SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **HON. HASA A. KINGO** **PART** **05M**

Justice

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MAGNA KAMARA-SHERIF,

Plaintiff,

- v -

CITY OF NEW YORK, LAVONDA WISE, RAHUL SAHNI

Defendant.

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INDEX NO. 451842/2023

MOTION DATE 10/31/2023

MOTION SEQ. NO. 001, 021

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001, 021) 6, 7, 8, 9, 10, 11, 13, 18, 19, 20, 21, 22, 23

were read on this motion to DISMISS/AMEND PLEADINGS.

Upon the foregoing papers, the motion of defendants the City of New York, Deputy Inspector Lavonda Wise, and Lieutenant Rahul Sahni (collectively, "defendants" or "the City") for partial dismissal of the complaint pursuant to CPLR § 3211(a)(7) is denied, and plaintiff Magna Kamara-Sherif's ("plaintiff") cross-motion for leave to serve an amended complaint is granted for the reasons set forth below.

Defendants move, pursuant to CPLR § 3211(a)(7), for an order partially dismissing plaintiff's complaint for failure to state a cause of action. In their supporting papers, defendants seek dismissal of multiple causes of action, including plaintiff's claims sounding in sex and gender discrimination, pregnancy/maternity/lactation discrimination, caregiver discrimination, hostile work environment, and retaliation under the New York State Human Rights Law ("NYSHRL") and the New York City Human Rights Law ("NYCHRL"), among others.

Plaintiff opposes and cross-moves, pursuant to CPLR § 3025(b), for leave to amend her complaint to add additional factual allegations, to withdraw a City-law disability discrimination claim, and to explicitly assert claims premised on caregiver status under the NYCHRL.

Accordingly, the court is called upon to decide (1) whether the complaint, as amplified by the proposed amended complaint, states cognizable claims under the NYSHRL and NYCHRL, and (2) whether leave to amend should be granted or denied as futile.

BACKGROUND AND PROCEDURAL HISTORY

Plaintiff is a New York City Police Officer who joined the NYPD on July 8, 2015. After completing the Police Academy, she was assigned to the 108th Precinct, and thereafter to a

specialized Auto Crime unit where she utilized her West African language skills, including Mandinka. This specialized assignment allowed her to earn significant overtime.

In 2020 and 2021, while plaintiff was pregnant and on permitted leave and vacation time, she alleges that she was improperly accused of being absent without leave ("AWOL"), disciplined when similarly situated officers were not, and ultimately forced to take an undesired childcare leave of absence earlier than necessary, thereby exhausting a one-time leave benefit and temporarily losing union dental coverage. After the birth of her child on March 25, 2021, plaintiff planned, with the NYPD Medical Division, to return to full duty in September 2021 after using accrued vacation time during July and August.

In July 2021, however, she was contacted and, she alleges, threatened by supervisory personnel at the 108th Precinct, including defendant Sahni, who insisted she return to work immediately on pain of being marked AWOL, despite her prior approval to be on leave.

Plaintiff contends this pressure forced her to invoke childcare leave of absence prematurely, thereby depleting a critical benefit meant to address unforeseen childcare crises later in the first year of her child's life.

Upon her eventual return to work in October 2021, plaintiff alleges that she was: (1) not timely returned her firearm; (2) transferred to a midnight tour that severely disrupted her childcare arrangements and her husband's work schedule; and (3) repeatedly denied requests to transfer back to a day tour, even as male non-caregiver officers and others were moved off midnight and onto more favorable tours.

Plaintiff further claims that, after she complained to the NYPD's Office of Equal Employment Opportunity and requested accommodations for lactation and childcare, she was: (1) Repeatedly denied use of a lactation room on the midnight tour because no key was available, forcing her to express breast milk in unsanitary or inadequate conditions; (2) Deprived of sufficient breaks to pump, resulting in pain, engorgement, and the premature cessation of breastfeeding; (3) Assigned disproportionately to posts such as station-house security, complaint room duty, fixed posts, and hospital/prisoner transports, which limited her ability to generate "activity" and corresponding overtime and promotion-enhancing metrics; (4) Denied off-duty employment, negative performance evaluations, and lucrative specialized assignments or investigatory tracks routinely afforded to similarly situated male officers and female officers who had not taken maternity leave, and (5) Consistently denied vacation requests after filing discrimination complaints, even as other officers' requests were honored.

Plaintiff alleges that, as a result of these discriminatory and retaliatory acts, she earns substantially less overtime than male comparators and has lost significant income—approximately $60,000 as compared to certain male peers—as well as future pension and promotional opportunities.

Plaintiff commenced this action asserting NYSHRL and NYCHRL claims for sex and gender discrimination, pregnancy and maternity discrimination, lactation and caregiver

discrimination, hostile work environment, and retaliation. Defendants thereafter moved for partial dismissal under CPLR § 3211(a)(7).

While the motion was pending, plaintiff cross-moved for leave to amend to add post-complaint facts, to more specifically plead discrimination and retaliation under State and City law, and to explicitly assert caregiver discrimination under the NYCHRL. In her papers, plaintiff also withdraws a City-law disability discrimination claim.

Defendants oppose the cross-motion, arguing that the proposed amendments are futile because the claims still fail to state a cause of action and that several theories are not cognizable as a matter of law.

ARGUMENTS

Defendants contend that plaintiff's pleaded facts, even if accepted as true, do not establish cognizable claims under the NYSHRL or the NYCHRL. In substance, defendants argue that: (1) Plaintiff has not sufficiently alleged an "adverse employment action" under the NYSHRL, and that the challenged acts—schedule changes, discipline, evaluations, and assignment decisions—constitute no more than workplace management decisions and "petty slights" or "trivial inconveniences" under the NYCHRL; (2) Her allegations of sex and gender discrimination are speculative and fail to demonstrate that any male comparators were similarly situated in all material respects, or that any differential overtime or assignment patterns are causally linked to her gender rather than legitimate operational needs; (3) Her pregnancy, maternity, lactation, and caretaker discrimination claims are either not cognizable, insufficiently pled, or duplicative of other claims; (4) The alleged hostile work environment, even taken as a whole, does not rise to the level of actionable hostility under either statute; (5) Her retaliation claims fail because she did not engage in "protected activity" within the meaning of the statutes—particularly to the extent she relies on requests for accommodation—and because she cannot plausibly allege a causal connection between any complaints and later actions; and (6) Plaintiff's proposed amendments are futile, as they simply restate defective theories with greater detail and do not cure these purported deficiencies.

Plaintiff responds that, under the liberal notice-pleading standard governing CPLR § 3211(a)(7) motions, and particularly in employment discrimination cases, she has more than adequately stated claims. She emphasizes that the Court of Appeals in *Moore Charitable Found. v PJT Partners, Inc*., 40 NY3d 150 (2023), and other authorities, has reaffirmed that, on a motion to dismiss, the court must give the complaint a liberal construction, accept the allegations as true, and provide the plaintiff the benefit of every favorable inference, without weighing her ultimate ability to prove the claims.

Likewise, Plaintiff underscores that employment discrimination actions are subject to notice pleading, and a plaintiff "need not plead [specific facts establishing] a prima facie case of discrimination" but need only give fair notice of the nature of the claim and its grounds, as held in *Swierkiewicz v Sorema N.A*., 534 US 506 (2002), and recognized by New York courts in applying the NYSHRL and NYCHRL.

Plaintiff further contends that, in light of the post–August 2019 amendments, the NYSHRL is now construed in harmony with the NYCHRL's "less well" standard. As a result, both statutes direct the court to ask whether a plaintiff has been treated less well than others because of a protected characteristic and whether the challenged conduct rises above the level of a "petty slight" or "trivial inconvenience" (*see e.g. Alshami v City Univ. of N.Y.*, 162 NYS3d 720 [1st Dept 2022]; *Fruchtman v City of New York*, 129 AD3d 500 [1st Dept 2015]; *Massaro v Dept. of Educ. of City of N.Y.*, 121 AD3d 569 [1st Dept 2014]). Measured against that standard, plaintiff argues that her pleading more than suffices. Plaintiff states that her complaint sets forth detailed factual allegations that identify numerous comparators and describe, with specificity, schedule changes, overtime disparities, assignment patterns, disciplinary incidents, and foregone opportunities for advancement. Those allegations, in plaintiff's view, easily clear the modest threshold required at this stage to state claims of gender, pregnancy, maternity, lactation, caregiver, and retaliation-based discrimination.

Moreover, plaintiff highlights that recent legislative and judicial developments underscore the breadth of the protections on which plaintiff relies. Requests for reasonable accommodation and related complaints about discriminatory treatment are now expressly defined as "protected activity" under the NYCHRL, pursuant to a November 18, 2019 amendment enacted by the New York City Council and reflected in the legislative materials annexed as Exhibit B to her motion. In addition, plaintiff argues that the NYCHRL explicitly prohibits discrimination based on "caregiver status" (*see* Admin. Code of City of N.Y. §§ 8-102, 8-107[1][a]). Trial-level decisions such as *Pustilnik v Battery Park City Auth*., 71 Misc 3d 1058 (Sup Ct, NY County 2021), and *Palmer v Cook*, 65 Misc 3d 374 (Sup Ct, Queens County 2019), confirm that the denial of schedule flexibility or time off on account of caregiving responsibilities states a viable caregiver discrimination claim. Finally, with respect to her cross-motion, plaintiff invokes CPLR § 3025(b), which provides that leave to amend shall be "freely given." Plaintiff underscores that her proposed amendments merely add particularized facts and newly accrued conduct, do not introduce any genuinely new theory, and cannot reasonably be said to cause surprise or prejudice. They are not "palpably insufficient" or "clearly devoid of merit" under the governing standard, and plaintiff claims that she has, if anything, narrowed the case by formally withdrawing her City-law disability discrimination claim.

DISCUSSION

On a motion to dismiss for failure to state a cause of action, the court must afford the pleading a liberal construction, accept the allegations as true, and accord the plaintiff the benefit of every possible favorable inference, determining only whether the facts as alleged fit within any cognizable legal theory (*see Leon v Martinez*, 84 NY2d 83, 87–88 [1994]; *Sokoloff v Harriman Estates Dev. Corp*., 96 NY2d 409, 414 [2001]; *Goshen v Mutual Life Ins. Co. of N.Y*., 98 NY2d 314, 326 [2002]).

The Court of Appeals reaffirmed this principle in *Moore Charitable Found. v PJT Partners, Inc.,* emphasizing that, upon review of a CPLR § 3211(a)(7) motion, the court must examine only the adequacy of the pleadings and that "[w]hether a plaintiff can ultimately establish its allegations is not part of the calculus in determining a motion to dismiss" (*see Moore Charitable Found.*, 40 NY3d 150, *quoting EBC I, Inc. v Goldman, Sachs & Co*., 5 NY3d 11, 19 [2005]).

Employment discrimination claims, in particular, are governed by notice pleading. As the United States Supreme Court held in *Swierkiewicz v Sorema N.A.*, a plaintiff alleging employment discrimination "need not plead a prima facie case" but need only give "fair notice of the basis for [her] claims" (534 US at 514–515). New York courts, including this court, have repeatedly applied *Swierkiewicz* in the NYSHRL/NYCHRL context (*see, e.g., Juillet v City of New York*, 77 Misc 3d 1002, 1005 [Sup Ct, NY County 2022], *citing Vig v New York Hairspray Co., L.P.*, 67 AD3d 140 [1st Dept 2009]).

Against this background, defendants' attempt to scrutinize plaintiff's allegations as though on summary judgment—demanding detailed proof of each element and an exhaustive comparator analysis—misapprehends the procedural posture. At this stage, plaintiff is not required to prove her claims, only to plead them.

A. Discrimination Claims Under the NYSHRL and NYCHRL

1. Sex and Gender

To state a claim under the NYSHRL, a plaintiff must allege that: (1) she is a member of a protected class, (2) she was qualified for her position, (3) she suffered an adverse employment action, and (4) the circumstances give rise to an inference of discrimination (*see Ayers v Bloomberg L.P.*, 203 AD3d 872, 874 [2d Dept 2022]). Under the NYCHRL, she need only plead that she was treated "less well" than other employees because of her gender, so long as the conduct is more than a "petty slight" or "trivial inconvenience" (*see Askin v Dept. of Educ. of the City of N.Y.*, 110 AD3d 621, 622 [1st Dept 2013]; *Williams v New York City Hous. Auth.*, 61 AD3d 62, 79–80 [1st Dept 2009]; *Fruchtman*, 129 AD3d at 500; *Massaro*, 121 AD3d at 569).

Plaintiff alleges that she is a woman and that she consistently performed her duties as a police officer in a satisfactory manner. She pleads that: (1) While she is one of the more senior officers in her squad, she is disproportionately assigned to details, fixed posts, station-house security, and other non-patrol assignments that limit her ability to make arrests and earn overtime, contrary to the normal rotational practice; (2) Male officers with equal or less seniority, including Officers Diaz, Ronquillo, Czerniawski, Ksepka, and Hierro, receive more favorable patrol assignments, more activity, and consequently more overtime and higher evaluations; (3) Named male comparators—Officers Flanagan, Wind, Alexendru, Green, Kinahan, Bokina, and others—routinely earn double her overtime hours and up to $5,000 more per month, resulting in an annual disparity of roughly $60,000; and (4) These same comparators are rated more favorably in evaluations, are selected for specialized units and lucrative posts, and are placed on investigatory tracks that position them for promotion to detective and enhance pensionable earnings.

Taken together, these allegations go well beyond "petty slights." They describe a sustained pattern of materially worse assignments, reduced earnings, and stunted advancement that plausibly constitutes adverse employment action under the NYSHRL and "less well" treatment under the NYCHRL. The alleged pattern, coupled with plaintiff's gender and her detailed comparator evidence, supports a reasonable inference of gender-based discrimination (*see Demir v Sandoz*

Inc., 155 AD3d 464, 466 [1st Dept 2017]; *Santiago-Mendez v City of New York*, 136 AD3d 428, 429 [1st Dept 2016]; *Miller v City Univ. of N.Y*., 66 Misc 3d 1227[A][Sup Ct, NY County 2019]).

Defendants' arguments that plaintiff has not identified perfectly identical comparators, or that operational needs might ultimately justify some decisions, ask the court to weigh factual defenses that are premature on a motion to dismiss. Under *Moore*, the court does not decide whether plaintiff can ultimately establish disparate treatment, only whether the pleaded facts fit within a cognizable theory of discrimination. Here, they plainly do.

2. Pregnancy, Maternity, and Lactation

Plaintiff also alleges discrimination based on pregnancy, maternity leave, and lactation. She asserts that, after announcing her pregnancy and taking approved leave, she was: (1) Falsely accused of AWOL status and disciplined, while a similarly situated white female officer, Giordona, was not disciplined for comparable conduct; (2) Forced to take her one-time childcare leave of absence earlier than she wished, exhausting the benefit and jeopardizing her ability to address future childcare crises; (3) Upon her return, reassigned to the midnight tour without legitimate justification, in a manner that severely disrupted childcare arrangements and prevented her husband from working his evening shift; (4) Denied adequate breaks and a clean, accessible lactation room on the midnight tour, despite defendants' knowledge of her need to express breast milk; as a result, she experienced pain, engorgement, and was forced to stop breastfeeding after only six weeks back at work; and (5) Subjected to pretextual discipline and negative performance evaluations that, she alleges, are rooted in hostility toward her use of maternity leave and accommodation requests.

The NYSHRL and NYCHRL both prohibit discrimination based on sex, which includes pregnancy and related conditions. Under the post-2019 NYSHRL standard—intended to be construed at least as liberally as the NYCHRL—plaintiff need only show that she was treated more than trivially worse because of her pregnancy and maternity status (*see Alshami*, 162 NYS3d 720; *see also* NY Exec. Law § 300 [liberal construction]).

Here, the totality of the alleged acts—discipline, forced early exhaustion of childcare leave, punitive midnight assignments, denial of lactation accommodations, and downstream pay and career consequences—readily suffices to state claims under both statutes. The allegations plausibly support a conclusion that plaintiff's maternity and lactation needs were viewed as burdensome and were met not with support but with punishment and exclusion from career-advancing opportunities.

To the extent plaintiff's allegations are also framed as failure-to-accommodate claims under the NYCHRL, she adequately pleads that: (1) she had a condition requiring accommodation (a need to express breast milk at regular intervals and to care for a newborn child); (2) defendants had notice of this need; (3) with reasonable accommodations (scheduled breaks, access to a lactation room, and a day-tour schedule), she could perform the essential functions of her job; and (4) defendants refused to provide those accommodations (*see Romanello v Intesa Sanpaolo S.p.A*., 22 NY3d 881, 885 [2013]; *Miloscia v B.R. Guest Holdings LLC*, 33 Misc 3d 466 [Sup Ct, NY County 2011]).

Defendants' suggestion that such allegations are insufficient as a matter of law is unpersuasive. The NYCHRL is intentionally broad, and plaintiff's detailed factual recitation satisfies that statute's flexible framework.

3. Caregiver (Caretaker) Status Discrimination

The NYCHRL expressly prohibits discrimination in employment "because of an individual's actual or perceived caregiver status" (Admin. Code § 8-107[1][a]). A "caregiver" is defined as a person who provides direct and ongoing care to a minor child or a covered care recipient (Admin. Code § 8-102).

Plaintiff alleges that she is the primary caretaker of her young children and that defendants were fully aware of this status through her maternity and childcare leave requests and repeated pleas to remain on, or be returned to, a day tour to accommodate childcare.

She asserts that defendants refused to place her on the day tour "because of" her childcare responsibilities, yet contemporaneously transferred non-caregiver officers to more favorable tours, thereby exacerbating her childcare hardship without legitimate business justification.

Trial-level decisions have recognized that such allegations are sufficient to state caregiver discrimination claims. In *Pustilnik v Battery Park City Auth*., 71 Misc 3d 1058 (Sup Ct, NY County 2021), the court upheld an NYCHRL caregiver claim premised on adverse actions flowing from an employee's need to care for a minor child. In *Palmer v Cook*, 65 Misc 3d 374 (Sup Ct, Queens County 2019), the court sustained an NYCHRL claim where the plaintiff was allegedly penalized after requesting recurring time off to accompany her husband to chemotherapy appointments.

Here, plaintiff's proposed amended complaint closely tracks those paradigms, alleging that defendants knowingly denied her schedule-related requests, assigned her to a punishing tour, and refused to return her to the day tour while granting that flexibility to non-caregiver officers, thereby imposing unique burdens on her because she is a caregiver. At the pleading stage, these allegations are more than sufficient to state a caregiver discrimination claim.

B. Hostile Work Environment

Under the NYCHRL, a plaintiff need only demonstrate that she was treated "less well than other employees" because of a protected characteristic, and that the conduct exceeded the level of "petty slights" and "trivial inconveniences" (*see Bilitch v N.Y.C. Health & Hosps. Corp*., 194 AD3d 999, 1003 [2d Dept 2021], *quoting Williams*, 61 AD3d at 79–80; *Reichman v City of New York*, 179 AD3d 1115, 1118 [2d Dept 2020]).

Plaintiff alleges a multi-year pattern of conduct that includes: (1) Falsified or unjustified AWOL allegations and resulting discipline; (2) Forced early depletion of a one-time childcare leave benefit; (3) Transfer to the midnight tour in knowing disregard of plaintiff's childcare obligations; (4) Transfer to the midnight tour in knowing disregard of plaintiff's childcare obligations; (5) Denial of lactation facilities and regular pumping breaks, causing physical pain

and compelling early cessation of breastfeeding; (6) Repeated punitive assignments that stripped her of opportunities to earn activity and overtime, skewed performance comparisons, and depressed evaluations; (7) Denial of off-duty employment, promotions, and specialized assignments routinely afforded to similarly situated colleagues; and (8) Ongoing interference with vacation and schedule requests following complaints of discrimination.

Viewed cumulatively and drawing every reasonable inference in plaintiff's favor, these allegations describe a work environment in which plaintiff was singled out for sustained, materially disadvantageous treatment tied to her gender, pregnancy, caregiver status, and protected complaints. They easily exceed the threshold for a hostile work environment claim under the NYCHRL and, given the post-2019 convergence of standards, under the NYSHRL as well (s*ee Bilitch*, 194 AD3d at 1003; *Fruchtman*, 129 AD3d at 500; *Massaro*, 121 AD3d at 569).

Defendants' effort to atomize each incident into an isolated "slight" is inconsistent with the "totality of the circumstances" approach mandated by the City and State Human Rights Laws. At this juncture, plaintiff has sufficiently alleged hostile work environment claims.

C. Retaliation

Retaliation claims under the NYCHRL are construed "broadly in favor of discrimination plaintiffs" (*Albunio v City of New York*, 16 NY3d 472, 477–78 [2011]). To state a claim, a plaintiff must allege that (1) she engaged in protected activity, (2) her employer knew she engaged in such activity, (3) the employer engaged in conduct reasonably likely to deter a person from engaging in protected activity, and (4) a causal connection exists between the protected activity and the retaliatory conduct (*see Sanderson–Burgess v City of New York*, 173 AD3d 1233, 1235–36 [2d Dept 2019]; *Brightman v Prison Health Serv., Inc*., 108 AD3d 740 [2d Dept 2013]).

Plaintiff alleges that she engaged in protected activity by: (1) Complaining to her supervisors about disparate treatment related to her pregnancy, maternity leave, childcare responsibilities, overtime denials, assignments, and discipline; and (2) Filing a formal discrimination and retaliation complaint with the NYPD's Office of Equal Employment Opportunity after being transferred to the midnight tour and denied accommodations.

She further alleges that, after and because of these complaints and accommodation requests, defendants escalated adverse actions by: (1) Stripping her of her firearm and subjecting her to "bogus" disciplinary charges; (2) Imposing punitive assignments that undermined her activity and overtime; (3) Denying off-duty employment and specialized positions; (4) Maintaining her on the midnight tour while transferring others to day tours; and (5) Depressing her performance evaluations and blocking advancement opportunities.

Defendants argue that requests for accommodation do not constitute protected activity. However, effective November 18, 2019, the New York City Council amended the NYCHRL expressly to prohibit retaliation against individuals who request a reasonable accommodation, thereby codifying that such requests are "protected activity" for purposes of retaliation claims. The amendment, which plaintiff annexes as Exhibit B, squarely undermines defendants' contention.

In addition, the Second Circuit and New York courts have long recognized that internal complaints to management about discrimination constitute protected activity (*see Cruz v Coach Stores, Inc*., 202 F3d 560, 566 [2d Cir 2000]; *Benedith v Malverne Union Free Sch. Dist*., 38 F Supp 3d 286, 322 [EDNY 2014]).

Accepting plaintiff's allegations as true and drawing all reasonable inferences in her favor, the timing and nature of the alleged retaliatory actions—particularly the escalation following her EEO complaint—plausibly support a causal connection at the pleading stage. Whether defendants can later demonstrate legitimate, non-retaliatory justifications is a matter for summary judgment or trial, not for dismissal on the pleadings.

Accordingly, plaintiff has sufficiently pled retaliation under both the NYSHRL and the NYCHRL.

D. Plaintiff's Cross-Motion for Leave to Amend

CPLR § 3025(b) provides that leave to amend a pleading "shall be freely given upon such terms as may be just." The decision whether to grant leave rests in the Court's sound discretion, but denial is appropriate only where the proposed amendment is palpably insufficient or clearly devoid of merit, or where prejudice or surprise would result (*Lucido v Mancuso*, 49 AD3d 220, 227 [2d Dept 2008]; *Pier 59 Studios, L.P. v Chelsea Piers, L.P.*, 40 AD3d 363, 366 [1st Dept 2007]; *Whidbee v Garzarelli Food Specialties, Inc*., 223 F3d 62, 73 [2d Cir 2000]).

Plaintiff's proposed amended complaint adds detail and additional, later-accruing facts concerning the same actors, the same workplace, and the same overarching theories already at issue in this litigation. It also explicitly withdraws a City-law disability discrimination claim, thereby narrowing the case.

Defendants can claim no surprise in light of the extensive factual narrative already presented in the original complaint and in plaintiff's opposition papers. Nor have they identified any prejudice beyond the need to continue litigating claims that, as explained above, are sufficiently pled.

Moreover, as the court has already concluded, the claims asserted in the proposed amended complaint are not palpably insufficient or clearly devoid of merit. To the contrary, they fit squarely within cognizable legal frameworks under the NYSHRL and NYCHRL when the governing liberal standards are applied. In such circumstances, it would be an abuse of discretion to deny leave to amend.

Accordingly, the cross-motion is granted. The proposed amended complaint shall be deemed the operative pleading upon filing and service, and defendants' motion to dismiss is appropriately addressed to that complaint.

For the foregoing reasons, it is

ORDERED that defendants' motion for partial dismissal of the complaint pursuant to CPLR § 3211(a)(7) is denied in its entirety; and it is further

ORDERED that plaintiff's cross-motion for leave to serve an amended complaint pursuant to CPLR § 3025(b) is granted; and it is further

ORDERED that plaintiff shall e-file and serve the amended complaint in the form annexed to her motion papers within twenty (20) days of service of this decision and order with notice of entry; and it is further

ORDERED that defendants shall serve an answer to the amended complaint within twenty (20) days after service of the amended complaint, or within thirty (30) days if served by mail, whichever is applicable; and it is further

ORDERED that, to the extent plaintiff has withdrawn her claim for disability discrimination under the NYCHRL, that claim is deemed discontinued without prejudice to the remaining claims; and it is further

ORDERED that the parties shall appear for a preliminary conference on a date to be scheduled by the court, at which time a discovery schedule shall be set.

This constitutes the decision and order of the court.

12/3/2025
DATE

HASA A. KINGO, 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