

<b>Root v City Univ. of N.Y.</b>
2026 NY Slip Op 31220(U)
March 27, 2026
Supreme Court, New York County
Docket Number: Index No. 157151/2020
Judge: Paul A. Goetz
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. PAUL A. GOETZ PART 47

Justice

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ROBIN ROOT

Plaintiff,

- v -

CITY UNIVERSITY OF NEW YORK,

Defendant.

-----X

INDEX NO. 157151/2020

MOTION DATE 03/24/2025

MOTION SEQ. NO. 005

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 005) 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, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145

were read on this motion to/for SUMMARY JUDGMENT(AFTER JOINDER)

Upon the foregoing documents, it is

In this employment discrimination action defendant, City University of New York ("CUNY") moves pursuant to CPLR § 3212 for summary judgment dismissing plaintiff's claims against it. Plaintiff asserts two causes of action against CUNY for 1) Discrimination under the New York State Human Rights Law ("NYSHRL") and 2) Retaliation under the NYSHRL.

BACKGROUND

Plaintiff is a white, tenured professor and member of the Sociology and Anthropology Department (the "Department" at Baruch College, within defendant, City University of New York ("CUNY")), system (NYSCEF Doc No 1 ¶¶ 2-3, 7; NYSCEF Doc No 116 ¶ 1-2). In May of 2019, the "Faculty of Color Caucus" (the "Caucus"), a group of four faculty members within the Department disseminated a report (the "report") intended to address issues of racial inequality within the Department (NYSCEF Doc No 122 at p 14 ¶¶ 13-14). The four members of the Caucus were Angie Beeman, Marisa Solomon, Carolle Charles and George Gonzales (id. at ¶

12). The report made two recommendations to help address issues it found within the Department's culture: (1) with the help of an outside, trained facilitator, white members of the faculty should read "White Fragility", a book by Robin DiAngelo which the Caucus suggested will help the "faculty to learn and reflect on how white normativity plays out in the department" (see NYSCEF Doc No 92), and (2) that the Caucus will continue to work with each other as a intellectual community and a support group (*id.*).

Plaintiff alleges that following the release of the report, Drs. Beeman, Charles, and Solomon would purposefully ignore white faculty, not respond to emails from white faculty, and exclude them from conversation (NYSCEF Doc No 122 ¶ 29). Plaintiff alleges that Drs. Solomon and Beeman made "mean statements" about her on at least three occasions to Department Chair, Gregory Snyder (*id.* at ¶ 43).

On November 2, 2019, Dr. Charles alleged that plaintiff entered her office, and screamed at her about not responding to her emails (NYSCEF Doc No 122 at p. 6-7 ¶ 16). Dr. Charles filed an internal complaint regarding the incident against plaintiff on November 22, 2019 (*id.* at 18; see NYSCEF Doc No 102). Dr. Beeman also filed an internal complaint against plaintiff on February 15, 2020 regarding comments plaintiff made about her (NYSCEF Doc No 122 at p 7 ¶ 19; see NYSCEF Doc No 97).

On March 3, 2020, plaintiff filed an internal complaint as against Drs. Charles, Beeman and Solomon (NYSCEF Doc No 122 at p 8 ¶ 21; see NYSCEF Doc No 106). On March 14, 2020 Chair Snyder emailed plaintiff, asking her to rescind her complaint (NYSCEF Doc No 136). Plaintiff did not withdraw her complaint (NYSCEF Doc No 122 at p. 9 ¶ 26). Drs. Beeman and Charles filed second complaints for retaliation against plaintiff for filing complaints against them

(NYSCEF Doc No 110). Mona Jha, the Baruch College Chief Diversity Officer was tasked with investigating the complaints (NYSCEF Doc No 122 at p. 9 ¶ 27).

On May 14, 2020, Jha asked plaintiff to supplement her complaint by responding to specific questions about her allegation, however plaintiff failed to respond to this email (*id.* at ¶ 29). Ultimately, Jha issued decisions dismissing all of the complaints, attributing the conduct to personality conflicts as opposed to discrimination (*id.* at ¶ 31).

### DISCUSSION

#### *Summary Judgment Standard*

It is well settled that ‘the proponent of a summary judgment motion must make a prima facie showing of entitlement to judgment as a matter of law, tendering sufficient evidence to demonstrate the absence of any material issues of fact’” (*Pullman v Silverman*, 28 NY3d 1060, 1062 [2016], quoting *Alvarez v Prospect Hosp.*, 68 NY2d 320, 324 [1986]). “Failure to make such showing requires denial of the motion, regardless of the sufficiency of the opposing papers” (*Winegrad v New York Univ. Med. Ctr.*, 64 NY2d 851, 853 [1985]). “Once such a prima facie showing has been made, the burden shifts to the party opposing the motion to produce evidentiary proof in admissible form sufficient to raise material issues of fact which require a trial of the action” (*Cabrera v Rodriguez*, 72 AD3d 553, 553-54 [1st Dept 2010]).

“The court’s function on a motion for summary judgment is merely to determine if any triable issues exist, not to determine the merits of any such issues or to assess credibility” (*Meridian Mgt. Corp. v Cristi Cleaning Serv. Corp.*, 70 AD3d 508, 510-11 [1st Dept 2010] [internal citations omitted]). The evidence presented in a summary judgment motion must be examined “in the light most favorable to the non-moving party” (*Schmidt v One New York Plaza Co. LLC*, 153 AD3d 427, 428 [2017], quoting *Ortiz v Varsity Holdings, LLC*, 18 NY3d 335, 339

[2011]) and bare allegations or conclusory assertions are insufficient to create genuine issues of fact (*Rotuba Extruders v Ceppos*, 46 NY2d 223, 231 [1978]). If there is any doubt as to the existence of a triable fact, the motion for summary judgment must be denied (*Rotuba Extruders v Ceppos*, 46 NY2d 223, 231 [1978]).

### *Hostile Work Environment*

As a preliminary matter, defendant argues that when the court evaluates plaintiff's hostile work environment claims, it must use two separate standards because in 2019 the New York State legislature amended the NYSHRL, including amending Executive Law § 300, which states "[t]he provisions of this article shall be construed liberally for the accomplishment of the remedial purposes thereof" (*see Aponte v Town of Islip*, 236 AD3d 424, 425 [1st Dept 2025] ["the [amended] State HRL must be 'liberally construed' in a manner similar to the City HRL"]; *Flanagan v Girl Scouts of Suffolk County, Inc.*, 23-7900-CV, 2025 WL 1501751 [2d Cir 2025]). Defendant argues that since some of plaintiff's allegations occur prior to the amendment, and some occur after the amendment, that the allegations must be analyzed under the two distinct standards.

Prior to the amendments to the NYSHRL a "hostile work environment [was found to] exist[] [w]hen the workplace [was] permeated with discriminatory intimidation, ridicule, and insult that [was] sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment" (*Forrest v Jewish Guild for the Blind*, 3 NY3d 295, 310 [2004]; *Bilitch v New York City Health & Hosps. Corp.*, 194 AD3d 999 [2d Dept 2021]).<sup>1</sup> However, following the amendments to the NYSHRL, the standard to determine a

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<sup>1</sup> "Whether an environment is hostile or abusive can be determined only by looking at all the circumstances, including the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee's work performance" (*Forrest*, 3 NY3d at 310-11; *Bilitch*, 194 AD3d at 1003).

hostile work environment no longer requires a showing of severity and pervasiveness, and now the NYSHRL aligns with the New York City Human Rights Law (“NYCHRL”) standard (*see Golston-Green v City of New York*, 184 AD3d 24, 41 n 3 [2d Dept 2020]).

Under the NYCHRL and the now amended NYSHRL “a plaintiff claiming a hostile work environment need only demonstrate that he or she was treated ‘less well than other employees’ because of the relevant characteristic” (*Reichman v City of New York*, 179 AD3d 1115, 1118 [2d Dept 2020]). “The conduct alleged must, however, exceed what a reasonable victim of discrimination would consider petty slights and trivial inconveniences, and mere personality conflicts will not suffice to establish a hostile work environment” (*id.* [internal citations omitted]). Plaintiff must also establish that the workplace is “both subjectively and objectively hostile, meaning that a plaintiff must not only perceive that the conditions of his or her employment were altered because of discriminatory conduct, but the conduct also must have created an environment that a reasonable person would find to be hostile or abusive” (*Long v Aerotek, Inc.*, 202 AD3d 1216, 1218 [3d Dept 2022]) Further, an employer cannot be held liable for employees’ discriminatory acts or statements “unless the employer became a party to it by encouraging, condoning, or approving it” (*id.*).

Defendant argues that the pre-amendment allegations, should be analyzed under the “severe and pervasive” standard, and the post-amendment allegations under the “less well than” standard. Defendant cites *Alshami v City Univ. of New York*, in support of its argument that claims which accrue prior to the amendment should be analyzed under the pre-amendment standard (203 AD3d 592 [1st Dept 2022]). However, in *Alshami* the entirety of the allegations occurred prior to NYSHRL amendment. In contrast here, the allegations straddle the amendment date. Neither party cites caselaw that is directly on point with this scenario, however “[a] hostile

work environment is measured by the totality of the circumstances” (*McRedmond v Sutton Place Rest. and Bar, Inc.*, 95 AD3d 671, 672 [1st Dept 2012]), and here, under both pre and post amendment standards, the result is the same.

A defendant may establish *prima facie* entitlement to summary judgment dismissing a hostile work environment claim by, while viewing the evidence in the light most favorable to the plaintiff, presenting facts that establish as a matter of law that the plaintiff was not “subjected to inferior terms, conditions, or privileges on the basis of her [race]” *Makharadze v Ognibene*, 239 AD3d 844, 847 [2d Dept 2025]).

Defendant argues that plaintiff’s hostile work environment cause of action must be dismissed because she cannot establish that a reasonable person would find the alleged conduct constitutes a hostile work environment and that the alleged conduct amounts to personality conflicts and petty slights. Further, defendant argues that plaintiff cannot rely on some of the alleged conduct because contrary evidence establishes that plaintiff herself did not view the behavior as subjectively hostile.

Plaintiff’s allegations stem first from the report sent by the Faculty of Color Caucus in May 2019 (NYSCEF Doc No 92). In that report, the caucus recommended that white faculty members read “White Fragility” with the help of an outside facilitator (*id.*). However, this recommendation was never adopted by CUNY, and plaintiff and other white faculty were never required to read the book (NYSCEF Doc No 124 at 162:18-162:22). Furthermore, after receiving the report, plaintiff sent an email to the caucus thanking them for the report and recommending a facilitator that the faculty could use (NYSCEF Doc No 95). Moreover, plaintiff admits that she first suggested that the faculty should read “White Fragility”, although plaintiff notes that she

suggested that the whole faculty read it rather than limiting the suggestion only to the white faculty (NYSCEF Doc No 124 at ¶ 90:4-90:11).

Ultimately plaintiff and other faculty members were not required by defendant to read “White Fragility” or participate in any workshops that the report recommended. The report amounted to suggestions from junior colleagues and considering plaintiff welcomed the suggestions at the time, plaintiff could not be said to subjectively view her workplace as hostile at that time (*see Karam v County of Rensselaer, New York*, 2016 WL 51252 [NDNY 2016] [employee’s willing participation in allegedly hostile activities indicate lack of subjective perception of hostile work environment]; *see also Parisi v Buffalo Mun. Hous. Auth.*, 01-CV-0171E(SR), 2003 WL 21382893 [WDNY 2003]).

While the dissemination of this report alone cannot sustain an action for hostile work environment under the NYSHRL, “a single act of [alleged] harassment may not be actionable on its own, but ... can still be considered as part of the entire scope of [the] claim,” (*Natl. R.R. Passenger Corp. v Morgan*, 536 US 101, 122 S Ct 2061, 153 L Ed 2d 106 [2002]). However, when analyzing whether the severity of the allegations rise to actionable conduct, plaintiff’s subjective perception of each act must be considered and as defendant argues, plaintiff’s actions prior to and immediately following the report, indicate she did not view the suggestion as subjectively hostile which must be considered when addressing the context of plaintiff’s remaining allegations. Similarly, plaintiff includes in her complaint an email from Dr. Charles to plaintiff, which plaintiff alleges she interpreted as an accusation that plaintiff benefitted in her career from being white (NYSCEF Doc No 1 ¶ 21). However, defendant notes that plaintiff responded to this email seemingly continuing a dialogue on racial dynamics and politics within

the workplace (NYSCEF Doc No 104), thereby negating any suggestion plaintiff perceived the email as hostile.

Plaintiff further alleges that she was mistreated by members of the caucus including “[b]eing ignored, [n]ot greeted, [n]ot getting responses to e-mails, [and being e]xcluded from conversations” (NYSCEF Doc No 124 at 104:9-11). However, “courts must be mindful that the [Human Rights Law] is not a general civility code” (*Mihalik v Credit Agricole Cheuvreux N. Am., Inc.*, 715 F3d 102, 110 [2d Cir 2013]) and rude treatment and ostracization by coworkers are not actionable in a hostile work environment claim without the underlying race based motives (*see McIntosh v City of New York*, 79 Misc 3d 1231(A) [SC Kings Co 2023]; *see also E.E.O.C. v Bloomberg L.P.*, 967 F Supp 2d 816 [SDNY 2013]).

Here, considering that defendant never instituted a policy requiring white faculty to perform additional work, and that the perceived slights and ostracization plaintiff alleges she experienced are not actionable under a hostile work environment claim, defendant has “proffer[ed] sufficient evidence that the allegedly offensive conduct was not sufficiently severe or pervasive to alter the conditions of the plaintiff’s employment and create an objectively hostile or abusive work environment” (*Sayegh v Fiore*, 88 AD3d 981, 982 [2d Dept 2011]). Even analyzing the entirety of the alleged conduct under the more expansive post-amendment standard, much of the alleged discriminatory behavior amount to petty slights, trivial inconveniences, and personality conflicts which will not suffice to establish a hostile work environment (*Reichman*, 179 AD3d at 1118).

Plaintiff fails to submit evidence to rebut this showing, and furthermore, considering that plaintiff herself advocated for many of the actions she now alleges constitute her hostile work environment claim, (*see Henry v Ground*, 2022 N.Y. Slip Op. 31859[U] [SC NY Co 2022]), a

reasonable jury could not find that the complained of conduct either, objectively, or subjectively constituted a hostile work environment. Accordingly, defendant's summary judgment motion on plaintiff's hostile work environment claim will be granted and the claim will be dismissed.

### *Retaliation*

To establish liability on a NYSHRL claim for retaliation 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" (*Harrington v City of New York*, 157 AD3d 582, 585 [1st Dept 2018]). "In the context of a case of unlawful retaliation, an adverse employment action is one which might have dissuaded a reasonable worker from making or supporting a charge of discrimination" (*Reichman v City of New York*, 179 AD3d 1115, 1119 [2d Dept 2020]).

For retaliation claims where the alleged adverse employment action is dissuasion of the employee pursuing discrimination charges, "the assessment [must] be made with a keen sense of workplace realities, of the fact that the 'chilling effect' of particular conduct is context-dependent, and of the fact that a jury is generally best suited to evaluate the impact of retaliatory conduct in light of those realities" (*Williams v New York City Hous. Auth.*, 61 AD3d 62 [1st Dept 2009]).

Here, it is undisputed that plaintiff engaged in protected activity, by emailing Dean Al Romero, outlining her complaint of discrimination, and by sending a formal discrimination complaint to the Chief Diversity Officer, Mona Jha (NYSCEF Doc No 122 at p 8 ¶ 21; see NYSCEF Doc No 106). On March 14, 2020, Chair Snyder, plaintiff's supervisor, emailed plaintiff, stating, "I spoke with Al, and Robin you have to immediately rescind your 'white

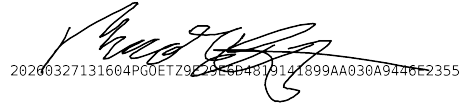
racism' complaint. While I agree that you have been mis-treated I don't think a reverse racism grievance is going to hold much water" (NYSCEF Doc No 136). Plaintiff alleges that while she did not rescind the complaint, because of Snyder's email, she felt the situation was hopeless, and this is why she did not supplement her complaint when Ms. Jha emailed her during the investigation (NYSCEF Doc No 124 at 194:23-195:5).

Defendant argues that plaintiff cannot establish that a reasonable person would be deterred upon receiving the email, because plaintiff was more senior in the department than Snyder, and he could not fire, review, or change her compensation. However, considering that Snyder stated that he spoke with Dean Romero, prior to sending the email, someone who does have the authority to adversely affect plaintiff's employment, plaintiff could have reasonably been dissuaded from pursuing her hostile work environment claim. Further, while defendant cites to federal cases analyzing retaliation in the Title VII context (*see Dunn v Washington County Hosp.*, 429 F3d 689 [7th Cir 2005] [holding that supervisor's coercive statements for an employee to withdraw a complaint is not retaliatory absent knowledge that the supervisor had previously "sabotaged the career of other [employees], his statements would not have dissuaded reasonable persons from protecting their own rights"]), the NYSHRL employs a broader standard (*see Qorrolli v Metro. Dental Assoc.*, 124 F4th 115 [2d Cir 2024]), and thus a triable issue of fact exists as to whether the conduct was "reasonably likely to deter a person from engaging in protected activity," and accordingly defendant's motion for summary judgment on plaintiff's retaliation claim will be denied (*Williams*, 61 AD3d at 71).

Accordingly, it is,

ORDERED that the portion of defendant's summary judgment motion seeking to dismiss plaintiff's first cause of action, for hostile work environment is granted; and it is further

ORDERED that the portion of defendant’s summary judgment motion seeking to dismiss plaintiff’s second cause of action, for retaliation is denied.

  
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<u>3/27/2026</u>				<u>PAUL A. GOETZ, J.S.C.</u>
<b>DATE</b>				
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION
	<input type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT
			<input type="checkbox"/>	OTHER
			<input type="checkbox"/>	REFERENCE