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RUTH DiPALMA,

Plaintiff,

vs.

CITY OF UNION CITY, SONIA
SCHULMAN, BRIAN P. STACK, JOHN
DOES 1 THROUGH 10; and ABC
CORPORATIONS 1-10;

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: HUDSON COUNTY
DOCKET NO.:

CIVIL ACTION

COMPLAINT AND JURY DEMAND

Plaintiff, Ruth DiPalma (“Plaintiff”), by and through her undersigned counsel, by way of Complaint against Defendants, the City of Union City, Sonia Schulman, John Does 1 through 10, and ABC Corporations 1 through 10 (collectively “Defendants”) hereby alleges as follows:

THE PARTIES

1. Plaintiff is an adult woman of Hispanic descent and residing, at all times relevant hereto, in West New York, New Jersey. Plaintiff is a native of Chile and of Hispanic descent. She is currently sixty-eight (68) years of age.

2. Defendant, City of Union City, New Jersey (the “City”) is a municipal corporation organized and existing under the law of the State of New Jersey. The City maintains offices at City Hall, 3715 Palisade Avenue, Union City, NJ 07087.

3. Defendant, Sonia Schulman (“Schulman”), is an individual residing in the City of Jersey City, New Jersey. At all relevant times hereto, Schulman was and is the Tax Collector for the City. Schulman also maintains offices at 3715 Palisades Avenue in Union City, New Jersey. Plaintiff brings this suit against Schulman in her individual capacity.

4. Defendant Brian P. Stack (the “Mayor”) is and was at all times relevant hereto the Mayor of the City. Plaintiff brings this suit against the Mayor in his individual capacity.

5. JOHN DOES 1 through 10 represent fictitiously named agents, employees, representatives, officers, or servants of the City who participated in or otherwise were involved in the discriminatory and illegal conduct set forth herein and whose identities are not yet known.

6. ABC CORPORATIONS 1 through 10 represent fictitiously named corporations, subsidiaries, businesses, divisions, partners or contractors of the City that employed Plaintiff and/or that participated in or were otherwise involved in the discriminatory and illegal conduct set forth herein and whose identities are not yet known.

FACTS COMMON TO ALL CAUSES OF ACTION

7. Plaintiff has been employed at the City continuously for over 21 years, having begun her employment in or about 1997 in the City’s Rent Control Department.

8. In or about 2004, Plaintiff was transferred to the Tax Department (the “Tax Department”) where she has worked through the present date.

9. Plaintiff’s current position is Cashier. There are two other Cashiers working in the Tax Department, namely, Donna Vaccaro and Patricia Manero.

10. At all times relevant hereto, Plaintiff reported directly to Schulman who, in turn, reported to the Mayor.

11. Plaintiff is and has been the only person employed within the Tax Department of Hispanic descent and the only person fluent in Spanish.

12. From the outset of her transfer to the Tax Department, Plaintiff was treated differently from her younger, non-hispanic co-workers. For example, the City failed to provide her with any training or other information regarding the specifics of her role within the Department, and for the first few months, failed to provide her with a desk or any place in which to work.

13. Initially, Plaintiff's title within the Department was "bilingual clerk"; which required her to assist with customers that required a Spanish interpreter. Plaintiff was not a "cashier" required to handle the drawers; instead, Plaintiff was required to assist the cashiers in transactions where her services were needed. Notwithstanding her title, Plaintiff was improperly asked to handle the cashier position for which she was never trained.

14. Additionally, although Schulman and her co-workers were aware that Plaintiff was never provided training, they would berate and chastise Plaintiff if she needed help assisting customers or performing her job.

15. Plaintiff was subjected regularly to vulgar and discriminatory attacks by Schulman and others that continued throughout her employment up to and including the present.

16. In or about 2009, by way of example and not limitation, Plaintiff was falsely accused of stealing from the register when one of the drawers in the Tax Department came up \$20.00 short. This was categorically false and there was absolutely no evidence to support this allegation. However, Schulman confronted Plaintiff without warning and falsely accused her of stealing the money with the City Police Chief. When Plaintiff demanded that they review the video footage of the cashier's area to confirm that she had not taken any money, they refused.

17. For the next six months after this incident, Plaintiff was not allowed to work and was instructed to “bring a book to read.” Despite continued requests to return to her normal duties, Schulman refused to allow it. When Plaintiff requested to speak with the Mayor, her requests were similarly denied.

18. In or about June 2015, Plaintiff was formally reassigned to the position of “cashier” in the Department. Again, however, she received no training despite repeated requests for training. The new title did not include any additional pay or other compensation and Plaintiff was advised that if she did not consent to the change she would be terminated immediately.

19. As time passed, Plaintiff’s treatment by Ms. Schulman and the City only worsened and, ultimately, began to include physical attacks.

20. By way of example, whenever any of the drawers within the Department were short at the end of the day, Schulman would invariably claim that it was Plaintiff’s fault or that she had “stolen the money.” In one such instance, Schulman claimed that there was a shortage and physically threw a bag filled with cash and change at Plaintiff, striking her. In another instance, Plaintiff attempted to explain that the drawer was not short but that there was a simple accounting error. Schulman physically grabbed Plaintiff’s arm, squeezed it forcibly and told her not that she was “being insubordinate.”

21. To make matters worse, Schulman and the City demanded Plaintiff pay the alleged shortages back to the City. This was done without evidence, warning or hearing, and under threat of losing her job. As a result of this unlawful coercion, Plaintiff paid the City approximately \$20 on one occasion, \$30 on another, and \$0.20 in a third instance. Plaintiff paid this money out of her own pocket and even though the shortages were not her fault.

22. Plaintiff complained about these matters to the City Administrator and Acting Chief Financial Officer, Susan Colditz, but nothing was done. Requests to discuss the matter with the Mayor directly were refused or unanswered.

23. In or about April 2016, Plaintiff requested assistance from Schulman in assisting a customer. Schulman approached the desk, physically pushed Plaintiff out of the way and told her that she would “do it herself.”

24. In another instance, Plaintiff was reprimanded by Schulman for giving a small child that came to the Tax Department window with his parents a lollipop. Other younger, non-hispanic Tax Department employees had engaged in similar conduct without any repercussions. For example, Donna Vaccaro, a younger Caucasian co-worker, regularly handed out dog treats to customers without any admonishment from Shulman.

25. In August 2016, Plaintiff neglected to include \$0.20 in the deposit envelope to be brought to the bank. Plaintiff did not steal or misplace the money, it was simply left in the drawer and overlooked and, therefore, not in the deposit envelope. Such oversights happen and are handled by simply including the money in the next deposit. Notwithstanding this practice, upon recognizing and disclosing the oversight to Schulman, Schulman began publicly berating her and threatening to fire her. She called her “stupid” and “incompetent” in front of other employees.

26. Schulman also told Plaintiff that she just “couldn’t keep up” anymore, and that Plaintiff was too old to do the job.

27. Schulman was also aware that Plaintiff had a serious heart condition, but assigned her tasks that included carrying heavy loads, hoping to wear her down and demoralize her.

28. In May 2017, Schulman again fabricated an instance in order to demoralize and threaten Plaintiff in front of her co-workers. In this instance, Plaintiff left a check at her desk briefly in order to attend to something only to return to find the check “missing.” In reality, Schulman had taken the check to “make an example” out of Plaintiff and to again criticize and berate her.

29. In June 2017, Plaintiff went to the bank to make the daily deposits and was escorted back to the office by the police. Due to circumstances beyond Plaintiff’s control, she did not make it back to the office until approximately 4:15 p.m. This infuriated Schulman, who was waiting for Plaintiff because she had asked her to get change for Schulman’s mother at the bank. Schulman threatened her, stating, “you wasted my time” and “next time you leave take your stuff and don’t come back.”

30. When Plaintiff requested assistance at work, including calls related to mortgage issues, Schulman has directed Plaintiff not to ask other employees for assistance, despite the fact that Ms. Vaccaro is often free and playing games on her cell phone.

31. In addition, throughout 2017, Plaintiff was continuously berated by Schulman for allegedly not using the adding machine correctly and failing to use email properly; Schulman often made remarks that Plaintiff was “too old” to understand the technology and maybe she should “just retire and collect her pension.” These remarks were intentionally derogatory but also untrue. Plaintiff made every effort to use the tools that were provided by the Tax Department, but was refused additional training when requested.

32. Plaintiff has also been denied certain privileges of employment. For example, while other employees are permitted to eat breakfast at their desks, Plaintiff was instructed by Schulman that she is not permitted to do so.

33. In or about August 2017, Plaintiff contacted Schulman for assistance in responding to a customer's inquiry; Schulman became aggressive, pushed Plaintiff away from her chair and responded to the customer directly. When Plaintiff asked Schulman to stop yelling at her and not to push her, Schulman ignored her and told her again she should just retire.

34. On or about September 28, 2017, Plaintiff forgot to clock in at 1:00 p.m. after lunch as she became distracted assisting customers that were waiting at the counter. By the time she remembered to punch in it was 1:15 p.m. The next day, Schulman shouted in a very loud voice and demeaned Plaintiff in front of her co-workers. Plaintiff tried to explain that it was an accident and that others had forgotten in the past, but Schulman responded that she "didn't care."

35. On October 2, 2017, Schulman advised Plaintiff that she was seeking a 3-day suspension as a result of her alleged failure to clock-in after lunch and for her alleged response to Schulman advising that other employees had often made the same mistake without incident. Other employees routinely failed to clock-in or out without incident. Plaintiff, however, was not treated the same as other younger, non-hispanic employees and was singled out for punishment.

36. At Thanksgiving 2017, the entire Department was invited to a celebration hosted by the City; however, Plaintiff was purposefully excluded.

37. In or about November 2017, Schulman approached Plaintiff at the window and chastised her for failing to put the correct "code" on a form. Schulman physically grabbed and pulled Plaintiff out of her chair and towards her office to yell at her further. This incident placed Plaintiff in fear for her health and safety. Since that time, Plaintiff has had severe anxiety requiring counseling and it has exacerbated an underlying heart condition of which Schulman was aware (which led to her hospitalization in February 2018).

38. On December 4, 2017, Schulman berated Plaintiff to another employee upon learning that Plaintiff had retained counsel. Schulman called Plaintiff a “stupid bitch” and complained that Plaintiff had hired a “cheap attorney” who will help her. Schulman proceeded to advise that she could not wait for the City to get rid of that “old bitch” once and for all.

39. Schulman is already grooming Plaintiff’s replacement, having recently hired a woman in her twenties who is now training to do Plaintiff’s job

40. The City has instituted disciplinary proceedings against Plaintiff as part of the ongoing harassment and discrimination and has also sought to transfer Plaintiff to a new department.

41. Plaintiff has made numerous requests to speak with the Mayor regarding the above-described discrimination and mistreatment by Schulman and other employees within the Department to no avail. The Mayor has refused to meet with her and discuss his employee’s concerns.

42. The City failed to take any action and forced Plaintiff to continue to work in an extremely hostile, ageist, racist, and dangerous work environment, rife with verbal and physical abuse.

FIRST COUNT
Hostile Work Environment in Violation of the
New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, et seq.
AS AGAINST ALL DEFENDANTS

43. Plaintiff repeats and realleges the preceding paragraphs of this Complaint and incorporates them by reference as if set forth at length herein.

44. The above-described incidents and actions directed to Plaintiff by the City, aided and abetted by Schulman and the Mayor, created a hostile, discriminatory and dangerous work

environment that had a direct and deleterious impact upon the terms, conditions and privileges of Plaintiff's employment.

45. The hostile work environment to which Plaintiff was subjected was motivated, in whole or in substantial part, by a discriminatory animus against Plaintiff due to her age, disability (heart condition), ethnicity, race, and/or national origin.

46. The hostile and discriminatory work environment to which Plaintiff has been subjected was severe and pervasive, and is ongoing.

47. Defendants' actions were willful, malicious and intended to cause Plaintiff emotional distress for the purpose of wearing her down and forcing her resignation from employment.

48. As a direct and proximate result of the foregoing, Plaintiff has suffered and will continue to suffer damages, including severe physical and emotional distress, humiliation, loss of self-esteem, degradation, and pecuniary loss.

SECOND COUNT
(Retaliation and Retaliatory Harassment, N.J.S.A. 10:5-1, et seq.)
AS AGAINST ALL DEFENDANTS

49. Plaintiff repeats and realleges the preceding paragraphs of this Complaint and incorporates them by reference as if set forth at length herein.

50. Plaintiff complained about the above-described discriminatory treatment and hostile work environment to Schulman and other City officials.

51. Notwithstanding her numerous and ongoing complaints, no action was taken by the City or the Mayor to investigate or to cause the hostile and discriminatory conduct to cease.

52. Instead, and to the contrary, Plaintiff was retaliated against by the City and Schulman as a result of her complaints, which manifested in an exacerbation of the hostile and

abusive treatment by Schulman and the issuance of trumped-up, pretextual disciplinary charges against Plaintiff and other adverse employment consequences.

53. By and through the above-described acts and omissions, Defendants have violated plaintiff's rights under the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq. by engaging in retaliation and retaliatory harassment

54. As a direct and proximate result of the foregoing, Plaintiff has suffered and will continue to suffer damages, including severe physical and emotional distress, humiliation, loss of self-esteem, degradation, and pecuniary loss.

THIRD COUNT
Intentional Infliction of Emotional Distress
AS AGAINST SCHULMAN

55. Plaintiff repeats and realleges the preceding paragraphs of this Complaint and incorporates them by reference as if set forth at length herein.

56. The above-described acts of Defendant Schulman were extreme and outrageous.

57. Schulman committed the above-described acts with the intent to cause, and had the effect of causing, Plaintiff to suffer extreme emotional distress and anguish.

58. As a direct and proximate result thereof, Plaintiff has suffered compensatory damages and pecuniary loss.

FOURTH COUNT
Assault and Battery
AS AGAINST SCHULMAN

59. Plaintiff repeats and realleges the preceding paragraphs of this Complaint and incorporates them by reference as if set forth at length herein.

60. Defendant Schulman engaged in an unauthorized invasion of the Plaintiff's physical person by touching, striking, pushing and throwing objects at Plaintiff.

61. Defendant's actions constitute an assault and battery upon plaintiff.

62. The actions of Schulman were intentional.

63. As a direct and proximate result of defendant's actions, plaintiff has suffered physical, mental and emotional damages, as well as economic losses.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that this Court enter judgment in her favor and against Defendants as to all Counts in the Complaint, and award her the following:

A. Injunctive relief directing that Defendants cease and desist from engaging in any further discriminatory, hostile and/or retaliatory conduct toward Plaintiff and restore her to her position at the City with all seniority, fringe benefits, and other rights incident to her employment as she would have been entitled but for the unlawful conduct;

B. Damages, including lost wages, bonuses, raises, incentives and any other benefits to which Plaintiff is entitled, in an amount to be determined at trial;

C. Compensatory damages for emotional and physical pain and suffering and humiliation, in an amount to be determined at trial;

D. Punitive Damages;

E. Prejudgment and post-judgment interest;

F. Attorney's fees, costs and disbursements; and

G. Such other further and additional relief as this Court deems just and proper.

JURY DEMAND

Plaintiff hereby demands trial by a jury as to all issues herein so triable.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, J. Vincent Reppert, Esq. and Christopher P. Kelly, Esq., are hereby designated as trial counsel for Plaintiff in this matter.

Dated: March 22, 2018

REPPERT KELLY, LLC
Attorneys for Plaintiff

By: s/Christopher P. Kelly
Christopher P. Kelly

CERTIFICATION OF NO OTHER ACTIONS

Pursuant to *R. 4:5-1*, I do hereby certify that, except as set forth below, to the best of my knowledge the matter in controversy is not the subject of any other pending or anticipated lawsuit or arbitration proceeding and that no other action or arbitration is anticipated. I do hereby further certify that other than the parties set forth in this pleading, I know of no other parties that should be joined in the above action at this time. I understand that the parties have a continuing obligation to file and serve on all parties and the Court an amended certification if there is a change in the facts stated in this original certification.

[There is an arbitration proceeding currently pending between the City and Plaintiff's union concerning certain disciplinary charges filed against Plaintiff by the City concerning her employment.]

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

Dated: March 22, 2018

s/Christopher P. Kelly
Christopher P. Kelly