

Vucinaj v New York City Police Dept.

2023 NY Slip Op 32253(U)

July 7, 2023

Supreme Court, New York County

Docket Number: Index No. 156145/2021

Judge: Judy H. Kim

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

PRESENT: HON. JUDY H. KIM **PART** **05RCP**

Justice

-----X

MARASH VUCINAJ,

Plaintiff,

- v -

NEW YORK CITY POLICE DEPARTMENT, CITY OF
NEW YORK,

Defendants.

-----X

INDEX NO. 156145/2021

MOTION DATE 08/18/2022

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23

were read on this motion for DISMISSAL.

Upon the foregoing documents, the motion by defendants the City of New York (the “City”) and New York City Police Department (the “NYPD”) is granted in part for the reasons set forth below.

Plaintiff has served as a police officer in the NYPD since February 28, 1994 (NYSCEF Doc. No. 9 [Am. Compl. at ¶9]). In 2010, he was promoted to the rank of Captain (*Id.* at ¶10). Plaintiff alleges that, beginning in March 2010 he gained a reputation in the NYPD as a “rat,” stemming from his participation in an investigation of another officer’s involvement in a domestic incident (*Id.* at ¶11). On or around October 2010, then-Inspector (and now Deputy Chief) Kevin Harrington, asked plaintiff whether he wanted a command and, when plaintiff said that he did, told plaintiff he had to “start playing the game” (*Id.* at ¶13).

In 2012, while serving as Executive Officer of the 44th Precinct, plaintiff uncovered “numerous accounts of overtime abuse” but his efforts to “address and investigate these fraudulent reports” were thwarted by his superiors, one of whom, Deputy Chief Catalina, stated that things “ran smoothly” at the 44th Precinct and that he did not want to see that change (Id. at ¶22). Plaintiff was subsequently transferred to the Patrol Borough Bronx Impact Response Team, where he was a Commanding Officer, though his authority was frequently undermined by his superiors (Id. at ¶25). In mid-September 2012, Patrol Borough Bronx Adjutant Inspector Charles B. Ortiz told plaintiff to “stop what he was doing” but would not specify the behavior he had in mind (Id. at ¶27).

On February 5, 2014, plaintiff notified the NYPD’s Internal Affairs Bureau (“IAB”) Command Center and Inspector Steven Ortiz that officers assigned to Narcotics in the 42nd Precinct Street were falsely reporting additional overtimes hours and was admonished for his reporting and directed not to notify IAB ever again (Id. at ¶29). On July 25, 2015, plaintiff discovered a post on a website “Rising Star Promotions”—allegedly owned, operated, and moderated by two Deputy Inspectors—stating that “Albanian Captain Vucinaj called IAB on Duty Chief!” and included altered photographs of him, all of which remained online despite plaintiff informing IAB and Defendant’s Equal Employment Opportunity Office (Id. at ¶¶46, 48).

In 2016, plaintiff had a a meeting with Deputy Bureau Chief Joshua Mandell, Deputy Inspector Lashonda C. Dyce (then Lieutenant) and Captain Valerie L. Duchon (then Sergeant), the 101st Precinct Integrity Control Officers concerning his allegations that officers routinely overcharged defendants and intentionally delayed arrest processing to generate overtime hours (Id. at ¶54). In June of 2016, plaintiff told Captain Christopher Monahan about his efforts to expose corruption and the resultant hostilities and retaliation he was subjected to as a result (Id. at ¶56).

Monahan “dismissed his claims and refused to offer any assistance” (Id.). He also began to email IAB with examples of falsified complaint reports and “instances where additional complaint reports for felony index crimes were not being generated/prepared” and reported “theft of time” and gratuitous felony charges by various officers as part of the citywide pattern of false arrests by the NYPD (Id.).

On November 19, 2016, plaintiff was reassigned to the Transit District 30 as the unofficial Executive Officer (Id. at ¶65). Plaintiff “continued to recognize and to report instances of falsification, downgrading of complaint reports, gratuitous charges, unlawful arrests, and abuse of overtime hours (Id. at ¶67). Plaintiff “attempted to address improper practices regarding fare evasion arrests with Captain Williams, Inspector Christine Bastedenbeck and Deputy Inspector Dimitrios Roumeliotis, Commanding Officer of Transit Bureau Special Operations District, to no avail” (Id.).

On April 18, 2017, plaintiff emailed various NYPD Captains, Deputy Inspectors, and Commanding Officers, as well as his superior, Captain Williams, about his investigations into misclassified complaint reports and that his efforts had been futile despite informing Williams (Id. at ¶70). Upon receiving this email, Williams immediately came out of his office, “banged on plaintiff’s office wall, and barged into [plaintiff’s] office ranting” (Id.). Plaintiff notified IAB on May 14, 2017 of this encounter (Id.).

On June 20, 2017, Inspector Vincent Giantasio and Deputy Inspector Constantine Tsachas informed plaintiff that he was transferred to Transit Borough Brooklyn because he was “meddling in other people’s business” (Id. at ¶74). On June 29, 2017, plaintiff was interviewed by the NYPD’s Quality Assurance Division regarding allegations that complaint reports were being falsified (Id. at ¶75).

Plaintiff asserts that, as a result of his reporting, he was repeatedly transferred between 2014 and 2016. He was first sent to the 47th Precinct—the farthest commute possible for him—then to Patrol Borough Queens South—where he was assigned the midnight shift and forced to perform solo patrol on the midnight shift during a particularly dangerous period—and, thereafter, to the 101st Precinct in March 2016 (Id. at ¶¶33-34, 37, 49, 52). In November 2016, plaintiff requested a transfer from Transit District 30 to Transit District 33, which was denied “despite [plaintiff’s] rank as the most senior Captain in Transit Borough Brooklyn” (Id. at ¶65). Instead, he was “regularly assigned ... to undesirable assignments” and transferred to various “isolated ‘do nothing’ assignments, including to a non-department facility (Id. at ¶¶65, 124).

On January 12, 2018, plaintiff filed a national origin discrimination complaint with defendants’ Equal Opportunity Office (Id. at ¶82). Plaintiff alleges that on July 25, 2018, he was told he would be transferred to the Transit Bureau Liaison Unit at the MTA Rail Control Center (Id. at ¶86). The complaint does not indicate when this transfer took place.

On August 21, 2018, plaintiff filed a lawsuit against the City and NYPD in the United States District Court for the Southern District of New York¹ (the “Federal Action”), asserting claims for employment discrimination, failure to promote, and retaliation “based upon [p]laintiff’s race (Caucasian), color (White), sex (male), and national origin (Albanian)” in violation of Title VII of the Civil Rights Act of 1964, 42 USC §1981, and, as pertinent here, Executive Law §296 (i.e., the New York State Human Rights Law or “NYSHRL”) and Administrative Code §8-107 (i.e., the New York City Human Rights Law or “NYCHRL”) (See NYSCEF Doc. No. 11 [Federal Amended Complaint]). Plaintiff voluntarily withdrew his retaliation claims from the Federal

¹ Plaintiff’s complaint makes one passing reference to the Federal Action (See NYSCEF Doc. No. 9 [Am. Compl. at ¶115]).

Action on November 8, 2019 (See NYSCEF Doc. No. 12 [Opinion and Order dated August 12, 2020 at fn 3]).

The City and NYPD moved for summary judgment in the Federal Action. On August 12, 2020, the District Court dismissed both plaintiff's hostile work environment and denial of overtime claims (asserted pursuant to Title VII, the NYSHRL, and NYCHRL) and failure to promote claims (asserted pursuant to Title VII and NYSHRL) with prejudice (Id. at pp. 8-21). The District Court declined to exercise supplemental jurisdiction over plaintiff's failure to promote claim asserted under the NYCHRL and dismissed this claim without prejudice (Id. at p. 21).

On November 26, 2018, plaintiff applied for a discretionary promotion to Deputy Inspector and Commanding Officer, which request was denied on July 1, 2019 (NYSCEF Doc. No. 9 [Am. Compl. at ¶94]).

On January 8, 2019, plaintiff reported one Lieutenant Tolentino to IAB Command Center, asserting that Tolentino had engaged in misconduct, at the direction of IAB and Transit Bureau executives, in investigating plaintiff's complaints of retaliations and underreporting, by destroying a phone call conducted as part of that investigation (Id. at ¶97). On October 30, 2019, plaintiff submitted another application for a discretionary promotion to Deputy Inspector and Commanding Officer, which application was again denied (Id. at ¶102). Plaintiff alleges that Chief Delatorre was required by NYPD policy to explain why he was not selected for promotion or a Commanding Officer assignment, "especially when those with lesser seniority and qualifications were being chosen" but failed to do so (Id.). On March 8, 2021, plaintiff again applied for promotion to Deputy Inspector and Commanding Officer assignment (Id. at ¶105). This application was also denied, despite the fact that other captains with "significantly less seniority and experience" and "serious disciplinary histories" were afforded "opportunities for promotion and advancement" (Id. at ¶107).

Plaintiff commenced this action on June 24, 2021, asserting claims for retaliation under the NYSHRL, the NYCHRL, and Civil Service Law (“CSL”) §75-b. Defendants now move, pursuant to CPLR §3211, to dismiss the complaint in its entirety. Defendants argues that any retaliation claims under the NYSHRL and NYCHRL that accrued prior to June 24, 2018 are time-barred and that the remaining timely factual allegations in the complaint do not state a claim under either statute. Defendants further argues that plaintiff’s CSL §75-b retaliation claim is precluded by his failure to exhaust administrative remedies pursuant to the collective bargaining agreement (“CBA”) between the Captains’ Endowment Association and the City of New York before commencing this action and is, in any event, time-barred and fails to include facts to establish a causal connection between plaintiff’s reports of misconduct and retaliation.

Plaintiff opposes the motion, arguing that the statute of limitations for his NYSHRL and NYCHRL retaliation claims was tolled during the pendency of his EEOC complaints and the Federal Action and that his CSL §75-b retaliation claim is timely based upon the continuing violation doctrine. Plaintiff further argues that, as his CSL §75-b claim is not based upon conduct which violates the collective bargaining agreement, he is not precluded from bringing this claim in the instant action without first exhausting administrative remedies.

DISCUSSION

As a threshold matter, defendants’ motion to dismiss this action as against the NYPD is granted without opposition, as there is no dispute that NYPD is a non-suable entity pursuant to Chapter 17, Section 396 of the New York City Charter (See Matter of Carpenter v NY City Hous. Auth., 146 AD3d 674, 674 [1st Dept 2017]). Accordingly, the Court turns to the substance of City’s motion to dismiss the complaint.

In reviewing a motion to dismiss a complaint for failure to state a cause of action the court must “give the complaint a liberal construction, accept the allegations as true and provide plaintiffs with the benefit of every favorable inference. The ultimate question is whether, accepting the allegations and affording these inferences, plaintiff can succeed upon any reasonable view of the facts stated” (Doe v Bloomberg, L.P., 36 NY3d 450, 454 [2021] [internal citations and quotations omitted]).

New York State and New York City Human Rights Law Claims

To state a claim of retaliation under the NYSHRL, plaintiff must allege that: (1) he engaged in a protected activity by opposing conduct prohibited thereunder; (2) defendants were aware of that activity; (3) he was subject to an adverse action; and (4) there was a causal connection between the protected activity and the adverse action (Fletcher v Dakota, Inc., 99 AD3d 43, 51 [1st Dept 2012] citing Forrest v Jewish Guild for the Blind, 3 NY3d 295, 312-313 [2004]). Under the NYCHRL, plaintiff must, similarly, allege that: (1) plaintiff participated in a protected activity known to defendants; (2) defendants took an action that disadvantaged her (a lower threshold than the allegations of “adverse action” required by the NYSHRL); and (3) a causal connection exists between the protected activity and the adverse action (Id. citing Albunio v City of New York, 67 AD3d 407, 413 [2009]).

Plaintiff has sufficiently pled that he engaged in protected activity. In this context, “protected activity” refers to “actions taken to protest or oppose statutorily prohibited discrimination” (Thomas v Mintz, 60 Misc 3d 1218(A) [Sup Ct, NY County 2018] [internal citations omitted], affd as mod, 182 AD3d 490 [1st Dept 2020]) which includes plaintiff’s EEOC complaints on January 12, 2018, his commencement of the Federal Action on August 21, 2018, and his EEOC complaint on April 19, 2019 (See Hunts Point Multi-Serv. Ctr., Inc. v Bizardi, 45

AD3d 481 [1st Dept 2007]; Bantamoi v St. Barnabas Hosp., 146 AD3d 420, 420 [1st Dept 2017]; see also Thior v Jetblue Airways Corp., 2021 NY Slip Op 31818[U], 25 [Sup Ct, NY County 2021]). Plaintiff has also adequately pled that the City was aware of this activity and that the City took an adverse employment action against him.

Under the NYSHRL, “[a]n adverse employment action requires a materially adverse change in the terms and conditions of employment” and “must be more disruptive than a mere inconvenience or an alteration of job responsibilities” (Forrest v. Jewish Guild for the Blind, 3 N.Y.3d 295, 306]d [internal citations and quotations omitted]). Plaintiff’s allegations that he was denied a promotion on November 26, 2018, and July 15, 2019, October 30, 2019 and March 8, 2021 are sufficient to satisfy this standard (See Alshami v City Univ. of New York, 203 AD3d 592 [1st Dept 2022]; see also Local 621 v New York City Dept. of Transportation, 178 AD3d 78, 83 [1st Dept 2019]) as well as the NYCHRL’s less stringent standard of “disadvantageous” conduct. The Court notes that, since these adverse employment actions all took place after June 24, 2018, the statute of limitations does not present a bar to these claims, contrary to the City’s argument.

Ultimately, however, plaintiff has failed to allege facts suggesting a causal relationship between his protected activity and the adverse employment action in question. Such “[a] causal connection may be established either indirectly, by showing that the adverse employment action closely followed in time the protected activity, or directly, through evidence of retaliatory animus, such as verbal or written remarks” (Thomas v Mintz, 60 Misc 3d 1218(A) [Sup Ct, NY County 2018] [internal citations and quotations omitted], affd as mod, 182 AD3d 490 [1st Dept 2020]). In this case, plaintiff fails to allege any facts which, if established, would constitute direct evidence of retaliation by plaintiff’s superiors. The complaint contains no such direct evidence, or any indication that his superiors or colleagues had any reaction to his EEOC complaints or the Federal

Action. In fact, the complaint contains no allegations suggesting any discrimination against plaintiff based on his ethnicity or nationality or indeed, any reference to his ethnicity or nationality except for the post on the Rising Star Promotions website that “Albanian Captain Vucinaj called IAB on Duty Chief!”, which was posted three years prior to any protected activity by plaintiff.

In light of the foregoing, plaintiff must rely solely on temporal proximity between the protected act and alleged retaliation to establish a causal connection. However, “[t]he cases that accept mere temporal proximity between an employer’s knowledge of protected activity and an adverse employment action as sufficient evidence of causality . . . uniformly hold that the temporal proximity must be ‘very close’” (Jones v The City of New York, 2019 NY Slip Op 30399[U] [Sup Ct, NY County 2019] [internal citations omitted]) and while “there is no bright line rule that defines the outer limits beyond which a temporal relationship is too attenuated to establish a causal relationship, generally, periods greater than two months are too long to support the inference of causation” (Id. [internal citations and quotations omitted]).

In this case, plaintiff’s first application for a promotion was denied approximately three months after the commencement of his Federal Action. The three subsequent denials of his requests for promotion took place three months, six months, and over eighteen months after his April 19, 2019 EEOC complaint. The distance between these protected acts and the subsequent denials of his promotion requests are too great to establish a causal connection based solely on temporal proximity (See Jones v The City of New York, 2019 NY Slip Op 30399[U], 7 [Sup Ct, NY County 2019] [internal citations and quotations omitted]; see also Herskowitz v The State of New York, 2023 NY Slip Op 30292[U] [Sup Ct, NY County 2023] [“as plaintiff does not alleges facts aside from the alleged temporal proximity to support his allegation of a retaliatory animus, the four-month period from the protected activity to the adverse employment action is ‘simply too

attenuated' to establish a causal connection through temporal proximity alone”]). Accordingly, the City’s motion to dismiss plaintiff’s NYSHRL and NYCHRL retaliation claims is granted and these claims are dismissed² (See Brown v City of New York, 185 AD3d 410, 410-11 [1st Dept 2020]). The Court now turns to that branch of defendants’ motion to dismiss plaintiff’s claim for retaliation pursuant to CSL §75-b.

Civil Service Law §75-b

As pertinent here, Civil Service Law §75-b provides that:

A public employer shall not dismiss or take other disciplinary or other adverse personnel action against a public employee regarding the employee’s employment because the employee discloses to a governmental body information ... which the employee reasonably believes to be true and reasonably believes constitutes an improper governmental action. “Improper governmental action” shall mean any action by a public employee or employee, or an agent of such employer or employee, which is undertaken in the performance of such agent’s official duties, whether or not such action is within the scope of his employment, and which is in violation of any federal, state or local law, rule or regulation.

(CSL §75-b[2][a] [emphasis added]).

The City argues that this claim is barred by section (3)(b) of the same statute, which states that

[w]here an employee is subject to a collectively negotiated agreement which contains provisions preventing an employer from taking adverse personnel actions and which contains a final and binding arbitration provision to resolve allegations of such provisions of the agreement and the employee reasonably believes that such personnel action would not have been taken but for the conduct protected under subdivision two of this section, he or she may assert such as a claim before the arbitrator

(CSL §75-b[3][b] [emphasis added]).

² To the extent that plaintiff’s second cause of action can be read as asserting a retaliation claim based upon a violation of Administrative Code §12-113, it is undisputed that this statute does not provide a private right of action. Accordingly, this aspect of plaintiff’s claim is also dismissed.

The Court is not persuaded that this provision applies. Although the CBA provides that a grievance must be filed when there is “a claimed violation, misinterpretation or misapplication of the rules, regulations or procedures of the Police Department affecting terms and conditions of employment” (NYSCEF Doc. No. 22 [Collective Bargaining Agreement at Art. XVIII]), plaintiff is not alleging that the denial of his application for a promotion involved such a violation, misinterpretation, or misapplication of the NYPD rules, regulations or procedures. To the contrary, plaintiff acknowledges that such a promotion was at the discretion of his superiors (NYSCEF Doc. No. 9 [Am. Compl. at ¶¶94, 102]) but asserts that he was denied this promotion purely as a retaliatory measure. Therefore, “the plaintiff is not asserting that the defendant violated any provision of the collective bargaining agreement, but rather that the defendant took an adverse personnel action against [him] in retaliation for a disclosure protected under Civil Service Law §75-b(2)(a)” and his failure to first exhaust his administrative remedies under the CBA does not present a bar to this action (Flynn v New York State Dept. of Corrections and Community Supervision, 201 AD3d 885 [2d Dept 2022]).

Neither has the City established that this claim is barred by the one-year statute of limitations applicable to CSL §75-b claims (Donas v City of NY, 62 AD3d 504 [1st Dept 2009]). After accounting for the toll of the statute of limitations created by Executive Order 202.8, any CSL §75-b claim that accrued before March 20, 2020 is time-barred, which bars all of the alleged adverse personnel actions taken against plaintiff except for the (presumed) denial of his March 8, 2021 application for promotion to Deputy Inspector. Contrary to plaintiff’s claim, the statute of limitations is not tolled by the continuing violation doctrine under the circumstances presented here. That doctrine permits otherwise time-barred acts to be considered by the Court when these acts are “part of a single continuing pattern of unlawful conduct extending into the one-year period

immediately preceding the filing of the complaint” (Petit v Dept. of Educ. of City of New York, 177 AD3d 402, 403-04 [1st Dept 2019] quoting Ferraro v New York City Dept. of Educ., 115 AD3d 497, 497-498 [1st Dept 2014]) and does not apply where, as here, all of the allegations of adverse employment actions set out in plaintiff’s complaint—i.e., failure to promote and denial of transfer requests—constitute discrete discriminatory acts (See e.g., Williams v Deutsche Bank Group, 2013 NY Slip Op 34190[U], 10-11 [Sup Ct, NY County 2013] quoting Natl. R.R. Passenger Corp. v Morgan, 536 US 101, 101 [2002]).

Finally, the Court rejects the City’s argument that plaintiff has failed to state a claim. To state a CSL §75-b retaliation claim, plaintiff must allege that: (1) he disclosed information to a governmental body regarding a violation of a law, rule, or regulation which he reasonably believed constituted an improper governmental action; (2) his employer took an adverse personnel action against him; and (3) there was a causal connection between the disclosure and the adverse personnel action (See Dacosta v New York City Dept. of Bldgs., 2021 NY Slip Op 30169[U], 4 [Sup Ct, NY County 2021] [internal citations omitted] rev’d sub nom. DaCosta v New York City Dept. of Buildings,, 203 AD3d 571 [1st Dept 2022]).

There is no dispute that plaintiff has sufficiently alleged that he disclosed information to a governmental body regarding a violation of a law, rule, or regulation that he reasonably believed constituted an improper governmental action and that he suffered an adverse personnel action in being repeatedly denied promotion (See CSL §75-b(1)(d) [“‘Personnel action’ shall mean an action affecting compensation, appointment, promotion, transfer, assignment, reassignment, reinstatement or evaluation of performance”]). Rather, the City argues that plaintiff has failed to allege facts sufficient to establish a causal connection between the disclosure and the adverse personnel action.

As in retaliation claims under the NYSHRL and NYCHRL, a causal connection in a CSL §75-b retaliation claim is established “either directly through a showing of retaliatory animus, or indirectly through a showing that the protected activity was followed closely by the adverse action” (McCourt v Fashion Inst. of Tech., 2023 NY Slip Op 31442[U] [Sup Ct, New York County 2023] quoting Smith v County of Suffolk, 776 F3d 114, 118 [2d Cir 2015]). Applying this standard, the delay of nearly two years between the most recent report of misconduct by plaintiff, on January 8, 2019, and the only timely adverse employment act—*i.e.*, the denial of plaintiff’s March 8, 2021 application for promotion to Deputy Inspector—is insufficient, on its own, to sustain a causal nexus between the disclosure and adverse personnel action (*Id.*).

However, “[t]he absence of temporal proximity will not defeat the claim, where, as here, there are other facts supporting causation” (Harrington v City of New York, 157 AD3d 582, 586 [1st Dept 2018]), including facts which occurred prior to the expiration of the statute of limitations that “provide background evidence of defendants’ unlawful motives and intent” (Collins v Indart-Etienne, 59 Misc 3d 1026, 1055 [Sup Ct, Kings County 2018] citing Shub v Westchester Community Coll., 556 F Supp 2d 227, 243 [SDNY 2008]). Such facts are present here, including the prior denials of his requests for promotion (*Id.* citing Jute v Hamilton Sundstrand Corp., 420 F3d 166, 176-178 [2d Cir 2005]; Petrosino v Bell Atl., 385 F3d 210, 220 [2d Cir 2004]) and the repeated efforts of NYPD personnel to dissuade plaintiff from continuing to report wrongdoing of the type contemplated by CSL §75-b through express directives as well as repeated transfers to undesirable positions.

The foregoing allegations, taken collectively, are sufficient to create an issue of fact as to whether a causal connection exists between plaintiff’s reporting of misconduct and the denials of

his requests for a promotion (See Harrington v City of New York, 157 AD3d 582, 586 [1st Dept 2018] [complaint supported inference that NYPD psychologist's 2013 determination that plaintiff was psychologically unfit was causally connected to his 2007 action against NYPD, where this lawsuit was expressly referenced by psychologist and plaintiff had been found psychologically fit for many years prior to his lawsuit]; see also Senal v Lynch, —NYS3d—, 2023 NY Slip Op 02991 [1st Dept, 2023] [plaintiff's complaint raised inference that Archdiocese terminated plaintiff because of his report that defendant Lynch deliberately injected a fatal overdose of morphine to an elderly retired priest residing at defendants' residence, despite nearly three year delay between report and termination, where plaintiff had worked at the residence for eighteen years before his report, was placed on administrative leave during the entirety of an investigation and ultimately terminated at the investigation's conclusion]). Accordingly, defendant's motion to dismiss plaintiff's CSL §75-b claim is denied.

In light of the foregoing, it is

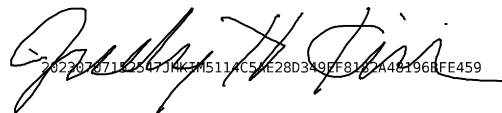
ORDERED that defendants' motion is granted, in part, to the extent plaintiff's first and second causes of action, for retaliation under the New York State Human Rights Law and New York City Human Rights Law, are dismissed, and is otherwise denied; and it is further

ORDERED that within ten days of the date of this decision and order, counsel for defendant the City of New York shall serve a copy of this order with notice of entry on plaintiff as well as the Clerk of the Court (60 Centre St., Room 141B) and the Clerk of the General Clerk's Office (60 Centre St., Rm. 119), and it is further

ORDERED that such service upon the Clerk of the Court and the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the *Protocol on*

Courthouse and County Clerk Procedures for Electronically Filed Cases (accessible at the “E filing” page on this court’s website at the address www.nycourts.gov/supctmanh).

This constitutes the decision and order of the Court.



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7/7/2023
DATE

HON. JUDY H. KIM, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE