

**Judson v Elliott Mgt. Corp.**

2025 NY Slip Op 32438(U)

July 1, 2025

Supreme Court, New York County

Docket Number: Index No. 652185/2021

Judge: Mary V. Rosado

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This opinion is uncorrected and not selected for official publication.

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

**PRESENT: HON. MARY V. ROSADO PART 33M**

*Justice*

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GLENN JUDSON,

Plaintiff,

- v -

ELLIOTT MANAGEMENT CORPORATION, ZION SHOHET,  
OLEG OLOVYANNIKOV

Defendant.

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INDEX NO. 652185/2021

MOTION DATE 12/06/2024

MOTION SEQ. NO. 002

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 002) 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135

were read on this motion to/for SUMMARY JUDGMENT(BEFORE JOIND).

Upon the foregoing documents, and after a final submission date of April 28, 2025, Defendants Elliott Management Corporation (“Elliott Management”), Zion Shohet (“Shohet”) and Oleg Olovyannikov’s (“Olovyannikov”) (collectively “Defendants”) motion for summary judgment dismissing Plaintiff Glenn Judson’s (“Plaintiff”) Amended Complaint is granted.

**I. Background**

Elliott Management is an investment management firm. Plaintiff was employed in Elliott Management’s technology department. On May 10, 2018, Elena Gurevich, Plaintiff’s subordinate, shared with him a text she received from a co-worker, Alexander Batyik, which upset her. Mr. Batyik allegedly called another female employee a “silly menstrual fish.” Plaintiff believed he had an obligation to report this and advised Human Resources. On July 27, 2018, Olovyannikov allegedly told Ms. Gurevich that Plaintiff was not “young and energetic” and suggested she take his position (NYSCEF Doc. 112 at p. 75-76). These acts form the basis of Plaintiff’s claims of age

discrimination, hostile work environment and retaliation under the New York City Human Rights Law. However, before Plaintiff reported the text to human resources, and before the allegedly discriminatory comment was made, Plaintiff's manager Amit Basu ("Basu") and Olovyannikov put Plaintiff on a "watchlist" of underperforming employees.

According to Vinod Matthew, then Head of Strategic Projects,<sup>1</sup> Plaintiff repeatedly missed deadlines, and his work quality was poor (NYSCEF Doc. 48). On May 4, 2018, Plaintiff presented on the status of implementing a new document management system (the "Project"). After the presentation, Shohet convened a meeting and stressed the need to speed up the Project, which had been in progress since 2017. On July 24, 2018, Plaintiff again presented on the Project. According to Plaintiff's superiors, the presentation showed little progress from the May presentation. On August 10, 2018, Plaintiff was fired. Plaintiff was 47 years old and was replaced by Milo Chan, who was 54 years old. Plaintiff's superiors were older than him. Defendants now move for summary judgment dismissing Plaintiff's Amended Complaint.

## **II. Discussion**

### **A. Age Discrimination**

Defendants' motion for summary judgment dismissing Plaintiff's age discrimination claim is granted. To allege employment discrimination, a plaintiff must show (a) he is a member of a protected class; (b) he was qualified for the position; (c) he suffered an adverse employment action; and (d) that the adverse action occurred under circumstances giving rise to an inference of discrimination (*Hribovsek v United Cerebral Palsy of New York City*, 223 AD3d 618 [1st Dept 2024]). The undisputed facts show Plaintiff's termination did not take place under circumstances giving rise to an inference of age discrimination. Plaintiff was replaced by someone seven years

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<sup>1</sup> Mr. Matthew is now the Head of Artificial Intelligence at Elliot Management.

older than him, was fired by an individual four years older than him and was directly managed by an individual six years older than him. Although Plaintiff relies on Ms. Gurevich's testimony, that testimony shows Olovyanikov suggested that Ms. Gurevich, who is one year older than Plaintiff, take his position. All actors whom Plaintiff alleges committed age discrimination were older than him, and Plaintiff was replaced by someone seven years older, negating any inference of discrimination (*see Hamburg v New York Univ. School of Med.*, 155 AD3d 66, 77 [1st Dept 2017]).

Assuming, *arguendo*, Plaintiff could show the termination took place under an inference of discrimination, Defendants tendered undisputed evidence that the reason for Plaintiff's termination were non-discriminatory. Prior to any of the allegedly discriminatory remarks, Plaintiff was put on a "watch list" for poor performance. He was given numerous opportunities to make progress on implementing a new document system. Plaintiff was put on notice of the need to speed up the Project after the May 4, 2018, meeting. But after multiple presentations, senior leadership, all of whom were older than Plaintiff, found his progress insufficient (*see, e.g. Tihan v Apollog Mgt. Holdings, L.P.*, 201 AD3d 557, 558 [1st Dept 2022]; *Bennett v Health Management Systems, Inc.*, 92 AD3d 29, 45-46 [1st Dept 2011]).

Given this record, it cannot be shown that age discrimination played a role in Plaintiff's firing (*see Kaiser v Raoul's Restaurant Corp.*, 112 AD3d 426, 427 [1st Dept 2013]; *Bennett v Health Management Systems, Inc.*, 92 AD3d 29, 46 [1st Dept 2011]). Therefore, Plaintiff's age discrimination claim is dismissed (*see also Lively v Wafra Investment Advisory Group, Inc.*, 211 AD3d 432, 433 [1st Dept 2022]; *Kosarin-Ritter v Mrs. John L. Strong, LLC*, 117 AD3d 603, 604 [1st Dept 2014] [comment that company was "going young" was insufficient to bring age discrimination claim where employer proffered non-discriminatory reason for terminating plaintiff, and company hired older employees after plaintiff was terminated]).

## B. Hostile Work Environment & Retaliation

Defendants' motion for summary judgment dismissing Plaintiff's hostile work environment claim is granted. Although there is evidence that Olovyannikov made discriminatory remarks about South Asian employees; comments made about other employee's protected characteristics not shared by Plaintiff and not directed at Plaintiff cannot form the basis of a hostile work environment claim (*Williams v New York City Hous. Auth.* 61 AD3d 62, 80 [1st Dept 2009]). Nor is there evidence that Plaintiff ever complained about the allegedly discriminatory remarks directed towards South Asians.

Plaintiff has failed to set forth severe and/or pervasive age-related comments made towards him to support his hostile work environment claim (*see also Sedhom v SUNY Downstate Med. Center*, 201 AD3d 536, 538 [1st Dept 2022]). The one comment in the record about Plaintiff being insufficiently "young and energetic" was made to Ms. Gurevich outside Plaintiff's presence, and was to suggest that Ms. Gurevich, who is older than Plaintiff, take Plaintiff's job. Given the comment was made outside Plaintiff's presence, and because it is one stray comment, Plaintiff's hostile work environment claim is dismissed (*see also Mejia v T.N. 888 Eighth Ave. LLC Co.*, 169 AD3d 613, 614 [1st Dept 2019]).

Defendants' motion for summary judgment dismissing Plaintiff's retaliation claim is granted. To set forth a *prima facie* case of retaliation under the New York City Human Rights Law, a plaintiff must show (1) he engaged in protected activity known to defendant; (2) defendant took an adverse action against the plaintiff; and (3) there exists a causal connection between the protected activity and the adverse action" (*Cadet-Legros v New York Univ. Hosp. Center*, 135 AD3d 196, 206 [1st Dept 2015]). Plaintiff's retaliation claim fails because the decision makers

who fired Plaintiff did not know he reported the text message to human resources when they terminated him (*Bendeck v NYU Hospitals Center*, 77 AD3d 552, 553 [1st Dept 2010]).

Months prior to Plaintiff reporting the text message, he was identified as an underperformer. Basu warned Plaintiff about the need to improve his performance after Shohet expressed disappointment in Plaintiff's May 4, 2018 presentation (NYSCEF Doc. 57). He was terminated after another poor performance at the July 24, 2018, meeting. The continuation of a course of conduct that began prior to the alleged protected activity does not constitute retaliation and negates a causal connection between the protected activity and adverse action (*Melman v Montefiore Med. Center*, 98 AD3d 107, 129 [1st Dept 2012]). Therefore, the retaliation claim is dismissed. As Plaintiff's Amended Complaint is dismissed, the Court does not address Defendants' arguments regarding aiding and abetting and Plaintiff's failure to mitigate.

Accordingly, it is hereby,

ORDERED that Defendants' motion for summary judgment dismissing Plaintiff's Amended Complaint is granted in its entirety, and the Amended Complaint is hereby dismissed; and it is further

ORDERED that within ten days of entry, counsel for Defendants shall serve a copy of this Decision and Order, with notice of entry, on all parties via NYSCEF.

This constitutes the Decision and Order of the Court.

<u>7/1/2025</u> DATE					<u>Mary V Rosado JAC</u> HON. MARY V. ROSADO, J.S.C.
CHECK ONE:	<input checked="" type="checkbox"/> CASE DISPOSED	<input type="checkbox"/> DENIED	<input type="checkbox"/> NON-FINAL DISPOSITION		
APPLICATION:	<input checked="" type="checkbox"/> GRANTED		<input type="checkbox"/> GRANTED IN PART	<input type="checkbox"/> OTHER	
CHECK IF APPROPRIATE:	<input type="checkbox"/> SETTLE ORDER		<input type="checkbox"/> SUBMIT ORDER		
	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/> FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE	