

Estep v Brenner

2025 NY Slip Op 34527(U)

November 24, 2025

Supreme Court, New York County

Docket Number: Index No. 159639/2022

Judge: James G. Clynes

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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. JAMES G. CLYNES PART 39M

Justice

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INDEX NO. 159639/2022

NATHAN ESTEP,

MOTION DATE 11/18/2024

Plaintiff,

MOTION SEQ. NO. 004

- v -

DANIEL BRENNER, UNITED NATIONS INTERNATIONAL SCHOOL

DECISION + ORDER ON MOTION

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 004) 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107

were read on this motion to/for AMEND CAPTION/PLEADINGS.

Upon the foregoing document's, Plaintiff's motion to amend the Complaint is denied.

Plaintiff commenced this action by the filing of the original Summons and Complaint on November 9, 2022 (NYSCEF Doc. 1). In lieu of an Answer, the Defendants filed a motion to dismiss the Plaintiff's Complaint per CPLR 3211, and Plaintiff filed a cross-motion to amend the Complaint. By Order of Hon. Lori S. Sattler, dated June 8, 2023, various claims were dismissed including Plaintiff's causes of action under New York State Human Rights Law (NYSHRL) for Hostile Work Environment and Racial, Color, Gender, and Sexual Orientation Discrimination (Plaintiff's second and fourth causes of action). Plaintiff was not permitted to amend the Complaint as to the dismissed causes of action. (NYSCEF Doc. 26).

Plaintiff now seeks to amend the Complaint for a second time to include a cause of action against the Defendants under Section 2000e-2(a)(1) of Title 42 of the United States Code, known as Title VII, for discrimination and hostile work environment (NYSCEF Doc. 97). The basis for seeking to amend the Complaint, is that Plaintiff received a notice of right to sue from the Equal

Employment Opportunity Commission (EEOC) (NYSCEF Doc. 96). No new facts or circumstances have been presented.

To establish a *prima facie* claim of discrimination under NYSHRL, a plaintiff must plead sufficient facts to show that they are a member of a protected class, qualified to hold the position, suffered an adverse employment action and that the “adverse action occurred under circumstances giving rise to an inference of discrimination”. (*Forrest v Jewish Guild for the Blind*, 3 NY3d 295, 305 [2004]). A plaintiff’s burden of proof for a discrimination claim under Title VII is the same as that under NYSHRL. (*Forrest* 3 N.Y.3d at 316; *Cardwell v. Davis Polk & Wardwell LLP*, 2020 WL 6274826 at *16 [SDNY Oct. 24, 2020]; *see Awad v. City of New York*, 2014 WL 1814114 at *5 [EDNY May 7, 2014]). As set forth in the prior decision (J. Sattler), Plaintiff’s cause of action for discrimination under NYSHRL was dismissed as Plaintiff did not plead sufficient facts to show that his June 15, 2022 termination “occurred under circumstances giving rise to an inference of discrimination”.

Under NYSHRL, a “racially hostile work environment exists ‘[when] the workplace is permeated with discriminatory intimidation, ridicule, and insult that is sufficiently severe or pervasive to alter the conditions of the victim’s employment and create an abusive working environment’ ”. (*Forrest* 3 N.Y.3d at 310; *quoting Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 21 [1993]). The standard for a hostile work environment claim under NYSHRL is the same as the standard under Title VII. (*See Summa v. Hofstra Univ.*, 708 F.3d 115, 123–24 [2d Cir. 2013]; *Forrest* 3 N.Y.3d at 310). Plaintiff’s cause of action for a hostile work environment under NYSHRL was dismissed because Plaintiff could not make a showing that the treatment he experienced was so “severe or pervasive” that it altered the conditions of his employment, or created an objectively abusive working environment.

Contrary to Plaintiff's position, Title VII claims are not held to the same standard as those under New York City Human Rights Law (NYCHRL). Rather, "... courts must analyze NYCHRL claims separately and independently from any federal and state law claims." (*Mihalik v Credit Agricole Cheuvreux N. Am., Inc.*, 715 F3d 102, 108–09 [2d Cir. 2013]). Claims brought under NYCHRL are to be liberally construed. (*Williams v New York City Hous. Auth.*, 61 AD3d 62, 66 [1st Dept 2009]). Due to this liberal reading of NYCHRL, Plaintiff's causes of action for discrimination and hostile work environment under NYCHRL were not dismissed.

Although CPLR § 3025 (b) freely permits the amendment of a pleading, in considering the proposed amendment to the pleading, a court must consider whether the amendment is meritorious and sufficient. (*see Mendoza v Akerman Senterfitt LLP*, 128 AD3d 480 [1st Dept 2015]; *see Cafe Lughnasa Inc. v A & R Kalimian LLC*, 176 AD3d 523 [1st Dept 2019]). "Where...the proposed amendments are totally devoid of merit and are legally insufficient, leave to amend should be denied." (*Heller v. Louis Provenzano, Inc.*, 303 AD2d 20, 25 [1st Dept 2003] *quoting Zabas by Zabas v Kard*, 194 AD2d 784 [2d Dept 1993] *internal citations omitted*).

As Plaintiff's causes of action for discrimination and hostile work environment under NYSHRL were previously dismissed on the merits, Plaintiff cannot now reintroduce the same cause of action, against the same parties, with the same burden of proof. (*See Aspen Specialty Ins. Co. v RLI Ins. Co., Inc.*, 194 AD3d 206, 212 [1st Dept 2021], *citing Brownrigg v New York City Hous. Auth.*, 29 AD3d 721, 722[2d Dept. 2006]).

Here, Plaintiff's claims sounding in discrimination and hostile work environment under NYSHRL have already been dismissed. The claims Plaintiff now wishes to allege under Title VII are premised upon the same standard and burden of proof as those previously dismissed. Therefore, Plaintiff's proposed amendment is not meritorious and the motion to amend the complaint is

denied. (See *Mendoza; Cafe Lughnasa Inc.; Heller*).

Accordingly, it is hereby

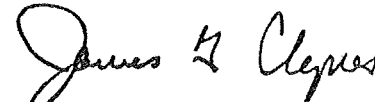
ORDERED that Plaintiff's motion to amend the complaint is denied; and it is further

ORDERED that, within 20 days from the entry of this order, Defendants shall serve a copy of this order with notice of entry on all parties and upon the Clerk of the General Clerk's Office; and it is further

ORDERED that such service upon 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 the court's website).

This constitutes the Decision and Order of the Court.

11/24/2025
DATE


JAMES G. CLYNES, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	<input type="checkbox"/>
	<input type="checkbox"/>	GRANTED	<input checked="" type="checkbox"/> DENIED	GRANTED IN PART	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER		SUBMIT ORDER	
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN		FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE