SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

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

Justice

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KADAJDRA DUCKETT-HOLMES,

Plaintiff,

- v -

PLANNED PARENTHOOD OF GREATER NEW YORK, INC., WENDY STARK, LORI TRZOP, CHRIS CASTRO GONZALEZ, TOI EATON,

Defendants.

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INDEX NO. 159488/2024

MOTION DATE 01/08/2025

MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 24

were read on this motion to/for DISMISSAL.

In this employment discrimination action, defendants move pursuant to CPLR § 3211(a)(7) to dismiss the complaint.

BACKGROUND

Plaintiff, a black African American woman, began working for defendant Planned Parenthood of Greater New York (PPGNY) as regional director of operations on September 27, 2021 (NYSCEF Doc No 1 ¶ 21). Plaintiff alleges that "PPGNY engaged, and continues to engage, in a pattern and practice of discrimination against black female employees, African American female employees, and employees who engage in protected conduct on behalf of themselves and other minority employee[s]" (*id.* ¶ 27). She further alleges that defendants Wendy Stark, Lori Trzop, Chris Castro Gonzalez, and Toi Eaton (the individual defendants) held supervisory roles with control over aspects of plaintiff's employment status and were "active participant[s] in the" alleged unlawful conduct (*id.* ¶¶ 7-18).

Plaintiff alleges, *inter alia*:

(i) "PPGNY required Plaintiff to endure brutal and unsafe working conditions due to her race, color, and gender. Specifically, Plaintiff was forced by her supervisor, Defendant TRZOP to work every single day of the months of October and November 2022 without a day off as a charge nurse . . . PPGNY did not require similarly situated white, Caucasian, or male employees to work slave-like hours doing work that was effectively a demotion" (*id.* ¶¶ 28-29);

(ii) "In or around the end of October 2022, Plaintiff engaged in protected conduct by complaining. However, [] PPGNY failed and/or refused to take any immediate or appropriate corrective action" and "began a targeted campaign against Claimant in retaliation for this protected conduct, including subjecting her to an increased and disproportionately burdensome workload" (*id.* ¶¶ 30-32);

(iii) "Plaintiff suffered a stress-induced medical event as a result of this retaliatory misconduct that necessitated her taking FMLA leave from work on or about March 27, 2023, to about May 22, 2023," and upon "her return, [] Plaintiff was placed in a substantively different role [which] would require significantly more stress and responsibility" (*id.* ¶¶ 33-35);

(iv) "The new responsibilities being hazardous to her health, on June 6, 2023, Plaintiff was constructively terminated effective July 7, 2023. Two (2) days later, on or about June 8, 2023, GONZALEZ, and EATON, spoke [to] Plaintiff over Zoom and 'released' Plaintiff from her duties with the offer for her to be paid through the end of her notice period provided she signed a fraudulent, illegal separation agreement" (*id.* ¶¶ 36-37).

Plaintiff's first four causes of actions are against all defendants, for the following violations of the New York State Human Rights Law (NYSHRL) and New York City Human Rights Law (NYCHRL): (1) race, color, gender, and sex discrimination; (2) race, color, gender, and sex harassment; (3) retaliation; and (4) hostile work environment. Her fifth and final cause of action is against the individual defendants for aiding and abetting in the alleged unlawful employment practices in violation of the NYCHRL.[1]

[1] While plaintiff alleges that defendants violated the Family Medical Leave Act (FMLA) by modifying plaintiff's position upon her return to work (*id.* ¶¶ 33-35, 45-46), she does not state a cause of action under this statute.

DISCUSSION

When determining if a complaint may be dismissed for failing to state a cause of action pursuant to CPLR § 3211(a)(7)[2], "the complaint must be liberally construed, the allegations therein taken as true, and all reasonable inferences must be resolved in plaintiff's favor" (*Gorelik v Mount Sinai Hosp. Ctr.*, 19 AD3d 319, 319 [1st Dept 2006]). The motion "must be denied if from the pleading's four corners factual allegations are discerned which taken together manifest any cause of action cognizable at law" (*id.* [internal quotations omitted]). However, "factual allegations that do not state a viable cause of action, that consist of bare legal conclusions, or that are inherently or clearly contradicted by documentary evidence are not entitled to such consideration" (*Skillgames, LLC v Brody*, 1 AD3d 247, 250 [1st Dept 2003]).

Discrimination

The NYSHRL and NYCHRL prohibit employers from discriminating against an employee based on protected characteristics. "Both statutes have provisions directing that they be liberally construed to accomplish the remedial purposes that they serve" (*Syeed v Bloomberg L.P.*, 41 NY3d 446, 451 [2024]). To support a discrimination claim under NYSHRL or NYCHRL, a plaintiff "must establish that (1) she [] is a member of a protected class, (2) she [] was qualified to hold the position, (3) she [] 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*, 241 AD3d 777, 779 [2nd Dept 2025] [internal quotation marks and citations omitted]).

[2] In her opposition, plaintiff argues that her claims are not time-barred (NYSCEF Doc No 20, pp. 6-9), but defendants only moved pursuant to CPLR § 3211(a)(7), not CPLR § 3211(a)(5).

Defendants argue that "Plaintiff's claim of discrimination fails as it provides only naked assertions of discrimination without either the direct, or indirect showing of discrimination sufficient to survive a motion to dismiss" (NYSCEF Doc No 16, p. 5). In opposition, plaintiff asserts that her complaint adequately alleges that she "suffered multiple adverse employment actions including, *inter alia*, being forced to work every single day of the months of October and November 2022 without a day off as a charge nurse," "being treated less well than her white, Caucasian, or male co-workers," and being subjected to "constructive termination" (NYSCEF Doc No 20, p. 11).[3] She asserts, without elaborating, that these actions "occurred under circumstances giving rise to an inference of discrimination" (*id.*).

Defendants argue plaintiff has not alleged she was subjected to an adverse employment action for the purposes of the NYSHRL. Defendants correctly note that being given "excessive work" is not an adverse employment action (*Forrest v Jewish Guild for the Blind*, 3 NY3d 295, 307 [2004], citing *Fridia v Henderson*, 2000 US Dist LEXIS 17295, *22 [SDNY 2000]). Constructive termination may constitute an adverse employment action, but plaintiff offers no details as to why her departure should be considered a constructive termination rather than a voluntary resignation (NYSCEF Doc No 1 ¶ 36 [stating in conclusory fashion: "Plaintiff was constructively terminated effective July 7, 2023"]).[4]

Nor does plaintiff adequately allege how she was treated differently from similarly situated employees for the purposes of the NYCHRL. Plaintiff alleges that she was required to work every day for two months, whereas "PPGNY did not require similarly situated white,

[3] Plaintiff also notes that she alleges she was "subjected to an increased [] workload after complaining" (*id.*), however, this allegation is relevant to her retaliation claim, not her discrimination claim. As for her allegation that she was "placed in a substantively different role with more stress and responsibility upon return from FMLA leave" (*id.*), it is unclear what cause of action this relates to since, as noted *supra*, plaintiff does not state an FMLA claim.
[4] As defendants note, plaintiff does not assert a cause of action for constructive termination.

Caucasian, or male employees to work slave-like hours doing work that was effectively a demotion" (*id.* ¶¶ 28-29). Critically, however, plaintiff fails to identify any of these purportedly similarly situated employees (*Etienne v MTA N.Y. City Tr. Auth.*, 223 AD3d 612, 612-13 [1st Dept 2024] ["Plaintiff failed to identify any similarly situated colleagues who were treated more favorably because they were not Black, Christian, or Haitian . . . The complaint simply stated that the coworker was less qualified and less experienced than plaintiff. There were no allegations that she had the same job title[,] had the same responsibilities or job requirements[,] reported to the same supervisors, or that she was even employed in the same unit"]). As a result, plaintiff has failed to indicate how she was treated differently from similarly situated employees.

Indeed, plaintiff's complaint is comprised of conclusory statements and therefore is deficient (*see, e.g.*, NYSCEF Doc No 1 ¶ 56 ["Defendants engaged in [] unlawful discriminatory practices . . . thereby discriminating against the Plaintiff because of Plaintiff's race, color, and sex/gender"]). In sum, "plaintiff's allegations of [] discrimination [are] unsupported by any factual allegations and [therefore are] insufficient to state a cause of action" (*Song Yong Yu v Envision Physician Servs., LLC*, 231 AD3d 1072, 1075 [2nd Dept 2024]; *Farah v City of New York*, 2025 NY Slip Op 04978 *2 [2nd Dept, Sept 17, 2025] ["Here, the complaint's conclusory assertions that the defendants discriminated against the plaintiff [] were unsupported by sufficient factual allegations to state a cause of action under either the NYCHRL or the NYSHRL"]; *Askin v Department of Educ. of the City of N.Y.*, 110 AD3d 621, 622 [1st Dept 2013] ["Plaintiff's allegations [] amount to mere legal conclusions" and therefore she "has not [] adequately pled the fourth element of a prima facie claim of employment discrimination[,] namely, that she was either terminated or treated differently under circumstances giving rise to an inference of discrimination"]).

Accordingly, plaintiff's first cause of action for discrimination in violation of the NYSHRL and NYCHRL will be dismissed.

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) she has engaged in a protected activity, (2) her employer was aware of such activity, (3) she 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). Under the NYCHRL, a plaintiff need not demonstrate that she suffered an adverse action, but that "her employer engaged in conduct which was reasonably likely to deter a person from engaging in that protected activity" (*Sanderson-Burgess v City of New York*, 173 AD3d 1233, 1236 [2nd Dept 2019]).

Plaintiff alleges that "[i]n or around the end of October 2022, Plaintiff engaged in protected conduct by complaining" (NYSCEF Doc No 1 ¶ 30), but she does not specify what she complained about on that occasion, and therefore it is unclear whether it constituted a protected activity (*Forrest*, 3 NY3d at 313 n.11 ["Filing a grievance complaining of conduct other than unlawful discrimination [] is simply not a protected activity subject to a retaliation claim under the statutes at issue"]; *see, e.g.*, *Brook v Overseas Media, Inc.*, 69 AD3d 444, 445 [1st Dept 2010] ["Even when the complaint is liberally construed to allege that plaintiff's employment was terminated in retaliation for requesting an accommodation for her disability, it does not state a cause of action because it fails to allege that she opposed her employer's discriminatory failure to make reasonable accommodation"]). While plaintiff states elsewhere in her complaint that she

"complain[ed] about PPGNY's discriminatory actions" (*id.* ¶ 26), she does not provide any details as to the content, method, timing, or recipient of such complaints (*Aykac v City of New York*, 221 AD3d 494, 495 [2023] ["As for the retaliation claim, plaintiff's vague, generalized complaints about [another employee's] treatment of him to an unspecified person or authority do not constitute protected activity"]). Since plaintiff does not specify who she complained to or allege that the relevant individuals (i.e., those who decided to take the alleged adverse employment actions) were aware of her complaint(s), she fails to state a claim for retaliation.

Accordingly, plaintiff's third cause of action for retaliation in violation of the NYSHRL and NYCHRL will be dismissed.

Harassment & Hostile Work Environment

In order to state a claim for a hostile work environment, a plaintiff must allege "harassment sufficiently severe or pervasive as to alter the conditions of her employment and create an abusive working environment" (*Forrest*, 309 AD2 at 556; *Agosto v N.Y. City Dep't of Educ.*, 982 F3d 86, 101 [2nd Cir 2020] [a plaintiff must allege that "her workplace was so severely permeated with discriminatory intimidation, ridicule, and insult that the terms and conditions of her employment were thereby altered"] [internal quotation marks omitted]).

As with plaintiff's discrimination claim, "the complaint fails to state [a] cause[] of action [for] hostile work environment" because the allegations are "conclusory and vague" (*Polite v Marquis Marriot Hotel*, 195 AD3d 965, 967 [2nd Dept 2021]). Plaintiff's complaint asserts, without factual support, that "throughout Plaintiff's employment, she was subjected to a continuing pattern and practice of discrimination and hostile work environment based upon her race, color, and gender" (NYSCEF Doc No 1 ¶ 26). Such allegations amount to "bare legal

conclusions [which] are insufficient to survive a motion to dismiss" (*Lockwood v CBS Corp.*, 219 AD3d 1326, 1327 [2nd Dept 2023]).

Accordingly, plaintiff's second cause of action for harassment and fourth cause of action for hostile work environment in violation of the NYSHRL and NYCHRL will be dismissed.

Aiding & Abetting

"Since the plaintiff failed to state a cause of action for discrimination, no cause of action lies for aiding and abetting discrimination" as against the individual defendants (*Currid*, 241 AD3d at 779; *Park v Kurtosys Sys., Inc.*, 206 AD3d 570, 571 [1st Dept 2022] ["In the absence of evidence that plaintiff was discriminated against or retaliated against, her claims that the individual defendants aided and abetted one another must be dismissed"]).

Accordingly, plaintiff's fifth cause of action for aiding and abetting will be dismissed.

CONCLUSION

Based on the foregoing, it is

ORDERED that defendants' motion is granted, and the complaint is dismissed; and it is further

ORDERED that the clerk is directed to enter judgment in favor of defendants as against plaintiff with costs and disbursements to defendants as taxed by the clerk.

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1/5/2026
DATE

PAUL A. GOETZ, J.S.C.

CHECK ONE:	X	**CASE DISPOSED**			**NON-FINAL DISPOSITION**		
	X	**GRANTED**		**DENIED**	**GRANTED IN PART**		**OTHER**
APPLICATION:		**SETTLE ORDER**			**SUBMIT ORDER**		
CHECK IF APPROPRIATE:		**INCLUDES TRANSFER/REASSIGN**			**FIDUCIARY APPOINTMENT**		**REFERENCE**