Brown v CBS News, Inc.
2026 NY Slip Op 32016(U)
May 10, 2026
Supreme Court, New York County
Docket Number: Index No. 152570/2025
Judge: Kathleen Waterman-Marshall

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **HON. KATHLEEN WATERMAN-MARSHALL** **PART** **31M**

Justice

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SHERECE SHEMEKA BROWN,

Plaintiff,

- v -

CBS NEWS, INC.,CBS BROADCASTING INC.,PARAMOUNT GLOBAL, LAURA FORAN, ALISON HAWLEY, BRIAN NALESNIK, MELISSA MCKEON, MARY HAGER, RICK JEFFERSON, ROSS DAGAN, MICHAEL GARRY RODERICK, DANIEL KLOS,

Defendant.

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INDEX NO. 152570/2025

MOTION DATE 06/18/2025

MOTION SEQ. NO. 003

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 003) 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 35, 36

were read on this motion to/for DISMISS.

Upon the foregoing documents, the motion by defendants CBS News Inc., CBS Broadcasting Inc. ("CBS"), Paramount Global ("Paramount") (collectively, the "Corporate Defendants"), Laura Foran (a Production Manager), Alison Hawley (a Director), Brian Nalesnik (a Director), Melissa McKeon (a Human Resources Director), Mary Hager (an Executive Producer), Rick Jefferson (a Senior Vice President), Ross Dagan (an Executive Vice President), Michael Garry Roderick (Vice President), and Daniel Klos (a Director) (collectively, the "Individual Defendants") for an order, pursuant to CPLR §§ 3211(a)(1), (2), (7), and (8), dismissing the First Amended Verified Complaint ("the Complaint"), is granted in part.

Background

The law in New York State and New York City does not tolerate discrimination based upon race, gender, and other protected characteristics, and provides a remedy for those harmed in their jobs and careers by such conduct (*see Syeed v Bloomberg L.P.*, 41 NY3d 446, 449 [2024] ["The New York City Council and the New York State Legislature have enacted laws banning discrimination, including employment discrimination, from within their geographic boundaries."]). These laws, however, apply to those who live and/or work in New York (*see Hoffman v Parade Publications*, 15 NY3d 285, 289-291 [2010]).

In this action, Plaintiff Sherece Shemeka Brown ("Ms. Brown"), a self-identified black, African American female, seeks a remedy under New York State Human Rights Law ("NYSHRL"; *see* Executive Law § 290 *et seq.*) and New York City Human Rights Law ("NYCHRL"; *see* Administrative Code of City of NY § 8-107 *et seq.*) for alleged racial discrimination, retaliation, and hostile work environment that occurred during 2020 – 2025,

when she lived and worked for CBS in Washington, D.C. In the main, Ms. Brown claims, *inter alia*, that CBS denied her job opportunities, passed her over for jobs that she applied to, and refused to pay her relocation costs that are afforded to non-Black employees. She further alleges, in some sharp detail, that certain of the Individual Defendants made discriminatory comments, based upon derogatory stereotypes, about her appearance and ethnicity.

Defendants, collectively, move to dismiss the complaint largely, but not exclusively, upon the ground that the alleged conduct occurred in Washington D.C., where Ms. Brown lived while she worked in CBS News' D.C. Bureau control room, therefore taking Ms. Brown's claims outside of the ambit and protections of the NYSHRL and NYCHRL. They also seek dismissal of the Complaint on the grounds that, *inter alia,* it fails to state causes of action under the NYSHRL and NYCHRL and for lack of personal jurisdiction.

The First Amended Complaint

The Complaint spans 57 pages, contains 317 separate paragraphs (259 of which contain the predicate facts), asserts eight causes of action sounding in race discrimination, retaliation, aiding and abetting, supervisory liability, and hostile work environment under the NYSHRL and NYCHRL, and seeks compensatory and punitive damages of no less than $10 million each (*id.* ¶¶ 260–316). Brown alleges that she was subjected to a pattern and practice of race discrimination, harassment, and retaliation throughout her employment – including "being passed over for upper-level promotions" and denied "equal training and other job opportunities" – leading to her termination on or about November 20, 2024 (*id.* ¶¶ 75–83, 234). Her final day of work was January 31, 2025 (*id.* ¶ 234).

According to the Complaint, CBS News is the news division of the CBS television and radio service, headquartered at the CBS Broadcast Center in New York City (*id.* ¶¶ 4–5). CBS Broadcasting is an American commercial broadcast television and radio network serving as the flagship property of the CBS Entertainment Group division of Paramount (*id.* ¶¶ 8–9). Paramount is a global mass media and entertainment company (*id.* ¶ 14).

Ms. Brown alleges that CBS News and CBS Broadcasting jointly employed her (*id.* ¶ 12) and that Paramount became her joint employer in or around 2019 as part of its acquisition of CBS (*id.* ¶¶ 13, 17, 74). In support of this allegation, Ms. Brown relies on her employee portal landing page, which directly references Paramount and contains links to Paramount programs (*id.* ¶ 19).

The Individual Defendants held various supervisory and decision-making positions within CBS and Paramount during the relevant period. Foran was a Production Manager (*id.* ¶ 20); Hawley was a Director (*id.* ¶ 23); Nalesnik was a Director (*id.* ¶ 26); McKeon was a Human Resources Director (*id.* ¶ 29); Hager was an Executive Producer (*id.* ¶ 32); Jefferson was a Senior Vice President (*id.* ¶ 35); Dagan was an Executive Vice President (*id.* ¶ 38); Roderick was a Vice President (*id.* ¶ 41); and Klos was a Director (*id.* ¶ 43). Brown alleges that each Individual Defendant actively participated in the discriminatory harassing, humiliating, and retaliatory conduct at issue, and that those with supervisory authority aided and abetted such conduct (*id.* ¶¶ 21, 24, 27, 30, 33, 36, 39, 42, 44, 81, 82).

Ms. Brown began working for defendants in approximately 2008 as a Page (*id.* ¶ 68). She was promoted to Graphics Production Assistant in or around 2010 (*id.* ¶ 69) and to Associate Director in or around 2017 (*id.* ¶ 70). She received high compliments for her work performance and professionalism with co-workers and clients (*id.* ¶¶ 72–73).

Throughout her tenure at CBS, Ms. Brown has maintained a residence in Queens, New York (*id.* ¶¶ 3, 59). She alleges that, in or around November 2020, the Corporate Defendants "involuntarily transferred" her from New York to Washington, D.C., because her show, CBS Evening News, relocated there (*id.* ¶¶ 85–86, *see also* ¶ 61, 62). Ms. Brown alleges that the move was "pretext to her termination" because the show ultimately remained in New York (*id.* ¶ 86). Ms. Brown alleges that she wished to relocate and work in New York (*id.* ¶ 61, 62) and that, after her transfer, she regularly travelled back to New York bi-monthly to attend medical appointments (*id.* ¶ 108).

The Complaint alleges that the discriminatory and retaliatory actions and decisions that impacted Ms. Brown "occurred or were made in the State and the City of New York" (*id.* ¶ 52, 65), and that Ms. Brown's supervisors – Jefferson, Hawley, and Dagan – were residents of New York, or employed in CBS and Paramount's New York City corporate offices (*id.* ¶ 56). The Complaint further alleges that the "severe and pervasive nature" of the Individual Defendants' conduct makes clear that "they acted with the approval of CBS and Paramount" and its highest-ranking employees (*id.* ¶ 83).

The bulk of the Complaint's 259 factual allegations, however, concern conduct that occurred at the D.C. Bureau, where Ms. Brown worked from November 2020 through her effective termination date. These include allegations of racially discriminatory remarks; disparate treatment in workload, staffing, and compensation; denial of relocation expense reimbursement that was provided to non-Black individuals; obstruction of work opportunities; and failure to act on Ms. Brown's repeated internal complaints (*id.* ¶¶ 87–101, 103–148, 154, 172, 177–78, 182–84, 212–13, 226–32). It is undisputed that Individual Defendants Foran, Nalesnik, Hager, and Klos worked in D.C. (*id.* ¶¶ 20–23, 26–28, 32–34, 43–44).

As to racially discriminatory remarks, Ms. Brown alleges that during a brunch introducing her to the D.C. Bureau, Hawley said "Well we know your nails are fake what else is fake on you?" and commented on her "Black Hair" (*id.* ¶ 119, 120). On other occasions (for which dates and locations are not provided), Hawley allegedly referred to Ms. Brown's nails as "Claws" (*id.* ¶ 124) and Hager told Ms. Brown that HBCUs are places "Where all the girls are named Shaniqua" (*id.* ¶ 177).

As to obstruction of work opportunities, Ms. Brown alleges that Foran denied her promotions that were subsequently given to Caucasians, and that Defendants' reasoning – her level or lack of experience – constituted "pretext" (*id.* ¶ 130 – 131). Ms. Brown alleges that, in January 2024, Defendants denied her a promotion to a D.C.-based position on *Face the Nation* and instead gave it to a White Skinned male for the pretextual reason that he was an IBEW member and she is not (Complaint ¶ 186 – 191).

Ms. Brown further alleges that Foran engaged in a "targeted campaign of discriminatory harassment," including "spying" on her, spreading "false rumors" about her, and "deliberately excluding her from workplace email distribution" at the D.C. Bureau (*id.* ¶ 154 – 156, 166), all of which created a hostile work environment (*id.* ¶ 165). According to the Complaint, Foran threw a "violent tantrum" near Ms. Brown's workspace and made abusive comments (*id*. ¶ 196 – 200), and Nalesnik subjected Ms. Brown to an "unjustifiable and unreasonable verbal attack" in front of her co-workers causing her embarrassment (*id*. ¶ 192 – 195).

According to the Complaint, Ms. Brown made several written complaints to Hager, Klos, and other executives, about Hawley and Foran's "misconduct," none of which were investigated or addressed (*id.* ¶ 133 – 137, 144 – 150, 157 – 160, 167 – 170, 182 – 185, 201 – 204), unlike the complaints lodged by Caucasian employees (*id.* ¶ 138 – 143).

As for Ms. Brown's applications for employment in New York, it is alleged that, in or around March 2024, Ms. Brown applied, and was initially approved, for the position of Director of the *Saturday Morning Show*, a New York-based program (*id.* ¶¶ 204–206). Hawley arranged for Ms. Brown to observe and train for the show in New York, with the understanding that she would receive the directorship (*id.* ¶¶ 207–208). Defendants ultimately failed to award her the position (*id.* ¶ 209) and it is alleged that their actions in this regard were discriminatory (*id.* ¶ 210). Ms. Brown complained to her union representative, but no corrective actions were taken (*id.* ¶ 212 – 214). Instead, it is alleged that, in April 2024 and in retaliation for Ms. Brown's protected activity, Defendants planned to eliminate her role (*id.* ¶ 215 – 220).

In addition, in late May and early June 2024, during Ms. Brown's visit to the New York City office, Shannon Tooley, a New York-based Director of Technical Operations & Scheduling Strategy, allegedly expressed interest in hiring her as a director, which would be a promotion (*id.* ¶¶ 221 – 222). It is alleged that Hawley had the ultimate decision over whether to hire Ms. Brown (*id.* ¶¶ 223-224). The Complaint does not contain any other details about this potential job, whether Ms. Brown applied for it, whether she was qualified for it, and/or whether it was given to someone else.

It is also alleged that in May and July of 2024, Nalesnik subjected Ms. Brown to violent tantrums, made false allegations about her workplace attendance, stopped inviting her to preshow items, and instead offered a directing position to "less experienced, less qualified, non-black, non-African American" employees (*id.* ¶¶ 226 – 227). In September 2024, associate director Mark White subjected Ms. Brown to discriminatory comments and disgusting stereotypes (*id.* ¶¶ 230 – 233).

Finally, the Complaint alleges that the Corporate Defendants "pretextually and unlawfully terminated" Ms. Brown on November 20, 2024 and purported to pressure and coerce her into signing a General Release that violates GOL § 5-336 in exchange for continued receipt of certain work-related benefits (*id.* ¶¶ 234 – 236). It is alleged that, given the temporal proximity to Ms. Brown's protected conduct (complaints about discrimination), her termination was retaliatory and part of a pattern and practice of defendants' long-standing discrimination against black, African American employees (*id.* ¶¶ 237 – 242). According to Ms. Brown, the severe and pervasive nature of the misconduct and discriminatory behavior and statements of

Nalesnik, Foran, Hawley was known and approved by McKeon, Hager, Jefferson, and Roderick, rendering all of the defendants complicit and liable for the hostile work environment, retaliation, and severe damages sustained by Ms. Brown (*id.* ¶¶ 243 – 255).

Upon the foregoing factual allegations, Ms. Brown asserts the following causes of action, in chronological order: (1) discrimination under Exec. Law § 296, against all defendants; (2) discrimination under Admin. Code § 8-107, against all defendants; (3) retaliation under Exec. Law § 296(7), against all defendants; (4) retaliation under Admin. Code § 8-107(7), against all defendants; (5) aiding and abetting under Exec. Law § 296(6), against the Individual Defendants; (6) aiding and abetting under Admin. Code § 8-107(6), against the Individual Defendants; (7) supervisory liability under Admin. Code § 8-107(13), against all defendants; and (8) hostile work environment under Admin. Code § 8-107, against all defendants.

As noted above, Defendants, collectively, move to dismiss the Complaint in its entirety for lack of subject matter jurisdiction, failure to state a cause of action, and lack of personal jurisdiction.

Discussion

The law on dismissal under CPLR § 3211(a) is well-settled and simply stated. On a motion to dismiss under this statute, the court must afford the complaint a liberal construction, accept the facts alleged as true, and accord the plaintiff the benefit of any favorable inference (*see, e.g., Leon v Martinez*, 84 NY2d 83 [1994]).

CPLR § 3211(a)(1) permits dismissal where documentary evidence submitted conclusively establishes a defense to the asserted claims as a matter of law (*id. at 88 [citing Heaney v Purdy, 29 NY2d 157 (1971)]).*

Dismissal for lack of subject matter jurisdiction is required under CPLR 3211(a)(2) (*see GMAC Mrtg., LLC v Winsome Coombs*, 191 AD3d 37, 43 [2d Dept 2020] ["The defenses listed in CPLR 3211(a)(2), (7), and (10), implicate fundamental limitations on the power of a court to render an enforceable judgment (*see* Restatement [Second] of Judgments §§ 11, 62). Subject matter jurisdiction, in particular, is 'so fundamental to the power of adjudication of a court that [the defense will] survive even a final judgment or order"]).

Under CPLR § 3211(a)(7), a motion to dismiss must be denied if, from the four corners of the pleadings, "factual allegations taken together manifest any cause of action cognizable at law" (*Polonetsky v Better Homes Depot*, 97 NY2d 46, 54 [2001] [internal quotation omitted]). However, bare legal conclusions and factual allegations that are inherently incredible or contradicted by documentary evidence are not presumed to be true (*Mark Hampton, Inc. v Bergreen*, 173 AD2d 220 [1st Dept 1991]; *see also Mitchell v Planned Parenthood of Greater N.Y., Inc.*, 745 FSupp3d 68, 103 [SDNY 2024] ["[A] plaintiff's claims must be more than conclusory or speculative to survive a motion to dismiss"] [quoting *Ward v. Cohen Media Publ'ns LLC*, No. 22-cv-06431 (JLR), 2023 WL 5454432, at *15 (SDNY Aug. 21, 2023)]).

Finally, CPLR § 3211(a)(8) provides that a party may move for dismissal of a cause of action when the court lacks personal jurisdiction over the defendant. The party seeking to assert

personal jurisdiction bears the burden of proving jurisdiction (*Marist Coll. v Brady*, 84 AD3d 1322, 1322–23 [2d Dept 2011]).

The Court's examination begins with subject matter jurisdiction – or, more specifically, whether Ms. Brown's claims fall with the ambit of NYSHRL and NYCHRL – as this ground is dispositive.

The NYSHRL and NYCHRL Do Not Apply to Alleged Discriminatory Conduct Occurring Outside of New York. Thus, the Court Lacks Subject Matter Jurisdiction Over Claims Arising From That Conduct

The NYSHRL and NYCHRL each separately prohibit employment discrimination based on, *inter alia,* race and sex or gender (Exec. Law § 296[1][a]; Admin. Code § 8-107[1][a]), and prohibit retaliation against those who oppose such practices (Exec. Law § 296[7]; Admin. Code § 8-107[7]). The NYSHRL additionally imposes liability upon any person who aids and abets such discriminatory conduct (Exec. Law § 296[6]), as does the NYCHRL (Admin. Code § 8-107[13][b]) which prohibits the maintenance of a hostile work environment predicated upon a protected characteristic (Admin. Code § 8-107[1][a]).“Courts must construe the Human Rights Laws 'broadly in favor of discrimination plaintiffs, to the extent that such a construction is reasonably possible" (*Syeed*, 41 NY3d at 451).

These statutes were promulgated to protect those who live and/or work in the state and city (*see Hoffman*, 15 NY3d at 289-291 [NYCHRL addressed to "inhabitants"; NYSHRL addressed to individuals "within" state]). They apply extraterritorially *only* to address "certain discriminatory practices committed outside New York State against New York residents and businesses" (*Hoffman*, 15 NY3d at 292 [citing Sponsor's Mem, Bill Jacket, L 1975, ch. 662, at 9]).

Therefore, a nonresident plaintiff may not invoke the protection of the NYSHRL and NYCHRL solely upon the ground that the employer's adverse employment decision was made in New York State or City (*id.* at 291 ["although the locus of the decision to terminate may be a factor to consider, the success or failure of an NYCHRL claim should not be solely dependent on something as arbitrary as where the termination decision was made."]). Rather, it is the location of the *impact* of the discriminatory conduct or decision, not the plaintiff's residence, defendant's principal place of business, or location of a discriminatory decision, that determines whether these statutes apply (*id.* at 290 [setting "impact requirement" where nonresident plaintiff invokes protections of NYSHRL and NYCHRL]; *Murray v Brag Sales Inc.,* No. 23-cv-6610 (JPO), 2024 WL 4635479, at *2 (SDNY Oct. 31, 2024)] [finding that impact is felt in New York City only where the relevant workplace is also located in New York City].

Thus, to survive a motion to dismiss, a plaintiff seeking protection under NYSHRL and NYCHRL for failure to promote or hire, must "plead and prove that the alleged discriminatory conduct had an impact within those respective boundaries" (*Hoffman,* 15 NY3d at 289 [holding that "policies underpinning those laws require" plaintiff to plead and prove alleged discriminatory conduct had impact within State and City]). In this regard, a nonresident employee may establish subject matter jurisdiction for discrimination in violation of the NYSHRL and NYCHRL where she "is not yet employed in the city or state but [] proactively

sought an actual city- or state-based job opportunity" (*Syeed,* 41 NY3d at 449). As the Court of Appeals explained,

> . . . a nonresident who has been discriminatorily denied a job in New York City or State loses the chance to work, and perhaps live, within those geographic areas. The prospective employee personally feels the impact of a discriminatory refusal to promote or hire in New York City or State, because that is where the person wished to work (and perhaps relocate) and where they were denied the chance to do so.

(*id.* at 453).

Viewed under this lens, Ms. Brown's allegations about the abusive and discriminatory conduct, derogatory comments, and consequent hostile work environment she suffered at the hands of Washington, D.C. supervisors and directors Foran, Nalesnik, Hager, and Hawley, presuming their truth, all occurred outside of New York State and City and, thus, Ms. Brown may not invoke the protections of NYSHRL and NYCHRL for redress on those allegations. Similarly, her allegation that Defendants passed her over for a position on *Face the Nation* in D.C. due to race and gender discrimination, is outside the ambit of these statutes (*Hoffman*, 15 NY3d at 291).

Indeed, presuming the truth of Ms. Brown's allegations, she lived and worked in Washington D.C. throughout the relevant period – 2020 through 2025 (*id.* ¶ 85–88). The Complaint alleges that Ms. Brown physically relocated to D.C. in November 2020 (*id.* ¶ 85), worked for the D.C. Bureau (*id.* ¶¶ 118, 190), was denied requests to "move back to N.Y." (*id.* ¶ 98), was notified of her termination by a D.C. Human Resources Manager (*id.* ¶ 234) and was offered a separation package in D.C. (*id.*). Her November 20, 2024 letter to the EEOC provides her address as 100 Florida Avenue, NE, Apt. 1233, Washington, D.C. 20002 (*id.* ¶ 234).

Ms. Brown's allegations that she "maintained" a New York City residence throughout her employment, paid taxes and utilities in New York, traveled bimonthly to New York for medical appointments (Complaint ¶¶ 3, 59, 60, 66, 85, 108) are insufficient to establish residency where the Complaint itself alleges that Ms. Brown lived and worked in D.C. throughout the relevant period (*see Troeger v JetBlue Airways Corp.*, 2024 WL 5146185, at *7–8 [SDNY 2024] [declining to accept contradictory residency allegations]). At best, Ms. Brown's allegations show that she had merely "tangential contacts" with New York, and an occasional Zoom call with the New York office does not confer subject matter jurisdiction upon this Court (*Hoffman*, 15 NY3d at 291; *see Pedroza v Ralph Lauren Corp.*, 2020 WL 4273988, at *4 [SDNY 2020] [frequent communication with and in service of New York offices is insufficient to support subject matter jurisdiction].

Ms. Brown's argument that her transfer was involuntary and therefore should be treated as a temporary work assignment does not alter this analysis. At the outset, the Complaint does not allege that the transfer was temporary; this is an argument raised in opposition to the motion (Plaintiff's Memorandum of Law in Opposition to Defendant's Motion to Dismiss the First Amended Complaint at 5–6). Moreover, the allegations of the Complaint establish that Ms.

Brown worked in D.C. for more than four years and, as recently as January 2024, sought a promotion to a D.C.-based position on *Face the Nation* (Complaint ¶ 186). The cases cited by Ms. Brown are inapposite. *Black v Black*, 108 AD3d 842 [3d Dept 2013], addressed temporary residency in the context of divorce jurisdiction, not residency under the human rights laws. *Matter of Starer v Gallman*, 50 AD2d 28 [3d Dept 1975], concerned a voluntary one-year period spent aboard a ship, not a multi-year relocation, and construed residence for the purposes of taxation. Consequently, Ms. Brown does not adequately allege that she was a New York resident, or that she worked in New York, during the relevant period for purposes of the NYCHRL and NYSHRL.

Ms. Brown's argument that Corporate Defendants' denial of relocation benefits to her in 2020 had an economic impact in New York because she was "forced" to maintain her Queens apartment, is unavailing. Ms. Brown does not allege that the denial of these benefits constituted a discriminatory act directed at her New York employment or New York residence; rather, the challenged conduct was the failure to reimburse D.C. expenses incurred in D.C. for her D.C. residence and work assignment. The fact that Ms. Brown continued to incur costs associated with a property that she owned in New York does not transform a D.C.-based employment decision into a decision with a New York impact under *Hoffman*.

Even assuming, *arguendo*, that Ms. Brown's 2020 transfer from New York to Washington, D.C. was "involuntary," this Court still lacks subject matter jurisdiction over her discrimination and retaliation claims based upon this transfer because they are time-barred under both the NYSHRL three-year statute of limitations (CPLR § 214[2]) and the NYCHRL (Administrative Code § 8–502[d]), as this action was not commenced until 2025.

The continuing violation doctrine does not save these claims. While the NYCHRL's continuing violation doctrine does not rigidly distinguish between "discrete discriminatory acts" and "continuing violations" (*see Williams v New York City Hous. Auth.*, 61 AD3d 62, 72–73 [1st Dept 2009]), the 2020 transfer, even if viewed as part of a broader pattern of discrimination, does not anchor the continuing violation to New York. The subsequent acts that Ms. Brown characterizes as part of that pattern all occurred in D.C. The *Hoffman* impact test is a jurisdictional prerequisite, not a statute-of-limitations argument, and the continuing violation doctrine does not override it (*see Hoffman*, 15 NY3d at 291–92).

Similarly, *James v Disney Studios Content*, 2025 NY Slip Op 30235(U) (Sup Ct, NY County 2025), which Ms. Brown submits as supplemental authority in support of subject matter jurisdiction argument, is factually inapposite and does not alter this Court's analysis. In *James*, the court denied a motion to dismiss for lack of subject matter jurisdiction where the plaintiff was a touring actor employed by a New York City-based production company whose employer had designated a New York City mailing address for the plaintiff, listed the plaintiff's "Organization Point" as New York City, and issued paychecks to the plaintiff's New York City address (*id.* at 3–4). Unlike the plaintiff in *James*, Ms. Brown here does not allege any employer-created nexus to New York that was central to the *James* court's finding of subject matter jurisdiction.

Because Ms. Brown did not live or work in New York during the relevant period, she must demonstrate that the alleged discriminatory conduct had an impact within New York's boundaries (*Hoffman*, 15 NY3d at 292). As noted above, the decision to terminate Ms. Brown, a non-resident employee who works out of state, occurred in New York and therefore does not confer subject matter jurisdiction. Similarly, Ms. Brown's complaints to New York supervisors about conduct which occurred in D.C., and the alleged failure of those New York supervisors to investigate her complaints, also do not bring this matter within the ambit of NYSHRL or NYCHRL (*id.*).

However, under *Syeed*, a nonresident employee denied a New York-based job opportunity for discriminatory reasons may establish subject matter jurisdiction because "that is where the person wished to work . . . and where they were denied the chance to do so" (41 NY3d at 453). Thus, to the extent that the Complaint alleges any facts sufficient to sustain causes of action under the NYSHRL and NYCHRL, it is only those allegations that are addressed to Ms. Brown's application for employment in New York, to wit: the *Saturday Morning Show*.

Ms. Brown alleges that she applied for and was denied the position of Director of the *Saturday Morning Show*, a New York-based program, in March 2024 (Complaint ¶¶ 204–211). She alleges that she "specifically requested and applied for the position", that her application was "initially granted", that the show was produced in New York, and that Hawley arranged training for her to observe the show in New York "with the understanding that Plaintiff would get the directorship" (Complaint ¶¶ 204–208). However, Ms. Brown was ultimately denied the position (*id.* ¶ 209).

Accepting these allegations as true, they are sufficient to bring this claim under the framework of *Syeed* and establish a non-tangential impact in New York for purposes of subject matter jurisdiction. The denial of a concrete, identified, New York-based position constitutes more than a mere "tangential contact" with New York (*Hoffman*, 15 NY3d at 291). Unlike a bare allegation of a "desire" to work in New York, Ms. Brown alleges specific, affirmative steps taken by both her and Defendants in connection with this New York opportunity (*Syeed*, 41 NY3d at 453). Additionally, Ms. Brown's allegations regarding the Tooley interaction may provide a further basis for subject matter jurisdiction under *Syeed*. While the allegation is less concrete than the *Saturday Morning Show* claim, in that it lacks any allegations of an application, it may support an independent basis for subject matter jurisdiction.

As a threshold matter, therefore, Ms. Brown's allegations that she was denied a job on the *Saturday Morning Show* and, potentially, a job with Tooley on a New York show, are within the ambit of NYSHRL and NYCHRL. However, a closer examination of these claims reveal that the claim related to the Tooley opportunity fails to state a cause of action.

The Complaint States A Cause of Action Under NYSHRL and
NYCHRL for the Denial of a New York Job and Related Retaliation

To state a cause of action for discriminatory failure to promote under the NYSHRL and NYCHRL, a plaintiff must allege that she: (1) is a member of a protected class, (2) was qualified for the position, (3) subjected to an adverse employment action, and (4) the action occurred under circumstances giving rise to an inference of discrimination (*Harrington v City of New*

York, 157 AD3d 582, 584–85 [1st Dept 2018] [finding an inference of discrimination where Plaintiff was only applicant whose application was held for psychological review for over 15 months, despite having passed psychological review six times prior, resulting in preferential treatment to similarly situated non-protected applicants]).

Ms. Brown satisfied the protected class requirement in that she is a self-identified black, African American female, over 40 years of age. She also alleges that she "specifically requested and applied for the position" (Complaint ¶ 204), that her application was "initially granted" (*id.* ¶ 205), and Defendants ultimately "deliberately failed and/or refused to act upon this promise to award the directorship" (*id.* ¶ 209).

As to qualifications, the Complaint alleges Ms. Brown was an experienced Associate Director who had been performing director-level functions in the D.C. control room (*id.* ¶¶ 70 – 72, 110 – 111). While Defendants argue that Ms. Brown's allegations undermine any claim of qualification for a Director role on a national broadcast news program, the Court must, at this stage, accept Ms. Brown's allegations as true and draw reasonable inferences in her favor. The allegation that Ms. Brown had been performing director-level functions is sufficient to plead qualification at the motion to dismiss stage.

Ms. Brown alleges that Hawley and Jefferson reneged on their agreement to award her the directorship and that non-Black employees "were not subjected to similarly degrading stereotypes" as she was (*id.* ¶¶ 209–210). The fact that Jefferson shares Ms. Brown's race does not preclude an inference of discrimination at the pleading stage, though it may weaken it at later stages (*See Ashanti v. City of New York*, 77 Misc3d 1225(A), at *7 [Sup Ct, NY County 2023] [citing *Danzer v Norden Sys., Inc.,* 151 F3d 50, 55 (2d Cir 1998) ("The proposition that people in a protected category cannot discriminate against the fellow class members is patently untenable")]).

The Complaint does not allege that any other individual was selected for the *Saturday Morning Show* Director position instead of Ms. Brown. Courts have held that absent facts of discriminatory animus, failure to promote claim requires allegations that "less qualified white and/or male executive assistants were promoted ahead of" the plaintiff (*Summerville v Tradeweb Markets, LLC*, 2023 WL 2613131, at *5 [Sup Ct, NY County 2023]). However, a comparator is merely one of the ways to allege facts that give rise to an inference of discrimination, and a lack of identification is not fatal to a discrimination claim (*see Bautista v PR Gramercy Square Condominium*, 642 F Supp 3d 411, 424–25 [SDNY 2022]). The inference may also arise from facts of an employer's "invidious" comments about individuals in the employee's protected group (*id.* at 425 [quoting *Littlejohn v. City of N.Y.*, 765 F3d 297, 311 (2d Cir 2015)]).

The Complaint alleges that Hawley made racially insensitive remarks in other contexts at the D.C. Bureau and was the ultimate decision maker regarding Plaintiff's employment on the *Saturday Morning Show*. Drawing every reasonable inference in favor of the Plaintiff, the Complaint alleges sufficient facts to give rise to an inference of discrimination, even absent identification of a similarly situated comparator. Accordingly, Ms. Brown's discrimination claim with respect to the *Saturday Morning Show* directorship remains.

Fatal deficiencies are present in Ms. Brown's claim arising from the Tooley interaction. The Complaint alleges only that Tooley "expressed interest" in hiring Ms. Brown as a director during a visit to the New York City office in late May and early June of 2024 (Complaint ¶¶ 221–22). Beyond this bare allegation, the Complaint is silent as to whether any position was open, whether Ms. Brown applied for it, whether she was qualified for it, whether it was awarded to someone else, or whether there was any adverse employment action. These allegations fall short of the pleading requirements for a discrimination claim (*Harrington v City of New York*, 157 AD3d 582, 584 [1st Dept 2018]). Accordingly, this claim is dismissed for failure to state a cause of action.

To state an unlawful retaliation claim, the Plaintiff must allege that they: (1) engaged in a protected activity, (2) the employer was aware that such activity occurred, (3) the employer engaged in conduct reasonably likely to deter an individual from engaging in that protected activity, and (4) that there is a causal connection between the protected activity and the alleged retaliatory conduct (*Forrest v Jewish Guild for the Blind*, 3 NY3d 295, 312–13 [2004]). Any claims of retaliation based on Ms. Brown's complaints about Defendants discriminatory conduct that occurred in D.C. are dismissed based on subject matter jurisdiction.

However, to the extent Ms. Brown's retaliation claim is predicated on the allegation that Defendants planned to eliminate her D.C. position in April 2024 in response to her complaint about not being hired for the *Saturday Morning Show* (Complaint ¶¶ 212–20), that claim sufficiently shares the same New York nexus as the underlying discriminatory failure to promote claim. Ms. Brown alleges that she engaged in protected activity by complaining to her union representative about Defendants' failure to hire her for the *Saturday Morning Show*, and that Defendants responded by planning to eliminate her position shortly thereafter. The temporal proximity between the protected activity (complaint about not being hired) and the alleged adverse action (plan to eliminate her position) is sufficient to support an inference of retaliation at the pleading stage (*Harrington v City of New York*, 157 AD3d 582, 585–86 [1st Dept 2018]). Thus, Ms. Brown's allegations that Defendants eliminated her position weeks after she complained to her union representative about not being hired for the *Saturday Morning Show* adequately states a cause of action for retaliation.

The Complaint Fails to State Causes of Action
For Aiding and Abetting and Supervisory Liability

As demonstrated above, Ms. Brown's allegations regarding discriminatory conduct, hostile work environment, and retaliation growing out of conduct in D.C., do not satisfy the *Hoffman* impact test and cannot support subject matter jurisdiction in New York (*see Pedroza*, 2020 WL 4273988). It follows, therefore, that the aiding and abetting claims against Corporate Defendants and Individual Defendants Foran, Nalesnik, and Hager related to their alleged D.C. conduct must fail (*Russell v New York University*, 42 NY3d 377, 388 [2024] [citing *Palmer v Cook*, 65 Misc3d 374, 392 (Sup Ct, Queens County 2019)("A pre-condition to proving aiding and abetting pursuant to the NYSHRL and NYCHRL is a finding of discrimination")]).

In addition, Ms. Brown's allegations underpinning her failure to hire claim as to the Tooley interaction fail to meet the pleading standard for a discrimination cause of action

(*Harrington*, 157 AD3d at 584). Thus, the claims against all Defendants related to these allegations also fail (*Russell*, 42 NY3d at 388).

The standalone supervisory liability cause of action is separately dismissed because NYCHRL § 8-107(13) does not create an independent cause of action (*Russell v New York University*, 42 NY3d 377, 392 [2024] [quoting *Priore v New York Yankees*, 307 AD2d 67, 74 (1st Dept 2003)]). This is unchanged regardless of the NYCHRL's intent to be more protective than its state and federal counterparts, and its broad remedial construction. The statute must be interpreted based on the plain meaning of the text (*Russell*, 42 NY3d at 391).

Lack of Personal Jurisdiction and Documentary Evidence

Defendants additionally move to dismiss the Complaint for lack of personal jurisdiction under CPLR § 3211(a)(8) and based on documentary evidence under CPLR § 3211(a)(1).

As noted above, the Court has subject matter jurisdiction over Ms. Brown's failure to hire and retaliation claims arising out of her being passed over for the *Saturday Morning Show* and related complaint to her union supervisor. In addition, the Complaint alleges that the Defendants liable for these claims – the Corporate Defendants – are also New York residents. The Court therefore has personal jurisdiction over those defendants.

Finally, because the other claims in the Complaint must be dismissed on the grounds of subject matter jurisdiction and failure to state a cause of action, the Court need not reach Defendants' remaining arguments under CPLR §§ 3211(a)(1).

Accordingly, it is hereby

ORDERED that the Defendants' motion to dismiss the First Amended Complaint is granted in part, in accordance with this Decision; and

ORDERED that the First Amended Complaint is dismissed in its entirety as against Defendants Laura Foran, Brian Nalesnik, Melissa McKeon, Mary Hager, Ross Dagan, Michael Garry Roderick, and Daniel Klos; and

ORDERED that the causes of action in the First Amended Complaint, for discrimination and retaliation under NYSHRL and NYCHRL (first through fourth causes of action), are dismissed to the extent that they are based upon conduct occurring in Washington, D.C.; and it is further

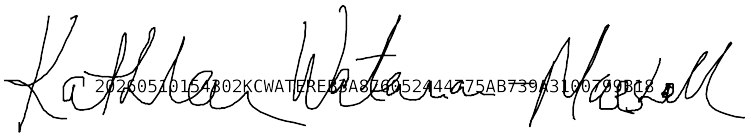
ORDERDED that the sole remaining causes of action in the First Amended Complaint for discrimination and retaliation under NYSHRL and NYCHRL (first through fourth causes of action), relate only to Ms. Browns' claims that Defendants failed to hire her on the *Saturday Morning Show* and retaliated against her for complaining about not being hired, and lie against the Corporate Defendants, Alison Hawley, and Rick Jefferson; and it is further

ORDERED that the causes of action in the First Amended Complaint, for aiding and abetting under NYSHRL and NYCHRL (fifth and sixth causes of action), for supervisory

liability under NYCHRL (seventh cause of action), and for hostile work environment under NYCHRL (eighth cause of action), are dismissed in their entirety; and it is further

ORDERED that plaintiff shall serve a Second Amended Verified Complaint consistent with this Decision and Order within twenty (20) days of the date hereof, and Defendants shall answer the First Amended Verified Complaint within twenty (20) days of their receipt thereof; and it is further

ORDERED that this matter is scheduled for a **Preliminary Conference on July 28, 2026 at 10:00 a.m.** Counsel are reminded of the Part 31 Rules, specifically those governing conferences and conference orders.



5/10/2026
DATE

KATHLEEN WATERMAN-MARSHALL, 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**