

<b>Corcino v New York Times Co.</b>
2026 NY Slip Op 31399(U)
April 7, 2026
Supreme Court, New York County
Docket Number: Index No. 160247/2024
Judge: Phaedra F. Perry-Bond
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. PHAEDRA F. PERRY-BOND PART 35

Justice

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INDEX NO. 160247/2024

CHARITY CORCINO

MOTION DATE 02/18/2025

Plaintiff,

MOTION SEQ. NO. 001

- v -

THE NEW YORK TIMES COMPANY,

DECISION + ORDER ON MOTION

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17

were read on this motion to/for DISMISS

Upon the foregoing documents, Defendant The New York Times Company's ("Defendant") motion to dismiss Plaintiff Charity Corcino's ("Plaintiff") Complaint is granted.

I. Background

Defendant formerly employed Plaintiff as a Software Engineering Manager. The employment relationship ended on May 30, 2024. Plaintiff, while represented by counsel, negotiated and signed a severance package with a separation agreement and general release (the "Release"). Plaintiff received her entire severance and now sues Defendant for employment discrimination, retaliation, and a declaratory judgment claiming the Release is unenforceable. Defendant moves to dismiss based on the Release, arguing the Release bars the discrimination and retaliation claims, and the Release is valid under GOL § 5-336. Plaintiff opposes by arguing the Release is invalid under GOL § 5-336.

II. Discussion

Defendant's motion is granted. GOL § 5-336(1)(a) bars any non-disclosure agreement included "in any settlement, agreement, or resolution of any claim, the factual foundation for which

involves discrimination, harassment, or retaliation...any term or condition that would prevent the disclosure of the underlying facts and circumstances to the claim or action unless the condition of confidentiality is the complainant's preference.”

Plaintiff's Complaint relies on GOL § 5-336(3)(b), which provides:

“Notwithstanding any other law to the contrary, no release of any claim, the factual foundation for which involves unlawful discrimination, including discriminatory harassment, or retaliation, shall be enforceable, if as part of the agreement resolving such claim:

(b) the complainant is required to forfeit all or part of the consideration for the agreement, for violation of a nondisclosure clause or non-disparagement clause”

The Release contains nondisclosure clauses related to the terms and amount of the severance and related to the protection of confidential and proprietary information. The Release also contains a mutual non-disparagement clause. Importantly, the Release authorizes Plaintiff to discuss any details or underlying facts concerning discrimination or sexual harassment. Specifically, paragraph 6 of the Release states:

“[N]othing in this Agreement (including but not limited to the acknowledgements, release of claims, the promise not to sue, the confidentiality and non-disparagement obligations, cooperation, and the return of property provision) limits or affects... or prevents Employee from communicating with, filing a charge or complaint with; or from participating in an investigation or proceeding conducted by the Equal Employment Opportunity Commission, National Labor Relations Board, the Securities and Exchange Commission, the Occupational Safety and Health Administration, the Department of Justice, the Congress, and/or any agency Inspector General, law enforcement, or any other any federal, state or local agency charged with the enforcement of any laws... In addition, nothing in this Agreement shall have the purpose or effect of requiring Employee to conceal the details or underlying facts and circumstances of claims of discrimination or sexual harassment on the basis of a characteristic protected by applicable law that does not involve revealing non-public trade secrets, business plans, and customer information. By signing this Agreement Employee is waiving Employee's right to recover any individual relief (including any backpay, front pay, reinstatement or other legal or equitable relief) in any charge, complaint, or lawsuit or other proceeding brought by Employee or on Employee's behalf by any third party, except for any right Employee may have to receive a payment or award from a

government agency (and not the Company) for information provided to the government agency or where otherwise prohibited.”

The Court finds based on paragraph 6 of the Release, and considering the legislative history of GOL § 5-336, the Release is valid and enforceable. “The primary consideration of courts in interpreting a statute is to ‘ascertain and give effect to the intention of the Legislature’” (*see Sprint Communications Co., L.P. v City of New York Dept. of Finance*, 152 AD3d 184, 189 [1st Dept 2017] quoting *Riley v County of Broome*, 95 NY2d 455, 463 [2000]). In determining the intention of the Legislature, it is well established that a court may use legislative history to construe a statute no matter how clear the words of that statute may appear (*Sprint, supra* citing *New York State Bankers Assn. v Albright*, 38 NY2d 430, 437 [1975]).

The legislative history of GOL § 5-336 provides that the amendment to GOL § 5-336 was to “[p]rohibit employers from requiring confidentiality of underlying facts in settlement agreements for violations of laws prohibiting discrimination, including discriminatory harassment or retaliation, unless the condition of confidentiality is the complainant's preference” (*see* NYSCEF Doc. 11). As part of this prohibition, the amendment to GOL § 5-336 would “[p]rohibit complainants from paying liquidated damages to the employer for violating a non-disclosure or non-disparagement clause related to unlawful discrimination” (*id.*). The legislative history further provides that:

“Targets of sexual harassment and discrimination are often required to sign non-disclosure agreements (NDA) in order to receive compensation for the harm they have experienced. These agreements frequently include provisions requiring a plaintiff to pay liquidated damages if they violate the agreement. Thus, survivors who later change their mind or were originally coerced into signing an NDA face an enormous financial penalty for speaking about what happened to them. This legislation will protect survivors from facing financial sanction for sharing their experiences of harassment and discrimination.”

The Release is not void under GOL § 5-336 because it expressly states “nothing in this Agreement shall have the purpose or effect of requiring Employee to conceal the details or underlying facts and circumstances of claims of discrimination or sexual harassment on the basis of a characteristic protected by applicable law that does not involve revealing non-public trade secrets, business plans, and customer information” (NYSCEF Doc. 10 at ¶ 6). Thus, nothing in the Release would prohibit Plaintiff from paying liquified damages for speaking about unlawful discrimination, so long as Plaintiff does not reveal trade secrets or proprietary information. The legislative history demonstrates that GOL § 5-336 was never intended to make all non-disclosure and non-disparagement clauses, such as those pertaining to trade secrets and proprietary information, unenforceable. The legislative intent was to make unenforceable certain non-disclosure and non-disparagement clauses that imposed liquidated damages on a complainant for disclosing facts related to retaliation, discrimination, or harassment. The non-disclosure and mutual non-disparagement clauses here expressly contain carve outs that allow Plaintiff to disclose facts related to discrimination, harassment, or retaliation.

Because the Release is enforceable, Plaintiff’s Complaint must be dismissed. “A release will not be treated lightly because it is ‘a jural act of high significant without which the settlement of disputes would be rendered all but impossible’” (see *Allen v Rises Organization, Inc.*, 106 AD3d 514, 516 [1st Dept 2013] quoting *Mangini v McClurg*, 24 NY2d 556, 563 [1969]). A valid release that is clear and unambiguous and knowingly and voluntarily entered into will be enforced and bars an action or any cause of action arising prior to its execution (*Smith v City of New York*, 236 AD3d 414, 416 [1st Dept 2025]).

The Release clearly and unambiguously states that by accepting severance pay, Plaintiff waived her “right to recover any individual relief (including any backpay, front pay, reinstatement

or other legal or equitable relief) in any charge, complaint, or lawsuit or other proceeding brought” (see NYSCEF Doc. 10 at ¶ 6). The Release also recites Plaintiff had an opportunity to review the Release with counsel of her choosing, fully understood the significance of all terms, and entered the Release voluntarily (*id.* at ¶ 4[e]). Plaintiff accepted the severance pay and extended insurance coverage without ever repudiating the agreement, thereby ratifying it (see *Dinhofer v Medical Liability Mut. Ins. Co.*, 92 AD3d 480, 481 [1st Dept 2012]). Moreover, the First Department has held releases of discrimination claims are not substantively unconscionable (see *Balyasny Asset Management L.P. v Liu*, 235 AD3d 463, 464-465 [1st Dept 2025] citing *Skluth v United Merchants & Mfrs., Inc.*, 163 AD2d 104, 107 [1st Dept 1990]). Therefore, the motion to dismiss pursuant to CPLR 3211(a)(5) is granted (see also *Jacobus v Battery Park Hotel Management, LLC*, 81 AD3d 572 [1st Dept 2011]).

Accordingly, it is hereby,

ORDERED that Defendant’s motion to dismiss is granted, and the Complaint is hereby dismissed; and it is further

ORDERED that within ten days of entry, counsel for Defendant shall serve a copy of this Decision and Order, with notice of entry, on all parties via NYSCEF.

This constitutes the Decision and Order of the Court.

4/7/26  
DATE

  
HON. PHAEDRA F. PERRY-BOND, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE