SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **HON. PAUL A. GOETZ** **PART** **47**

Justice

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DANIEL RUBIN,

Plaintiff,

- v -

MORRISON & FOERSTER, BETHANY HILLS, MIKE WARD, STACY AMIN

Defendants.

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INDEX NO. 155986/2024

MOTION DATE 12/13/2024

MOTION SEQ. NO. 002

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 002) 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32

were read on this motion to/for DISMISS.

In this employment discrimination and retaliation action based on plaintiff's disabilities, defendants move pursuant to CPLR §§ 3211(a)(1), 3211(a)(7), and 3211(a)(8) to "(1) dismiss all of Plaintiff's claims and requests for damages related to his alleged workplace injury against all Defendants; and (2) dismiss the Complaint in its entirety as to the Individual Defendants" (NYSCEF Doc No 15).

BACKGROUND

Plaintiff alleges that he "suffers from a number of chronic medical conditions" (plaintiff's disabilities) which have left him "with a limited range of motion and the need to use ergonomic equipment to avoid potential re-injury" (NYSCEF Doc No 2 ¶ 11).

On July 27, 2021, plaintiff was offered a position as a litigation associate at defendant Morrison & Foerster (the firm) (*id.* ¶ 14). Plaintiff alleges that in his offer letter, he was advised that he would be eligible for two end-of-year bonuses, despite his Fall 2021 start date (*id.* ¶ 15).

On September 28, 2021, plaintiff notified the firm of his need for accommodations (*id.* ¶ 17). Plaintiff began working for the firm on October 11, 2021 (*id.* ¶ 19).

Requests for Accommodations

On October 15, 2021, plaintiff informed one of his supervisors, defendant Bethany Hills, of the nature of his disability and its effects on him, and "outlined the difficulties he had encountered in getting accommodations from" the firm (*id.* ¶ 20).

"On October 20, 2021, Plaintiff wrote to Christie Mizer, Attorney Development Manager for Defendant Morrison & Foerster and advised her that he had requested certain forms of [accommodation] and had submitted [the required] forms and medical documentation [] but had not yet heard back on next steps" (*id.* ¶ 21). The following day, plaintiff again requested certain equipment to help "reduce pain while working and to avoid potential future injury" (*id.* ¶ 22).

"On October 24, 2021, Plaintiff notified his supervisors, including Defendant Hills and Defendant [Stacy] Amin of an upcoming medical procedure on October 27, 2021 and continued delays in the provision of the reasonable accommodations that Plaintiff had requested [and] advised that the lack of [] accommodations was affecting his [] work Product" (*id.* ¶ 25).

Throughout October and November of 2021, the firm provided accommodations to plaintiff, but each presented issues (*id.* ¶¶ 23, 26-45 [keyboard tray was installed, but was not compatible with an ergonomic keyboard; a sit/stand workstation was not feasible because of the office configuration; the chair plaintiff was given was not the correct size and did not conform to the recommended parameters, causing him "significant pain and discomfort with its use"; a trackball mouse was installed but plaintiff was not given the proper drivers to facilitate its use]).

"On December 2, 2021, Plaintiff was advised [] that the practice group would be moving to the 20th Floor and Plaintiff would be . . . moving to an office with a sit/stand desk" (*id.* ¶ 34).

Plaintiff's Performance

Plaintiff alleges that on November 29, 2021, he had a one-on-one meeting with Amin in which they discussed plaintiff's areas of interest, however, "[n]o substantive feedback on Plaintiff's work product was provided" (*id.* ¶ 32). On the same day, plaintiff had a video meeting with Mizer, during which she "affirmed that for lateral associates who join late in the year the remaining months of the year serve mainly as a ramp-up period [] and that performance expectations during this period are limited" (*id.* ¶ 33).

"On December 12, 2021, Plaintiff [followed up with Hills on] his request for a meeting to obtain feedback and guidance regarding his integration into the team," as "[t]his meeting had been repeatedly cancelled" (*id.* ¶ 36). On December 27, 2021, plaintiff met with Hills and defendant Mike Ward via video, where he was presented with a performance improvement plan (PIP) signed by Hills, Ward, and Amin (the individual defendants) (*id.* ¶ 38). Plaintiff alleges "[t]his was the first time that Plaintiff had been provided with any feedback regarding his work despite his multiple requests for the same, and Plaintiff's repeatedly-expressed concern that the lack of accommodations made it difficult for him to be fully productive" (*id.*). The PIP advised that plaintiff's "performance [was] below the level expected and [that] significant improvement [was] needed in several areas" (*id.* ¶ 39; NYSCEF Doc No 25). It advised that as a result, plaintiff would not progress to the next level of seniority in 2022, and that he would not receive any end-of-year bonuses (*id.*).

On January 3, 2022, plaintiff responded to the PIP, asserting that was contrary to the terms of plaintiff's offer letter and was "retaliatory for [] seeking accommodations" (*id.* ¶ 42; NYSCEF Doc No 27). Plaintiff also wrote to Jason McCord in human resources, indicating that Hills engaged in a "pattern of behavior . . . that made him uncomfortable"; specifically, he

asserted that "Hills' attitude towards Plaintiff [shifted] after he disclosed his disability and requested reasonable accommodations (becoming cold, hostile, and less communicative, failing to provide feedback on any of the billable work that Plaintiff had sent her), and [she] explicitly[] voiced dissatisfaction with the fact that Plaintiff had to take time away from work for medical appointments and procedures affecting his availability for client calls" (*id.* ¶ 43).

Plaintiff's Accident

In January of 2022, plaintiff alleges that the firm offered as another accommodation "a monitor riser that was never meant to bear a person's weight," and which did not align with his doctor's recommendations or the firm's ergonomic consultant's advice (*id.* ¶ 47). "On February 1, 2022, while attempting to use the [riser, it] slipped, and Plaintiff fell backwards and onto the floor" and was injured (*id.* ¶ 49). Thereafter, "Plaintiff went out on full-time leave" to recover (*id.* ¶ 50). "On December 2, 2022, [the firm] informed Plaintiff that it was unable to accommodate his [] request for further leave," and plaintiff was terminated (*id.* ¶¶ 51-52).

Procedural History

On October 8, 2023, plaintiff reached a $200,000 workers' compensation settlement and acknowledged that the settlement completely resolved "all issues and matters in the claim[] identified" therein (NYSCEF Doc No 18).

Plaintiff filed the instant complaint on June 28, 2024, with causes of action for[1]: (i) discrimination in violation of New York State Human Rights Law (NYSHRL); (ii) failure to accommodate in violation of NYSHRL; (iii) harassment in violation of NYSHRL; (iv) retaliation in violation of NYSHRL; (v) discrimination in violation of New York City Human Rights Law (NYCHRL); (vi) failure to accommodate in violation of NYCHRL; (vii) harassment in violation

[1] Unless otherwise noted, the causes of action are against all defendants.

of NYCHRL; (viii) retaliation in violation of NYCHRL; (ix) aiding and abetting the aforementioned NYSHRL violations, as against the individual defendants; (x) aiding and abetting the aforementioned NYCHRL violations, as against the individual defendants (NYSCEF Doc No 2).

On the same day, plaintiff filed a complaint against Williams Lea, a business support services company which provided the monitor riser involved in plaintiff's February 1, 2022 accident, to recover for personal injuries he sustained (*Daniel Rubin v Williams Lea Inc., et al.*, Index No. 713621/2024, the *Williams Lea* action). In the *Williams Lea* action, plaintiff alleged that his accident "was caused *wholly and solely* by reason of the culpable conduct of" Williams Lea (NYSCEF Doc No 20 ¶ 12 [emphasis provided]).

DISCUSSION

Damages for Plaintiff's Accident

Defendants first argue that plaintiff is not entitled to any damages related to his February 1, 2022 accident because they are barred by (i) the Workers' Compensation exclusivity rule, as plaintiff already settled his claim for personal injuries sustained (Workers' Compensation Law § 11 ["[t]he liability of an employer prescribed by the last preceding section shall be exclusive and in place of any other liability whatsoever, to such employee . . . or any person otherwise entitled to recover damages, contribution or indemnity, at common law or otherwise, on account of such injury or death or liability arising therefrom"]; *Hageman v B & G Bldg. Services, LLC*, 33 AD3d 860, 861 [2nd Dept 2006] ["Generally, an injured employee's sole remedy against his or her employer is recovery under the Workers' Compensation Law"]); and (ii) documentary evidence, as plaintiff admits in the *Williams Lea* action that his injuries were caused solely by Williams Lea (*Phillips v Taco Bell Corp.*, 152 AD3d 806, 806-07 [2nd Dept 2017] [on a motion to dismiss

the complaint pursuant to CPLR § 3211(a)(1), the documentary evidence "must be unambiguous, authentic, and undeniable, such as judicial records," and "utterly refute[] the plaintiff's factual allegations, thereby conclusively establishing a defense as a matter of law"] [internal citations and quotation marks omitted]).

Defendants cite several cases in which the courts note that plaintiffs who have already sought relief pursuant to the Workers' Compensation Law are barred from seeking relief under common-law tort theories (*Ferris v Delta Air Lines, Inc.*, 277 F3d 128, 138 [2nd Cir 2001] ["Ferris's [] common law negligence claims are [] precluded by the exclusive remedy provisions of New York's Workers' Compensation statute"]; *Babcock v Lamb*, 247 AD2d 903, 904 [4th Dept 1998] ["The workers' compensation defense precludes plaintiff from bringing this negligence action"]; *Mera v Adelphi Mfg. Co.*, 160 AD2d 781, 782 [2nd Dept 1990] ["where, as here, an employee applies for and accepts workers' compensation benefits, he is deemed to have elected his remedy and thereby forfeited his right to proceed by way of common-law tort"]). Here, however, plaintiff seeks recovery solely under the NYSHRL and NYCHRL, and courts have explicitly held that the "contention that [a] plaintiff's claims [] pursuant to the [NYSHRL] and [NYCHRL] are barred by the exclusivity provisions of the Workers' Compensation Law [is] without merit" (*Serdans v New York & Presbyt. Hosp.*, 138 AD3d 524, 525 [1st Dept 2016]; *Kondracke v Blue*, 277 AD2d 953, 955 [4th Dept 2000] ["the exclusivity provisions of the Workers' Compensation Law do not bar this proceeding pursuant to the Human Rights Law"]; *Grand Union Co. v Mercado*, 263 AD2d 923, 925 [3rd Dept 1999] [same]). Since plaintiff does not seek recovery under any tort law theory, his causes of action are not barred by the workers' compensation settlement of his personal injury claim.

Defendants argue that plaintiff already made a "judicial admission" in the *Williams Lea* action that his physical injuries were caused solely by Williams Lea's negligence (NYSCEF Doc No 20 [asserting Williams Lea was negligent "in causing, permitting and allowing monitor risers to be used in lieu of the appropriate weight-bearing footrests"]), and therefore, plaintiff cannot seek to hold defendants liable for his injuries in the instant action (*New Greenwich Litig. Trustee, LLC v Citco Fund Servs. (Europe) B.V.*, 145 AD3d 16, 25 [1st Dept 2016] ["plaintiff's trustee's allegations made in earlier federal litigation were found by this Court to be informal judicial admissions binding on the plaintiff in the state action [which] constitute 'documentary evidence' within the meaning of CPLR 3211 (a) (1), which 'flatly contradicted' the allegations of fraud in the complaint, and justified dismissal of the fraud claim"]; *Morgenthow & Latham v Bank of N.Y. Co.*, 305 AD2d 74, 78-79 [1st Dept 2003] [litigant's complaint in a separate action constitutes documentary evidence which may serve as basis to dismiss]). However, once again, plaintiff does not seek to hold defendants liable in tort for his personal injuries as he did in the *Williams Lea* action; he asserts that defendants failed to meet their separate obligation to provide proper accommodations in compliance with NYSHRL and NYCHRL (NYSCEF Doc No 2). Thus, while plaintiff's complaint in the *Williams Lea* action contains some overlapping allegations regarding his fall in the instant action, plaintiff does not seek relief for the injuries caused by that fall.

Accordingly, the part of defendants' motion seeking to "dismiss Plaintiff's claims for damages resulting from alleged injuries caused by his purported fall in his office" (NYSCEF Doc No 15) will be denied, as plaintiff makes no such claims.

Claims Against Individual Defendants

i. Jurisdiction Over Defendants Ward and Amin

Defendants assert that this court lacks personal jurisdiction over defendants Ward and Amin, who are residents of California and Washington, D.C., respectively (NYSCEF Doc Nos 21, 22).

"In opposing a motion to dismiss pursuant to CPLR § 3211(a)(8), plaintiff has the burden of presenting sufficient evidence, through affidavits and relevant documents, to demonstrate that jurisdiction over the defendants is warranted" (*Bangladesh Bank v Rizal Commercial Banking Corp.*, 226 AD3d 60, 73-74 [1st Dept 2024]). "[T]he two categories of personal jurisdiction that [New York courts] recognize, [are] general or all-purpose jurisdiction[] and specific or case-linked jurisdiction" (*Aybar v Aybar*, 37 NY3d 274, 288 [2021]). "The former permits a court to exercise jurisdiction over a defendant in connection with a suit arising from events occurring anywhere in the world, whereas the latter permits a court to exercise jurisdiction only where the suit arises out of or relates to the defendant's contacts with the forum state" (*id.* at 288-89).

The parties do not dispute that this court lacks general jurisdiction over Ward and Amin pursuant to CPLR § 301, since neither resides in New York and "[a]n individual cannot be subject to jurisdiction under C.P.L.R. § 301 unless he is doing business in New York *on his own behalf* rather than on behalf of a corporation" (*RSM Prod. Corp. v Fridman*, 643 F Supp 2d 382, 400 [SDNY 2009] [emphasis in original]; NYSCEF Doc No 23, p. 19 [plaintiff admitting that "Ward and Amin engaged in business in New York, albeit on behalf of" the firm]). However, they dispute whether the court has specific jurisdiction over Ward and Amin pursuant to CPLR § 302.

Plaintiff argues that "Ward and Amin have sufficiently transacted business with the State of New York" to invoke New York's long-arm statute, CPLR § 302(a)(1)[2], as they assigned and reviewed plaintiff's work, regularly communicated with plaintiff, and implemented the PIP, "which affected the terms and conditions of his employment to include his compensation" (NYSCEF Doc No 23, p. 18). Defendants argue that New York's long-arm statute does not extend to these defendants because "there is no nexus between Defendant Ward and Amin's purported contacts with Morrison & Foerster's New York office and the alleged discrimination, harassment, and retaliation that Plaintiff claims he experienced there" (NYSCEF Doc No 15, pp. 18-20).

Plaintiff cites cases in which New York courts determined they had specific personal jurisdiction over "[s]upervisors, working outside of New York, who interact with a New York office, supervise employees located in New York, and participat[e] in employment decisions relating to New York employees" (NYSCEF Doc No 23, p. 16; *Santiago v Crown Heights Ctr. For Nursing & Rehab*, 2017 US Dist LEXIS 164676, *7-8 [EDNY 2017] [defendant was the administrator and manager of a New York-based company]; *Wallace v Stanton*, 2013 US Dist LEXIS 92607, *12 [NDNY 2013] [defendants "directly supervised the New York office," "established the salaries of all the employees in that office," and "regularly visited the New York office"]; *Mercator Risk Servs. v Girden*, 2008 US Dist LEXIS 106193, *6-8 [SDNY 2008] [defendants "supervised employees associated with the New York office"]). Plaintiff alleges that Amin "was Plaintiff's 'employer' as she had authority over the terms, conditions, or privileges of his employment, as well as the authority to hire, fire, and discipline employees"; plaintiff

[2] CPLR § 302(a)(1) provides that "a court may exercise personal jurisdiction over any non-domiciliary, or his executor or administrator, who in person or through an agent [] transacts any business within the state or contracts anywhere to supply goods or services in the state."

notified her of an upcoming medical procedure [and] delays in the provision of [his requested] accommodations"; plaintiff "had a one-on-one meeting with Defendant Amin [to] discuss[] [his] areas of interest and how they may align with future billable work and business development"; and Amin participated in the December 27, 2021 virtual meeting and signed plaintiff's PIP (NYSCEF Doc No 2 ¶¶ 8, 25, 32, 38). Since plaintiff's "suit arises out of or relates to the [Amin's] contacts with the forum state" (*Aybar*, 37 NY3d at 288-89), the court has specific jurisdiction over Amin pursuant to CPLR § 302(a)(1).

However, plaintiff's only allegation pertaining to Ward is that he signed the PIP and participated in the December 27, 2021 virtual meeting (NYSCEF Doc No 2 ¶ 38). This single video call is insufficient to establish the minimum contacts with New York required to confer personal jurisdiction over Ward (*SPCA of Upstate N.Y., Inc. v American Working Collie Assn.*, 18 NY3d 400, 405 [2012] [defendant's "three phone calls and two short visits—totaling less than three hours—[] do not constitute purposeful activities"]; *America/Intl. 1994 Venture v Mau*, 146 AD3d 40, 54 [2nd Dept 2016] ["defendant's only personal contacts with New York consisted of sending one letter and making one phone call"]; *Granat v Bochner*, 268 AD2d 365, 365 [1st Dept 2000] ["Contrary to plaintiff's argument, sending faxes and making phone calls to this State are not, without more, activities tantamount to 'transacting business' within the meaning of the [] long-arm statute"]). Furthermore, the PIP was completed beforehand and merely communicated to plaintiff during the meeting (compare *George Reiner & Co. v Schwartz*, 41 NY2d 648, 653 [1977] [interview which resulted in an offer and agreement covering all substantive terms of employment was "a single but complete transaction of business in the forum"], with *National Spinning Co. v Talent Network, Inc.*, 481 F Supp 1243, 1246 [SDNY 1979] [meeting in New York to negotiate a contract was insufficient to confer jurisdiction because "the parties had

previously agreed upon all substantive [] terms"]). Therefore, plaintiff fails to allege that Ward had sufficient minimum contacts with New York to subject him to this court's jurisdiction.

Accordingly, the part of defendants' motion seeking to dismiss plaintiff's complaint for lack of personal jurisdiction will be granted as against Ward[3] and denied as against Amin.

ii. Failure to State a Claim as Against the Individual Defendants[4]

Defendants argue that plaintiff fails to state a claim against Hills and Amin for discrimination, retaliation, harassment and failure to accommodate because plaintiff fails to allege that they participated in the alleged conduct giving rise to his claims, displayed discriminatory or retaliatory intent, or took any adverse action against him (NYSCEF Doc No 15, pp. 12-15). Defendants also argue that plaintiff's aiding and abetting claims against Hills and Amin fail because plaintiff fails to establish his underlying discrimination claims as against them (*id.*, pp. 15-16). In opposition, plaintiff asserts that he does, in fact, allege that Hills and Amin participated in the conduct giving rise to his claims (NYSCEF Doc No 23, p. 11). He asserts that issuing the PIP was, in and of itself, an adverse action (*id.*, p. 12). Plaintiff further argues that "[w]hile defendants cannot aid and abet their own discrimination, in cases where there are multiple individual defendants, as there are here," those defendants may be liable for aiding and abetting discrimination by each other (*id.*, p. 14).

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[3] Plaintiff's causes of action fail as against Ward for the additional reason that plaintiff does not allege Ward was aware of plaintiff's disability or his accommodation requests at the time that he signed and discussed the PIP with plaintiff (*Samuels v William Morris Agency*, 123 AD3d 472, 472 [1st Dept 2014] ["Plaintiff failed to establish a prima facie case of discrimination under the State or City Human Rights Laws because he failed to allege that defendant[] . . . [was] actually aware of his" protected characteristic]; *Forrest v Jewish Guild for the Blind*, 309 AD2d 546, 558 [1st Dept 2003] ["To establish prima facie retaliation, plaintiff must show that [he] has engaged in a protected activity [and his] employer was aware of such participation"]).

[4] Defendants' notice of motion seeks an order "dismissing the Complaint in part, entering judgment for Defendants" (NYSCEF Doc No 14), without making any distinction between the defendants. However, their brief only argues that plaintiff fails to state a cause of action as against the individual defendants (NYSCEF Doc No 15), and therefore whether plaintiff fails to state a cause of action as against defendant Morrison & Foerster is not considered. Furthermore, since the complaint will be dismissed as against Ward as determined *supra*, defendants' argument that plaintiff failed to state a claim is only addressed as it relates to the remaining individual defendants, Hills and Amin.

When reviewing a "motion to dismiss for failure to state a cause of action pursuant to CPLR 3211(a)(7), [courts] must accept the facts as alleged in the complaint as true, accord the plaintiff the benefit of every reasonable inference, and determine only whether the facts, as alleged fit within any cognizable legal theory" (*Bangladesh Bank v Rizal Commercial Banking Corp.*, 226 AD3d 60, 85-86 [1st Dept 2024] [internal quotations omitted]). "In making this determination, [a court is] not authorized to assess the merits of the complaint or any of its factual allegations" (*id*. at 86 [internal quotations omitted]). "However, factual allegations that do not state a viable cause of action [or] consist of bare legal conclusions . . . are not entitled to such consideration" (*Doe v Bloomberg, L.P.*, 178 AD3d 44, 47 [1st Dept 2019], quoting *Skillgames, LLC v Brody*, 1 AD3d 247, 250 [1st Dept 2003]).

As an initial matter, plaintiff alleges that Hills and Amin were aware of plaintiff's disability and requests for accommodations, "had the ability to do more than carry out personnel decisions made by others," and "participated in the conduct complained of," i.e., giving plaintiff the allegedly discriminatory and retaliatory PIP and denying him bonuses which he was previously told he was eligible to receive (*Ramos v Metro-North Commuter R.R.*, 194 AD3d 433, 435 [1st Dept 2021]; *Russell v New York Univ.*, 42 NY3d 377, 388 [2024] [the NYSHRL and NYCHRL "permit coworkers to be held [individually] liable [if they have] a role in administering the compensation, terms, conditions, or privileges of plaintiff's employment"]; NYSCEF Doc No 2 ¶¶ 6, 8).

a. Discrimination

NYSHRL § 296 and NYCHRL § 8-107(1) prohibit employers from discriminating against an employee based on disability. "The standards for establishing unlawful discrimination under the NYSHRL previously were the same as those governing title VII cases" (*Wright v*

White Plains Hosp. Med. Ctr., 237 AD3d 1143, 1144 [2nd Dept 2025]), whereas the NYCHRL "require[d] an independent liberal construction analysis" to fulfill its "'uniquely broad remedial' purposes, which [went] beyond those of counterpart state or federal civil rights laws" (*Williams v New York City Hous. Auth.*, 61 AD3d 62, 66 [1st Dept 2009]). "In 2019, however, the New York State Legislature amended the NYSHRL, . . . [and as] a result of the amendment, the NYSHRL now aligns with the [more liberal] standards of the" NYCHRL (*Wright*, 237 AD3d at 1144-45; *Syeed v Bloomberg L.P.*, 41 NY3d 446, 451 [2024] ["Both statutes have provisions directing that they be liberally construed to accomplish the remedial purposes that they serve"]).

To support a discrimination claim under NYSHRL or NYCHRL, a plaintiff must allege that "(1) [] he is a member of a protected class, (2) [] he was qualified to hold the position, (3) [] he suffered an adverse employment action" (under State HRL) or "was subject to an unfavorable employment change or treated less well than other employees" (under City HRL), "and (4) the adverse action [or different treatment] occurred under circumstances giving rise to an inference of discrimination" (*Currid v City of New York*, 2025 NY Slip Op 04702, *2 [2nd Dept, Aug 20, 2025] [internal quotation marks and citations omitted]).

Here, there is only a dispute as to the third and fourth elements of plaintiff's discrimination claim. Defendants argue that a PIP is not an adverse employment action under the NYSHRL, citing *Gorman v Covidien, LLC*, 146 F Supp 3d 509, 524 [SDNY 2015] ["The PIP on which [plaintiff] was placed is not 'materially adverse' within the meaning of the NYSHRL"]). However, *Gorman* does not stand for the proposition that PIPs never constitute adverse actions. Rather, all "[a]n adverse employment action requires [is a] materially adverse change in the terms and conditions of employment" (*Reichman v City of New York*, 179 AD3d 1115, 1117 [2nd Dept 2020], citing *Forrest v Jewish Guild for the Blind*, 3 NY 3d 295, 306 [2004] ["A materially

adverse change might be indicated by a termination of employment, a demotion evidenced by a decrease in wage or salary, a less distinguished title, a material loss of benefits, significantly diminished material responsibilities, or other indices . . . unique to a particular situation"]). The PIP meets this standard because it stated that plaintiff would "remain an 8th year associate" for the coming year and that his "salary class [would] change" accordingly (NYSCEF Doc No 25).

As for the inference of discrimination, plaintiff alleges it was only after he received an offer of employment including eligibility for the end-of-year bonuses that he disclosed his disability and need for accommodations (NYSCEF Doc No 2 ¶¶ 15-17). Plaintiff began working for Morrison & Foerster on October 11, 2021, and was placed on the PIP on December 27, 2021, less than three months into his employment (*id.* ¶¶ 19, 38). Plaintiff alleges that this was the first time he had been given any feedback on his performance, and that the issues raised in the PIP could have been remedied if he had the proper accommodations (*id.*). At this pre-discovery motion to dismiss stage, plaintiff's allegations are sufficient to "give 'fair notice' of the nature of [his discrimination] claim and its grounds" (*Vig v New York Hairspray Co., L.P.*, 67 AD3d 140, 145 [1st Dept 2009]).

Accordingly, the part of defendants' motion seeking to dismiss plaintiff's first and fifth causes of action will be denied as against Hills and Amin.

b. Retaliation

The NYSHRL and NYCHRL prohibit employers from retaliating "against any person because he [] has opposed any practices forbidden under this article or because he [] has filed a complaint, testified or assisted in any proceeding under this article." To support a claim of retaliation under the NYSHRL, a plaintiff must show that (1) he has engaged in a protected activity, (2) his employer was aware of such activity, (3) he suffered an adverse employment

action based upon the activity, and (4) a causal connection exists between the protected activity and the adverse action (*Forrest,* 3 NY 3d at 312-13).

Plaintiff alleges that he was placed on the PIP and denied bonuses in retaliation for complaining about difficulties he faced in obtaining his requested accommodations (compare *Brook v Overseas Media, Inc.*, 69 AD3d 444, 445 [1st Dept 2010] [plaintiff "does not state a cause of action because [she] fails to allege that she opposed her employer's discriminatory failure to make reasonable accommodation"]). Here, "[t]he temporal proximity between plaintiff's complaints" and the meeting in which he was placed on the PIP "is sufficient to raise an inference of a causal connection between plaintiff's protected activity and the disadvantaging employment action taken against him" (*Cook v EmblemHealth Servs. Co., LLC*, 167 AD3d 459, 459-60 [1st Dept 2018]), particularly at this early stage of the litigation.

Accordingly, the part of defendants' motion seeking to dismiss plaintiff's fourth and eighth causes of action will be denied as against Hills and Amin.

c. Failure to Accommodate

Regarding plaintiff's failure to accommodate claims, plaintiff fails to allege that he ever requested an accommodation from Hills or Amin, individually, and that they refused same (NYSCEF Doc No 2 ¶¶ 16-25 [plaintiff alleges he "provided updated documentation and Defendant's ADA form *to Human Resources* and requested an on-site ergonomic evaluation," and advised Hills and Amin of "the difficulties he had encountered in getting accommodations *from Defendant Morrison & Foerster*"] [emphasis provided]; *Pimentel v Citibank, N.A.*, 29 AD3d 141, 146 [under the HRLs, a plaintiff must show that he "requested and was refused reasonable accommodations"]). Accordingly, plaintiff's second and sixth causes of action will be dismissed as against Hills and Amin.

d. Harassment

Plaintiff asserts that he "was subjected to offensive and derogatory statements and comments, targeting, bullying, embarrassment and humiliation, based upon Plaintiff's disability" (*id.* ¶¶ 74, 112). However, while plaintiff asserts that "each individual defendant engaged in harassing activity as thoroughly explained in the Complaint" (NYSCEF Doc No 23, p. 14), the complaint does not elaborate on such harassing activities (*id.* ¶ 43 [alleging only that after learning of plaintiff's disability, there was a "shift in Defendant Hills' attitude towards" him]). Such allegations are insufficient to support a harassment claim under either the NYSHRL or NYCHRL (*Williams v New York City Hous. Auth.*, 61 AD3d 62, 80 [1st Dept 2009] [harassment claims require plaintiffs to allege "more than petty slights or trivial inconveniences"]). Accordingly, plaintiff's third and seventh causes of action will be dismissed as against Hills and Amin.

e. Aiding and Abetting

As determined *supra*, plaintiff has stated claims for discrimination and retaliation as against defendants Hills and Amin. However, he fails to allege how they "aid[ed], abet[ted], incite[d], compel[led] or coerce[d]" one another's alleged discriminatory or retaliatory actions (NYCHRL § 8-107[6]; NYSHRL § 296[6]; NYSCEF Doc No 2 ¶¶ 130, 139 [only alleging that the individual defendants "are all directly responsible for the discrimination, harassment, and retaliation Plaintiff experienced"]). Accordingly, plaintiff's ninth and tenth causes of action will be dismissed as against Hills and Amin.

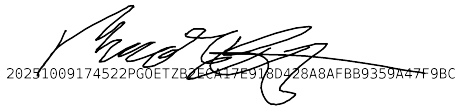
CONCLUSION

Based on the foregoing, it is

ORDERED that defendants' motion is granted to the extent that the complaint is dismissed as against defendant Mike Ward; and plaintiff's second cause of action for failure to accommodate in violation of NYSHRL, sixth cause of action for failure to accommodate in violation of NYCHRL, third cause of action for harassment in violation of NYSHRL, seventh cause of action for harassment in violation of NYCHRL, ninth cause of action for aiding and abetting the aforementioned NYSHRL violations, and tenth cause of action for aiding and abetting the aforementioned NYCHRL violations, are dismissed as against defendants Bethany Hills and Stacy Amin; and it is further

ORDERED that the remaining defendants shall answer the complaint on or before October 30, 2025; and it is further

ORDERED that the remaining parties are directed to appear for a preliminary conference on December 11, 2025 at 9:30 a.m.



10/9/2025							
DATE					PAUL A. GOETZ, J.S.C.		
CHECK ONE:		CASE DISPOSED			X	NON-FINAL DISPOSITION	
		GRANTED		DENIED	X	GRANTED IN PART	OTHER
APPLICATION:		SETTLE ORDER				SUBMIT ORDER	
CHECK IF APPROPRIATE:		INCLUDES TRANSFER/REASSIGN				FIDUCIARY APPOINTMENT	REFERENCE