

Bertoline v Oppenheimer & Co., Inc.

2007 NY Slip Op 34347(U)

March 12, 2007

Supreme Court, New York County

Docket Number: 0121187/2003

Judge: Richard F. Braun

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

PRESENT

PART 23

Index Number : 121187/2003

BERTOLINE, ANDREA

vs

OPPENHEIMER & CO INC *et al*

Sequence Number : 005

DISQUALIFY COUNSEL

INDEX NO. _____

MOTION DATE

8/3/06

MOTION SEQ. NO. _____

MOTION CAL. NO. _____

The following papers, numbered 1 to 3 were read on this motion to/for disqualify counsel;
(lose motion for sanctions)

Notice of Motion/ ~~Order to Show Cause~~ — Affidavits — Exhibits ...

Noted case motion?

Answering Affidavits — Exhibits _____

Replying Affidavits _____

PAPERS NUMBERED

1

2,3

Cross-Motion: Yes No

Upon the foregoing papers, it is ordered that this motion *and cross motion are*
denied.

This constitutes the decision and order of this Court. See separate Opinion.

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

FILED

MAR 14 2007

CLERK OF THE COURT
STATE OF NEW YORK

ENTER

Dated: New York, New York, March 8, 2007

[Signature]

J.S.C.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION

Check if appropriate: DO NOT POST REFERENCE

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: IAS PART 23

----- X
ANDREA BERTOLINE,

Plaintiff,

against-

OPPENHEIMER & CO., INC. f/k/a
FAHNESTOCK & CO., INC. and ERIC SHAMES,

Defendant(s).
----- X

Index No. 121187/03

OPINION

FILED

MAR 19 2007

NEW YORK
COUNTY CLERK'S OFFICE

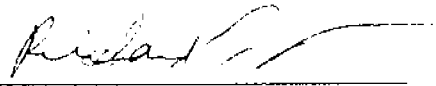
RICHARD F. BRAUN, J.:

This is an action for damages due to claimed sexual harassment and the creation of a hostile work environment, pursuant to the New York State Human Rights Law (Executive Law § 296 et seq.) and the New York City Human Rights Law (Administrative Code of City of NY § 8-101 et seq.) Defendants move to disqualify plaintiff's counsel, stay all proceedings during the pendency of the motion (an unnecessary branch because it became moot when the motion was decided), and seal the papers relating to this motion. Plaintiff cross-moves for sanctions against defendants and their counsel.

The issues involved in these motions have already been raised and decided in Alter v Oppenheimer & Co., Inc Sup Ct, NY County, Aug. 1, 2006, Gische, J., Index No. 121188/03 and Pellegrino v Oppenheimer & Co., Inc Sup Ct, NY County, Oct. 26, 2006, Acosta, J., Index No. 107834/04. Defendants are collaterally estopped thereby (see Buechel v Bain, 97 NY2d 295, 303-304 [2001]). Furthermore, the opinions of those Justices on the merits of the issues are well-reasoned and applicable to the motions before this court.

Therefore, the motions and cross-motion have been denied, pursuant to the court's March 8, 2007 decision and order. If not for the cross motion, the court would have awarded plaintiff \$100 motion costs on the motion.

Dated: New York, New York
March 12, 2007



RICHARD F. BRAUN, J.S.C.

FILED
MAR 12 2007
CLERK OF COURT
SOUTHERN DISTRICT OF NEW YORK