

Matter of Gonzalez v New York City Police Dept.

2014 NY Slip Op 30576(U)

March 12, 2014

Supreme Court, New York County

Docket Number: 400163/2011

Judge: Lucy Billings

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SUPREME COURT OF THE STATE OF NEW YORK NEW YORK COUNTY

PRESENT: LUCY BILLINGS
J.S.C. Justice

PART 46

Index Number : 400163/2011
GONZALES, THERESA D.
vs.
NEW YORK CITY POLICE DEPT.
SEQUENCE NUMBER : 002
ARTICLE 78

INDEX NO. 400163/2011
MOTION DATE _____
MOTION SEQ. NO. 002

The following papers, numbered 1 to 5, were read on this ^{petition} motion to/for reverse respondents' action

Notice of Motion/Order to Show Cause — Affidavits — Exhibits _____	No(s). <u>1</u>
Answering Affidavits — Exhibits _____	No(s). <u>2, 4</u>
Replying Affidavits _____	No(s). <u>3, 5</u>

Upon the foregoing papers, it is ordered that this motion is :

The court grants petitioner the preliminary injunctive relief and disclosure sought by her petition to the extent set forth pursuant to the accompanying decision, C.P.L.R. §§ 408, 6301, 6312(a), and schedules a preliminary conference 3/18/14 at 9:30 a.m.

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

FILED
MAR 12 2014
NEW YORK
COUNTY CLERKS OFFICE

Dated: 2/7/14

Lucy Billings, J.S.C.
LUCY BILLINGS
J.S.C.

- 1. CHECK ONE: CASE DISPOSED NON-FINAL DISPOSITION
- 2. CHECK AS APPROPRIATE: MOTION IS: GRANTED DENIED GRANTED IN PART OTHER
- 3. CHECK IF APPROPRIATE: SETTLE ORDER SUBMIT ORDER
- DO NOT POST FIDUCIARY APPOINTMENT REFERENCE

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: IAS PART 46

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In the Matter of the Application of

THERESA D. GONZALES,

Index No. 400163/2011

Petitioner,

For an Order and Judgment Pursuant to
Article 78 of the Civil Practice Law and
Rules

- against -

DECISION AND ORDER

NEW YORK CITY POLICE DEPARTMENT (Raymond
Kelly, Commissioner; Paula Berlinerman,
Personnel Director); NYC DEPARTMENT OF
CITYWIDE ADMINISTRATIVE SERVICES
(Michael Cardozo, Director); CITY OF NEW
YORK (Michael R. Bloomberg, Mayor),

FILED

Respondents

MAR 12 2014

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NEW YORK
CITY CLERK'S OFFICE

LUCY BILLINGS, J.S.C.:

I. BACKGROUND

This proceeding pursuant to C.P.L.R. Article 78 challenges the termination September 23, 2010, of petitioner's employment by respondent New York City Police Department's Division of School Safety, treating petitioner as a provisional employee subject to termination for any reason or none at all. Petitioner claims that she was not a provisional employee and therefore was entitled to a hearing before being terminated. She seeks a judgment declaring that she attained non-competitive, permanent employee status on December 23, 1998, and reversing the termination of her employment as arbitrary and in violation of the Due Process Clause of the Fourteenth Amendment to the United

States Constitution; reinstatement to her position or its equivalent; and pay retroactive the date of her unlawful termination. C.P.L.R. §§ 7801, 7803(3). She also seeks a preliminary injunction requiring respondent to provide her her unaltered electronic employment record, in its form before respondents' admitted alteration, and permission to conduct disclosure. C.P.L.R. §§ 408, 6301, 6312(a).

II. PETITIONER'S CLAIMS

Petitioner alleges that she was hired initially in December 1995 as a probationary employee in the position of word processor at the Division of School Safety (DSS), which was then a division of the New York City Board of Education (BOE). She claims the word processor position was not a competitive job title because no civil service examination was offered or preferential hiring list of candidates who passed an examination was maintained for the position during her tenure from 1995 to 1998. Instead, this position was governed by an "automatic maturation program," as she describes it, that provided for a non-competitive advancement process based on length of service. Aff. of Theresa D. Gonzales ¶ 4.

Petitioner claims she attained permanent status after she completed her probationary period and passed an internal performance examination. Specifically, she alleges that she became a permanent non-competitive employee, reflected in her employment record as an "A2C NON-COMPETITIVE APPT NO RULE #" classification September 19, 1998, contemporaneous with her

* 4]
reclassification to the secretary position that she held until her termination from respondents' service in September 2010. Id. Ex. 4.

On September 19, 1998, petitioner was transferred laterally to a secretary 3A position as part of the transfer of DSS from BOE to the New York City Police Department (NYPD), effective December 20, 1998. Although the position of secretary is ordinarily competitive, petitioner claims that she retained her permanent non-competitive status in the transfer, relying on two 1995 Public Employee Press articles describing the DSS transfer:

All permanent employees in the title of word processor at assignment level 1 shall continue to mature to level 2 after six months. After serving one year at level 2, they shall mature to the higher assignment level 3. Having completed this maturation, permanent employees will then be reclassified to secretary level 3a in accordance with restructuring.

Id. Ex. 6 col. 4.

Once [permanent and provisional employees] reach word processor level 3, permanent employees will be reclassified to secretary level 3a and provisionals will be assigned to level 3a.

Id. Ex. 7 cols. 2-3 n.3. Respondent New York City Department of Citywide Administrative Services' Amendment to Classification sets forth a comparable provision. Aff. of Leslie Johnson Ex. E, at 6. Petitioner claims her reclassification to the secretary 3A title demonstrates her previously attained permanent status that was not relegated to provisional employment in the division transfer.

Petitioner further alleges that in 1998 respondents explicitly informed her of her permanent employee status and

reassured that her non-competitive employee status would remain in her reclassification as secretary 3A at NYPD. In reliance on respondents' oral assurances of her non-competitive status in 1998 and again in 2008 and 2009, she did not take the civil service examinations offered for the secretary title in 2008 and 2009.

Petitioner maintains that she was "grandfathered" as a non-competitive employee, Gonzales Aff. ¶ 14, as specified in the Memorandum of Understanding governing the DSS transfer, to compensate for abolishing her word processor title, for which no civil examination was offered, and to compensate for reclassifying her to the secretary position at NYPD. V. Answer Ex. 1, at 5 ¶ 7(a). While she maintains that she attained permanent status through the automatic maturation process from 1995 to 1998, she also contends that five continuous years of satisfactory service as a non-competitive employee entitled her to permanent status subject to removal only for incompetence or misconduct after a hearing on such charges pursuant to New York Civil Service Law § 75(1)(c). Finally, petitioner claims that respondents are equitably estopped from now retracting their repeated assurances that she attained permanent non-competitive status, which induced her to accept her transfer to the secretary position and subsequently to forgo taking a civil service test.

III. RESPONDENTS' DEFENSES

Respondents maintain that petitioner was a provisional employee throughout her 14 years of service, from her first

provisional appointment to word processor December 4, 1995, until the abolition of that title and change to secretary pursuant to a Clerical-Secretarial Resolution dated April 21, 1996. Johnson Aff. ¶ 8 and Ex. E. Specifically, respondents claim that petitioner's civil service title changed to a provisional secretary on June 4, 1997, instead of the September 1998 date petitioner claims, and, when her provisional employment with BOE ceased, she was reappointed at NYPD with that civil service title and retained her provisional status until her 2010 termination. Respondents further maintain that both the word processor and the secretary titles were competitive civil service titles. To achieve permanent status the secretary title specifically requires either appointment from a civil service list or a passing grade on a civil service examination, which petitioner never took when examinations were offered during the period of her employment.

Respondents claim that petitioner's "A2C non-competitive" payroll code, used to designate an appointment, was a clerical error in her BOE record, because that code included an "A," which signifies leave status, designating petitioner as inactive at BOE to facilitate her transfer to NYPD, yet an employee could not be inactivated and appointed simultaneously. Aff. of Nancy Grillo ¶ 6. Respondents maintain that the correct code was a provisional reason code instead of a non-competitive designation. Johnson Aff. ¶ 11. Respondents admit that they removed petitioner's "A2C

non-competitive" code from her employment record in November 2010 after she was terminated. Grillo Aff. ¶ 7.

IV. THE PARTIES' MOTIONS

Petitioner insists respondents falsified her record. First, they deleted the "A2C non-competitive" code shortly after she notified them that she intended to commence a proceeding challenging her discharge. Second, they altered her entire work history to show that she received only provisional appointments, first as a word processor in 1995, then as a secretary level 3A in April, June, and December 1996 and in June 1997. Gonzales Aff. Ex. 2. Her petition seeks a preliminary injunction restoring her employment record to its form before her termination and before respondents changed her permanent non-competitive employee status and seeks disclosure before a determination of the petition. C.P.L.R. § 408.

Despite petitioner's request for disclosure and for production of her unaltered record to establish her claims, petitioner nonetheless moves for summary judgment. C.P.L.R. § 3212(b). She relies on her affidavit; employment records she obtained without formal disclosure; and respondents' answer to her notice to admit, C.P.L.R. § 3123, the single disclosure device available without the court's permission in a special proceeding. C.P.L.R. § 408; Stapleton v. City of New York, 7 A.D.3d 273, 274-75 (1st Dep't 2004).

Respondents oppose petitioner's motion as premature, since no disclosure has been conducted to support the petition.

Consequently, respondents cross-move for summary judgment dismissing the petition because it lacks the necessary support. C.P.L.R. § 3212(b).

V. APPLICABLE STANDARDS

To obtain summary judgment, the moving parties must make a prima facie showing of entitlement to judgment as a matter of law, through admissible evidence eliminating all material issues of fact. C.P.L.R. § 3212(b); Vega v. Restani Constr. Corp., 18 N.Y.3d 499, 503 (2012); Smalls v. AJI Indus., Inc., 10 N.Y.3d 733, 735 (2008); JMD Holding Corp. v. Congress Fin. Corp., 4 N.Y.3d 373, 384 (2005); Giuffrida v. Citibank Corp., 100 N.Y.2d 72, 81 (2003). Only if the moving parties satisfy this standard, does the burden shift to the opposing parties to rebut that prima facie showing, by producing evidence, in admissible form, sufficient to require a trial of material factual issues. Morales v. D & A Food Serv., 10 N.Y.3d 911, 913 (2008); Hyman v. Queens County Bancorp, Inc., 3 N.Y.3d 743, 744 (2004).

If the moving parties fail to meet their initial burden, the court must deny them summary judgment despite any insufficiency in the opposition. JMD Holding Corp. v. Congress Fin. Corp., 4 N.Y.3d at 384; Romero v. Morrisania Towers Hous. Co. Ltd. Partnership, 91 A.D.3d 507, 508 (1st Dep't 2012); Atlantic Mut. Ins. Co. v. Joyce Intl., Inc., 31 A.D.3d 352, 352 (1st Dep't 2006); Roman v. Hudson Tel. Assoc., 15 A.D.3d 227, 228 (1st Dep't 2005). If upon the moving parties' prima facie showing the opponents fail to establish material factual issues, however, the

court must grant the motion for summary judgment. Vega v. Restani Constr. Corp., 18 N.Y.3d at 503; Morales v. D & A Food Serv., 10 N.Y.3d at 913; Romero v. Morrisania Towers Hous. Co. Ltd. Partnership, 91 A.D.3d at 508. In evaluating the evidence for purposes of the motion, the court construes the evidence in the light most favorable to the opponents. Vega v. Restani Constr. Corp., 18 N.Y.3d at 503; Cahill v. Triborough Bridge & Tunnel Auth., 4 N.Y.3d 35, 37 (2004).

VI. PETITIONER'S MOTION FOR SUMMARY JUDGMENT

A. Petitioner's Evidence

The unaltered employment record printouts that petitioner presents, including the contemporaneous document retained by her union's Annuity Department, a payroll roster card showing her A2C non-competitive designation, and the Public Employee Press articles governing the transfer to NYPD, lack the requisite foundation for admissibility as business records. C.P.L.R. § 4518(a); People v. Ramos, 13 N.Y.3d 914, 915 (2010); People v. Vargas, 99 A.D.3d 481, 481 (1st Dep't 2012); Taylor v. One Bryant Park, LLC, 94 A.D.3d 415, 415 (1st Dep't 2012). Petitioner herself demonstrates no familiarity with the recordkeeping procedures of any of the entities that generated the records she presents. Babikian v. Nikki Midtown, LLC, 60 A.D.3d 470, 471-72 (1st Dep't 2009); DeLeon v. Port Auth. of N.Y. & N.J., 306 A.D.2d 146, 146 (1st Dep't 2003); JP Morgan Chase Bank, N.A. v. RADS Group, Inc., 88 A.D.3d 766, 767 (2d Dep't 2011). The press articles would not qualify as any exception to the rule against

hearsay, unless respondents published them, which the record does not demonstrate. E.g., Rodriguez v. City of New York, 105 A.D.3d 623, 624 (1st Dep't 2013); Peckman v. Mutual Life Ins. Co. of N.Y., 125 A.D.2d 244, 247 (1st Dep't 1986). Nor are any of the documents authenticated as public records. C.P.L.R. §§ 4518(c), 4520, 4540(a) and (b). E.g., People v. Mertz, 68 N.Y.2d 136, 147-48 (1986); Chandler v. Manocherian, 151 A.D.2d 432, 435 (1st Dep't 1989); People v. Huntsman, 96 A.D.3d 1387, 1388 (4th Dep't 2012); People v. Smith, 258 A.D.2d 245, 249 (4th Dep't 1999). See People v. Brown, 221 A.D.2d 270, 271 (1st Dep't 1995).

Even were the court to consider this evidence admissible for purposes of supporting the petition or petitioner's motion for summary judgment, C.P.L.R. §§ 409(b), 3212(b), the documents show only that petitioner received an "A2C non-competitive" code, not that she was placed in or completed an automatic maturation process that advanced her to a permanent status. Petitioner's BOE record shows only her advancement to a higher level as a word processor. Gonzales Aff. Exs. 8 and 9. There is a gap in the record regarding how she was designated a permanent non-competitive employee before her reclassification to secretary. The unaltered employment record petitioner presents shows she received provisional appointments from December 1995 to June 1997 and then an "A2C non-competitive" designation in December 1998. Id. Exs. 4 and 11. The provision in the 1995 Public Employee Press articles and the Department of Citywide Administrative Services' Amendment to Classification governing the automatic

maturation that petitioner relies on specifically applies to permanent word processors being reclassified as secretary level 3A. Id. Ex.6; Johnson Aff. Ex. E, at 6. Thus petitioner's appointment to secretary level 3A instead of word processor level 3A neither conclusively establishes that she was already a permanent employee before the DSS transfer, nor forecloses a mistaken classification.

While petitioner alleges that the information circulated regarding the automatic maturation process advised her of her permanent status, she further attests to subsequent confirmations of her status from respondents' employees. Gonzales Aff. ¶¶ 7, 11, 14. First, she attests that, "after 2008, when amidst rumors of massive layoffs I became concerned and wanted to make sure I would not be affected, I was continually reassured by supervisors . . . that the 'permanent' employee designation I had been receiving for years was correct." Id. ¶ 11. Second, "the management confirmed my permanent status again in the 2009 evaluation." Id. Without even identifying the "supervisors" or "management," this evidence does not reveal that they made their hearsay statements within their authority to speak as agents on respondents' behalf, to qualify the statements as admissions and thus as an exception to the rule against hearsay. Gordzica v. New York City Tr. Auth., 103 A.D.3d 598, 598 (1st Dep't 2013); Boyce v. Gumley-Haft, Inc., 82 A.D.3d 491, 492 (1st Dep't 2011); Silvers v. State of New York, 68 A.D.3d 668, 669 (1st Dep't 2009); Aquino v. Kuczinski, Vila & Assoc., P.C., 39 A.D.3d 216,

221 (1st Dep't 2007). Under this rule, petitioner's description of DSS' "administrative timekeeper," "who had confirmed in 1998 that I was being transferred to NYPD with permanent noncompetitive status," and who in 2010 "reassured me that the 'A2C' code could not have been due to a clerical error" still does not demonstrate the timekeeper's authority to make those statements on respondents' behalf. *Gonzales Aff.* ¶ 14. Moreover, even if they are admissible, respondents contradict those admissions. Therefore this evidence, too, fails to establish petitioner's permanent employee status as a matter of law. C.P.L.R. § 3212(b); *Vega v. Restani Constr. Corp.*, 18 N.Y.3d at 503; *Smalls v. AJI Indus., Inc.*, 10 N.Y.3d at 735; *Choudhury v. City of New York*, 106 A.D.3d 523, 523 (1st Dep't 2013).

Until petitioner establishes either her permanent status or at least her non-competitive status conclusively, the court need not address her entitlement to a pre-termination hearing, which she claims based on her more than five years of continuous service. The right to hearing under Civil Service Law § 75(1) applies only to permanent employees, N.Y. Civ. Serv. § 75(1)(a) and (b), or employees who effectively have attained that status though five years in a non-competitive position. N.Y. Civ. Serv. § 75(1)(c).

Insofar as petitioner relies on her notice to admit, she presents neither her notice nor respondents' answers. The court may not consider the unsworn recitation by petitioner's attorney

of the requested admissions and inadequate answers as evidence supporting an entitlement to summary judgment. C.P.L.R. § 3212(b). See, e.g., Lazu v. Harlem Group, Inc., 89 A.D.3d 435, 435-36 (1st Dep't 2011); Rodriguez v. 3251 Third Ave. LLC, 80 A.D.3d 434, 434 (1st Dep't 2011).

B. Spoliation

Petitioner insists that precluding respondents from presenting any evidence that she was classified as a provisional employee is the only effective remedy for their admitted erasure of the "A2C non-competitive" code from her employment records after respondents learned in November 2010 of her intention to challenge her discharge. Petitioner postulates that respondents also tampered with her employment records in 2008, Gonzales Aff. ¶ 15, but presents no evidentiary support.

Respondents oppose petitioner's request for preliminary injunctive relief requiring them to restore the "A2C non-competitive" designation, because it would alter their official records. Nevertheless, respondents do not claim, let alone show, that it is impossible or even difficult to retrieve a back-up or other copy of the prior version of petitioner's records before they removed the "A2C non-competitive" code. In fact, petitioner found it possible to obtain contemporaneous employment records of the period in question. Although she has not presented them in admissible form, she has not shown that respondents' restoration of the records is the only or even a means to present them in admissible form or that respondents' action or inaction has

prejudiced her or demonstrates a high degree of culpability on their part. Ortega v. City of New York, 9 N.Y.3d 69, 76 (2007); New York City Hous. Auth. v. Pro Quest Sec., Inc., 108 A.D.3d 471, 473 (1st Dep't 2013); Shan Palakawong v. Lalli, 88 A.D.3d 541, 542 (1st Dep't 2011). Therefore the court denies petitioner's motion insofar as it seeks a penalty for respondents' spoliation of evidence, without prejudice to a future showing warranting this relief.

C. Equitable Estoppel

Although Civil Service Law § 65(2)'s prohibition against more than nine months of probationary service confers no right to permanent employment status after that time, City of Long Beach v. Civil Serv. Empls. Assn., Inc.-Long Beach Unit, 8 N.Y.3d 465, 471 (2007); Alfaro v. Hirst, 106 A.D.3d 529, 529-30 (1st Dep't 2013), petitioner alleges more than a mere passage of time. Petitioner maintains that she was recognized and treated as a non-competitive employee, a status attained through automatic maturation during her service at BOE. She alleges that in 2008 and 2009, when she inquired about her status, respondents' managers confirmed her permanent status after a search of records. Therefore she did take the civil service examinations offered for provisional secretaries seeking permanent status. Gonzales Aff. ¶ 11.

Equitable estoppel may apply to a governmental entity if its negligence or misconduct induced a party entitled to rely on that action to change her position to her detriment. Flores v. City

of New York, 62 A.D.3d 506, 506-507 (1st Dep't 2009); Delacruz v. Metropolitan Transp. Auth., 45 A.D.3d 482, 482 (1st Dep't 2007); Branca v. Board of Educ., Sachem Cent. School Dist. at Holbrook, 239 A.D.2d 494, 495-96 (1st Dep't 1999). Petitioner presents no admissible evidence showing respondents' inducement, however, as their reassurances are hearsay insufficient to establish petitioner's entitlement to judgment as a matter of law. Choudhury v. City of New York, 106 A.D.3d at 523. Therefore the court denies petitioner's motion for summary judgment due to her failure to establish her prima facie entitlement to reversal of her employment termination and to her reinstatement. C.P.L.R. §§ 3212(b).

III. RESPONDENTS' CROSS-MOTION FOR SUMMARY JUDGMENT

Respondents claim that, to be a permanent secretary reclassified from the word processor title during the DSS transfer, petitioner was required to take a civil service examination for secretary or a former job title. Johnson Aff. ¶ 9. Respondents fail, however, to address petitioner's allegation that she received the "A2C non-competitive" designation by completing three years of satisfactory service and passing an internal performance examination that DSS administered to compensate for the unavailability of an open competitive examination for word processors. The record does not show that, when petitioner held the word processor title, passing a civil service examination or appointment from a list of candidates who passed the examination was the only means, as respondents claim,

or even a means to gain permanent status. Respondents admit that the last civil service examination offered for the word processor title was in 1984. Aff. of Gail Mulligan ¶ 22 and Ex. F. Because no civil service examination was offered for word processors during petitioner's service, and her A2C non-competitive classification obviated a need for her to take a civil service examination during her service as a secretary, her failure to take such an examination does not conclusively establish that she remained a provisional employee for 15 years.

Insofar as respondents insist that petitioner was not entitled to rely on the automatic maturation process because it applies only to permanent employees, nothing in the record supports this claim. Petitioner's inadmissible Public Employee Press articles support the process' application to permanent employees, but do not exclude its application to provisional employees. No evidence establishes that provisional employees in the word processor title and petitioner in particular were not eligible for automatic maturation in her circumstances. Petitioner's provisional status before she received her "A2C non-competitive" designation does not eliminate her claim that she attained permanent status to compensate for the unavailability of a civil service examination for word processors or for the title being phased out in the transfer to NYPD. Although the court denies petitioner summary judgment on equitable estoppel grounds, respondents, on the other hand, do not demonstrate that they did not negligently or culpably induce petitioner to rely justifiably

on their assurances of her permanent status, by forgoing the civil service examinations offered for the secretary title.

Respondents thus fail to establish that petitioner's employment status before her reclassification to a secretary position during the DSS transfer and her justifiable reliance on respondents' representation of her status provide no grounds to challenge her termination. Petitioner raises, and the current record does not dispose of factual issues regarding these claims. C.P.L.R. §§ 410, 7804(h). Therefore the court also denies respondents' cross-motion for summary judgment dismissing the petition. C.P.L.R. § 3212(b); Vega v. Restani Constr. Corp., 18 N.Y.3d at 503; Smalls v. AJI Indus., Inc., 10 N.Y.3d at 735; O'Halloran v. City of New York, 78 A.D.3d 536, 537 (1st Dep't 2010).

IV. THE NEED FOR LIMITED DISCLOSURE

The court grants petitioner permission to conduct limited disclosure necessary to support her central claims, that she attained a non-competitive permanent status through an automatic maturation process and that respondents are equitably estopped from denying her permanent status. C.P.L.R. § 408; Roth v. Pakstis, 13 A.D.3d 194, 194 (1st Dep't 2004); People v. Zymurgy, Inc., 233 A.D.2d 178, 179 (1st Dep't 1996); Margolis v. New York City Tr. Auth., 157 A.D.2d 238, 243 (1st Dep't 1990). See Price v. New York City Bd. of Educ., 51 A.D.3d 277, 293 (1st Dep't 2008); Allocca v. Kelly, 44 A.D.3d 308, 309 (1st Dep't 2007); Town of Wallkill v. New York State Bd. of Real Prop. Servs., 274

A.D.2d 856, 859-60 (3d Dep't 2000); Grossman v. McMahon, 261 A.D.2d 54, 57-58 (3d Dep't 1999). To that end, petitioner may seek reproduction of her employment record before respondents' alterations, depositions of persons with knowledge of the automatic maturation process and petitioner's status and classification during the DSS transfer, and documents and deposition testimony to support her detrimental reliance on respondents' repeated assurances.

V. DISPOSITION

To recapitulate, the court denies petitioner's motion and respondents' cross-motion for summary judgment dismissing the petition. C.P.L.R. § 3212(b). The court denies petitioner's motion insofar as it seeks a penalty for respondents' spoliation of evidence, without prejudice to a future showing warranting this relief. The court grants petitioner preliminary injunctive relief to the extent of permitting her to seek production of her employment record that reflects its form before her termination and before respondents changed her permanent employee status and grants her further disclosure as limited above before a determination of the petition. C.P.L.R. §§ 408, 6301, 6312(a).

The parties shall appear for a preliminary conference March 18, 2014, at 9:30 a.m. This decision constitutes the court's order.

FILED

MAR 12 2014

DATED: February 7, 2014

NEW YORK
COUNTY CLERK'S OFFICE

Lucy Billings

LUCY BILLINGS, J.S.C.

LUCY BILLINGS
J.S.C.