorney 3.

271. Silverstein, who has nearly eighteen (18) less years as an attorney than Plaintiff and five (5) years less with the NYPD now holds the same title and is paid at the same level.

272. White woman attorney Silverstein was promoted from Agency Attorney 2 to Agency

Attorney 3 in just eighteen (18) to twenty (20) months.

273. It took Plaintiff twice as long to be promoted to Agency Attorney 3 after his first promotion.

274. Additionally, minority attorney Ayisha Amjad, who was promoted at to Agency Attorney 2 at the same time as Silverstein, remains an Agency Attorney 2.

275. As of August 2021, Silverstein was now a Deputy Managing Attorney and outranked Plaintiff despite having significantly less experience as an attorney and at DAO.

276. Also on January 27, 2023, Defendant FALASCA was promoted to a higher-level Executive Agency Counsel (M2) position by Defendant LITWIN.

277. Also on January 27, 2023, white male Lawrence Newman was chosen by Defendant LITWIN and appointed as Executive Agency Counsel (M4).

278. Plaintiff was more qualified for this position due to his extensive disciplinary trial experience which Newman did not possess.

279. Plaintiff was similarly situated to both Newman and Defendant FALASCA and had more relevant experience but was not even interviewed for the position.

280. As a result of being passed over for the Executive Agency Counsel positions, Plaintiff lost approximately $25,000 a year in lost base salary due to his race, skin color, and gender.

281. Only after she became aware of complaints of discrimination, did Defendant LITWIN suddenly begin to hire and promote more people of color.

282. After Plaintiff filed his New York State Division of Human Rights complaint, Defendant LITWIN hired three minority attorneys for entry level positions.

283. Regardless of the minority hires and promotions, Defendant LITWIN has repeatedly

given the executive positions to less experienced and less qualified white employees instead of Plaintiff.

284. Since joining the NYPD Defendant LITWIN has hired Caucasian attorneys for the vast majority of positions.

285. The hostile work environment is further created through the treatment of minority employees in the DAO.

286. Defendant FALASCA regularly greets her white subordinates warmly in their interactions in the office.

287. When Plaintiff routinely and politely greets Defendant FALASCA, he is usually met with a blank stare and not responded to, or she avoids eye contact.

288. Plaintiff views this hostility towards minorities and men, in particular himself, by Defendant FALASCA as evidence of racism and discrimination as she perceives Plaintiff of being unworthy of acknowledgment.

289. Minority employees are treated worse than their white colleagues.

290. Minority employees are forced to work overtime to help supplement their income to the level of white attorneys' base salaries.

291. Defendant LITWIN regularly allowed Defendant FALASCA to use non-paralegal support staff as her personal paralegals.

292. Minority employees, including Plaintiff, are not given these luxuries.

293. Additionally, Defendant FALASCA regularly has uniformed members of service pick her up and drop her off at her home.

294. Plaintiff and other minority attorneys in DAO are not given this same employment benefit.

295. When given these transportation privileges, it is unclear whether Defendant FALASCA signs in and out on her Attendance Application when she leaves and arrives home since this is to be done at the employee's physical Command according to NYPD policy.

296. Plaintiff and other minority attorneys in DAO are not given this same employment benefit.

297. The Defendant CITY was aware of the discrimination of Plaintiff yet failed to take remedial action which subjected Plaintiff to further discrimination and retaliation.

298. By failing to take remedial action following the complaints of Plaintiff, Defendant CITY condoned and acquiesced to the discriminatory conduct.

299. The discriminatory and retaliatory actions of the Defendants described herein were continuous and ongoing from 2019 until the present date.

300. These actions by the Defendants herein which caused the hostile work environment for Plaintiff were severe and pervasive.

301. As a result of Defendant CITY being on notice of the discrimination and harassment dating back to 2021, and subsequent failure to take prompt and effective remedial action and/or that the Defendant CITY should have known and failed to exercise reasonable diligence to prevent future acts, the Defendants are strictly liable to Plaintiff pursuant to New York State Executive Law § 296 and New York City Human Rights Law (hereinafter referred to as "NYCHRL") §8-107(13)(b).

302. As a result of the Defendants' failure to prevent the discriminatory atmosphere in which Plaintiff was subjected, the intentional, malicious, and reckless indifference that resulted in discrimination and retaliation of Plaintiff, Defendants are subjected to punitive damages in this action.

303. The Defendants' failure to intervene and protect Plaintiff, despite knowing that employment discrimination and retaliation are unlawful, which is common knowledge in today's society that employment discrimination and retaliation is impermissible, Plaintiff is entitled to an award of punitive damages.

304. The Defendants' egregious misconduct is evidence of the Defendants mental state of intentional discrimination and retaliation.

305. Plaintiff repeatedly engaged in protected activity by complaining about discriminatory treatment and retaliated against as a result.

306. The Defendant CITY failed to adequately train, supervise and discipline, Defendants LITWIN, FALASCA and MELOCOWSKY which resulted in unlawful employment actions being taken against Plaintiff as described herein.

307. The Defendants herein were aware that Plaintiff participated in protected activity when he made these complaints.

308. Plaintiff suffered disadvantageous employment actions, and more than petty slights and trivial inconveniences when he was demoted, denied promotional opportunities, and labeled a problem by the Defendants herein.

309. Plaintiff suffered more than petty slights and trivial inconveniences as a result of the discriminatory and retaliatory actions of the Defendants herein.

310. Plaintiff was forced to work in a hostile work environment as a result of the facts described herein.

311. Plaintiff alleges that the actions of the defendants herein caused his to suffer severe and pervasive emotional distress as a result of that hostile work environment.

312. At all times herein Defendants LITWIN, MELOCOWSKY and FALASCA were aware

of the discriminatory environment in DAO and the adverse actions it created towards minority employees.

313. Despite being aware of the discriminatory environment in DAO and the adverse actions it created, Defendants LITWIN, MELOCOWSKY and FALASCA had the ability to but failed to intervene to prevent the discrimination and retaliation.

314. Defendants LITWIN, MELOCOWSKY and FALASCA had actual notice of the discriminatory and retaliatory actions yet failed to intervene to prevent the discrimination and retaliation.

315. Defendants LITWIN, MELOCOWSKY and FALASCA aided and abetted the discriminatory and retaliatory acts taken against Plaintiff as described herein and are individually liable for their failure to take actions to prevent said unlawful treatment.

COUNT I
GENDER DISCRIMINATION
IN VIOLATION OF NEW YORK
STATE EXECUTIVE LAW § 296
AGAINST ALL DEFENDANTS

316. Plaintiff re-alleges all paragraphs contained herein and incorporates them by reference of Count I of this complaint.

317. Plaintiff alleges that New York State Executive Law §296, prohibits discrimination, harassment, and disparate treatment on the basis of gender in employment.

318. Plaintiff performed his job duties satisfactorily which is reflected in Plaintiff's stellar performance evaluations and numerous commendations. Nevertheless, Defendants denied Plaintiff benefits of employment, including all favorable conditions and emoluments thereof because of Plaintiff's gender, and created a hostile work environment by the conduct of Defendants, LITWIN, Individually FALASCA,

Individually and MELOCOWSKY, Individually and without any non-discriminatory basis thereof. The wrongful conduct was condoned by the Defendant CITY.

319. Defendants' actions were taken under circumstances giving rise to an inference of discrimination.

320. The direct and proximate cause of Defendants' recklessness and negligence, Plaintiff lost job opportunities, suffered lost past and future wages, lost other valuable benefits and emoluments of employment,, lost career and business opportunities, suffered severe damage to his good name and reputation, was constructively discharged and endured severe emotional pain and trauma, all to his detriment.

321. Plaintiff alleges defendants' CITY OF NEW YORK, LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually engaged in various unlawful employment actions against Plaintiff based on his sex and gender.

322. Plaintiff alleges that as a direct and proximate result of the unlawful employment practices of defendants' CITY OF NEW YORK, LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually Plaintiff incurred significant legal costs, back pay, front pay, compensatory damages, attorneys' fees, emotional distress, and damage to his personal and professional reputation.

COUNT II
RACE/SKIN COLOR DISCRIMINATION
IN VIOLATION OF NEW YORK
STATE EXECUTIVE LAW § 296

323. Plaintiff re-alleges all paragraphs contained herein and incorporates them by reference of Count II of this complaint.

324. Plaintiff alleges that New York State Executive Law §296, prohibits discrimination, harassment, and disparate treatment on the basis of race in employment.

325. Defendant has been repeatedly denied promotional opportunities as a result of his race, skin color and/or national origin.

326. Plaintiff performed his job duties satisfactorily which is reflected in Plaintiffs stellar performance evaluations. Nevertheless, Defendant denied Plaintiff benefits of employment, including all favorable conditions and emoluments thereof because of Plaintiff's race, created a hostile work environment by the conduct of Defendants' CITY OF NEW YORK, LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually, and those within its employ and without any non-discriminatory basis thereof. The wrongful conduct was condoned by the Defendant CITY OF NEW YORK.

327. Defendant's actions were taken under circumstances giving rise to an inference of discrimination.

328. The direct and proximate cause of Defendants' recklessness and negligence, Plaintiff lost job opportunities, suffered lost past and future wages, lost other valuable benefits and emoluments of employment, lost career, and business opportunities, suffered severe damage to his good name and reputation, was constructively discharged and endured severe emotional pain and trauma, all to his detriment.

329. Plaintiff alleges defendant's CITY OF NEW YORK, LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually engaged in various unlawful employment actions against Plaintiff based on his race, skin color and/or national origin.

330. Plaintiff alleges that as a direct and proximate result of the unlawful employment practices of defendant CITY OF NEW YORK, LITWIN, Individually FALASCA,

Individually and MELOCOWSKY, Individually Plaintiff incurred significant legal costs, back pay, front pay, compensatory damages, attorneys' fees, emotional distress, and damage to his personal and professional reputation in an amount to be determined at trial.

COUNT III
GENDER/RACE/SKIN COLOR DISCRIMINATION
HOSTILE WORK ENVIRONMENT
IN VIOLATION OF NEW YORK
STATE EXECUTIVE LAW § 296
AGAINST ALL DEFENDANTS

331. Plaintiff re-alleges all paragraphs contained herein and incorporates them by reference of Count III of this complaint.

332. Plaintiff alleges that New York State Executive Law §296, prohibits discrimination, harassment, and disparate treatment on the basis of gender, race, and skin color in employment.

333. Plaintiff performed his job duties satisfactorily which is reflected in Plaintiffs stellar performance evaluations and numerous commendations. Nevertheless, Defendants denied Plaintiff benefits of employment, including all favorable conditions and emoluments thereof because of Plaintiff's gender, skin color and race, and created a hostile work environment by the conduct of Defendants LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually and without any non-discriminatory basis thereof.

334. The wrongful conduct was condoned by the Defendant CITY.

335. Defendants' actions were taken under circumstances giving rise to an inference of discrimination.

336. Defendants subjected Plaintiff to a materially adverse and hostile work environment by

subjecting him, day after day and year after year, without supervisory intervention to discrimination and retaliation based on his sex, skin color and gender.

337. The actions of the Defendants towards Plaintiff were severe and pervasive.

338. The direct and proximate cause of Defendants' recklessness and negligence, Plaintiff lost job opportunities, suffered lost past and future wages, lost other valuable benefits and emoluments of employment,, lost career and business opportunities, suffered severe damage to his good name and reputation, was constructively discharged and endured severe emotional pain and trauma, all to his detriment.

339. Plaintiff alleges defendants' CITY OF NEW YORK, LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually engaged in various unlawful employment actions against Plaintiff based on his race, skin color, and gender.

340. Plaintiff alleges that as a direct and proximate result of the unlawful employment practices including a subjecting Plaintiff to a hostile work environment, of defendants' CITY OF NEW YORK, LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually Plaintiff incurred significant legal costs, back pay, front pay, compensatory damages, attorneys' fees, emotional distress, and damage to his personal and professional reputation.

COUNT IV
RETALIATION
IN VIOLATION OF NEW YORK
STATE EXECUTIVE LAW § 296
AGAINST ALL DEFENDANTS

341. Plaintiff re-alleges all paragraphs contained herein and incorporates them by reference of Count IV of this complaint.

342. Plaintiff alleges that New York State Executive Law §296, makes it unlawful to deny

employment and benefits therein in retaliation for Plaintiff engaging in lawfully protected activity.

343. Plaintiff engaged in protected activity when he complained of discrimination.

344. Plaintiff was retaliated against by the LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually, as a result of his engagement in protected activity.

345. Defendants' actions were taken under circumstances and within the temporal proximity giving rise to an inference of retaliation.

346. The direct and proximate cause of Defendants' recklessness and negligence, Plaintiff lost job opportunities, suffered lost past and future wages, lost other valuable benefits and emoluments of employment, lost career, and business opportunities, suffered severe damage to his good name and reputation, was constructively discharged and endured severe emotional pain and trauma, all to his detriment.

347. Plaintiff alleges defendants' CITY OF NEW YORK, LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually, engaged in various unlawful employment actions against Plaintiff in retaliation for Plaintiff's lawfully protected complaints.

348. Plaintiff alleges that as a direct and proximate result of the unlawful employment practices of defendants' CITY OF NEW YORK, LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually Plaintiff incurred significant legal costs, back pay, front pay, compensatory damages, attorneys' fees, emotional distress, and damage to his personal and professional reputation.

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

AGAINST ALL DEFENDANTS

349. Plaintiff re-alleges all paragraphs contained herein and incorporates them by reference of Count V of this complaint.

350. Plaintiff alleges that New York City Administrative Code § 8-107, makes it unlawful to deny employment on the basis of his sex and gender.

351. Plaintiff performed his job duties satisfactorily which is reflected in Plaintiffs stellar performance evaluations. Nevertheless, Defendants denied Plaintiff benefits of employment, including all favorable conditions and emoluments thereof because of Plaintiff's gender, and created a hostile work environment by the conduct of LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually and without any non-discriminatory basis thereof. The wrongful conduct was condoned by the Defendants CITY, LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually

352. Defendants' actions were taken under circumstances giving rise to an inference of discrimination.

353. The direct and proximate cause of Defendants' recklessness and negligence, Plaintiff lost job opportunities, suffered lost past and future wages, lost other valuable benefits and emoluments of employment, lost career, and business opportunities, suffered severe damage to his good name and reputation, was constructively discharged and endured severe emotional pain and trauma, all to his detriment.

354. Plaintiff alleges defendants' CITY OF NEW YORK, LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually engaged in various unlawful employment actions against Plaintiff based on his sex and gender.

355. Plaintiff alleges that as a direct and proximate result of the unlawful employment practices of defendants' CITY OF NEW YORK, LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually Plaintiff incurred significant legal costs, back pay, front pay, compensatory damages, punitive damages, attorneys' fees, emotional distress, and damage to his personal and professional reputation.

COUNT VI
RACE/SKIN COLOR DISCRIMINATION
IN VIOLATION OF NEW YORK CITY
ADMINISTRATIVE CODE § 8-107

356. Plaintiff re-alleges all paragraphs contained herein and incorporates them by reference of Count VI of this complaint.

357. Plaintiff alleges that New York City Administrative Code § 8-107, makes it unlawful to deny employment on the basis of his race, skin color and/or national origin.

358. Defendant has been repeatedly denied promotional opportunities and suffered other adverse employment as a result of his race, skin color, and/or national origin.

359. Plaintiff performed his job duties satisfactorily which is reflected in Plaintiffs stellar performance evaluations. Nevertheless, Defendant denied Plaintiff benefits of employment, including all favorable conditions and emoluments thereof because of Plaintiff's race, created a hostile work environment by the conduct of Defendants CITY OF NEW YORK, LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually. The wrongful conduct was condoned by the Defendant CITY OF NEW YORK.

360. Defendant's actions were taken under circumstances giving rise to an inference of discrimination.

361. The direct and proximate cause of Defendants' recklessness and negligence, Plaintiff

lost job opportunities, suffered lost past and future wages, lost other valuable benefits and emoluments of employment, lost career, and business opportunities, suffered severe damage to his good name and reputation, was constructively discharged and endured severe emotional pain and trauma, all to his detriment.

362. Plaintiff alleges defendant CITY OF NEW YORK, LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually engaged in various unlawful employment actions against Plaintiff based on his race and skin color.

363. Plaintiff alleges that as a direct and proximate result of the unlawful employment practices of defendant CITY OF NEW YORK, LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually, Plaintiff incurred significant legal costs, back pay, front pay, compensatory damages, punitive damages, attorneys' fees, emotional distress, and damage to his personal and professional reputation in an amount to be determined at trial.

COUNT VII
GENDER/RACE/SKIN COLOR DISCRIMINATION
HOSTILE WORK ENVIRONMENT
IN VIOLATION OF NEW YORK CITY
ADMINISTRATIVE CODE § 8-107
AGAINST ALL DEFENDANTS

364. Plaintiff re-alleges all paragraphs contained herein and incorporates them by reference of Count VII of this complaint.

365. Plaintiff alleges that New York City Administrative Code § 8-107, makes it unlawful to deny employment on the basis of his sex, gender, skin color and race.

366. Plaintiff performed his job duties satisfactorily which is reflected in Plaintiffs stellar performance evaluations. Nevertheless, Defendants denied Plaintiff benefits of employment, including all favorable conditions and emoluments thereof because of

Plaintiff's sex, gender, and race, created a hostile work environment and suffered a constructive discharge by the conduct of LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually and without any non-discriminatory basis thereof. The wrongful conduct was condoned by the Defendant CITY.

367. Defendants' actions were taken under circumstances giving rise to an inference of discrimination.

368. Defendants subjected Plaintiff to a materially adverse and hostile work environment by subjecting him, day after day and year after year, without supervisory intervention to discrimination and retaliation based on his sex, gender, skin color and race.

369. The actions of the Defendants towards Plaintiff were severe and pervasive.

370. The direct and proximate cause of Defendants' recklessness and negligence, Plaintiff lost job opportunities, suffered lost past and future wages, lost other valuable benefits and emoluments of employment, lost career, and business opportunities, suffered severe damage to his good name and reputation, was constructively discharged and endured severe emotional pain and trauma, all to his detriment.

371. Plaintiff alleges defendants' CITY OF NEW YORK, LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually engaged in various unlawful employment actions against Plaintiff based on his sex, gender, skin color, and race.

372. Plaintiff alleges that as a direct and proximate result of the unlawful employment practices, including subjecting Plaintiff to a hostile work environment, of defendants' CITY OF NEW YORK, LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually Plaintiff incurred significant legal costs, back pay, front

pay, compensatory damages, punitive damages, attorneys' fees, emotional distress, and damage to his personal and professional reputation.

COUNT VIII
RETALIATION
IN VIOLATION OF NEW YORK CITY
ADMINISTRATIVE CODE § 8-107
AGAINST ALL DEFENDANTS

373. Plaintiff re-alleges all paragraphs contained herein and incorporates them by reference of Count VIII of this complaint.

374. Plaintiff alleges that New York City Administrative Code § 8-107, makes it unlawful to deny employment in retaliation for Plaintiff engaging in protected activity.

375. Plaintiff engaged in protected activity when he complained of discrimination.

376. Plaintiff was retaliated against by the LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually as a result of his engagement in protected activity.

377. Defendants' actions were taken under circumstances giving rise to an inference of retaliation.

378. The direct and proximate cause of Defendants' recklessness and negligence, Plaintiff lost job opportunities, suffered lost past and future wages, lost other valuable benefits and emoluments of employment, lost career, and business opportunities, suffered severe damage to his good name and reputation, was constructively discharged and endured severe emotional pain and trauma, all to his detriment.

379. Plaintiff alleges defendants' CITY OF NEW YORK, LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually, engaged in various unlawful employment actions against Plaintiff in retaliation for Plaintiff's lawfully protected complaints.

380. Plaintiff alleges that as a direct and proximate result of the unlawful employment practices of defendants' CITY OF NEW YORK, LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually. Plaintiff incurred significant legal costs, back pay, front pay, compensatory damages, punitive damages, attorneys' fees, emotional distress, and damage to his personal and professional reputation.

COUNT IX
GENDER DISRIMINATION
STRICT LIABILITY IN VIOLATION OF
NEW YORK CITY ADMINISTRATIVE CODE § 8-107(13)(b)
AGAINST ALL DEFENDANTS

381. Plaintiff re-alleges all paragraphs contained herein and incorporates them by reference of Count IX of this complaint.

382. Plaintiff alleges that New York City Administrative Code § 8-107 (13) (b), makes a Defendant strictly liable for the discriminatory acts of managers and supervisors against a subordinate employee, such as the Plaintiff herein.

383. Plaintiff was subjected to repeated harassment and subjected to a hostile work environment on the basis of his gender.

384. The Defendants were aware of the actions of managers and supervisors, including LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually, but failed to take corrective remedial action which forced Plaintiff to be subjected to future harm.

385. The Defendants failed to exercise reasonable diligence to prevent such discriminatory conduct.

386. Plaintiff performed his job duties satisfactorily which is reflected in Plaintiffs stellar performance evaluations. Nevertheless, Defendants denied Plaintiff benefits of

employment, including all favorable conditions and emoluments thereof because of Plaintiff's gender, created a hostile work environment and suffered a significant damage by the conduct of Defendants' CITY OF NEW YORK, LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually and without any non-discriminatory basis thereof. The wrongful conduct was condoned by the Defendant CITY.

387. Defendants' actions were taken under circumstances giving rise to an inference of discrimination.

388. The direct and proximate cause of Defendants' recklessness and negligence, Plaintiff lost job opportunities, suffered lost past and future wages, lost other valuable benefits and emoluments of employment, lost career, and business opportunities, suffered severe damage to his good name and reputation, was constructively discharged and endured severe emotional pain and trauma, all to his detriment.

389. Plaintiff alleges defendants' CITY OF NEW YORK, LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually engaged in various unlawful employment actions against Plaintiff based on his sex and gender.

390. Plaintiff alleges that as a direct and proximate result of the unlawful employment practices of defendants' CITY OF NEW YORK, LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually Plaintiff incurred significant legal costs, back pay, front pay, compensatory damages, punitive damages, attorneys' fees, emotional distress, and damage to his personal and professional reputation.

391. As a result of Defendants willful actions, they are strictly liable to Plaintiff for their actions.

COUNT X
RACE/ SKIN COLOR DISRIMINATION
STRICT LIABILITY IN VIOLATION OF
NEW YORK CITY ADMINISTRATIVE CODE § 8-107(13)(b)

392. Plaintiff re-alleges all paragraphs contained herein and incorporates them by reference of Count X of this complaint.

393. Plaintiff alleges that New York City Administrative Code § 8-107 (13) (b), makes a Defendant strictly liable for the discriminatory acts of managers and supervisors against a subordinate employee, such as the Plaintiff herein.

394. Plaintiff was subjected to repeated harassment and subjected to a hostile work environment on the basis of his race and skin color.

395. The Defendant was aware of the actions of managers and supervisors, including but failed to take corrective remedial action which forced Plaintiff to be subjected to future discrimination.

396. The Defendant failed to exercise reasonable diligence to prevent such discriminatory conduct.

397. Plaintiff performed his job duties satisfactorily which is reflected in Plaintiffs stellar performance evaluations and numerous commendations. Nevertheless, Defendant denied Plaintiff benefits of employment, including all favorable conditions and emoluments thereof because of Plaintiff's race and/or national origin, created a hostile work environment by the conduct of Defendants CITY OF NEW YORK, LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually and without any non-discriminatory basis thereof. The wrongful conduct was condoned by the Defendant CITY OF NEW YORK.

398. Defendant's actions were taken under circumstances giving rise to an inference of

discrimination.

399. The direct and proximate cause of Defendants' recklessness and negligence, Plaintiff lost job opportunities, suffered lost past and future wages, lost other valuable benefits and emoluments of employment, lost career, and business opportunities, suffered severe damage to his good name and reputation, was constructively discharged and endured severe emotional pain and trauma, all to his detriment.

400. Plaintiff alleges defendants CITY OF NEW YORK, LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually engaged in various unlawful employment actions against Plaintiff based on his race and/or national origin.

401. Plaintiff alleges that as a direct and proximate result of the unlawful employment practices of defendants CITY OF NEW YORK, LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually Plaintiff incurred significant legal costs, back pay, front pay, compensatory damages, punitive damages, attorneys' fees, emotional distress, and damage to his personal and professional reputation in an amount to be determined at trial.

402. As a result of Defendant's willful actions, they are strictly liable to Plaintiff for their actions.

COUNT XI
RETALIATION
STRICT LIABILITY IN VIOLATION OF
NEW YORK CITY ADMINISTRATIVE CODE § 8-107(13)(b)
AGAINST ALL DEFENDANTS

403. Plaintiff re-alleges all paragraphs contained herein and incorporates them by reference of Count XI of this complaint.

404. Plaintiff alleges that New York City Administrative Code § 8-107 (13) (b), makes a Defendant strictly liable for the acts of managers and supervisors against a subordinate

employee, such as the Plaintiff herein.

405. Plaintiff was subjected to repeated retaliatory acts following the lawful complaints made by Plaintiff regarding sex and gender discrimination.

406. The Defendants were aware of the actions of managers and supervisors, including LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually but failed to take corrective remedial action which forced Plaintiff to be subjected to future retaliation.

407. The Defendants failed to exercise reasonable diligence to prevent such retaliatory conduct.

408. Plaintiff performed his job duties satisfactorily which is reflected in Plaintiffs stellar performance evaluations and numerous commendations. Nevertheless, Defendants denied Plaintiff benefits of employment, including all favorable conditions and emoluments thereof because of Plaintiff's gender, created a hostile work environment and suffered a constructive discharge by the conduct of LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually, and without any non-discriminatory basis thereof. The wrongful conduct was condoned by the Defendant CITY.

409. Defendants' actions were taken under circumstances giving rise to an inference of retaliation.

410. The direct and proximate cause of Defendants' recklessness and negligence, Plaintiff lost job opportunities, suffered lost past and future wages, lost other valuable benefits and emoluments of employment, lost career, and business opportunities, suffered severe damage to his good name and reputation, was constructively discharged and endured

severe emotional pain and trauma, all to his detriment.

411. Plaintiff alleges defendants' CITY OF NEW YORK, LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually engaged in various unlawful employment actions against Plaintiff in retaliation for his lawfully protected complaints of sex and gender discrimination.

412. Plaintiff alleges that as a direct and proximate result of the unlawful employment practices of defendants' CITY OF NEW YORK, LITWIN, Individually FALASCA, Individually and MELOCOWSKY, Individually, Plaintiff incurred significant legal costs, back pay, front pay, compensatory damages, punitive damages, attorneys' fees, emotional distress, and damage to his personal and professional reputation.

413. As a result of Defendants willful actions, they are strictly liable to Plaintiff for their actions.

JURY TRIAL

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

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully request that the Court:

a. Injunctive relief to transfer Plaintiff back to the Department Advocates Office;

b. Injunctive relief to promote Plaintiff to an Executive Agency Counsel or an Agency Attorney IV position in the Department Advocates Office;

c. Award compensatory damages for the back pay, front pay, pain, suffering, emotional distress, loss of dignity, humiliation, and damages to reputation and livelihood endured by Plaintiff and all other damages afforded to Plaintiff by statute or otherwise in an amount to be determined at trial.

d. Award Plaintiff punitive damages in an amount to be determined at trial New York City Human Rights Law Administrative Code §8-502(a).

e. Find Defendants strictly liable pursuant to New York City Human Rights Law Administrative Code §8-107(13)(b).

f. Award Plaintiff costs for this action and reasonably attorneys' fees, as provided for in New York City Human Rights Law Administrative Code §8-502 (f).

g. The Defendants herein are joint and severally liable for the acts complained of herein.

h. Grant Plaintiff such other and further relief as may be required in the interest of justice.

Dated: February 11, 2023
New York, NY

Respectfully submitted,

By:___/s/_____
John Scola

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INDIVIDUAL ATTORNEY VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

I, SAMUEL YEE, am the Plaintiff in the within action.

I have read the annexed SUMMONS and VERIFIED COMPLAINT and know the contents thereof, and the same are true to my knowledge, except those matters therein stated to be alleged on information and belief, and as to those matters, I believe them to be true.

Dated: February 11, 2023
New York, New York

/s/
Samuel Yee, Esq.