

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

----- X
ALEXIS MARQUEZ, :
: :
Plaintiff, :
: :
v. :
: :
DOUGLAS HOFFMAN, :
SALIANN SCARPULLA, :
GEORGE SILVER, :
LAWRENCE MARKS, :
JOHN MCCONNELL, :
LAUREN DESOLE, :
KAY-ANN PORTER, :
LISA EVANS, :
LORI SATTTLER, :
DENIS REO, :
LUCIAN CHALFEN, :
EUGENE FAHEY, :
PAUL FEINMAN, :
MICHAEL GARCIA, :
JENNY RIVERA, :
LESLIE STEIN, :
ROWAN WILSON, :
in their individual capacities, :
: :
JANET DIFIORE, :
in her individual capacity and in her official :
capacity as Chief Judge of New York State, :
: :
and THE STATE OF NEW YORK, :
: :
Defendants. :
: :
----- X

18-cv-07315 (ALC)

AMENDED COMPLAINT

Jury Trial Demanded

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I. PRELIMINARY STATEMENT

1. Alexis Marquez (“Plaintiff”) is a female attorney who worked as a law clerk to New York State Supreme Court Justice Saliann Scarpulla from 2012 to 2017.

2. In September 2017, Plaintiff began working as the principal court attorney to New York State Acting Supreme Court Justice Douglas Hoffman.

3. Starting in October 2017, approximately 18 New York State court system judges and administrators deterred, suppressed, refused to respond to, and retaliated against Plaintiff for reporting and opposing sex-based harassment, discrimination, and retaliation by Hoffman.

4. For over two months, Plaintiff attempted to navigate a fragmented, bewildering, and Kafkaesque gauntlet of judges and lawyers who tried to prevent her from documenting her complaints, denied that she had made any complaints, told her that her complaints were insufficient, and refused to respond to her complaints. Throughout, Plaintiff was kept isolated in administrative limbo. Supervisors and administrators repeatedly cut contact with her. Officials refused to identify the decision-makers handling her complaints. She was repeatedly warned not to talk to anyone.

5. On November 22, 2017, Plaintiff submitted an 11-page complaint to Lauren DeSole, the court system’s Director of Human Resources, supporting claims for sex- and race-based harassment, discrimination, and retaliation by Hoffman. Plaintiff was immediately transferred and demoted. Thereafter, court system officials refused to respond to Plaintiff’s communications.

6. On approximately December 1, 2017, Chief Administrative Judge Lawrence Marks promulgated a revision to the court system’s state-wide sexual harassment policy. The revision was not announced and, to date, has not been announced. The revision consisted almost

entirely of deletions. In all, Marks deleted approximately half of the court system's sexual harassment policy. All changes to the policy were related either to the substance of Plaintiff's complaints or to the manner in which Plaintiff reported or pursued her complaints. On information and belief, the court system's state-wide sexual harassment policy was revised directly in response to Plaintiff's complaints.

7. On December 13, 2017, Plaintiff escalated her complaints directly to Marks.

8. On December 15, 2017, Plaintiff was fired without any response or explanation.

No court system official ever responded to any of Plaintiff's numerous complaints, including her 11-page complaint submitted to the court system's Director of Human Resources.

9. Up until March 7, 2018, Plaintiff continued reporting, appealing, and seeking an internal review of her complaints, an explanation for her firing, and an explanation for the revision to the court system's sexual harassment policy. Plaintiff's complaints were reported throughout the entire administrative structure of the New York State court system. She received no response.

10. The following is a summary of each Defendant's conduct:

11. Hoffman's harassment, discrimination, and retaliation were extensive and occurred over the course of five weeks.

12. During the first three weeks of Plaintiff's employment with Hoffman, Hoffman engaged Plaintiff in relentless personal inquiries and conversation; suggested that Plaintiff should have lunch with him every day; told Plaintiff stories about past cases involving sexual relations; instructed Plaintiff to come or sit closer to him; invited Plaintiff to imagine she was married to him; invited Plaintiff to remove her suit jacket; asked Plaintiff to walk him to his car after work; showed Plaintiff personal texts and videos; constantly infantilized Plaintiff;

constantly subjected Plaintiff to offensive and stereotypical jokes and comments; refused to assign Plaintiff legal work; and attempted to treat Plaintiff as a wife, girlfriend, personal companion, and personal assistant.

13. On October 8, 2017, Plaintiff asked Hoffman not to contact her on her personal email address. Hoffman immediately became overtly hostile; became enraged and shouted at Plaintiff; berated Plaintiff for documenting her objection in writing; called Plaintiff rude, disrespectful, and disdainful; told Plaintiff that her job would not work out if she wanted a strictly professional relationship with him; stopped speaking to Plaintiff; and stopped assigning work to Plaintiff.

14. On October 18, 2017, Hoffman threatened to fire Plaintiff; threatened to have Plaintiff escorted from the building immediately; threatened to hurt Plaintiff; repeatedly demanded Plaintiff's silence as a condition of her continued employment; and told Plaintiff that George Silver, Deputy Chief Administrative Judge for New York City Courts, wanted to hire her as his principal court attorney.

15. The retaliatory conduct of the remaining Defendants was extensive and occurred over the course of several months.

16. Saliann Scarpulla, Supreme Court Justice of the New York State court system, told Plaintiff that she did not want to intervene; told Plaintiff to keep doing her job and to wait for Hoffman to make the first move; told Plaintiff not to worry because she would soon be working for Silver; berated Plaintiff for opposing Hoffman's conduct in writing; said that Silver was displeased with Plaintiff's opposition to Hoffman's conduct; said that Silver wanted to verify that Plaintiff was a "team player"; refused to respond to Plaintiff's written complaints about Hoffman; told Plaintiff to attend a job interview with Silver; and cut contact with Plaintiff.

17. George Silver, Deputy Chief Administrative Judge of the New York State court system, converted Plaintiff's complaints against Hoffman into a job interview for his principal court attorney position; evaded and made himself unavailable to Plaintiff; gave Plaintiff a sham 5-minute interview; refused to handle Plaintiff's complaints against Hoffman; refused to consider or respond to Plaintiff's job application; refused to hire Plaintiff; denied Plaintiff's transfer request; redirected Plaintiff's complaints against Hoffman, over Plaintiff's repeated objections, to the court system's Office of the Inspector General, which has no jurisdiction over complaints against judges; refused to respond to Plaintiff's communications; and cut contact with Plaintiff.

18. Kay-Ann Porter, Managing Inspector General for Bias Matters of the New York State court system, refused to allow Plaintiff to document her complaints against Hoffman; refused to allow Plaintiff to document the complaint process; insisted that Plaintiff make her complaints orally and in person; refused to acknowledge or investigate any of Plaintiff's written complaints; repeatedly tried to document that Plaintiff was not interested in pursuing complaints against Hoffman; repeatedly tried to cut off all other complaint avenues pursued by Plaintiff; refused to identify the decision-makers handling Plaintiff's written complaints; deleted Plaintiff's written objections from the email record; and refused to respond to any of Plaintiff's repeated objections to the Inspector General's role, objectives, procedures, and conduct.

19. Lauren DeSole, Director of Human Resources of the New York State court system, told Plaintiff that she would be fired within one week unless she provided additional information to support her complaints against Hoffman; refused to allow Plaintiff to document her complaints; refused to allow Plaintiff to document the complaint process; attempted to solicit Plaintiff's complaints orally and in person; discouraged Plaintiff from pursuing complaints

against Hoffman; and encouraged Plaintiff to resign. After Plaintiff submitted an 11-page complaint to DeSole alleging sex- and race-based harassment, discrimination, and retaliation by Hoffman, DeSole immediately demoted Plaintiff; refused to explain the demotion; refused to identify the decision-makers handling Plaintiff's written complaints; refused to respond to Plaintiff's communications; and cut contact with Plaintiff.

20. Lisa Evans, Assistant Deputy Counsel to the New York State court system, took control of the complaint process; refused to acknowledge Plaintiff's written complaints; instructed Plaintiff not to talk to anyone; began sending Plaintiff unresponsive letters by mail; refused to respond to Plaintiff's communications; refused to identify the decision-makers handling Plaintiff's written complaints; informed Plaintiff that she was fired; refused to provide any explanation for Plaintiff's firing; and refused to provide any response to any of Plaintiff's numerous written complaints.

21. John McConnell, Counsel to the New York State court system, managed the court system's response to Plaintiff's complaints while refusing to identify himself; on information and belief, directed and coordinated the actions of Porter, DeSole, and Evans; refused to respond to Plaintiff's complaints; refused to respond to Plaintiff's communications; on information and belief, drafted the revision of the court system's sexual harassment policy; and stated, on behalf of Chief Judge Janet DiFiore, that the only appropriate forum for discussion of the court system's sexual harassment policy was in court.

22. Lawrence Marks, Chief Administrative Judge of the New York State court system, approved, directed, and/or ratified the conduct of McConnell, DeSole, Porter, Evans, Silver, Scarpulla, and Hoffman; refused to respond to Plaintiff's complaints; refused to respond to Plaintiff's communications; made and/or approved the decision to demote Plaintiff; made

and/or approved the decision to fire Plaintiff; and deleted approximately half of the court system's sexual harassment policy.

23. Janet DiFiore, Chief Judge of the New York State court system, approved and ratified the conduct of Marks, McConnell, DeSole, Porter, Evans, Silver, Scarpulla, and Hoffman; refused to respond to Plaintiff's complaints; refused to respond to Plaintiff's communications; and told Plaintiff, through McConnell, that the only appropriate forum for discussion of the court system's sexual harassment policy was in court.

24. Eugene Fahey, Paul Feinman, Michael Garcia, Jenny Rivera, Leslie Stein, and Rowan Wilson, judges of the New York Court of Appeals, approved and ratified the conduct of all of the named Defendants; refused to respond to Plaintiff's complaints; refused to respond to Plaintiff's communications; and told Plaintiff, through John Asiello, Chief Clerk and Counsel to the Court of Appeals, that any further attempts to contact the members of the Court of Appeals directly would be improper.

25. Lori Sattler, Supreme Court Justice, aided and abetted Hoffman's harassment, discrimination, and retaliation.

26. Denis Reo, law clerk to George Silver, aided and abetted Silver's retaliation.

27. Lucien Chalfen, Director of Public Information, made false statements about Plaintiff in the press.

28. Section V of this Complaint describes the retaliatory revision of the New York State court system's sexual harassment policy.

29. Section VI of this Complaint describes several unlawful systemic conditions that caused and contributed to the harm sustained by Plaintiff, including:

- a. longstanding notice and failure to correct gender-based discrimination and harassment within the New York State court system;
- b. a policy and custom of ignoring, suppressing, and retaliating against employees who make discrimination, harassment, and retaliation complaints against highly placed or politically connected personnel within the New York State court system;
- c. a policy and custom of noncompetitive hiring practices for attorney positions within the New York State court system; and
- d. a widespread culture of silence and retaliation within the New York State court system.

30. Defendants have intentionally and maliciously caused irreparable harm to Plaintiff and systemic damage to the institution of the New York State court system. This is a set of facts that calls for personal liability, punitive damages, systemic injunctive relief, and external oversight of the New York State judiciary.

II. JURISDICTION AND VENUE

31. This action arises under the Constitution of the United States and the laws of the United States, including 42 U.S.C. § 1983 (“1983”) and 42 U.S.C. §§ 2000e et. seq. (“Title VII”). This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331.

32. The supplemental jurisdiction of this Court is invoked over Plaintiff’s state law claims pursuant to 28 U.S.C. § 1367.

33. Venue is proper in this judicial district under 28 U.S.C. § 1391(b)(2) because a substantial part of the unlawful acts and practices alleged herein occurred in the Southern District of New York.

34. On August 15, 2018, Plaintiff filed a timely charge with the U.S. Equal Employment Opportunity Commission (“EEOC”) alleging claims of sex- and race-based discrimination, harassment, and retaliation against Defendant State of New York. On September 11, 2018, the EEOC issued Plaintiff a notice of right to sue. Plaintiff then amended this Complaint within 90 days to assert Title VII claims against the State of New York.

III. PARTIES

35. Plaintiff is a female attorney in her thirties.

36. Plaintiff was born in San Diego, California, to first generation Filipino immigrants. She is brown-skinned, small in stature, personable, and youthful in appearance.

37. Plaintiff is a graduate of Barnard College and Fordham Law School. She is the first in her family to become an attorney.

38. Prior to her employment in the New York State court system, Plaintiff worked or interned at the U.S. Department of Justice, the New York Attorney General’s Office, the New York City Council, the U.S. State Department, and major New York law firms.

39. Plaintiff was highly regarded universally by past employers, judges, lawyers, litigants, professors, and coworkers for her intellectual ability, work product, character, and ethical conduct.

40. Plaintiff was a law clerk to Justice Saliann Scarpulla in New York Supreme Court for five years, from August 2012 to September 2017. In 2014, Scarpulla and Plaintiff began serving in the court’s Commercial Division, where Plaintiff managed numerous cases and wrote numerous judicial decisions on high profile, complex commercial matters.

41. Plaintiff wrote judicial opinions and managed cases for Scarpulla largely independently. The decisions Plaintiff wrote were featured frequently in the New York Law

Journal or published in the court's official reporter. Scarpulla told Plaintiff, "I barely edit your decisions."

42. On information and belief, during her employment in the New York State court system, Plaintiff completed more, higher quality, and more complex legal work than Hoffman, Scarpulla, Silver, Marks, and DiFiore combined.

43. Plaintiff began working for Hoffman on September 13, 2017.

44. The individually named Defendants are public officials serving the State of New York. Defendants are being sued in their individual capacities, except Janet DiFiore, who is being sued in both her individual and official capacities.

45. All parties were employed by Defendant State of New York.

IV. DISCRIMINATION AND RETALIATION BY INDIVIDUAL DEFENDANTS

Douglas Hoffman

46. Douglas Hoffman is an Acting Justice serving in the Matrimonial Division of New York Supreme Court. He has been a New York State judge since approximately 1996. From approximately 2009 to 2015, Hoffman was the supervising judge of Family Court in Manhattan.

47. Plaintiff worked as Hoffman's principal court attorney for approximately five weeks, from September 13, 2017, to October 19, 2017. During this period, Plaintiff's office was located in Hoffman's chambers at 111 Centre Street. The chambers unit is small and consists of two rooms – Hoffman's office and Plaintiff's office – and a private chambers bathroom. The chambers unit is isolated from the courtroom and the rest of Hoffman's staff, which are located on a different floor of the building. Plaintiff was frequently alone with Hoffman in chambers.

Initial Conduct

48. From the outset of Plaintiff's employment, Hoffman engaged in numerous behaviors that made Plaintiff acutely uncomfortable.

49. Nearly all of the following conduct occurred during the first three weeks of Plaintiff's employment with Hoffman.

50. Hoffman exhibited an obsessive need to speak to Plaintiff, get her attention, cause her to laugh, and obtain her approval. This was so persistent that, when Hoffman and Plaintiff were in chambers together, Hoffman seemed incapable of leaving Plaintiff alone.

51. Hoffman suggested that he and Plaintiff should have lunch together every day in his office.

52. Hoffman told Plaintiff stories about past, unrelated cases involving sexual relationships and extramarital sex – e.g., a story about a porn star couple, a story about a couple who mutually agreed to engage in extramarital affairs.

53. On multiple occasions, Hoffman invited or instructed Plaintiff to physically come or sit closer to him.

54. Hoffman invited Plaintiff to envision a hypothetical in which she was married to him: "Imagine you and I are married..."

55. Hoffman repeatedly asked Plaintiff to walk him to his car after work in the building's underground garage.

56. Hoffman invited Plaintiff to take off her suit jacket and share his personal closet. He became angry when Plaintiff declined.

57. Hoffman relentlessly engaged Plaintiff in personal inquiries and conversation beyond any ordinary or reasonable degree. He constantly asked Plaintiff about her personal life,

preferences, background, ethnicity, family, age, and a variety of other personal topics. He constantly entered Plaintiff's office to engage her in personal conversation. A clear majority of the interactions Hoffman initiated with Plaintiff – well over half – were personal in nature rather than work related. Hoffman's personal inquiries were so persistent that they were invasive, coercive, disruptive, and a constant feature of Plaintiff's job.

58. Hoffman repeatedly inquired with increasing specificity about Plaintiff's home address.

59. Hoffman constantly shared his own personal information, preferences, experiences, plans, background, and family details with Plaintiff, as well as a variety of other personal details.

60. Hoffman repeatedly shared personal texts and videos with Plaintiff.

61. Hoffman repeatedly subjected Plaintiff to bizarre, off-color, stereotypical, or offensive comments, jokes, and non-sequiturs – including comments, jokes, and anecdotes involving race, multiple wives, or specific litigants.

62. Hoffman repeatedly and without basis or foundation made negative or insulting remarks about the professional capabilities of female staff and employees.

63. Hoffman repeatedly attempted to enlist Plaintiff in disparaging female employees and specific litigants.

64. Hoffman persistently sought to overcome Plaintiff's discomfort and frequently made verbal disclaimers, such as, "I'm not weird but...", "I'm sorry, but I have to tell you...", "I can say that because...".

65. Hoffman frequently tried to justify his actions, requests, and comments by presenting them as tenuously related to work assignments, or as part of jokes.

66. Hoffman made it clear to Plaintiff that he expected her to fulfill stereotypically female roles and tasks.

67. Hoffman told Plaintiff that it was her job to decorate his office.

68. Hoffman told Plaintiff that it was her job to listen to him vent emotionally.

69. Hoffman stood over Plaintiff as he waited for her to find places for him to shop for personal items.

70. When Plaintiff used the word “independent” to describe her work process, Hoffman grimaced disapprovingly and told her that it was extremely important for her “to be nice and of service.”

71. Hoffman instructed Plaintiff on how to speak to him by imitating a gentle, sing-song female voice.

72. Contrary to Plaintiff’s title and job description, Hoffman assigned Plaintiff minimal legal work and assigned her secretarial, administrative, or paralegal work instead.

73. Contrary to Plaintiff’s work experience, Hoffman told Plaintiff that she lacked experience on issues within her expertise.

74. Hoffman questioned Plaintiff’s professional obligations to correct errors affecting litigants.

75. Hoffman made repeated inquiries about Plaintiff’s age, called Plaintiff “young lady,” told her that the party was over when he found her working with a colleague, sang case names to her, joked that he wanted to say things about Plaintiff behind her back, and generally infantilized Plaintiff.

76. Hoffman frequently indicated his expectations and instructions for Plaintiff by referring to his former female court attorney.

77. Hoffman told Plaintiff that he and his former court attorney had lunch in his office together every day.

78. Hoffman told Plaintiff that he and his former court attorney spent the entire day together every day.

79. Hoffman told Plaintiff that his former court attorney would physically hover over him.

80. Hoffman told Plaintiff that he and his former court attorney attended events together after work.

81. Hoffman told Plaintiff that he and his former court attorney frequently communicated after work about personal matters.

82. Hoffman showed Plaintiff a personal text message from his former court attorney which he had received the previous evening.

83. In a brief phone call with Plaintiff, Hoffman's former court attorney nervously described working for Hoffman as being in a "marriage" and referred to him as "controlling" and like a "father figure."

84. Hoffman actively attempted to isolate Plaintiff from other staff.

85. Hoffman actively discouraged or outright prohibited Plaintiff from attending work-related meetings with other staff.

86. Hoffman became displeased when Plaintiff interacted independently with litigants and other employees in the courthouse.

87. Hoffman became displeased when Plaintiff revealed that she knew and had established working relationships with other judges, staff, or employees in the courthouse.

88. Hoffman repeatedly attempted to monitor Plaintiff's communications.

89. Hoffman repeatedly interfered with Plaintiff's work.

90. Hoffman repeatedly avoided discussing work or law with Plaintiff, and consistently became dismissive, derisive, or angry whenever Plaintiff attempted to discuss work or law with him.

91. After three weeks of working for Hoffman, Plaintiff was experiencing constant acute stress, stomach aches, and weight loss.

October 8 Email

92. On Sunday, October 8, 2017, Hoffman sent an email to Plaintiff's personal email address. In the email, Hoffman complimented Plaintiff's work on a written assignment and hoped that she was having a good weekend.

93. Plaintiff replied that she was glad Hoffman liked her work on the assignment, hoped he was also having a good weekend, and asked him, in the future, not to email her at her personal email address, or on the weekend generally, unless it was an emergency ("October 8 Email").

94. Hoffman did not reply.

95. On Tuesday, October 10, 2017, when Hoffman and Plaintiff were next together in chambers, Hoffman was upset and angry.

96. At approximately 10:15 A.M., Hoffman brought up Plaintiff's October 8 Email, suddenly became enraged, and began to yell at Plaintiff.

97. Hoffman told Plaintiff, over and over, that her email was extremely rude, that it was very disrespectful, that she was an extremely rude person, and that she was extremely disdainful.

98. Hoffman said he could not believe Plaintiff would send him an email like that.

99. Hoffman told Plaintiff that she should not have put the email in writing, that she was supposed to talk to him in person about it, that this is how it was supposed to be handled – in person.

100. Hoffman said Plaintiff should have thanked him for his email.

101. Hoffman said he was personally offended.

102. Hoffman said he had emailed Plaintiff on her personal email address because he thought she was nervous and worried, because she was submitting a written assignment to her boss for the first time, and because he thought that she had worked on it for a very long time.

103. Hoffman said he thought Plaintiff wanted a mentor.

104. Hoffman complained that he was not allowed to contact Plaintiff outside of work except in a life or death emergency.

105. Hoffman continued yelling, berating Plaintiff, and repeating that Plaintiff was extremely rude and disrespectful, that Plaintiff should have thanked him for his email, and that Plaintiff should not have addressed the issue in writing. This continued for approximately ten minutes.

106. Plaintiff calmly told Hoffman several times that the reason she had sent him the email was to communicate a personal boundary. She said she had not intended to personally offend him.

107. Hoffman said that, after receiving Plaintiff's email, he had immediately called his former court attorney to get her opinion. According to Hoffman, his former court attorney had said that she would have been very happy to receive Hoffman's email and that she would have thanked him.

108. Hoffman then said slowly, as if in disbelief: “Well, you know, I just have to get used to the reality that you are not [my former court attorney] and that this is going to be a strictly professional relationship. This may not work out.”

109. Hoffman added that he and his former court attorney “did the baby thing together.”

110. Hoffman said his former court attorney had agreed that it might not work out with Plaintiff.

111. Plaintiff was highly disturbed and acutely uncomfortable.

112. Plaintiff calmly said that she and Hoffman would have a professional relationship. She explained that she always has professional relationships with the people she works with. She explained that sometimes she might text coworkers outside of work, or go to lunch with them, but that this usually happened after a friendship had developed over time.

Subsequent Conduct

113. Following this conversation on October 10, 2017, Hoffman became overtly hostile.

114. Hoffman stopped speaking to Plaintiff almost entirely.

115. Hoffman stopped entering Plaintiff’s office.

116. Hoffman stopped giving Plaintiff new work assignments.

117. Hoffman began avoiding Plaintiff entirely and using an alternate entrance to chambers.

118. Hoffman and Plaintiff’s interactions were mostly limited to email correspondence.

119. Hoffman began attributing his own procedural errors to Plaintiff.

120. Plaintiff began documenting her efforts to do her job and to fix procedural problems in Hoffman's part.

121. The atmosphere in chambers became extraordinarily tense.

122. This continued for approximately one week.

123. Plaintiff expected to be fired at any moment.

124. During this period, Plaintiff experienced acute stress, stomach aches, rapid weight loss, and difficulty breathing.

125. On Wednesday, October 18, 2017, at approximately 11:00 A.M., after having avoided Plaintiff for over one week, Hoffman suddenly followed Plaintiff into her office, told Plaintiff that he wanted to speak to her at 4:30 P.M. that day, and refused to state the purpose of the conversation.

126. At approximately 12:30 P.M., Hoffman again entered Plaintiff's office, closed the door, stood over Plaintiff, and spoke to her in a seething and malevolent tone, as if he were about to strike Plaintiff and was barely containing his rage. He ordered Plaintiff not to attend a Matrimonial Division meeting at lunch, to take her lunch outside, and to finish all of her outstanding work when she returned.

127. Plaintiff was alarmed by Hoffman's tone and physical proximity.

128. At approximately 4:30 P.M., Hoffman spoke to Plaintiff again. He was now calmer, read from prepared notes, and attempted to joke with Plaintiff.

129. Hoffman told Plaintiff, "Sometimes it doesn't work out between a judge and a law clerk, even if they both want it to."

130. Hoffman then began to list reasons for what he characterized as a professional mismatch.

131. First, Hoffman told Plaintiff that her October 8 Email had been extremely rude and disrespectful. He complained that Plaintiff had spoken to him about personal boundaries. He repeated several times that Plaintiff was rude, disdainful, and disrespectful.

132. Second, Hoffman accused Plaintiff of having forgotten to send out a courtesy copy of a decision, which was factually incorrect.

133. Third, Hoffman told Plaintiff that she had been rude and disrespectful in making “demands” to improve procedures in the part. He insisted that it was not about “what” Plaintiff said but about “how” she said it. He told Plaintiff that his previous court attorney would have used a much more deferential tone with him. He imitated a gentle and feminine voice to demonstrate how Plaintiff should have addressed him.

134. Hoffman then told Plaintiff that he had spoken to Deputy Chief Administrative Judge Silver.

135. Hoffman said, “I spoke to Judge Silver and he told me that what happens in this situation – whenever there is a professional mismatch between a judge and a law clerk – is that they don’t fire the law clerk immediately, but they give them a few weeks to find a transfer.”

136. Hoffman said Silver wanted to hire Plaintiff as his own principal court attorney.

137. Hoffman said Silver knew that Plaintiff had worked for Scarpulla and that Scarpulla spoke very highly of Plaintiff.

138. Hoffman said, “Judge Silver wants you to call him to arrange the transfer.”

139. Hoffman then told Plaintiff that he had the right to fire her immediately and to have a court officer escort her out of the building but that he would not do that if Plaintiff agreed not to say anything about him.

140. Hoffman said that if Plaintiff agreed not to say anything about him, he would allow her to continue working for a couple of weeks and arrange a transfer.

141. Hoffman said, approximately, “I will not say anything about you and you will not say anything about me.”

142. Hoffman asked twice for Plaintiff’s “word” not to say anything about him.

143. Hoffman told Plaintiff, “I don’t want to hurt you.”

144. Hoffman called Plaintiff a nice person.

145. Plaintiff said that she wanted a transfer and that she would call Silver in the morning.

146. Plaintiff said she did not fully understand Hoffman’s request not to say anything and asked if she could take some time to think about it.

147. Hoffman reluctantly agreed to give Plaintiff one day to make a decision.

148. On information and belief, after this conversation, because Plaintiff did not immediately give Hoffman her word to be silent, Hoffman, fearing that Plaintiff would report his conduct, began making false statements to other court system officials about Plaintiff in order to preemptively discredit Plaintiff, sabotage her transfer, and harm her reputation, professional relationships, and career.

149. On Thursday, October 19, 2017, at approximately 9:15 A.M., Plaintiff called Silver’s chambers and spoke to Denis Reo, Silver’s law clerk. Reo said that Silver was on vacation in Europe. Reo said that Silver wanted to interview Plaintiff in the week of October 30, 2017, when he returned from vacation.

150. After the call with Reo, Plaintiff struggled to concentrate on work.

151. At approximately 3:30 P.M., Hoffman asked Plaintiff what she wanted to do.

152. Plaintiff said that she had called Silver's office and that she was working on arranging a transfer.

153. Hoffman again asked Plaintiff what she wanted to do.

154. Plaintiff said that she wanted to maintain a professional and civil working relationship with Hoffman until her transfer became available.

155. Hoffman asked, "But what do you want to do afterward?"

156. Plaintiff was extremely uncomfortable and repeated that she wanted a transfer and that she wanted to maintain a professional and civil relationship in the meantime.

157. Hoffman appeared tremendously relieved and his mood suddenly shifted. He became happy and jovial. After over one week of open hostility, Hoffman suddenly and immediately resumed speaking to Plaintiff, assigning work to Plaintiff, and entering Plaintiff's office in rapid succession.

158. Plaintiff felt disoriented.

159. On Friday, October 20, 2017, Plaintiff emailed Hoffman to inform him that she would be out sick for the day.

160. On Monday, October 23, 2017, Plaintiff emailed Hoffman to inform him that she would be taking leave until her transfer was finalized and that she would forward her work email to a rotating law clerk.

161. Hoffman did not reply.

162. This was the last interaction between Plaintiff and Hoffman.

Additional Allegations

163. In the week of October 23, 2017, Hoffman was involved in an altercation with a rotating female law clerk. Hoffman attempted to fire the law clerk, took away her keys, told her

that she would not have a job, and angrily complained about the staff's "civil service mentality." He later instructed the law clerk to return to his chambers as if nothing had happened.

164. Hoffman repeatedly disparaged without basis the competence and diligence of female court staff, including a female judge, his rotating law clerk, his part clerk, and his former court attorney. As a pattern, Hoffman deferred to male court employees and refrained from criticizing male subordinate staff, even when they caused procedural errors affecting litigants or directly opposed Hoffman's orders.

165. Hoffman repeatedly used the phrase "civil service mentality" to complain without basis about female and minority employees.

166. Hoffman repeatedly brought up in conversation and ascribed significant importance to race, ethnicity, religious beliefs, and socio-economic status.

167. Hoffman singled out individual litigants for derision. On one occasion, he called a litigant "crazy" because the litigant was an Orthodox Jew. On another occasion, he called a litigant a "deadbeat" because the litigant was a father who was in school rather than working.

168. Hoffman constantly expected and demanded Plaintiff's affirmation and reinforcement of his various negative views on court system staff, litigants, and court system norms, rules, and procedures. Hoffman's former court attorney described Hoffman's view of their relationship as him and her "against the world."

169. Hoffman lacked basic professional competence. He was unversed and/or uninterested in basic Supreme Court procedures. He was unversed and/or uninterested in law. He was unable to issue basic orders and judgments. He appeared to act on ex parte communications from litigants. He was uninterested in recording the outcomes of court appearances. He was a frequent source of procedural and administrative errors. He repeatedly

drew corrections from senior clerical and administrative staff. Other judges expressed surprise that Hoffman was unaware of basic procedures. He appeared not to know how to process orders to show cause. He did not know the difference between a final and non-final order. He appeared incapable of communicating calendar information. He required assistance to complete basic practical tasks. He expressed open prejudice towards specific litigants.

170. Hoffman claimed that he had been appointed to Supreme Court with a mandate to clear a case backlog. He frequently made grand and categorical pronouncements, including but not limited to: “I don’t make mistakes,” “I take no stock in what other judges do,” “I’ve reformed whole court systems,” the public court calendar “doesn’t need to be correct,” and “we only need to follow some procedures.”

171. On information and belief, Hoffman received no training, or received inadequate training, for his position as a New York Supreme Court judge. Hoffman told Plaintiff that as an acting justice he was prohibited from attending training programs provided to other Supreme Court judges.

172. Hoffman exhibited frequent and sudden mood swings.

173. Hoffman was secretive and displayed a persistent need to control information about himself.

174. Hoffman engaged in a consistent, manipulative, and abusive pattern as he sought to train Plaintiff to fulfill the role of a wife, domestic partner, girlfriend, or personal companion: he always became superficially friendly, familiar, and ingratiating when he engaged Plaintiff on an intimate or personal level and always became hostile or irritable when Plaintiff attempted to engage him as a professional attorney.

175. Prior to the October 8 Email, Hoffman had never complained about Plaintiff being rude, disdainful, or disrespectful. During the first three weeks of Plaintiff's employment, Hoffman constantly directed relentless and close personal attention, conversation, questions, jokes, and songs at Plaintiff.

176. Plaintiff continually made special efforts, entirely on her own initiative, to accommodate and assist Hoffman with various tasks he constantly struggled with. For example, Plaintiff arranged Hoffman's files neatly every day, corrected his calendar every day, helped him locate missing files, attempted to reduce his administrative workload, created easy-to-use checklists for him, retrieved his glasses, retrieved his phone, requested that a stand be placed next to his bench, purchased a mail cart for chambers with her own funds, etc.

177. Prior to hiring Plaintiff, Hoffman entered into an oral and written agreement with Plaintiff that he would primarily assign her legal work. Prior to hiring Plaintiff, Hoffman entered into a separate oral agreement with Scarpulla that he would primarily assign Plaintiff legal work. Hoffman primarily assigned Plaintiff secretarial, administrative, or paralegal work. The overwhelming majority of work that Hoffman assigned to Plaintiff did not require a law degree to complete and was, at most, quasi-legal in nature, comparable to work frequently performed in New York Supreme Court by unpaid student interns.

178. Hoffman, alone or in concert with others, attempted to bribe Plaintiff, bargain with Plaintiff, and obtain Plaintiff's silence in exchange for a transfer and a job as Silver's principal court attorney.

179. Hoffman attempted to extort Plaintiff, bargain with Plaintiff, and obtain Plaintiff's silence by threatening to hurt Plaintiff, threatening to fire Plaintiff, threatening to make false statements about Plaintiff, and threatening to harm Plaintiff's reputation and career.

180. Hoffman lacks the basic professional competence, adequate training, character, and/or good faith required to perform the functions of Acting Justice of New York Supreme Court.

Saliann Scarpulla

181. Saliann Scarpulla is an elected Justice serving in the Commercial Division of New York Supreme Court. She has been a New York State judge since approximately 2001.

182. Scarpulla employed Plaintiff as her law clerk for approximately five years, from August 2012 to September 2017. During this period, Scarpulla and Plaintiff developed a strong working relationship. Scarpulla relied extensively on Plaintiff's judgment, professionalism, loyalty, discretion, and work product. Plaintiff managed numerous cases and wrote numerous judicial opinions, including many of Scarpulla's most high profile decisions, largely independently.

Initial Conduct

183. On Monday, October 16, 2017, Scarpulla summoned Plaintiff to her chambers. Her tone was urgent. She asked Plaintiff what had happened with Hoffman but would not disclose what she had heard, or from whom.

184. Plaintiff informed Scarpulla that there were numerous procedural errors in Hoffman's part and then said: "I also want you to know that he is very bothered by the fact that he can only have a professional relationship with me."

185. Plaintiff told Scarpulla that Hoffman made her feel uncomfortable, that he had suggested having lunch together every day, and that he had been very close with his former court attorney.

186. Scarpulla said that she did not want to intervene: “I don’t want to intervene because I don’t want it to look like I’m meddling.”

187. Scarpulla said, “Just keep doing your job and let him make the first move.”

188. Scarpulla said she had two other principal court attorney positions in mind for Plaintiff that she would soon be able to disclose. She stressed that these were “real” positions but would not tell Plaintiff what these jobs were.

189. On Wednesday, October 18, 2017, at approximately 2:00 P.M., Scarpulla left a message for Hoffman asking for a call back.

190. At approximately 4:30 P.M., Hoffman threatened to fire Plaintiff, threatened to have her escorted from the building immediately, threatened to hurt her, and repeatedly demanded her silence as a condition of her continued employment.

191. At approximately 8:30 P.M., Scarpulla and Plaintiff spoke on the phone.

192. Plaintiff informed Scarpulla that Hoffman had threatened to fire her; that Hoffman had threatened to have her escorted from the building; that Hoffman had prohibited her from attending a work meeting; that Hoffman had warned her not to say anything about him; that Silver wanted to hire her as his principal court attorney; and that Hoffman would allow her to arrange the transfer only if she agreed not to say anything about Hoffman.

193. Scarpulla told Plaintiff not to worry because Silver would soon hire her: “Everything will work out much better when you work for Judge Silver.”

194. Scarpulla instructed Plaintiff to call Silver in the morning to arrange the transfer.

195. About Hoffman’s conduct, Scarpulla said only, “What is there to talk about?” She cut Plaintiff off several times. She called Hoffman an asshole and said, “I should have known he’d be a problem.”

196. At approximately 9:30 P.M., Scarpulla and Plaintiff spoke on the phone again.

197. This time, Scarpulla was angry: “What is this I’m hearing about an email?”

198. Scarpulla told Plaintiff that Silver was displeased with her October 8 Email to Hoffman.

199. Plaintiff attempted to explain that the email was intended to communicate a personal boundary but Scarpulla cut her off: “Other judges don’t see it that way.”

200. Scarpulla berated Plaintiff: “You should not have sent him that email.”

201. She said, “That was not your best moment.”

202. About Hoffman, Scarpulla said, “He just wants a best friend.”

203. Scarpulla interrupted Plaintiff multiple times, talked over her, and would not let her speak.

204. Scarpulla then told Plaintiff that, instead of transferring her directly, Silver now wanted to interview her.

205. She said, “Judge Silver wants to know you’re a team player.”

206. Scarpulla told Plaintiff that, instead of calling Silver directly, she should call Silver’s law clerk in the morning. She said Silver would be on vacation. She told Plaintiff that she would become acting Administrative Judge on Friday, in Silver’s absence.

207. This phone call was the first time in five years that Scarpulla berated or addressed Plaintiff with anger.

208. On Thursday, October 19, 2017, at approximately 9:10 A.M., Plaintiff called Silver’s chambers. Reo, Silver’s law clerk, took the call and told Plaintiff, “Judge Silver is on vacation in Europe.” Reo said Silver wanted to interview Plaintiff in the week of October 30, 2017, when he returned from vacation.

209. A few minutes later, at approximately 9:15 A.M., Scarpulla called Plaintiff and said, “Judge Silver just texted me and said you should call his chambers right now.”

210. Plaintiff informed Scarpulla that she had just spoken to Reo and that Silver would not interview her until the week of October 30, 2017.

211. Scarpulla replied, “Okay great,” and hung up.

212. At approximately 12:30 P.M., Plaintiff overheard Scarpulla shouting loudly on the phone, “*That is so fucked up! He sent that email to her personal email account! He is her boss! This is her career!*”

213. A few minutes later, Scarpulla cancelled a meeting with Plaintiff by texting, “Not today. Let’s talk next week.”

214. This was the first time in five years that Scarpulla declined to meet with Plaintiff.

October 20 Letter

215. On Friday, October 20, 2017, Plaintiff hand delivered a letter to Scarpulla (“October 20 Letter”).

216. The letter described in detail how Hoffman had threatened to fire Plaintiff, threatened to hurt her, and had repeatedly demanded her silence as a condition of her continued employment. The letter described Plaintiff as fearful of Hoffman’s physical presence. The letter stated that Plaintiff had been unable to establish a professional working relationship with Hoffman. The letter stated that Plaintiff was unable to return to work, was feeling isolated, and was concerned about reprisal to her career. The letter stated that Plaintiff was seeking Scarpulla’s advice on how to resolve the situation.

217. At approximately 6:00 P.M., Scarpulla and Plaintiff spoke on the phone.

218. Scarpulla's tone was formal and peremptory: "This is going to be a very short phone call." Scarpulla told Plaintiff that she had received her letter. She said, "I am a Title VII reporter and I am required to write a letter back in response." Scarpulla said her letter would contain instructions for Plaintiff. She said that, in the meantime, Plaintiff could report sexual harassment to Silver.

219. Plaintiff said she would wait to receive Scarpulla's letter.

220. Scarpulla was reluctant to engage Plaintiff in further conversation. She kept repeating that she was required to send Plaintiff a letter with instructions and appeared to be trying to end the call.

221. Plaintiff pressed Scarpulla and said she was concerned that Hoffman was interfering with her transfer to Silver.

222. Scarpulla told Plaintiff that her transfer to Silver was not in jeopardy.

223. Scarpulla told Plaintiff to attend the interview with Silver when he returned from vacation.

224. About Hoffman, Scarpulla said only, "Who cares what he says to other people? Judge Silver isn't even listening to him." She said, approximately, "Judge Silver knows who is worth listening to and who is a loser." Scarpulla did not ask questions about Hoffman or any of the issues raised in the October 20 Letter.

225. Plaintiff told Scarpulla that she could not return to work for Hoffman the following week. Scarpulla began to say, "But then he..." but stopped herself and said instead, "Okay, don't get sick."

226. At the end of the call, Scarpulla said, "I want you to know that I am not abandoning you. I know who you are. My opinion of you has not changed since a month ago."

227. This call was the last communication between Scarpulla and Plaintiff.

228. Scarpulla cut all contact with Plaintiff.

229. Plaintiff waited for but never received a letter with instructions from Scarpulla.

230. Plaintiff was subsequently out of work for approximately 5 weeks.

231. Plaintiff was out of work and out of contact with the court system while she waited for the interview with Silver.

Additional Allegations

232. On information and belief, during the following two weeks, Scarpulla avoided her law clerks. On Monday, November 6, 2017 – after Plaintiff reported Hoffman’s conduct to Silver in writing and raised questions about Silver’s hiring practices – Scarpulla vaguely told her law clerks that Plaintiff’s employment with Hoffman was not going well and that there was nothing she could do to help.

233. Scarpulla repeatedly ignored, failed to comply with, and refused to enforce the court system’s sexual harassment and discrimination policies.

234. Scarpulla, alone or in concert with others, attempted to bribe Plaintiff, bargain with Plaintiff, and obtain Plaintiff’s silence in exchange for job information, a transfer, and a job as Silver’s principal court attorney.

235. In the course of handling Plaintiff’s complaints, Scarpulla made numerous fraudulent representations and/or omissions, and Plaintiff relied on those representations and/or omissions to her detriment, including but not limited to: that Scarpulla was a “Title VII reporter”; that Scarpulla could not address Plaintiff’s complaints directly and needed to send Plaintiff a letter with instructions instead; that Scarpulla intended to send Plaintiff a letter with instructions; that Scarpulla would otherwise follow up with Plaintiff; that Silver was either on vacation or

unavailable, and could neither communicate with, transfer, or interview Plaintiff from October 18, 2017, to October 31, 2017; that Silver intended to hire and transfer Plaintiff; that Silver was not retaliating against Plaintiff; that Silver was not even listening to Hoffman; that Silver knew who was worth listening to and who was a loser; that the appropriate way for Plaintiff to resolve her harassment, discrimination, and retaliation complaints about Hoffman was to attend a job interview with Silver.

George Silver and Denis Reo

236. George Silver is the Deputy Chief Administrative Judge for New York City Courts. He is responsible for overseeing day-to-day operations, ensuring the orderly administration of the courts, and supervising the conduct of judges and nonjudicial employees in all trial-level courts in New York City.

237. Silver is the third most powerful executive officer in the New York State court system. He has been a New York state judge since approximately 2004.

238. Denis Reo is Silver's Deputy Chief of Staff and principal law clerk. On information and belief, Reo has worked for Silver since approximately the beginning of Silver's judicial career.

Initial Conduct

239. Between approximately Monday, October 16, 2017, and Wednesday, October 18, 2017, Silver engaged in conversations with Hoffman and Scarpulla about Plaintiff and Plaintiff's employment situation.

240. On Wednesday, October 18, 2017, Hoffman threatened to fire Plaintiff, threatened to have her escorted from the building immediately, threatened to hurt her, and repeatedly demanded her silence as a condition of her continued employment.

241. Both Hoffman and Scarpulla separately informed Plaintiff that Silver wanted to hire her as his own principal court attorney. Both instructed Plaintiff to call Silver directly to arrange the transfer.

242. Shortly thereafter, Silver learned of Plaintiff's October 8 Email to Hoffman.

243. Silver immediately expressed disapproval of Plaintiff's October 8 Email.

244. Silver immediately expressed a desire to verify that Plaintiff was a "team player."

245. Silver immediately made himself unavailable to Plaintiff, lied that he was on vacation, coordinated with Scarpulla and Reo to ensure that Plaintiff did not contact him directly, and arranged to interview Plaintiff instead of hiring and transferring Plaintiff directly.

246. On Thursday, October 19, 2017, at approximately 9:10 A.M., Plaintiff called Silver's chambers to request a transfer. Reo took the call and told Plaintiff: "Judge Silver wants to interview you. Judge Silver is on vacation in Europe. He can interview you when he gets back on the week of October 30." The call lasted approximately one minute. Reo did not mention or discuss the position that Plaintiff would interview for.

247. Silver then learned of the October 20 Letter to Scarpulla and the complaints contained therein, including but not limited to:

- a. that Plaintiff had been unable to establish a professional working relationship with Hoffman;
- b. that Hoffman had threatened to fire Plaintiff;
- c. that Hoffman had threatened to hurt Plaintiff;

- d. that Hoffman had repeatedly demanded Plaintiff's silence as a condition of her continued employment;
- e. that Plaintiff was unable to return to work.

248. Silver scheduled Plaintiff for an interview on Tuesday, October 31, 2017, the busiest day of his court calendar.

249. Plaintiff was out of work and out of contact with the court system while she waited to interview with Silver.

250. Silver was aware that Plaintiff was unable to return to work for approximately two weeks while she waited to interview with him.

251. During this entire period, from approximately Monday, October 16, 2017, to Tuesday, October 31, Silver made no attempt to contact or communicate with Plaintiff directly.

October 31 Interview

252. On Tuesday, October 31, 2017, Silver and Reo conducted a sham interview of Plaintiff.

253. The interview was ostensibly intended to evaluate Plaintiff for a permanent position as Silver's principal court attorney, a high level legal job in the New York State court system that involves managing Silver's cases and writing Silver's judicial opinions.

254. The interview lasted approximately 5 minutes.

255. The interview consisted of four brief questions.

256. One of the four questions was, approximately: "Whom did you work for at the City Council?"

257. Silver made no attempt to discuss or evaluate the quality of Plaintiff's work.

258. Silver did not mention Hoffman or ask any questions about Hoffman. He did not ask why Plaintiff was interviewing or available for a position as Silver's principal court attorney.

259. Silver and Reo were stilted, awkward, or afraid of interacting with Plaintiff.

260. At the end of the 5-minute interview, in response to Plaintiff's question about Silver's responsibilities as Deputy Chief Administrative Judge, Silver said, approximately, "We do a lot of things."

Subsequent Conduct

261. On Thursday, November 2, 2017, Reo informed Plaintiff that he could not give her a firm date when Silver would make his hiring decision.

262. Plaintiff emailed Reo and informed him that her situation was urgent.

263. Plaintiff explained that Hoffman had threatened to fire her, threatened her, and demanded her silence as a condition of her continued employment. She explained that she had been unable to return to work for over two weeks. She expressed a number of concerns, including that she was being asked to participate in an undocumented process to resolve the situation. She noted that Silver had given her a 5-minute interview. She asked Reo a number of questions about Silver's hiring process and the criteria Silver was using to evaluate her job application.

264. On Friday, November 3, 2017, Reo replied to "make clear" that Silver's hiring process was "not in any way related to any other matter." He denied the suggestion that Silver's interview was "in some way related to a transfer you are seeking as a result of your employment with Judge Hoffman." He falsely claimed that he had independently contacted Plaintiff on Wednesday, October 18, 2017, to solicit her application for Silver's position. He made statements and misrepresentations on behalf of Scarpulla. He asserted that Silver had been

aware of the October 20 Letter but that he had not actually read it. He asserted that the October 20 Letter contained no specific details. He seemed to fault Plaintiff for not making reports and for withholding information.

265. Reo's email was adversarial, defensive, and unresponsive to Plaintiff's concerns. It contained numerous misstatements, omissions, and contortions, all designed to disclaim Silver's knowledge and involvement.

266. Reo did not answer any of Plaintiff's questions regarding Silver's hiring process.

267. At the conclusion of the email, Reo stated that Silver had decided to refer the matter to the Inspector General of the Unified Court System "for investigation."

268. On Monday, November 6, 2017, Plaintiff emailed Reo again.

269. She noted that the Office of the Inspector General is responsible for investigating the misconduct of nonjudicial employees and asked for a clarification.

270. Reo did not respond.

271. On Wednesday, November 8, 2017, Plaintiff emailed Reo again.

272. She informed Reo that Hoffman had attempted to fire a second law clerk. She repeated that Hoffman had improperly threatened to fire her, threatened her, and demanded her silence. She repeated that she had been unable to return to work. She noted that Reo's email contained a number of factual misstatements. She noted once again that the court system's Inspector General is responsible for investigating the misconduct of nonjudicial employees, asked why her conduct was being investigated, and requested a copy of the complaint that had been filed with the Office of the Inspector General. She noted that there did not appear to be a reliable and trustworthy mechanism through which law clerks could resolve personnel issues

with judges without risking reprisal and severe threats to their careers. She again asked Reo a number of questions related to her employment status and Silver's hiring process.

273. Reo did not respond.

274. Approximately 30 minutes later, Kay-Ann Porter from the Office of the Inspector General left a voicemail on Plaintiff's cellphone.

275. Silver and Reo cut contact with Plaintiff entirely.

276. Silver and Reo never responded to any of Plaintiff's communications, questions, complaints, and objections related to Hoffman, Silver's hiring process, Plaintiff's employment status, the court system's complaint process, or the Office of the Inspector General.

277. Even as Silver cut contact and refused to respond to Plaintiff, he took possession of the private and confidential October 20 Letter to Scarpulla and redirected that letter to the Office of the Inspector General.

278. Silver did this while repeatedly refusing to answer Plaintiff's questions about the jurisdiction and function of the Office of the Inspector General.

279. Silver did this without giving Plaintiff notice and without asking or obtaining Plaintiff's permission.

280. Besides the October 20 Letter, Silver withheld all additional information from the Office of the Inspector General.

281. Silver never responded to Plaintiff's job application.

Additional Allegations

282. Silver conditioned Plaintiff's transfer and employment on whether Plaintiff pursued harassment, discrimination, and retaliation complaints against Hoffman.

283. Silver converted Plaintiff's harassment, discrimination, and retaliation complaints against Hoffman into a job interview for his principal court attorney position.

284. Silver, alone or in concert with others, attempted to bribe Plaintiff, bargain with Plaintiff, and obtain Plaintiff's silence in exchange for a transfer and a job as Silver's principal court attorney.

285. Silver misused the court system's Office of the Inspector General and attempted to launch a fraudulent investigation in order to suppress a retaliation complaint against himself, suppress questions about his hiring practices, and suppress questions about his handling of Plaintiff's discrimination, harassment, and retaliation complaints.

286. Silver's initial retaliatory acts included, but were not limited to, evading and making himself unavailable to Plaintiff; using subordinates to block Plaintiff's access and communications to Silver; expressing disapproval of Plaintiff's opposition and complaints; expressing a desire to verify that Plaintiff was a "team player"; converting Plaintiff's transfer request and harassment, discrimination, and retaliation complaints into a job application subject to rejection; conducting a sham interview of Plaintiff; refusing to evaluate or consider Plaintiff's job application; ignoring Plaintiff's complaints; delaying Plaintiff's complaints; and falsely disclaiming knowledge of Plaintiff's complaints.

287. When Silver could no longer evade, ignore, and disclaim knowledge of Plaintiff's complaints, Silver refused to transfer Plaintiff; refused to hire Plaintiff; refused to respond to Plaintiff's job application; refused to respond to Plaintiff's communications; and cut contact with Plaintiff.

288. Silver refused to supervise Hoffman.

289. Silver refused to personally address or respond to Plaintiff's complaints against Hoffman.

290. Silver failed and refused to refer Plaintiff's complaints against Hoffman to the New York State Commission on Judicial Conduct.

291. Instead, Silver, without giving Plaintiff notice, and without asking or obtaining Plaintiff's permission, redirected Plaintiff's complaints to the court system's Office of the Inspector General – an internal office that operates in secret and reports to Silver; has no jurisdiction to investigate Plaintiff's complaints; has no jurisdiction to investigate Hoffman, Silver, Scarpulla, or any other judge; operates to suppress evidence and documentation of complaints against judges; and operates to prevent, obstruct, and evade internal and external review of its operations. *See infra* Kay-Ann Porter.

292. Silver redirected Plaintiff's complaints to the Office of the Inspector General with the intent of suppressing them. Silver refused to explain his decision to redirect Plaintiff's complaints to the Office of the Inspector General. He refused to respond to Plaintiff's questions, concerns, and objections regarding the Office of the Inspector General. He failed to inform Plaintiff of other complaint avenues and attempted to prevent Plaintiff from pursuing other complaint avenues.

293. As Deputy Chief Administrative Judge, Silver is formally tasked with supervising the day-to-day conduct of judicial and nonjudicial employees in New York City trial-level courts. It is his designated role and function to supervise judges and to intervene on behalf of a law clerk who is being harassed and threatened by a judge.

294. Silver refused to address multiple employment-related matters that required immediate attention, including Plaintiff's assertion that she had no contact with the court system

and had been unable to return to work for several weeks. After reporting to Silver that she had been threatened by a judge and was unable to return to work, Plaintiff spent approximately one additional week without any contact from the court system.

295. According to Silver, a written report including a detailed timeline describing a judge threatening to hurt a law clerk and repeatedly demanding her silence as a condition of her continued employment does not provide “any specific details.”

296. In the course of handling Plaintiff’s complaints, Silver made numerous fraudulent representations and/or omissions, and Plaintiff relied on those representations and/or omissions to her detriment, including but not limited to: that Silver was either on vacation or unavailable, and could neither communicate with, transfer, or interview Plaintiff from October 18, 2017, to October 31, 2017; that Silver intended to evaluate and consider Plaintiff’s job application; that Silver’s job interview was not in any way connected to Plaintiff’s employment with Hoffman; that Silver could not personally respond to and address Plaintiff’s complaints; that Silver had properly referred Plaintiff’s complaints to the Office of the Inspector General; and that the Office of the Inspector General had the requisite authority, intent, or independence to investigate Plaintiff’s complaints.

297. Silver misappropriated and mishandled Plaintiff’s private and confidential information and communications.

298. Plaintiff was highly qualified and highly recommended for Silver’s principal court attorney position.

299. On October 18, 2017, there were no other candidates for Silver’s principal court attorney position.

300. On information and belief, on October 31, 2017, there were no other candidates for Silver's principal court attorney position.

301. On information and belief, Silver filled the position and hired a principal court attorney in approximately December 2017.

302. The opening for Silver's principal court attorney position was not announced either publicly or internally. As with the overwhelming majority of attorney jobs within the New York court system, neither members of the public nor court system staff could learn about or apply for the position. *See infra* Noncompetitive Hiring.

303. Silver refused to perform the functions of the Deputy Chief Administrative Judge for New York City Courts.

304. Silver lacks the basic professional competence, adequate training, and/or good faith required to perform the functions of Deputy Chief Administrative Judge for New York City Courts. For example, Silver repeatedly and intentionally ignored, failed to comply with, and refused to enforce the court system's sexual harassment and discrimination policies. He refused to respond to communications from a law clerk who alleged that she was being threatened by a judge. He refused to handle and intentionally mishandled a harassment, discrimination, and retaliation complaint against a sitting judge under his direct supervision. He retaliated against a law clerk for making discrimination, harassment, and retaliation complaints. He attempted to convert a harassment, discrimination, and retaliation complaint against a judge into a job interview.

305. Reo acted under Silver's direction and on Silver's behalf.

Kay-Ann Porter

306. Kay-Ann Porter is the Managing Inspector General for Bias Matters of the New York State court system. She is responsible for investigating bias complaints within the court system, including employee claims of sex- and race-based harassment, discrimination, and retaliation.

307. Porter has no authority to investigate complaints against judges. Her office is “responsible for the investigation and elimination of infractions of disciplinary standards, criminal activities, conflicts of interest, misconduct, misfeasance and incompetence on the part of *nonjudicial employees*.” *Office of the Inspector General, New York Courts*, <http://ww2.nycourts.gov/admin/ig/index.shtml> (last visited Jul. 23, 2018) (emphasis added); *see also* Annual Meeting Minutes (Mar. 14, 2016), *in* N.Y. State Judicial Comm. on Women in the Courts, *Local Gender Bias and Gender Fairness Committees Annual Reports 2016-2017* 266 (2017), <https://www.nycourts.gov/ip/womeninthecourts/pdfs/2016-17-Annual-Reports.pdf> (according to Evans, the Office of the Inspector General has no jurisdiction over judges).

308. The fact that Porter has no authority to investigate complaints against judges is not clearly stated anywhere in either the court system’s policies or website.

309. On information and belief, Porter has never investigated, interviewed, or questioned a judge accused of sexual harassment, discrimination, or retaliation.

310. Plaintiff asked repeatedly why her complaints against a judge were being redirected to the Office of the Inspector General given that the office is responsible for investigating nonjudicial employees. Silver and Reo refused to answer.

311. In numerous communications from November 6, 2017, to January 16, 2018, Plaintiff asked questions, expressed concerns, and raised objections about the role, jurisdiction,

independence, practices, and conduct of the court system's Inspector General. Neither Porter, DiFiore, Marks, Silver, Reo, DeSole, McConnell, nor Evans responded to any of these questions, concerns, or objections.

Initial Conduct

312. By the time Porter contacted Plaintiff, Plaintiff had been out of work for approximately three weeks; Hoffman had threatened to fire and hurt Plaintiff; Hoffman had attempted to fire another law clerk; Silver had refused to acknowledge and appeared to have denied Plaintiff's transfer request; Silver appeared to have stopped considering Plaintiff's job application; and Scarpulla, Silver, and Reo had all severed contact with Plaintiff.

313. Porter first contacted Plaintiff on Wednesday, November 8, 2017. She left a voicemail on Plaintiff's personal cell phone asking for a call back. She did not state the purpose of her call or identify herself as the Managing Inspector General for Bias Matters.

314. Plaintiff emailed Porter to ask for a clarification.

315. In a series of terse emails, Porter identified herself as the Managing Inspector General for Bias Matters, told Plaintiff that she was in possession of the October 20 Letter to Scarpulla, and asked Plaintiff to come in for an immediate interview as part of a "potential investigation."

316. Porter refused to communicate further with Plaintiff in writing and referred Plaintiff to the court system's policies and website. The court system's policies and website described Porter's office as one of several optional avenues for pursuing internal discrimination and harassment complaints; as reporting to and subordinate to Silver; as requiring a written complaint and signed authorization from Plaintiff in order to act on Plaintiff's behalf; and as limited to investigating misconduct by nonjudicial employees.

317. Plaintiff requested to document her communications with Porter in writing.

318. Porter refused and offered to interview Plaintiff in person.

319. Plaintiff again requested to document her communications with Porter in writing.

320. Porter again refused and offered to interview Plaintiff in person.

321. Plaintiff cited the court system's policies and noted that she had not filed a formal complaint with Porter's office.

322. Porter asked Plaintiff to confirm that she was not interested in pursuing a complaint against Hoffman.

323. Plaintiff replied that she could not confirm and stated that she had outstanding employment matters before Silver, that she wanted those matters handled separately from her complaints against Hoffman, that Silver had referred her private communications to the Inspector General without her permission, and that she opposed the manner in which Porter's investigation was being initiated.

324. Porter simply deleted Plaintiff's objection from the email chain and again asked Plaintiff to confirm that she was not interested in pursuing a complaint against Hoffman.

325. Over approximately six weeks, until Plaintiff was fired, Porter engaged in a bewildering pattern of conduct: She refused to interact with Plaintiff in writing. She refused to acknowledge or investigate any of Plaintiff's written complaints. She ignored Plaintiff's offers to answer questions in writing. She refused to acknowledge or respond to any of Plaintiff's claims of retaliation. She refused to allow Plaintiff to document the complaint process. She tried to confirm that Plaintiff was not interested in pursuing complaints against Hoffman. She tried to cut off and terminate other complaint avenues pursued by Plaintiff. She interfered with and attempted to divert communications Plaintiff directed to other court system officials. She

refused to address or respond to any of Plaintiff's numerous objections and concerns regarding any aspect of the complaint process. She simply told Plaintiff, over and over, that if she wanted to pursue a complaint with Porter's office, she could schedule an in-person interview.

326. Throughout this six-week period, Porter's office was repeatedly presented to Plaintiff as one of several optional avenues for pursuing internal discrimination and harassment complaints. This representation was made to Plaintiff in various written statements and documents, including the court system's written Sexual Harassment and Discrimination Policies, a system-wide memo by Silver, and written communications by Reo and DeSole.

327. During this period, Plaintiff repeatedly expressed concerns about Porter's office; repeatedly objected to how Porter's office was being used; and repeatedly informed Porter that she was not pursuing complaints through her office.

328. Plaintiff repeatedly informed Porter that she was communicating and pursuing complaints through DeSole, the court system's Director of Human Resources and one of the other purported complaint avenues. *See infra* Lauren DeSole.

329. For example, on Monday, November 13, 2017, Plaintiff informed both DeSole and Porter that she had a reasonable belief that she had a sex- and race-based discrimination claim against Hoffman; that she had misgivings about pursuing that claim with the Office of the Inspector General given how the office had been used in the complaint process thus far; and that she was eager to meet with DeSole.

330. Porter did not respond.

331. On Tuesday, November 14, 2017, Plaintiff informed Porter that she was meeting in person with DeSole to discuss her employment situation.

332. Porter did not respond.

333. On Thursday, November 16, 2017, Plaintiff informed Porter that she would be submitting information to support her discrimination claims and, in connection with preparing her complaint, asked Porter which of her communications had been referred to the Office of the Inspector General.

334. Porter refused to answer and told Plaintiff that, if she was interested in pursuing a complaint, she could schedule an in-person interview with Porter.

335. On Wednesday, November 22, 2017, Plaintiff submitted an 11-page written complaint to DeSole that included detailed allegations supporting claims of sex- and race-based harassment, sex- and race-based discrimination, sex- and race-based stereotyping, and retaliation by Hoffman. Plaintiff's complaint also described retaliation by Scarpulla and Silver.

336. On Friday, November 24, 2017, Plaintiff was demoted and transferred to the Brooklyn Law department. Plaintiff objected to the transfer as retaliatory and began communicating with the court system through her attorney. Subsequent interactions occurred primarily through Plaintiff's attorney.

337. On Tuesday, November 28, 2017, Plaintiff informed Porter that she had submitted an extensive written complaint to DeSole; that she had been transferred to Brooklyn; and that she perceived the transfer as retaliatory. Plaintiff asked Porter a number of questions about the handling of her complaints and her employment situation.

338. Porter refused to acknowledge Plaintiff's 11-page written complaint to DeSole; refused to acknowledge Plaintiff's retaliation complaint; refused to answer any of Plaintiff's questions; and refused to identify the decision-makers handling Plaintiff's written complaints. Instead, Porter offered to interview Plaintiff in connection with the October 20 Letter to Scarpulla.

339. Plaintiff asked why Porter was refusing to answer her questions. Plaintiff again objected to her transfer to Brooklyn and stated that she intended to pursue formal remedies through an external agency. Plaintiff asked Porter to coordinate with DeSole and to review and comply with the court system's discrimination and harassment policies. Plaintiff offered to answer any of Porter's specific questions about the October 20 Letter in writing.

340. Porter did not respond.

341. On Friday, December 1, 2017, Porter was copied on a three-page email that summarized Plaintiff's employment situation and expressed a number of concerns regarding the complaint process. Among other things, the email noted that no court system official was willing to interact with Plaintiff on the record and once again explained Plaintiff's desire to document her communications in light of her concerns about retaliation. In the email, Plaintiff again offered to answer any questions – including any questions from Porter – in writing. The email expressed a concern that the court system was not interested in creating a reviewable record, conducting a thorough inquiry, or seeking information from Hoffman, Scarpulla, or Silver. The email expressed a concern that the Office of the Inspector General was being misused to prepare for litigation against Plaintiff.

342. Porter did not respond.

343. This was the last communication between Plaintiff and Porter.

344. On December 5, 2017, Lisa Evans, Assistant Deputy Counsel to the New York State court system, instructed Plaintiff not to communicate with Porter or anyone else in the entire court system regarding her complaints.

Alleged Investigation

345. On Wednesday, December 13, 2017, having received no response to any of her written complaints from anyone in the New York State court system for approximately two months, Plaintiff escalated her complaints directly to Lawrence Marks, Chief Administrative Judge of the New York State court system.

346. Approximately two hours later, Plaintiff was informed for the first time that her complaints were “actively being investigated” by the court system’s Inspector General and that she would be notified of the outcome once the investigation was complete.

347. On Thursday, December 14, 2017, in an email to Marks, McConnell, Evans, and DeSole, Plaintiff expressed concerns about the independence and ability of the Office of Inspector General to conduct a thorough investigation. Plaintiff requested that the court system appoint an outside investigator or that, at minimum, the court system follow established practices for conducting a sexual harassment investigation. Plaintiff requested that the court system’s investigation be thoroughly documented.

348. Plaintiff received no response.

349. On Friday, December 15, 2017, Plaintiff was fired.

350. Evans informed Plaintiff with a one-line email that the Inspector General’s investigation had ended. Evans refused to provide any additional information.

351. Plaintiff was never notified of the outcome of the Inspector General’s investigation. She received no notice, determination, report, verbal explanation, or any other kind of response pertaining to any investigation conducted by the Office of the Inspector General.

352. Plaintiff received no response from any official in the New York State court system to any of her numerous, documented complaints, including her 11-page complaint alleging harassment, discrimination, and retaliation by Hoffman.

353. On August 17 and 21, 2018, approximately 8 months later, Lucian Chalfen, the court system's Director of Public Information, described Plaintiff's lawsuit in the press as "frivolous" and "nonsensical" and stated that Plaintiff's complaints had been "fully and comprehensively investigated by our inspector general" and that Plaintiff had "declined to participate in our investigation."

354. Chalfen's public statements in the press are the first and only reply that Plaintiff has received from the New York State court system to any of her internal discrimination, harassment, and retaliation complaints.

Additional Allegations

355. The court system's Office of the Inspector General does not operate as an independent watchdog. On information and belief, the office has been captured by individual judges, administrators, and the court system's Counsel's Office. The office has been misused, variously, to conduct politically motivated investigations; to force nonjudicial employees to resign; to suppress discrimination, harassment, and retaliation complaints; to facilitate willful blindness and shield administrators from information about complaints; and to prepare for litigation against complaining employees.

356. The court system's Office of the Inspector General plays a central role in suppressing discrimination, harassment, and retaliation complaints against judges and other highly placed court system officials. *See infra* Current Practices.

357. The New York State court system's policies, website, and statements and/or omissions by court system administrators are intentionally vague, misleading, and designed to create the fraudulent impression that the Office of the Inspector General has jurisdiction to investigate and address complaints against judges.

358. Porter does not operate as an independent investigator. She cannot, and does not, investigate judges. She refuses to accept, acknowledge, or solicit written complaints. She does not acknowledge retaliation claims against administrators. She refuses to ask questions on the record. She does not ask for documentary evidence. She deletes communications from the record. She refuses to question witnesses.

359. Porter's office operates beyond any internal supervision, monitoring, or review. Porter does not disclose her findings or reports. Her jurisdiction, guidelines, and practices cannot be ascertained. Her investigations cannot be monitored or appealed. No one at the highest levels of the administration of the New York State court system was willing to discuss the jurisdiction or practices of the Office of the Inspector General on the record.

360. The intended effects of channeling harassment and discrimination complaints against judges through Porter's office – and insisting that those complaints must be made orally and in person – include, but are not limited to: suppressing documentary evidence of complaints; denying complaining employees access to the evidentiary record, including a record of their own complaints; and evading monitoring and legal review.

361. Porter reports to Silver and cannot investigate Silver. The intended effect of channeling a complaint against Silver through Porter's office is to suppress a complaint against Silver.

362. Porter did not investigate Plaintiff's complaints. On information and belief, Porter took no investigative action that could verify or corroborate any of Plaintiff's numerous, documented statements to various court system judges, lawyers, and administrators.

363. To the extent that Porter purports to have conducted a process that the New York State court system refers to as an "investigation," that process was intentionally incomplete, deliberately conducted in a manner designed to prevent fact-finding and the creation of a reviewable record, designed to reach a predetermined outcome justifying adverse employment actions against Plaintiff, and designed to prepare the court system for litigation against Plaintiff.

364. Porter intentionally withheld information about Silver's handling of Plaintiff's complaints in order to prevent Plaintiff from asserting retaliation claims against Silver.

365. Porter refused to disclose the identities of the "principals" handling Plaintiff's discrimination, harassment, and retaliation complaints in order to prevent Plaintiff from asserting retaliation claims against those principals.

366. In the course of handling Plaintiff's complaints, Porter made numerous fraudulent representations and/or omissions, and Plaintiff relied on those representations and/or omissions to her detriment, including but not limited to: that Porter had the authority and/or intent to investigate Plaintiff's complaints; that Porter could not accept complaints in writing, could not communicate with Plaintiff in writing, and could not investigate any of Plaintiff's written complaints; that the only procedure available for moving forward with Plaintiff's complaints was through an immediate, in-person interview with the Office of the Inspector General; that Silver had properly referred Plaintiff's complaints to the Office of the Inspector General; that Porter could not disclose how, when, and what information Silver had referred to the Office of the Inspector General; and that Porter investigated Plaintiff's complaints.

367. In the course of handling Plaintiff's complaints, Porter intentionally violated numerous provisions of the court system's sexual harassment and discrimination policies and procedures, including but not limited to: failed to notify Plaintiff, identify herself, and provide her telephone number when she initiated a purported sexual harassment investigation on Plaintiff's behalf; failed to obtain Plaintiff's signature and permission to disclose Plaintiff's name prior to initiating a purported sexual harassment investigation on Plaintiff's behalf; failed to provide Plaintiff with notice, including a written determination, of the outcome of a purported sexual harassment investigation conducted on Plaintiff's behalf; failed to provide Plaintiff with an opportunity to appeal an administrative decision made pursuant to a purported sexual harassment investigation conducted on Plaintiff's behalf; refused to provide Plaintiff up to one year to voluntarily pursue a bias complaint with the Office of the Inspector General; attempted to coerce Plaintiff to pursue bias complaints through the Office of the Inspector General and refused to recognize, attempted to interfere with, and attempted to terminate other internal complaint avenues pursued by Plaintiff; refused to recognize, acknowledge, and accept written harassment, discrimination, and retaliation complaints by Plaintiff; refused to recognize retaliation as an independent basis for complaint under the court system's policies and under federal and state law; refused to recognize and failed to maintain the confidentiality of Plaintiff's personal information and personal communications; and refused to acknowledge, stop, and prevent ongoing retaliation upon receiving reports of retaliation against Plaintiff.

368. Porter refused to perform the functions of the Managing Inspector General for Bias Matters of the New York State court system.

369. Porter lacks the basic professional competence, adequate training, and/or good faith required to perform the functions of Managing Inspector General for Bias Matters of the

New York State court system. For example, Porter repeatedly and intentionally ignored, failed to comply with, and refused to enforce the court system's sexual harassment and discrimination policies and repeatedly and intentionally violated numerous, widely known, and widely accepted standards and practices for handling sexual harassment and discrimination complaints and conducting sexual harassment and discrimination investigations.

Lauren DeSole

370. Lauren DeSole is the Director of Human Resources for the New York State court system. In that capacity, DeSole oversees employment in a branch of state government with over 18,000 public employees. Her specific responsibilities are unclear. Neither DeSole nor the position of Director of Human Resources is listed on the court system's website. In person, DeSole described herself as a union contract negotiator. According to DeSole, she handles employee complaints "only when something special happens."

Initial Conduct

371. By the time DeSole contacted Plaintiff, Plaintiff had been out of work for approximately three weeks; Hoffman had threatened to fire and hurt Plaintiff; Hoffman had attempted to fire another law clerk; Silver had refused to acknowledge and appeared to have denied Plaintiff's transfer request; Silver appeared to have stopped considering Plaintiff's job application; Scarpulla, Silver, and Reo had all severed contact with Plaintiff; and Porter had refused to communicate with Plaintiff in writing.

372. On Thursday, November 9, 2017, DeSole contacted Plaintiff for the first time. She left a voicemail on Plaintiff's cell phone with her name and number and asked for a call back.

373. Plaintiff emailed DeSole, explained that she wanted to document her interactions with the court system, and asked to communicate with DeSole over email.

374. DeSole refused to communicate with Plaintiff in writing and repeatedly insisted on a phone call or in-person meeting. She refused to state the purpose of the call or meeting. She refused to answer Plaintiff's basic employment questions in writing.

375. On Friday, November 10, 2017, Plaintiff objected to DeSole's responses, insisted that DeSole immediately clarify Plaintiff's employment status in writing, requested that her personal items be removed from Hoffman's chambers, requested that the October 20 Letter be returned to Scarpulla and that all other copies be destroyed, and placed a litigation hold on Reo's office phone.

376. In response, DeSole finally disclosed, after approximately 10 email communications, that Plaintiff was still actively employed by the court system. She explained that she was now providing information in writing only because Plaintiff appeared to be experiencing distress. She stated that an in-person meeting was not mandatory but expressed the view that written communication was not sufficiently interactive and not a productive way to communicate. She described the purpose of an in-person meeting as: "providing you with options so you may return to work and set a path forward."

377. DeSole and Plaintiff made arrangements for Plaintiff to contact and obtain advice from Plaintiff's union representative, Barbara Brown, Chair of the Citywide Association of Law Assistants.

378. On Monday, November 13, 2017, Plaintiff sent two email updates to DeSole. She informed DeSole that she believed she had a sex- and race-based discrimination claim against Hoffman, that she preferred to pursue that claim in the EEOC because she lacked confidence in

the court system's internal complaint process, and that she was eager to meet in person with DeSole in order to find a path forward within the court system.

379. On Tuesday, November 14, 2017, DeSole lashed out at Plaintiff. She asserted that she was not in a position to give Plaintiff instructions or advice, accused Plaintiff of being uncooperative, reminded Plaintiff that she was an at-will employee, and vaguely told Plaintiff that her options were becoming limited.

380. On Wednesday, November 15, 2017, DeSole, Brown, and Plaintiff met in person for approximately two hours.

381. Before the meeting, Brown cautioned Plaintiff against pursuing a complaint against Hoffman: "If you do this, no judge will want to hire you." She told Plaintiff, "You have to choose between justice and your job."

382. In the meeting, DeSole only discussed Plaintiff's complaints against Hoffman and did not address any of Plaintiff's other employment-related matters (transfer request, interview with Silver, inability to return to work, etc.).

383. DeSole told Plaintiff that she would be fired within one week, on November 22, 2017, unless she provided information to support her claims against Hoffman.

384. DeSole repeatedly encouraged Plaintiff to resign. She told Plaintiff that she was young, that this was the beginning of her career, that she could get a job elsewhere, that she was never meant to work in the court system permanently, and that she was always meant to leave. She told Plaintiff that she would provide her with references if she chose to resign.

385. DeSole repeatedly discouraged Plaintiff from pursuing a complaint against Hoffman. She told Plaintiff that even if her claims against Hoffman were substantiated it was unlikely that she would be reassigned to a principal court attorney position. She refused to

discuss the possible outcomes of pursuing an internal complaint against Hoffman but suggested that the court system would reject any complaint short of physical assault, saying only: “If it’s a Harvey Weinstein situation, then maybe yeah...” She immediately disputed Plaintiff’s factual assertions. She previewed legal counterarguments by McConnell. She repeatedly emphasized that Plaintiff was an at-will employee. She said, “You don’t want to be a plaintiff.”

386. Plaintiff informed DeSole that she would submit information to support her claims against Hoffman by November 22, 2017.

November 22 Complaint

387. On Wednesday, November 22, 2017, Plaintiff submitted an 11-page written complaint to DeSole.

388. Plaintiff’s complaint included detailed allegations supporting claims of sex- and race-based harassment, sex- and race-based discrimination, sex- and race-based stereotyping, and retaliation by Hoffman. Plaintiff’s complaint also described retaliation by Scarpulla and Silver.

389. In response, DeSole informed Plaintiff that she would continue to be employed by the court system “while we review the document.” She said she would speak with her “principals” and provide Plaintiff with further instructions.

390. On Friday, November 24, 2017, DeSole demoted Plaintiff.

391. DeSole instructed Plaintiff to report to work in what she characterized as a temporary assignment in the Brooklyn law department, a pool position located in a different borough.

392. DeSole provided no additional information about the status or handling of Plaintiff’s complaint. She told Plaintiff that she would be out of the office and that she would “check in” with Plaintiff by December 1, 2017.

393. On Saturday, November 25, 2017, Plaintiff, through her attorney, objected to the assignment in Brooklyn as retaliatory and requested additional information.

394. DeSole again instructed Plaintiff to report to work in Brooklyn and stated that she was forwarding Plaintiff's inquiries "to Counsel." She refused to identify her "principals," refused to explain why Plaintiff was being assigned to Brooklyn, and refused to provide any additional information.

395. DeSole then cut contact with Plaintiff.

396. DeSole did not check in with Plaintiff on December 1, 2017.

397. Plaintiff worked in the Brooklyn law department for approximately three weeks without any additional explanation or information. Evans instructed Plaintiff not to communicate about her complaints, or any other topic, with anyone else in the entire court system, and refused to clarify the instruction.

398. During this period, DeSole, Porter, and Evans repeatedly refused to respond to Plaintiff's communications, repeatedly refused to explain why Plaintiff had been assigned to Brooklyn, repeatedly refused to explain how Plaintiff's complaints were being handled, and repeatedly refused to identify the "principals" who were handling Plaintiff's complaints.

399. Plaintiff's new supervisor was not provided with any information. He told Plaintiff that he did not know how long her assignment in the Brooklyn law department would last: "It could be three days or three years."

400. On Wednesday, December 13, 2017, Plaintiff escalated her complaints directly to Marks and objected to the manner in which her harassment, discrimination, and retaliation complaints and employment matters were being handled by the court system.

401. Marks did not respond.

402. Two days later, on Friday, December 15, 2017, DeSole informed Plaintiff that she was fired.

403. DeSole did not provide any additional explanation or information.

404. Defendants repeatedly refused to provide a reason for firing Plaintiff.

405. Neither DeSole, nor any of the named Defendants, responded to any of Plaintiff's numerous oppositions and complaints, including her 11-page complaint alleging harassment, discrimination, and retaliation by Hoffman.

Additional Allegations

406. When Plaintiff requested to document her communications with the court system, DeSole refused, arranged an in-person meeting under false pretenses, and attempted to solicit Plaintiff's complaints orally.

407. Despite Plaintiff's numerous objections to the absence of documentation, neither DeSole nor any of the named Defendants presented Plaintiff with an option to submit a written complaint. From November 2, 2017, to December 11, 2017, Plaintiff objected to the absence of documentation in the court system's complaint process approximately 10 times. DeSole and Porter repeatedly solicited and pressured Plaintiff to make her complaints orally and in person.

408. When Plaintiff submitted a written complaint to DeSole, DeSole demoted Plaintiff, cut contact with Plaintiff, and disappeared.

409. DeSole refused to perform the functions of her position as Director of Human Resources of the New York State court system. She refused to address Plaintiff's employment-related matters (e.g., transfer request, interview with Silver, inability to return to work). She refused to separate Plaintiff's employment-related matters from her harassment, discrimination,

and retaliation complaints. She made all of Plaintiff's employment-related matters contingent on whether, when, and how Plaintiff pursued complaints against Hoffman.

410. On November 15, 2017, nearly one month after Plaintiff first reported Hoffman's conduct, DeSole stated that Hoffman had not been informed of Plaintiff's complaints and asserted that it was not useful to speak to Hoffman at that time: "If I called Judge Hoffman right now, he would just say he didn't do it."

411. DeSole stated that Silver and Scarpulla had not reported any additional information in connection with Plaintiff's complaints: "They have no idea what you're talking about."

412. When Plaintiff asked directly whether Hoffman, Scarpulla, or Silver would be questioned in connection with her complaints, DeSole was silent and refused to answer.

413. DeSole denied that Hoffman had attempted to fire another law clerk in the week of October 23, 2017; asserted that Reo had simply been "confused" in his email communications with Plaintiff; suggested that Plaintiff had remained with Scarpulla for five years because Plaintiff could not find a job elsewhere; expressed surprise that Plaintiff had interviewed for the position with Hoffman; and made repeated and gratuitous references to Plaintiff's "family," "domestic partner," and "husband."

414. DeSole noted that Plaintiff appeared to be experiencing "distress" and stated that she had been "disturbed" while reading the October 20 Letter to Scarpulla.

415. According to DeSole, repeated written reports that a judge has threatened to fire a law clerk, threatened to hurt a law clerk, and has repeatedly demanded the law clerk's silence as a condition of her continued employment, coupled with allegations that the judge has repeatedly

engaged in unprofessional conduct, is an insufficient basis for the court system to intervene on behalf of the law clerk, transfer the law clerk, or question the judge.

416. DeSole refused to disclose the identities of the “principals” handling Plaintiff’s discrimination, harassment, and retaliation complaints in order to prevent Plaintiff from asserting retaliation claims against those principals.

417. In the course of handling Plaintiff’s complaints, DeSole made numerous fraudulent representations and/or omissions, and Plaintiff relied on those representations and/or omissions to her detriment, including but not limited to: that DeSole intended to assist Plaintiff; that the purpose of meeting with DeSole in person was to address Plaintiff’s employment-related matters and concerns and set a path forward for Plaintiff within the court system; that Plaintiff had the option of pursuing complaints against Hoffman through the court system’s Human Resources Department; that the court system would respond to Plaintiff’s 11-page complaint against Hoffman; and that DeSole would follow up with Plaintiff on December 1, 2017.

418. DeSole lacks the basic professional competence, adequate training, and/or good faith required to perform the functions of Director of Human Resources of the New York State court system. For example, DeSole repeatedly and intentionally ignored, failed to comply with, and refused to enforce the court system’s sexual harassment and discrimination policies and repeatedly and intentionally violated numerous, widely known, and widely accepted standards and practices for handling sexual harassment and discrimination complaints. DeSole refused to respond to internal discrimination, harassment, and retaliation complaints and does not appear capable of addressing basic employment-related matters such as transfer requests, job interviews, and an employee’s inability to return to work. It is unclear what functions DeSole performs in her role as Director of Human Resources.

Lisa Evans

Summary

419. Lisa Evans is Assistant Deputy Counsel to the New York State court system. Her responsibilities include defending individual judges and the court system against sexual harassment, discrimination, and retaliation claims. Evans reports to McConnell and Marks.

420. By the time Evans contacted Plaintiff, Plaintiff had been out of work for approximately five weeks; Hoffman had threatened to fire and hurt Plaintiff; Hoffman had attempted to fire another law clerk; Silver had denied Plaintiff's transfer request; Silver had stopped considering Plaintiff's job application; Porter had refused to communicate with Plaintiff in writing; DeSole had refused to address Plaintiff's employment-related matters; Plaintiff had submitted an 11-page complaint to DeSole; DeSole had demoted Plaintiff; Scarpulla, Silver, Reo, Porter, and DeSole had all severed contact with Plaintiff; and Plaintiff had started working in the Brooklyn law department without any information about the status of her complaints, how her complaints were being handled, or the identity of the individuals who were handling her complaints.

421. Evans first contacted Plaintiff on Wednesday, November 29, 2017.

422. Evans took control of the entire complaint process, instructed Plaintiff not to talk to anyone else, and began sending Plaintiff unresponsive letters by mail on court system letterhead.

423. Evans repeatedly refused to respond to any of Plaintiff's questions, objections, or complaints.

424. Between November 29, 2017, and December 15, 2017, Evans was directly addressed, copied on, and/or received on her work email account at least 13 separate written communications related to Plaintiff's complaints and employment-related matters.

425. Evans either ignored these communications entirely or replied by mail with terse, unresponsive letters.

426. For example, on December 5, 2017, in response to a three-page email summarizing Plaintiff's questions, objections, and employment situation, Evans sent a three-line letter instructing Plaintiff not to talk to anyone else in the entire court system about any topic. Evans refused to clarify the instruction.

427. Evans refused to disclose why Plaintiff had been assigned to the Brooklyn law department or how long she would be there.

428. Evans refused to acknowledge that Plaintiff had submitted an 11-page complaint alleging harassment, discrimination, and retaliation by Hoffman.

429. Evans refused to identify the "principals" who were handling Plaintiff's complaints and employment-related matters.

430. Evans refused to acknowledge communications describing Plaintiff as experiencing extreme distress; describing retaliation by Scarpulla, Silver, and DeSole; describing extensive failures in the court system's internal complaint process; requesting the appointment of an outside investigator; and requesting that the court system comply with basic standards and practices for handling harassment complaints.

431. Evans refused to escalate or refer Plaintiff's complaints to any court official with the authority or ability to respond.

432. Evans refused to communicate by email.

433. Evans continued sending unresponsive letters by mail.

434. The intended effect of Evans's conduct was to obstruct, delay, and suppress Plaintiff's complaints; to sever all contact between Plaintiff and the court system; to further isolate, demoralize, and exert pressure on Plaintiff; to obstruct Plaintiff's efforts to document the complaint process; and to deprive Plaintiff of any information about the handling of her complaints or employment-related matters in order to prevent Plaintiff from asserting retaliation claims.

435. Plaintiff worked in isolation in Brooklyn for approximately three weeks without any additional explanation or information.

436. On Wednesday, December 13, 2017, having received no response to any of her complaints from anyone in the court system for approximately two months, Plaintiff escalated her complaints directly to Marks.

437. Approximately two hours later, Evans used her email account for the first time to communicate with Plaintiff. She sent a four-line response informing Plaintiff, for the first time, that her harassment and discrimination complaints were "actively being investigated" by the Office of the Inspector General and that, once the investigation was complete, Plaintiff would be informed of the outcome.

438. Evans refused to respond to any follow-up communications.

439. Marks did not respond.

440. Two days later, on Friday, December 15, 2017, Evans forwarded a letter by DeSole informing Plaintiff that she was fired.

441. In a one-line email, Evans stated that the Inspector General's investigation had ended. She did not disclose the outcome of the investigation and repeatedly refused to provide a reason or explanation for Plaintiff's termination.

442. Neither Evans, nor any of the named Defendants, responded to any of Plaintiff's numerous oppositions and complaints, including her 11-page complaint alleging harassment, discrimination, and retaliation by Hoffman.

Additional Allegations

443. Evans refused to perform the functions of her position as Assistant Deputy Counsel. She refused to act as an attorney. She refused to communicate on behalf of the court system. She refused to acknowledge and/or implement litigation holds. She refused to observe document designation requests. She took no legal positions on any issue. She stated no objections on any issue.

444. For approximately three weeks, Evans intentionally severed Plaintiff's relationship and communications with the court system.

445. For approximately three weeks, Evans sent unresponsive letters by mail with the specific purpose of delaying Plaintiff's communications, fragmenting the documentary and evidentiary record, obstructing internal review and oversight, and preventing Plaintiff from escalating or forwarding her complaints. Once Plaintiff was fired, Evans stopped sending letters and began using her email account to communicate.

446. Evans repeatedly refused to state whether she was being supervised by McConnell.

447. Evans refused to disclose the identities of the “principals” handling Plaintiff’s discrimination, harassment, and retaliation complaints in order to prevent Plaintiff from asserting retaliation claims against those principals.

448. In the course of handling Plaintiff’s complaints, Evans made several fraudulent representations and/or omissions, and Plaintiff relied on those representations and/or omissions to her detriment, including but not limited to: that the Office of the Inspector General was investigating Plaintiff’s complaints; that the Office of the Inspector General had the authority and jurisdiction to investigate Plaintiff’s complaints; and that Plaintiff would be informed of the outcome of the Inspector General’s investigation once that investigation was complete.

449. Evans lacks the basic professional competence, adequate training, and/or good faith required to perform the functions of Assistant Deputy Counsel to the New York State court system. For example, Evans repeatedly and intentionally ignored, failed to comply with, and refused to enforce the court system’s sexual harassment and discrimination policies and repeatedly and intentionally violated numerous, widely known, and widely accepted standards and practices for handling sexual harassment and discrimination complaints. Evans appears unwilling or incapable of performing basic legal functions or acting as an attorney.

John McConnell

450. John McConnell is Counsel to the New York State court system. His responsibilities include defending individual judges and the court system against sexual harassment, discrimination, and retaliation claims. His office is also responsible for drafting the administrative and procedural rules affecting the court system, as well as advising judges on the application of the Rules of Judicial Conduct.

451. McConnell supervises Evans and reports to Marks.

452. By the time Plaintiff contacted McConnell, Plaintiff had been out of work for approximately five weeks; Hoffman had threatened to fire and hurt Plaintiff; Hoffman had attempted to fire another law clerk; Silver had denied Plaintiff's transfer request; Silver had stopped considering Plaintiff's job application; Porter had refused to communicate with Plaintiff in writing; DeSole had refused to address Plaintiff's employment-related matters; Plaintiff had submitted an 11-page complaint to DeSole; DeSole had demoted Plaintiff; Scarpulla, Silver, Reo, Porter, and DeSole had all severed contact with Plaintiff; Evans was refusing to respond to Plaintiff's communications; Plaintiff had been working in the Brooklyn law department for more than two weeks without any information about the status of her complaints, how her complaints were being handled, or the identity of the individuals who were handling her complaints; and Plaintiff was experiencing extreme distress.

453. Plaintiff, through her attorney, first contacted McConnell on December 13, 2017, and objected to the manner in which her harassment, discrimination, and retaliation complaints and employment matters were being handled by the court system.

454. McConnell did not respond.

455. Two days later, on December 15, 2017, Plaintiff was fired.

456. McConnell was one of the unidentified "principals" who directly handled, managed, and made decisions related to Plaintiff's complaints.

- a. Evans, DeSole, and Porter repeatedly stated, referred to, and indicated that they were being assigned, coordinated, and acting under the direction, management, and supervision of one or more undisclosed "principals" who were making decisions related to Plaintiff's complaints.

- b. When asked directly, Evans, DeSole, and Porter repeatedly refused to identify the “principals” handling Plaintiff’s complaints.
- c. On November 15, 2017, DeSole told Plaintiff that she was in communication with McConnell and previewed some of McConnell’s legal arguments in connection with Plaintiff’s complaints.
- d. On November 25, 2017, DeSole referred questions related to the handling of Plaintiff’s complaints to McConnell, who refused to respond personally and instead instructed Evans and Porter to redirect, obstruct, and suppress Plaintiff’s questions and communications.

457. On information and belief, McConnell repeatedly directed and coordinated the actions of Evans, DeSole, and Porter while refusing to identify himself.

458. Between December 13, 2017, and January 22, 2018, McConnell was directly addressed, copied on, and/or received on his work email account at least 19 written communications related to Plaintiff’s complaints and employment matters.

459. McConnell responded to only one of these communications, a December 21, 2017, email from Plaintiff to DiFiore describing and objecting to changes in the court system’s sexual harassment policy. McConnell’s reply, written on behalf of DiFiore, asserted that Plaintiff had been fired and that, in light of Plaintiff’s firing and “announced intention to litigate,” DiFiore would not respond to Plaintiff or discuss the court system’s sexual harassment policy outside of court.

460. McConnell otherwise refused to acknowledge or respond to any other communications related to Plaintiff’s complaints.

461. For example, McConnell refused to acknowledge or respond to communications reporting that Plaintiff had not received a response from anyone in the court system to any of her internal discrimination and harassment complaints for over two months; reporting that Plaintiff had been demoted and transferred to the Brooklyn law department after submitting an 11-page discrimination and harassment complaint to DeSole; reporting that Evans, DeSole, and Porter were refusing to respond to Plaintiff's communications; describing retaliation by Hoffman, Silver, Scarpulla, and DeSole; requesting that the court system stop ongoing retaliation against Plaintiff; describing Plaintiff as experiencing extreme distress; requesting the appointment of an outside investigator; requesting that the court system comply with basic standards and practices for handling harassment complaints and investigations; alleging that the court system was violating federal anti-discrimination law and its own sexual harassment and discrimination policies; and describing systemic failures and deficiencies in the court system's internal complaint process and employment practices.

462. McConnell was repeatedly informed that Plaintiff had been fired without any explanation or response on the part of the court system after she submitted an internal 11-page harassment, discrimination, and retaliation complaint.

463. McConnell repeatedly refused to adequately supervise and review the handling of Plaintiff's complaints.

464. McConnell ratified the court system's response to Plaintiff's harassment, discrimination, and retaliation complaints.

465. McConnell repeatedly attempted to block, suppress, and prevent Plaintiff from making and escalating her internal discrimination, harassment, and retaliation complaints. On information and belief, McConnell has a history and pattern of suppressing and preventing

harassment, discrimination, and/or retaliation complaints from reaching administrative judges and decision-makers within the court system.

466. On information and belief, McConnell is chiefly responsible for drafting the revision to the court system's sexual harassment policy described in Section V of this Complaint.

467. McConnell refused to perform the functions of Counsel to the New York State court system.

468. McConnell lacks the basic professional competence, adequate training, and/or good faith required to perform the functions of Counsel to the New York State court system. For example, McConnell repeatedly and intentionally ignored, failed to comply with, and refused to enforce the court system's sexual harassment and discrimination policies and repeatedly and intentionally violated numerous, widely known, and widely accepted standards and practices for handling sexual harassment and discrimination complaints. McConnell refused to respond to communications alleging that judges and court system personnel in Counsel's Office, the Office of the Inspector General, and the Division of Human Resources were violating federal anti-discrimination law. McConnell was ideally positioned to mitigate damages and prevent litigation against New York State but, instead, refused to identify himself and refused to represent the New York State court system in connection with impending litigation. In his sole correspondence with Plaintiff, McConnell openly cited, in writing, a retaliatory motive as the sole reason for DiFiore's refusal to communicate with Plaintiff.

Lawrence Marks

469. Lawrence Marks is the Chief Administrative Judge of the New York State court system. He oversees the day-to-day administration and operation of the entire New York State court system. Marks has been a New York State judge since approximately 2009.

470. Marks is responsible for a wide array of administrative functions enumerated in the New York State Constitution, the New York Judiciary Law, as well as the administrative rules, regulations, and policies of the court system. Most broadly, Article VI § 28(b) of the New York State Constitution states that Marks “shall supervise the administration and operation of the unified court system.”

471. Marks’s specific duties include, but are not limited to, enforcing the state-wide policies and standards of the New York State court system, 22 N.Y. Comp. Codes R. & Regs. § 80.1(b)(5); operating the Office of Court Administration and supervising its personnel, including DeSole, Porter, Evans, and McConnell, § 80.1(b)(8); supervising Silver in his capacity as Deputy Chief Administrative Judge, § 80.2(a)(1); appointing and removing various nonjudicial personnel, including attorneys in the court system’s law departments, § 80.1(b)(3); and approving transfers of nonjudicial employees, § 25.26(b)(6).

472. In addition, under the court system’s sexual harassment and discrimination policies, Marks is responsible for adjudicating appeals of administrative determinations made by the Deputy Chief Administrative Judge (Silver) pursuant to the internal investigations conducted by the Managing Inspector General for Bias Matters (Porter). *See, e.g., Sexual Harassment Policy and Procedure* 11 (2016) (effective through Nov. 2017) (Ex. A).

473. By the time Plaintiff contacted Marks, Plaintiff had been out of work for approximately five weeks; Hoffman had threatened to fire and hurt Plaintiff; Hoffman had attempted to fire another law clerk; Silver had denied Plaintiff’s transfer request; Silver had stopped considering Plaintiff’s job application; Porter had refused to communicate with Plaintiff in writing; DeSole had refused to address Plaintiff’s employment-related matters; Plaintiff had submitted an 11-page complaint to DeSole; DeSole had demoted Plaintiff; Scarpulla, Silver,

Reo, Porter, and DeSole had all severed contact with Plaintiff; Evans was refusing to respond to Plaintiff's communications; Plaintiff had been working in the Brooklyn law department for more than two weeks without any information about the status of her complaints, how her complaints were being handled, or the identity of the individuals who were handling her complaints; and Plaintiff was experiencing extreme distress.

474. Plaintiff, through her attorney, first contacted Marks on December 13, 2017, and objected to the manner in which her harassment, discrimination, and retaliation complaints and employment matters were being handled by the court system.

475. Marks did not respond.

476. Two days later, on December 15, 2017, Plaintiff was fired.

477. Marks was one of the unidentified "principals" who directly handled, managed, and made decisions related to Plaintiff's complaints.

- a. Evans, DeSole, and Porter repeatedly stated, referred to, and indicated that they were being assigned, coordinated, and acting under the direction, management, and supervision of one or more undisclosed "principals" who were making decisions related to Plaintiff's complaints.
- b. When asked directly, Evans, DeSole, and Porter repeatedly refused to identify the "principals" handling Plaintiff's complaints.
- c. On November 15, 2017, DeSole told Plaintiff that Marks would personally review her internal discrimination and harassment complaints. Once Plaintiff submitted an 11-page harassment, discrimination, and retaliation complaint against Hoffman, DeSole severed contact with Plaintiff and refused to identify Marks, or anyone else, as a decision-maker.

- d. Neither McConnell, Evans, DeSole, nor Porter have the authority to transfer or fire Plaintiff without Marks's approval.

478. On information and belief, on approximately November 24, 2017, Marks made and/or approved the decision to demote and transfer Plaintiff to the Brooklyn law department.

479. On information and belief, on approximately December 15, 2017, Marks made and/or approved the decision to fire Plaintiff.

480. Between December 13, 2017, and January 22, 2018, Marks was directly addressed, copied on, and/or received on his work email account at least 20 written communications related to Plaintiff's complaints and employment matters.

481. Marks refused to respond to any of these communications.

482. For example, Marks refused to acknowledge or respond to communications reporting that Plaintiff had not received a response from anyone in the court system to any of her internal discrimination and harassment complaints for over two months; reporting that Plaintiff had been demoted and transferred to the Brooklyn law department after submitting an 11-page discrimination and harassment complaint to DeSole; reporting that McConnell, Evans, DeSole, and Porter were refusing to respond to Plaintiff's communications; describing retaliation by Hoffman, Silver, Scarpulla, and DeSole; requesting that the court system stop ongoing retaliation against Plaintiff; describing Plaintiff as experiencing extreme distress; requesting the appointment of an outside investigator; requesting that the court system comply with basic standards and practices for handling harassment complaints and investigations; alleging that the court system was violating federal anti-discrimination law and its own sexual harassment and discrimination policies; and describing systemic failures and deficiencies in the court system's internal complaint process and employment practices.

483. Marks was repeatedly informed that Plaintiff had been fired without any explanation or response on the part of the court system after she submitted an internal 11-page harassment, discrimination, and retaliation complaint.

484. Marks repeatedly refused to supervise and review the handling of Plaintiff's complaints.

485. Marks ratified the court system's response to Plaintiff's harassment, discrimination, and retaliation complaints.

486. On approximately December 1, 2017, while handling Plaintiff's complaints, Marks promulgated a revision to the court system's official sexual harassment policy. Nearly all of the changes to the policy were deletions. In total, Marks deleted approximately half of the court system's state-wide sexual harassment policy. The revisions were made approximately nine days after Plaintiff submitted an 11-page complaint supporting claims for sex-based harassment, discrimination, and retaliation by Hoffman. *See infra* Section V.

487. All of the revisions to the court system's sexual harassment policy were related either to the substance of Plaintiff's complaints or to the manner in which Plaintiff reported or pursued her complaints. On information and belief, Marks revised the court system's state-wide sexual harassment policy directly in response to Plaintiff's complaints.

488. On information and belief, Marks revised the court system's state-wide sexual harassment policy in secret, unilaterally, without process, without input from employees, and without the benefit of adequate internal or external expertise. Marks lacks the authority to unilaterally revise the court system's state-wide sexual harassment policy and did so in violation of Article VI § 28(c) of the New York State constitution and in violation of § 211(1)-(2) of the New York Judiciary Law.

489. Marks refused to perform the functions of the Chief Administrative Judge of the New York State court system.

490. Marks lacks the basic professional competence, adequate training, and/or good faith required to perform the functions of Chief Administrative Judge of the New York State court system. For example, Marks repeatedly and intentionally ignored, failed to comply with, and refused to enforce the court system's sexual harassment and discrimination policies; refused to respond to communications by a law clerk who alleged that she had been fired without a response after submitting written sex- and race-based harassment and discrimination complaints against a judge; and unilaterally and in secret deleted nearly half of the court system's sexual harassment policy – including all references to law – in the midst of broad, national attention to the problem of sex-based harassment in the workplace. On information and belief, Marks is the only government official in the entire country to make comparable changes to the sexual harassment policy of an entire branch of government within this past year.

Janet DiFiore

491. Janet DiFiore is the Chief Judge of the State of New York. In that position, DiFiore serves as both the Chief Judicial Officer of New York State and as the Chief Judge of the Court of Appeals.

492. DiFiore's administrative, supervisory, and oversight responsibilities are enumerated in the New York State Constitution, the New York Judiciary Law, and the administrative rules, regulations, and policies of the court system.

493. Under Article VI § 28(c) of the New York State Constitution, DiFiore is responsible for establishing the court system's state-wide standards and administrative policies,

subject to consultation with the court system's Administrative Board and the approval of the Court of Appeals.

494. Under Article VI § 28(a) of the New York State Constitution, DiFiore is responsible for supervising Marks in his capacity as Chief Administrative Judge.

495. By the time Plaintiff contacted DiFiore, Plaintiff had been out of work for approximately five weeks; Hoffman had threatened to fire and hurt Plaintiff; Hoffman had attempted to fire another law clerk; Silver had denied Plaintiff's transfer request; Silver had stopped considering Plaintiff's job application; Porter had refused to communicate with Plaintiff in writing; DeSole had refused to address Plaintiff's employment-related matters; Plaintiff had submitted an 11-page complaint to DeSole; DeSole had demoted Plaintiff; Scarpulla, Silver, Reo, Porter, and DeSole had all severed contact with Plaintiff; Evans had refused to respond to Plaintiff's communications; Plaintiff had worked in the Brooklyn law department for three weeks without any information about the status of her complaints, how her complaints were being handled, or the identity of the individuals who were handling her complaints; Plaintiff had been experiencing extreme distress; Marks and McConnell had refused to respond to Plaintiff's communications; Marks had deleted approximately half of the court system's sexual harassment policy; and Plaintiff had been fired by unidentified court system "principals" without any explanation or response to any of her internal discrimination, harassment, and retaliation complaints.

496. Between December 21, 2017, and March 7, 2018, DiFiore was directly addressed, copied on, and/or received on her work email account at least 11 written communications related to Plaintiff's complaints and employment matters.

497. DiFiore refused to respond to any of these communications.

498. For example, DiFiore refused to acknowledge or respond to communications describing and opposing revisions to the court system's sexual harassment policy; reporting that Plaintiff had been fired without any explanation or response on the part of the court system after she had made internal discrimination and harassment complaints about a judge; reporting that Plaintiff had been threatened, denied a transfer, denied job opportunities, demoted, and encouraged to resign after making internal bias complaints; reporting that Plaintiff's complaints had been made throughout the court system's entire administrative structure but that she had received no response; reporting that Plaintiff had been a law clerk in New York State court system for five years; appealing to DiFiore to intervene; requesting that DiFiore supervise Marks and McConnell; objecting to DiFiore's refusal to respond; alleging that the court system has no functioning process for responding to harassment and discrimination complaints against judges; alleging that the internal complaint process managed by the court system's Chief Administrative Judge, Counsel's Office, Inspector General's Office, and Director of Human Resources results in knowing and intentional legal violations; alleging that the court system has a pattern and practice of intentionally suppressing complaints and that this conduct is harmful to the court system, its employees, and the public; requesting that DiFiore and the Court of Appeals conduct a comprehensive review of the court system's internal complaint process; asking whether DiFiore and the Court of Appeals had reviewed and approved the revisions to the court system's sexual harassment policy; asking why DiFiore and the Court of Appeals were refusing to respond; asking who within the court system had authority to address any of these issues; and offering to provide additional information.

499. DiFiore was repeatedly informed that Plaintiff had been fired without any explanation or response on the part of the court system after submitting an 11-page harassment, discrimination, and retaliation complaint against Hoffman.

500. DiFiore was repeatedly asked, and repeatedly refused, to review and supervise the handling of Plaintiff's complaints.

501. DiFiore was repeatedly asked, and repeatedly refused, to review and supervise the conduct of Marks and McConnell.

502. DiFiore was repeatedly informed about systemic problems in the court system's internal complaint process.

503. On information and belief, DiFiore was aware of specific allegations and/or indications that other internal discrimination, harassment and retaliation complaints were being suppressed or mishandled by court system administrators.

504. DiFiore was repeatedly asked about the revision to the court system's state-wide sexual harassment policy and was repeatedly informed that nearly half of the court system's sexual harassment policy had been deleted. *See infra* Section V. It is unclear whether DiFiore was aware of the revision, whether she approved the revision, whether she consulted the court system's Administrative Board, whether she submitted the revised sexual harassment policy to the Court of Appeals for approval, or whether she otherwise complied with Article VI § 28(c) of the New York State Constitution. DiFiore refused to answer any questions related to the court system's sexual harassment policy.

505. On December 22, 2017, McConnell responded to an email addressed to DiFiore describing and opposing the revision to the court system's sexual harassment policy. McConnell's reply, written on behalf of DiFiore, asserted that Plaintiff had been fired and that, in

light of Plaintiff's firing and "announced intention to litigate," DiFiore would not respond to Plaintiff or discuss the court system's sexual harassment policy outside of court.

506. DiFiore was made aware of McConnell's response.

507. On February 13, 2018, John Asiello, Chief Clerk and legal counsel to the Court of Appeals, responded to an email addressed to the members of the Court of Appeals regarding the court system's response to Plaintiff's harassment, discrimination, and retaliation complaints and the revision to the court system's sexual harassment policy. Asiello's reply, written on behalf of the members of the Court of Appeals including DiFiore, cited to Rule 500.1[n] of the Court of Appeals' Rules of Practice (court filings may not be addressed directly to judges or submitted through electronic email), and stated that any further attempts to contact DiFiore and the members of the Court of Appeals "would be improper" and "would not be accepted or acknowledged."

508. DiFiore was made aware of Asiello's response.

509. DiFiore was repeatedly informed that she was being addressed in her supervisory and oversight capacity and not as part of a legal filing. She did not respond.

510. DiFiore ratified the court system's response to Plaintiff's harassment, discrimination, and retaliation complaints.

511. DiFiore refused to perform the functions of the Chief Judge of the State of New York.

512. DiFiore lacks the basic professional competence, adequate training, and/or good faith required to perform the functions of Chief Administrative Judge of the New York State court system. For example, DiFiore refused to respond to communications alleging that a law clerk had been fired without any explanation or response on the part of the court system after

submitting a sex- and race-based harassment, discrimination, and retaliation complaint against a judge. She refused to respond to communications alleging legal violations by the court system's Chief Administrative Judge and the court system's Counsel. She refused to respond to communications describing systemic failures in the court system's internal bias complaint process. She approved and/or retroactively ratified a retaliatory deletion of nearly half of the court system's sexual harassment policy in the midst of broad, national attention to the problem of sex-based harassment in the workplace. She was unwilling to publicly defend the court system's revised sexual harassment policy yet allowed it to persist and continue affecting over 18,000 state employees.

513. On August 22, 2018, in response to a call for independent oversight over the New York State judiciary, Lucian Chalfen, Director of Public Information for the New York State court system, asserted in the press that DiFiore already functions as an independent monitor: "The State Court system already has an overseer, the chief judge." Chalfen added, "And it is interesting that they want an independent oversight commission when it's been this chief judge who is changing the status quo and has held both judicial and nonjudicial managers accountable for their actions and the actions of their staff."

Eugene Fahey, Paul Feinman, Michael Garcia, Jenny Rivera,

Leslie Stein, and Rowan Wilson

514. Eugene Fahey, Paul Feinman, Michael Garcia, Jenny Rivera, Leslie Stein, and Rowan Wilson ("Fahey et al.") are Associate Judges on the Court of Appeals, New York State's highest court.

515. Fahey et al. exercise administrative, supervisory, and oversight functions within the New York State court system pursuant to numerous legal rules and institutional norms,

including provisions of the New York State Constitution, multiple provisions of the New York Rules of Judicial Conduct, the court system's sexual harassment and discrimination policies, and their institutional positions as judges on the New York Court of Appeals. For example, under Article VI § 28(c) of the New York State Constitution, Fahey et al. are responsible for reviewing and approving the court system's state-wide standards and administrative policies.

516. By the time Plaintiff contacted Fahey et al., Plaintiff had been out of work for approximately five weeks; Hoffman had threatened to fire and hurt Plaintiff; Hoffman had attempted to fire another law clerk; Silver had denied Plaintiff's transfer request; Silver had stopped considering Plaintiff's job application; Porter had refused to communicate with Plaintiff in writing; DeSole had refused to address Plaintiff's employment-related matters; Plaintiff had submitted an 11-page complaint to DeSole; DeSole had demoted Plaintiff; Scarpulla, Silver, Reo, Porter, and DeSole had all severed contact with Plaintiff; Evans had refused to respond to Plaintiff's communications; Plaintiff had worked in the Brooklyn law department for three weeks without any information about the status of her complaints, how her complaints were being handled, or the identity of the individuals who were handling her complaints; Plaintiff had been experiencing extreme distress; Marks and McConnell had refused to respond to Plaintiff's communications; Marks had deleted approximately half of the court system's sexual harassment policy; Plaintiff had been fired by unidentified court system "principals" without any explanation or response to any of her internal discrimination, harassment, and retaliation complaints; and DiFiore had refused to respond to Plaintiff's communications.

517. Between January 22, 2018, and March 7, 2018, Fahey et al. were directly addressed, copied on, and/or received on their work email accounts at least 6 separate written communications related to Plaintiff's complaints and employment matters.

518. Fahey et al. refused to respond to any of these communications.

519. For example, Fahey et al. refused to acknowledge or respond to communications describing and opposing revisions to the court system's sexual harassment policy; reporting that Plaintiff had been fired without any explanation or response on the part of the court system after she had made internal discrimination and harassment complaints about a judge; reporting that Plaintiff had been threatened, denied a transfer, denied job opportunities, demoted, and encouraged to resign after making internal bias complaints; reporting that Plaintiff had been a law clerk in New York State court system for five years; reporting that DiFiore was refusing to respond to Plaintiff's communications and complaints; appealing to Fahey et al. to intervene; alleging that the court system has no functioning process for responding to harassment and discrimination complaints against judges; alleging that the internal complaint process managed by the court system's Chief Administrative Judge, Counsel's Office, Inspector General's Office, and Director of Human Resources results in knowing and intentional legal violations; alleging that the court system has a pattern and practice of intentionally suppressing complaints and that this conduct is harmful to the court system, its employees, and the public; requesting a comprehensive review of the court system's internal complaint process; asking whether Fahey et al. had reviewed and approved the revisions to the court system's sexual harassment policy; asking why Fahey et al. were refusing to respond; asking who within the court system had authority to address any of these issues; and offering to provide additional information.

520. Fahey et al. were repeatedly informed that Plaintiff had been fired without any explanation or response on the part of the court system after submitting an 11-page harassment, discrimination, and retaliation complaint against a sitting judge.

521. Fahey et al. were repeatedly informed that DiFiore was refusing to respond to Plaintiff's communications and complaints.

522. Fahey et al. were repeatedly asked, and repeatedly refused, to review and supervise the handling of Plaintiff's complaints.

523. Fahey et al. were repeatedly asked, and repeatedly refused, to review and supervise the conduct of DiFiore and Marks.

524. Fahey et al. were repeatedly informed about systemic problems in the court system's internal complaint process.

525. Fahey et al. were repeatedly asked about the revision to the court system's state-wide sexual harassment policy and were repeatedly informed that nearly half of the court system's sexual harassment policy had been deleted. *See infra* Section V. It is unclear whether Fahey et al. were aware of the revision, whether they had reviewed the revision, whether they had approved the revision, or whether they otherwise complied with and fulfilled their duties under Article VI § 28(c) of the New York Constitution. Fahey et al. refused to answer any questions related to the court system's sexual harassment policy.

526. On February 13, 2018, John Asiello, Chief Clerk and legal counsel to the Court of Appeals, responded to an email addressed to Fahey et al. regarding the court system's response to Plaintiff's harassment, discrimination, and retaliation complaints and the revision to the court system's sexual harassment policy. Asiello's reply, written on behalf of Fahey et al., cited to Rule 500.1[n] of the Court of Appeals' Rules of Practice (court filings may not be addressed directly to judges or submitted through electronic email), and stated that any further attempts to contact Fahey et al. "would be improper" and "would not be accepted or acknowledged."

527. Fahey et al. were made aware of Asiello's response.

528. Fahey et al. were repeatedly informed that they were being addressed in their supervisory and oversight capacities and not as part of a legal filing. Fahey et al. did not respond.

529. Fahey et al. ratified the court system's response to Plaintiff's harassment, discrimination, and retaliation complaints.

530. Fahey et al. refused to perform the functions of Associate Judges of the New York Court of Appeals.

Lori Sattler

531. Lori Sattler is an elected Justice serving in the Matrimonial Division of New York Supreme Court. She has been a New York State judge since approximately 2007.

532. Sattler was supervised by Hoffman in Family Court.

533. Sattler knew that Hoffman had a history and habit of harassing subordinate female employees, mistreating subordinate female employees, and employing female government attorneys as personal assistants and companions.

534. In August and September 2017, Sattler fraudulently induced Plaintiff to accept the job as Hoffman's principal court attorney. Through other judges, Sattler informed Plaintiff about the opening for Hoffman's principal court attorney position and lobbied aggressively for Plaintiff to accept the position. She expressed a strong interest in Plaintiff accepting the position, urged that Plaintiff accept the position, and asked repeatedly whether Plaintiff was going to accept the position.

535. Sattler told another court system employee that she was looking for someone "very nice" to become Hoffman's principal court attorney.

536. On October 18, 2017, Hoffman threatened to fire Plaintiff, threatened to have her escorted from the building immediately, threatened to hurt her, and repeatedly demanded her silence as a condition of her continued employment. On information and belief, Sattler was aware of, condoned, did not report, withheld information about, and did not intervene to stop Hoffman's conduct.

537. In the week of October 23, 2017, Hoffman was involved in an altercation with another female law clerk. Hoffman attempted to fire the law clerk, took away her keys, told her that she would not have a job, and angrily complained about the staff's "civil service mentality." He later instructed the law clerk to return to his chambers as if nothing had happened. When the law clerk complained to Sattler about Hoffman, Sattler condoned, did not report, and did not intervene to stop Hoffman's conduct. She pressured the law clerk to stay with Hoffman, saying, approximately: "He doesn't have anyone to answer the phone right now. It's very hard on him."

V. RETALIATORY REVISION OF THE COURT SYSTEM'S SEXUAL HARASSMENT POLICY

538. The New York State court system's Sexual Harassment Policy and Procedure applies to more than 18,000 public employees in over 300 locations across the state.

539. The policy establishes standards of conduct, outlines remedial procedures, describes avenues of complaint, provides information and guidance to employees, and represents the court system's mission statement and commitment to addressing sexual harassment in the workplace.

540. On approximately December 1, 2017 – nine days after Plaintiff submitted an 11-page complaint supporting claims for sex-based harassment, discrimination, and retaliation by

Hoffman – Marks promulgated a revised sexual harassment policy. *See Sexual Harassment Policy and Procedure* (2017) (Ex. B).

541. All of the revisions to the court system’s sexual harassment policy were related either to the substance of Plaintiff’s complaints or to the manner in which Plaintiff reported or pursued her complaints.

542. Nearly all of the revisions were deletions. Numerous sections of the policy were deleted outright. Other sections were reduced to a few vague sentences. In total, Marks deleted approximately half of the court system’s state-wide sexual harassment policy.

543. The revision was not announced. The existing policy was simply removed from the court system’s website. On December 1, 2017, Silver sent out a system-wide memo “to remind all members of the UCS community of our policy on sexual harassment.” The memo contained a link to the revised policy but no indication that the policy had changed.

544. The revisions to the policy include, but are not limited to:

545. All statements that sexual harassment is illegal were deleted. All references to federal, state, and local law were deleted. All instances of the words “law,” “outlaw,” “lawful,” “legal,” and “illegal” were deleted. *Compare* Ex. A at 2, 3, 4, 13 *with* Ex. B.

546. The full definition of workplace sexual harassment – as set forth in federal regulations and cited in case law – was deleted. It was replaced with an inaccurate and incomplete definition limited to hostile work environment harassment. *Compare* Ex. A at 4 *with* Ex. B at 1; *see also* 29 C.F.R. § 1604.11(a) (2017).

547. Examples of subtler forms of physical and non-physical harassment were deleted (e.g., putting an arm around a shoulder when work is reviewed; finding excuses to brush against someone; frequent inquiries about sexual or social life; attempts to turn work discussions to

sexual topics; pressure for lunch, dinner, or social encounters; refusing to take seriously requests to stop unwanted behaviors). *Compare* Ex. A at 4-5 *with* Ex. B at 1-2.

548. Examples of overt physical harassment and assault were added (e.g., physical violence, sexual assault, patting, pinching, stroking, and fondling). *Id.*

549. Duplicate examples of overt physical harassment were added for emphasis or as padding (e.g., physical contact, touching, and pinching). *See* Ex. B at 1.

550. An entire section encouraging employees to come forward with complaints was deleted. *Compare* Ex. A at 14 (“I am not interested in causing trouble, either for myself or for the court system, but I don’t like being harassed. Is making a complaint the right thing to do?”) *with* Ex. B (section deleted).

551. Two entire sections on seeking help from supervisors were deleted. All statements regarding supervisors’ obligations – to implement and enforce the policy and to help employees subject to harassment – were deleted. Statements encouraging employees to approach supervisors were deleted. *Compare* Ex. A at 7-8 (“Is approaching my supervisor a good idea?” and “May I choose another supervisor or manager I think would be helpful and discuss the problem with him or her?”) *with* Ex. B (sections deleted).

552. An entire section encouraging employees to address sexual harassment early was deleted. Statements explaining that harassment may become worse if it is not addressed and encouraging employees to act before harassment becomes severe enough to support a legal claim were deleted. *Compare* Ex. A at 5 (“How bad must sexually harassing behavior be before I do something about it?”) *with* Ex. B (section deleted).

553. An entire section providing guidance for interacting with the harasser was deleted. Advice on communicating directly with the harasser, describing the problematic behavior with

specificity, and stating that the behavior is unwelcome was deleted. Advice on using writing to communicate with the harasser was deleted. Advice on the potential challenges of confronting the harasser and the availability of other forms of help was deleted. *Compare* Ex. A at 7 (“How do I let the harasser know that the behavior is unwelcome?”) *with* Ex. B (section deleted).

554. A statement recognizing that sexual harassment may be subtle or direct was deleted. *Compare* Ex. A at 4 (“Sexually harassing behavior may be subtle or direct...”) *with* Ex. B (statement deleted).

555. All statements recognizing that sexual harassment may result in harmful employment-related consequences – e.g., the potential for sexual harassment to influence employment decisions, impact an employee’s work life, or affect the employee’s job performance – were deleted. In general, the effects and relationship between sexual harassment and employment – i.e., the “workplace” component of workplace sexual harassment – were deemphasized throughout. *Compare* Ex. A at 4, 13 *with* Ex. B at 1, 6.

556. Statements advising employees to document the steps they have taken to stop harassment and what happens in response to complaints were deleted. *Compare* Ex. A at 6-7 (“What kind of records should I keep and how will it help?”) *with* Ex. B at 3.

557. An entire section on retaliation was deleted and replaced with two sentences. For example, the following paragraphs were deleted:

The laws and policies that outlaw sexual harassment also outlaw retaliation against people who report or make complaints about harassment. Any harmful action affecting you as an employee that is taken because you have reported sexual harassment or any other kind of discrimination, either informally or through the formal complaint process, is absolutely forbidden. It does not matter whether the action was taken by a supervisor or a co-worker, the person you complained about or someone else. It is illegal.

If you think that someone might retaliate against you – for example, that you might be fired, transferred, or evaluated unfairly if you complain – you should tell

the person you first approach about your concerns. If someone does retaliate, you should go immediately to a supervisor or manager, an Anti-Discrimination Panel member, or the Office of the Managing Inspector General For Bias Matters. The same process used for investigating discrimination charges will be used for handling the retaliation complaint.

And replaced with:

The Unified Court System’s policy is to protect employees against retaliation for making a complaint.

Compare Ex. A at 13 (“I am afraid that if I complain I will be treated unfairly or even fired. Do I have any protection?”) *with* Ex. B at 6 (“If I file a complaint, how do I know I will not be treated unfairly?”).

558. Retaliation is not further defined in the revised policy. A clear statement that a complainant may receive a favorable determination on retaliation “even if the Unified Court System decides your harassment complaint does not have merit” was deleted. *Id.*

559. Multiple avenues of complaint, including all informal avenues of complaint, appear to have been eliminated entirely. The preface to the revised policy mentions “informal” procedures but no such procedures are described within the policy itself. *See* Ex. B at ii. All other uses of the word “informal” were deleted. All uses of the words “option” and “options” were deleted. An entire section on the court system’s Anti-Discrimination Panel program – created to serve as a distinct avenue of complaint and a source of information and advice for employees – was deleted. *Compare* Ex. A at 8-9 (“How can the Unified Court System’s Anti-Discrimination Panels help me?”) *with* Ex. B (section deleted). Brief suggestions to approach supervisors remain, but the revised policy provides no guidance to supervisors except to redirect formal written complaints to the Office of the Inspector General. *Compare* Ex. A at 5-9 *with* Ex. B at 2-3. A new mention of a Work-Safe Office was added, but that office is not described. Ex.

B at 2. From the court system’s website, it appears that the Work-Safe Office deals primarily with workplace safety and violence. Its functions, procedures, and responsibilities are unclear, and it seems to exist primarily to redirect complaints to other offices, presumably including to the Office of the Inspector General. *Work-Safe Office*, New York Courts, <https://www.nycourts.gov/ip/work-safe/index.shtml> (last updated Nov. 28, 2017). In short, under the revised policy, all avenues of complaint, formal or informal, regardless of where they originate, appear to lead to the Office of the Inspector General.

560. Statements related to confidentiality, and the court system’s commitment to maintaining the confidentiality of complaining employees, were deleted. *Compare* Ex. A at 12 (“I want to keep this as quiet as possible. Do I have a right to expect that my complaint will be treated confidentially?”) *with* Ex. B at 6.

561. The phrase “On behalf of the court system...” was deleted from the introductory preface signed by Marks. *Compare* Ex. A at 2 *with* Ex. B at ii.

562. On information and belief, the policy was revised unilaterally by Marks and McConnell in secret, without any formal deliberative process, without notice, without comment, and without the benefit of any internal or external expertise on workplace sexual harassment.

563. On information and belief, the revised policy was promulgated unilaterally by Marks without further oversight or approval.

564. On information and belief, the revised policy was not approved by the New York Court of Appeals. N.Y. Const. art. VI, § 28(c) (promulgation of a state-wide administrative policy in the judicial branch requires approval by the Court of Appeals). All members of the New York Court of Appeals refused to answer questions about the revision to the court system’s sexual harassment policy. *See supra* Fahey et al.

565. On information and belief, DiFiore did not consult with the court system's Administrative Board and did not submit the revised state-wide policy for approval by the Court of Appeals. *See* N.Y. Const. art. VI, § 28(c). DiFiore refused to answer questions regarding the policy and asserted, through McConnell, that the appropriate forum for discussion of the court system's sexual harassment policy was in court. *See supra* Janet DiFiore.

566. On information and belief, as of today, no court system official has announced that the court system's state-wide sexual harassment policy has been revised or explained the nature of the revision.

567. The revised policy document is marked "Revised 11-17." Ex. B at i.

568. The document contains no indication of the nature of any of the revisions.

569. The document's metadata indicates that it was last modified on December 5, 2017. On information and belief, additional changes to the policy were made between December 1, 2017, and December 5, 2017.

570. On information and belief, the court system's state-wide sexual harassment policy was revised directly in response to Plaintiff's complaints about Hoffman and the manner in which Plaintiff reported or pursued those complaints.

571. On information and belief, in the midst of broad, national attention to the problem of sex-based harassment in the workplace, Marks is the only government official in the entire country to make comparable changes to the sexual harassment policy of an entire branch of government.

572. DiFiore and Fahey et al. have allowed the revision of the New York State court system's sexual harassment policy to persist, without comment, for over 11 months.

573. As of the filing of this Amended Complaint, the New York State court system's Sexual Harassment Policy and Procedure is in violation of New York Labor Law § 201-g, mandating minimum standards for sexual harassment policies by New York State employers.

VI. SYSTEMIC DISCRIMINATION AND RETALIATION IN THE NEW YORK STATE COURT SYSTEM

574. The named Defendants include the chief executives and administrators of the New York judiciary who are responsible for setting and enforcing the policies and procedures of an entire branch of state government. Their conduct is inherently systemic, egregious, and best understood in the specific institutional context of the New York State court system.

Longstanding Notice

575. For at least three decades, court system administrators have been on continuous notice of unlawful employment practices within the New York State court system, including persistent gender-based discrimination, harassment, and retaliation, but have intentionally failed to take adequate corrective action.

576. In 1986, following an extensive and wide-ranging 22-month investigation, a special task force created to examine gender bias in the New York State court system reported widespread sex-based discrimination in virtually all aspects of the culture and operation of the court system.

577. In a disturbing 313-page report, the task force described pervasive gender bias in the court system's hiring practices, judicial decision-making, and judicial conduct, as well as persistent mistreatment of female litigants, attorneys, and court employees. *See Report of the New York Task Force on Women in the Courts*, 15 Fordham Urb. L. J. 1 (1986).

578. The task force report led to the creation of the New York Judicial Committee of Women in the Courts, a standing committee charged with implementing the report's recommendations and working to eliminate gender bias in the court system.

579. Regarding workplace sexual harassment among court system employees, the task force and committee made a number of findings, including:

- a. many female court system employees were unaware that sexual harassment in the workplace is illegal;
- b. many female court system employees did not know where to make complaints about sexual harassment;
- c. some female court system employees experienced sexual harassment so frequently that they perceived it as an unavoidable part of their job;
- d. some female court system employees experienced incidents of sexual harassment they considered "not serious" because supervisors who were notified put a stop to the harassment by talking to the perpetrator;
- e. some female court system employees experienced incidents of sexual harassment they considered "serious" because supervisors who were notified were unwilling to force the issue and make the perpetrator stop;
- f. some female court system employees feared retaliation, including being fired, for objecting to inappropriate gender-based requests and conduct by judges and supervisors; and
- g. court system employees experiencing sexual harassment were reluctant to come forward with complaints even if the harassment caused them great distress.

580. In the 1990s, in response to these findings, the Committee on Women in the Courts, with assistance from external institutions, developed several initiatives to address workplace harassment in the New York State court system, including:

- a. introduction and distribution of the court system's first sexual harassment policy;
- b. introduction of a formal complaint procedure for addressing internal discrimination and harassment complaints, including provisions for internal investigations, notice requirements, written final determinations, systemic remedies, and internal review and appeals;
- c. introduction of several informal complaint avenues, including access to local supervisors and an Anti-Discrimination Panel program staffed with trained employees who could provide advice or act as intermediaries on behalf of employees; and
- d. introduction of training and education programs related to gender bias and sexual harassment for judges, supervisors, and non-judicial employees.

581. In 2002, the Committee on Women in the Courts issued its last state-wide report and, for the most part, delegated its work to local committees.

582. Over the past two decades, each of the above initiatives have been gradually undermined and dismantled as a result of institutional hostility, sustained neglect, and deliberate indifference on the part of court system administrators:

- a. The last substantive revision to the court system's sexual harassment policy occurred in approximately 1999. Subsequently, the policy was not

updated or revised for approximately 18 years until Marks simply deleted half of it in December 2017.

- b. None of the purported formal or informal complaint procedures described in the court system's written policies are observed, enforced, or even acknowledged by administrators responsible for handling internal complaints. These procedures have been supplanted by an array of administrative practices used to suppress complaints and retaliate against complaining employees. *See infra* Current Practices.
- c. The court system's Anti-Discrimination Panels have not been staffed, maintained, or publicized. Plaintiff was not aware of the Anti-Discrimination panel program during her five years in the court system. All references to the program were removed from the court system's sexual harassment policy in December 2017.
- d. Training and educational programs related to gender bias and sexual harassment were either greatly diminished or were eliminated entirely. Plaintiff was not aware of and received no notice of any such programs during her five years in the court system.

583. The New York State court system has been continuously put on notice of recurring and persistent unlawful discrimination, harassment, and retaliation by judges and other court system officials.

584. Over the past two decades, the court system has been subject to numerous internal complaints and litigation by employees and former employees alleging discrimination, harassment, and retaliation. These cases have repeatedly exposed common patterns of willful

blindness, suppression, retaliation, and mishandling of employee complaints by court system supervisors and administrators.

585. The New York State court system has been aware and continuously reminded for decades that supervisors and administrative judges ignore, suppress, retaliate, and fail to respond appropriately to internal discrimination and harassment complaints.

586. In addition, the court system is aware of the presence of numerous widely-recognized risk factors related to workplace harassment, including but not limited to: highly isolated working environments; highly decentralized or nonexistent management structure; large power disparities between supervisors and subordinates; workplace codes of secrecy and confidentiality; high procedural barriers to disciplining judges and other “high value” public officials; public indemnification for tort liability by judges and other public officials; and large classes of subordinate employees who are highly vulnerable to economic and reputational coercion.

587. Despite continuous and longstanding notice, the court system has failed to take adequate corrective action and has actively obstructed, undermined, and dismantled specific initiatives to address workplace harassment or improve internal complaint procedures, accountability, and legal compliance.

588. Today, the court system is led by administrators who, as a matter of policy, have knowingly and intentionally reverted efforts to address workplace harassment in the New York judiciary. *See supra* Section V.

589. In March 2018, over 30 years after the original task force report, the Committee on Women in the Courts issued a brief statement recognizing sexual harassment as an area that was “not previously addressed” by the New York State court system.

Current Practices

590. The New York State court system has a policy and custom of ignoring, suppressing, and retaliating against employees who oppose unlawful discrimination, harassment, and retaliation by judges and other highly placed or politically connected personnel.

591. This policy and custom is implemented and condoned at all levels, including by (a) local court system managers and supervisors; (b) the central offices directly responsible for handling employee discrimination, harassment, and retaliation complaints; and (c) the executives and policymakers of the New York State court system.

592. Notably, the court system's internal complaint process does not operate to neutrally evaluate and resolve employee complaints. Instead, when an employee reports misconduct, discrimination, harassment, or retaliation by a judge or other highly placed or politically connected personnel, the offices and administrators responsible for handling such complaints – and for supervising employees in general – work to suppress the complaint and to facilitate retaliation against the employee.

593. As a result, unlawful employment practices by highly placed and politically connected personnel are tolerated and condoned. Widely-known standards and practices for handling internal discrimination, harassment, and retaliation complaints – and the court system's own written policies and procedures – are routinely violated or ignored.

594. The New York State court system responds to internal employee complaints about highly placed or politically connected personnel, approximately, as follows:

- a. from the outset, local supervisors and managers ignore, suppress, and retaliate against the complaining employee;

- b. if the complaining employee persists, the court system misuses the very offices responsible for handling internal discrimination complaints – the Office of the Inspector General, Counsel’s Office, and the Division of Human Resources – to take control of, conceal, and bury the employee’s complaint, to conduct sham investigations, to prepare secret and fraudulent reports justifying retaliatory actions against the employee, and to prepare for litigation against the employee; and
- c. the highest-level executives and policymakers of the court system condone this conduct and intentionally refuse to supervise and monitor the handling of internal discrimination, harassment, and retaliation complaints by local supervisors and managers, the Office of the Inspector General, Counsel’s Office, and the Division of Human Resources.

595. Plaintiff exhausted and documented the entirety of the New York State court system’s internal discrimination, harassment, and retaliation complaint process. It is non-existent.

596. In its place are a myriad of administrative techniques, institutional practices, and conduct by court system officials employed separately and in various combinations to ignore, suppress, and retaliate against complaining employees.

597. The following is a partial summary of some of the widespread conduct and numerous administrative practices that comprise, implement, and evidence the New York State court system’s policy and custom:

598. First, local court system supervisors and managers ignore, minimize, and dismiss complaints about discrimination, harassment, and retaliation by highly placed officials. Judges

and supervisors turn a blind eye to obvious indicators of discrimination and harassment (e.g., “I don’t want to know what happened,” “I don’t want to intervene”), immediately recharacterize specific incidents as ordinary workplace friction (e.g., “incompatibility,” “professional mismatch”), or directly minimize specific factual allegations and reports (e.g., “he just wants a best friend,” “he didn’t try to fire her,” “he was confused”).

599. Second, employees who persist in opposing discrimination and harassment by highly placed officials are repeatedly subjected to various forms of retaliation designed to intimidate the employee, deter further complaints, and pressure the employee to resign – e.g., ostracizing the employee, threatening adverse employment actions against the employee, withholding employment information from the employee, denying employment opportunities to the employee, terminating professional relationships with the employee, adversely modifying the employee’s work assignments, denying the employee’s transfer requests, involuntarily transferring the employee, etc.

600. Third, attempts by the complaining employee to protect themselves from retaliation are treated as evidence that the employee wishes to drop their complaints, is being uncooperative, is not being forthcoming, or is not participating in the complaint process. For example, expressing concerns about retaliation or the complaint process is described as “not interested in pursuing a complaint.” Requests to document the complaint process are described as “declining to participate in an investigation.” Asking for additional time to make a decision is described as “declining to meet with me.”

601. Fourth, officials at all levels of the New York State court system – policymakers, supervisors, officials who handle complaints – ignore and deliberately refuse to respond to

complaints of unlawful retaliation. No remedial steps are taken to stop or prevent retaliation against the complaining employee.

602. In particular, no one in the entire New York State court system acknowledges or responds to complaints of unlawful retaliation by the officials who handle discrimination, harassment, and retaliation complaints. For example, McConnell, Evans, Porter, DeSole, Silver, and Marks, are each ideally positioned to retaliate against complaining employees, yet each is immune to complaints of retaliation and appears to be exempt from any internal monitoring and supervision.

603. Fifth, court system officials who handle complaints deliberately evade supervision by, for example, refusing to state whether they are being supervised, refusing to identify supervisors, directly blocking access to supervisors, refusing to escalate complaints, and explicitly instructing the complaining employee not to speak to anyone else.

604. Officials who handle complaints further evade monitoring and legal review by deliberately obstructing the creation of an evidentiary record. For example, administrative judges, the Office of the Inspector General, the Division of Human Resources, and Counsel's Office all refuse to acknowledge or respond to written communications regarding discrimination, harassment, and retaliation complaints. Court officials insist on communicating about discrimination and harassment complaints exclusively through phone calls and in-person meetings. Explicit requests to document the complaint process are denied.

605. Sixth, discrimination, harassment, and retaliation complaints are improperly redirected to offices and personnel where they may be held and delayed indefinitely. For example, complaints against judges are not referred to the New York State Commission on Judicial Conduct but are routed instead through the court system's Office of the Inspector

General, which has no jurisdiction to investigate judicial misconduct. Employees who submit complaints to the Office of the Inspector General report that their complaints were never resolved or addressed.

606. Seventh, the New York State court system refuses to recognize or acknowledge discrimination, harassment, or retaliation complaints that are not made orally and in person to the Office of the Inspector General. Contrary to the court system's official policies, oral or written complaints to supervisors are insufficient. Written complaints that would be sufficient to state a claim in any other forum, including federal or state court, are insufficient.

607. Eighth, the court system's Office of the Inspector General plays a central role in suppressing internal discrimination, harassment, and retaliation complaints. The office employs an overbroad definition of "confidentiality," cloaking the complaint in secrecy and allowing court system officials to evade oversight, monitoring, and legal review. For example, according to the Office of the Inspector General, basic information related to the procedural handling, adjudication, and status of a complaint – including the identity of the officials reviewing the complaint; when, how, and to whom the complaint was reported; and the actual substance of the complaint, e.g., which of the employee's specific complaints, statements, and communications are in the possession of the Inspector General – is all "confidential" and may not be disclosed to the complaining employee.

608. Ninth, if the Office of the Inspector General investigates a complaint against a highly placed or politically connected official, the investigation is designed to reach a predetermined result, either exonerating the official or finding the complaint "unsubstantiated." In such circumstances, the Inspector General's objectives are to (a) document facts that support dismissal of the complaint; (b) exclude from the record facts that corroborate the complaint; (c)

assist Counsel's Office in preparing for litigation against the complaining employee; and (d) generate an internal report that is used by decision-makers to justify dismissal of the complaint and retaliation against the complaining employee.

609. Tenth, during and after the complaint process, the complaining employee is denied all access to court system decision-makers. Administrative judges refuse to interact or communicate with the complaining employee and make determinations on the complaint, or take adverse employment actions against the complaining employee, up to and including transfer or termination, solely based on secret recommendations and reports prepared by subordinates.

610. Eleventh, at the conclusion of the complaint process, the complaining employee often receives no response. Contrary to the court system's policies, the employee is not provided with written notice of the court system's final determination. No explanation or underlying factual findings are disclosed. It is impossible for the complaining employee to ascertain whether the complaint was properly addressed or simply ignored. Contrary to the court system's policies, there is no opportunity for internal review or appeal.

611. These and other various techniques of suppression and retaliation were all employed by the individually named Defendants in Plaintiff's case.

612. These and other various techniques of suppression and retaliation are evidenced in other cases involving court system employees who have opposed discrimination, harassment, and retaliation by highly placed or politically connected officials.

613. These and other various techniques of suppression and retaliation would dissuade a reasonable employee of the New York State court system from opposing unlawful discrimination, harassment, and retaliation by judges and other highly placed or politically connected personnel.

Noncompetitive Hiring

614. The New York State court system engages in widespread patronage, cronyism, and nepotism in its employment practices, further deterring discrimination and harassment complaints and facilitating retaliation against complaining employees.

615. The history of corrupt hiring practices in New York’s judicial branch is long and well documented. For over a century, hiring and appointments in the New York State court system – of judges and of nonjudicial employees alike – have been the subject of scrutiny, investigations, public outcry, and widespread criticism and concern.

616. Today, the overwhelming majority of attorney jobs in the New York State court system – including thousands of public positions for law clerks, court attorneys, pool attorneys, administrative and/or managerial attorneys, etc. – are not subject to competitive hiring.

617. Attorney hiring in the court system works, approximately, as follows:

618. First, the overwhelming majority of job openings for attorneys are not publicly listed or advertised. For example, neither Hoffman, Scarpulla, nor Silver publicly advertise openings for either their term-limited law clerk positions or their permanent court attorney positions.

619. Second, information about job openings is shared by judges and court system administrators through informal whisper networks. For example, a judge on the Court of Appeals might email a judge on the Supreme Court to say, approximately: “You didn’t hear it from me, but two positions are opening up in the First Department.”

620. Third, information about an opening is shared with a favored candidate – e.g., a family member, a friend, a friend of a political ally, etc. – and the candidate is instructed to apply

for the position. For example, a judge's grandson might be told to apply for a position that is not publicly advertised.

621. Fourth, connected patrons and sponsors may call, advocate, and exert pressure in favor of the candidate. Such advocacy can be quite aggressive, sometimes culminating in shouting and threats if the hiring party resists.

622. The pressure to make patronage hires severely restricts the pool of candidates for attorney positions in numerous ways. For example, even judges who seek to employ competent attorneys refuse to publicly advertise positions for fear of being forced to make patronage hires and instead rely on personal or anonymous networks to find candidates.

623. This is almost entirely a closed hiring process.

624. Neither members of the public nor court system employees can learn about or apply for these public sector jobs.

625. A small subset of attorney job openings in the New York State court system are publicly listed and are ostensibly subject to a "panel selection process." However, the appearance of a competitive hiring process for even these positions is misleading. Panel selection openings are frequently awarded to predetermined candidates; rejection notices are not sent out; hiring records are kept to a minimum; and, often, interviews are not conducted.

626. According to Scarpulla, publicly posted positions are fraudulent and candidates are preselected: "Those job postings are not real. This has nothing to do with merit. It has to do with who is next in line and who calls on behalf of that person."

627. In short, attorney jobs at all levels of the New York court system are acquired primarily through friends, family members, and political patrons. Jobs are used as bargaining

chips and traded for political favors. Merit and professional competence are secondary factors in hiring and appointment decisions, if they are considered at all.

628. Furthermore, the climate of secrecy, fear, and corruption surrounding hiring and employment in the New York court system is astounding. For example, Scarpulla warned Plaintiff not to ask questions about employment-related matters in writing because she might get fired. She instructed her law clerks not to discuss employment issues over work email because their communications might be monitored.

629. The court system's noncompetitive hiring practices have caused, and continue to cause, systemic damage to the court system, its employees, the State of New York, and the public.

630. First, the court system's noncompetitive hiring practices directly result in ongoing systemic discrimination, deterrence, suppression, and retaliation in response to protected opposition by court system employees.

631. Closed access to job information in the New York court system:

- a. functions as a powerful deterrent to employees who want to report harassment or discrimination but fear losing access to job information;
- b. allows otherwise public job information to be used as a bargaining chip to bribe and obtain silence from employees experiencing harassment or discrimination; and
- c. serves as a mechanism of retaliation to punish employees who report harassment or discrimination.

632. Plaintiff was repeatedly deterred and delayed from opposing and reporting Hoffman's conduct, and from pursuing complaints against Hoffman, by her lack of access to job information within the court system.

633. Plaintiff was repeatedly promised job information and job opportunities within the court system on the condition that she did not report or complain about Hoffman's conduct.

634. When Plaintiff persisted in reporting and objecting to Hoffman's conduct, Plaintiff was immediately and permanently deprived of job information and job opportunities within the court system.

635. On information and belief, the New York State court system's noncompetitive hiring practices have directly resulted in systemic and ongoing underreporting of sexual harassment and discrimination and have directly enabled and contributed to systemic and ongoing retaliation against employees reporting sexual harassment and discrimination.

636. Second, decades of noncompetitive hiring practices have resulted in widespread professional incompetence at all levels of the court system's workforce. Professional incompetence in the New York court system is devastating, pervasive, and routinely reported in the press. A large proportion of New York State court system judges, lawyers, and administrators routinely fail to demonstrate the basic competence and good faith essential to the performance of their public functions.

637. There is no plausible rational basis for the New York State court system to fill public job openings in the New York State civil service by engaging in noncompetitive hiring practices by, for example: knowingly and intentionally failing to disclose and advertise information related to public job openings; knowingly and intentionally failing to conduct competitive interviews and selection processes; knowingly and intentionally awarding public

positions on the basis of family, personal, and political relationships rather than on the basis of professional merit; knowingly and intentionally failing to create or maintain records and documentation related to hiring decisions; and knowingly and intentionally permitting internal lobbying and interference in the public hiring process by connected political patrons, relatives, and administrators.

638. The New York court system's noncompetitive employment practices are discriminatory as applied, detrimental to the quality of New York State's civil service, and undermine the state's express policy goals of maintaining a competent, merit-based workforce.

Culture of Retaliation

639. The Defendants in this case engaged in remarkably similar and often identical conduct.

640. Sixteen of the named Defendants – all New York State judges or attorneys – simply ignored and/or refused to respond to written communications opposing unlawful harassment, discrimination, and retaliation.

641. The stonewalling, deliberate indifference, and willful blindness by court system officials was overwhelming. From October 8, 2017, to March 8, 2018, Plaintiff and Plaintiff's attorney sent court system officials approximately 51 written communications, totaling approximately 17,800 words, related to Plaintiff's harassment, discrimination, and retaliation complaints.

642. Plaintiff received no meaningful response to any of these complaints.

643. As a pattern, court system officials repeatedly referred Plaintiff to other court system officials, who refused to respond and in turn referred Plaintiff to yet other court system officials. Plaintiff's complaints to Scarpulla were referred to Silver, then Reo, then Porter, then

DeSole, then McConnell, then Evans, who simply stonewalled and informed Plaintiff that she was fired. DiFiore referred Plaintiff's complaints to McConnell. Fahey et al. referred Plaintiff's complaints to Asiello. Each Defendant knew and was informed that the person to whom they referred Plaintiff's complaints had failed and refused to respond to those complaints.

644. Each Defendant was informed that Plaintiff ultimately received no response to any of her complaints from anyone in the New York State court system.

645. Defendants engaged in numerous additional patterns of retaliatory conduct. For example, each of the following acts was performed by more than one Defendant:

646. Defendants repeatedly denied knowledge of Plaintiff's complaints; insisted that Plaintiff had not made any complaints; insisted that Plaintiff had not made sufficiently detailed complaints; asserted that Plaintiff was not interested in pursuing complaints; failed to report and delayed reporting Plaintiff's complaints; cut off complaint avenues and terminated complaint processes initiated by Plaintiff; berated Plaintiff for documenting her complaints; prevented Plaintiff from documenting her complaints; prevented Plaintiff from documenting the complaint process; refused to discuss the complaint process or the potential outcomes of the complaint process; refused to respond to Plaintiff's objections regarding the complaint process; refused to identify decision-makers; blocked Plaintiff's access to decision-makers; refused to investigate Plaintiff's complaints; refused to question supervisors with knowledge of Plaintiff's complaints; refused to separate Plaintiff's employment-related matters (e.g., interview, hiring, transfer) from Plaintiff's complaints; made Plaintiff's employment-related matters contingent on whether, when, and how Plaintiff pursued her complaints; attempted to bargain with, bribe, and incentivize Plaintiff to drop her complaints (e.g., by promising or threatening to withhold a job, job information, transfer, references); refused to explain or justify employment-related decisions

(e.g., refusing to hire, refusing to transfer, demoting, firing); isolated Plaintiff from supervisors and coworkers; instructed Plaintiff not to talk to others; cut contact with Plaintiff; became unavailable to Plaintiff; promised to follow up with Plaintiff and failed to do so; issued repeated, unexplained requests and commands to Plaintiff; ignored Plaintiff's objections to repeated, unexplained requests and commands; tried to portray Plaintiff as uncooperative; threatened to fire Plaintiff; responded to Plaintiff's communications with repetitive or nonsensical replies; took possession of, distributed, and redirected Plaintiff's confidential communications without notice or permission; fragmented and obscured the complaint process, the decision-making process, the investigative process, and the documentary record.

647. These were not isolated acts by a few state officials. Numerous court system judges and attorneys exhibited identical patterns of conduct – e.g., denying knowledge, preventing documentation, protecting supervisors from information, stonewalling, and severing contact – as if they were being coordinated or engaging in a practiced routine.

648. Defendants' conduct reveals a widespread culture of silence, retaliation, and deliberate indifference within the administration of the New York State court system.

649. Defendants' conduct also represents a staggering failure of judicial self-governance, institutional management, and policymaking:

650. At the exact same time that Defendants were ignoring or refusing to respond to Plaintiff's complaints, Marks deleted half of the court system's state-wide sexual harassment policy.

651. All of the revisions to the policy were directly related to the substance of Plaintiff's complaints or to the manner in which Plaintiff pursued her complaints. Thus, to date, Marks's revision of the court system's sexual harassment policy is the most direct and

substantive response that Plaintiff has received to any of her numerous harassment, discrimination, and retaliation complaints.

652. Given the substance of the revision, Defendants' response to the entirety of Plaintiff's complaints appears to be that:

- a. the court system does not recognize that sex-based workplace harassment and retaliation is illegal;
- b. court system employees should not report harassment and retaliation to supervisors; and
- c. the court system has no obligation to respond to workplace harassment and retaliation beyond referring complaints to the Office of the Inspector General.

653. Each of these positions is contrary to law.

654. Over several months, Plaintiff reported her complaints throughout the entire administrative structure of the New York judiciary. She received no substantive response.

655. At the highest level of the court system's executive leadership, the Chief Judge and the full panel of the Court of Appeals told Plaintiff that they simply would not acknowledge or respond to her communications. DiFiore told Plaintiff that the only forum in which she would respond to Plaintiff was in court. Fahey et al. faulted Plaintiff for failing to comply with the Rules of Practice by contacting them directly.

656. Defendants were given numerous opportunities to respond, to state a position, and to voluntarily remedy ongoing legal violations. They refused.

657. Knowing the tremendous cost to Plaintiff in terms of time, money, reputation, and career of pursuing a legal remedy in the courts – and expecting taxpayers to ultimately cover any

resulting judgment and costs – Defendants purposefully calculated that they would rather subject New York State to a lawsuit than voluntarily comply with federal and state discrimination law.

658. The facts of this case reveal deeply perverse incentives among state officials; open, documented, and intentional legal violations by numerous state judges and attorneys; and widespread institutional hostility to harassment, discrimination, and retaliation law within the New York State court system.

659. The New York State judiciary will not police itself voluntarily. This is a set of facts that calls for personal liability, punitive damages, systemic injunctive relief, and external intervention and oversight of the New York State judiciary.

VII. COUNTS

Count I

Equal Protection Under § 1983 – Retaliation:

Defendants in their individual capacities

660. Plaintiff realleges and incorporates by reference each and every allegation contained in this Complaint as if fully set forth herein.

661. Hoffman, Scarpulla, Silver, Marks, DiFiore, McConnell, DeSole, Porter, Evans, Sattler, Reo, Chalfen, Fahey, Feinman, Garcia, Rivera, Stein, and Wilson retaliated against Plaintiff for opposing sex- and race-based harassment, discrimination, and retaliation.

662. Defendants' conduct deprived Plaintiff of her right to equal protection guaranteed by the Fourteenth Amendment to the United States Constitution.

663. Defendants were personally involved in depriving Plaintiff of her right to equal protection by directly participating in retaliation against Plaintiff; failing to remedy retaliation

against Plaintiff after being informed through a report or appeal; creating or allowing the continuance of a policy or custom under which retaliation against Plaintiff occurred; exhibiting gross negligence in failing to supervise subordinates who retaliated against Plaintiff; and/or exhibiting deliberate indifference in failing to act on information indicating that retaliation against Plaintiff was occurring.

664. Each Defendant's conduct was intentional.

665. Defendants' conduct caused Plaintiff damages enumerated below.

Count II

Conspiracy Under § 1983 – Retaliation:

Defendants in their individual capacities

666. Plaintiff realleges and incorporates by reference each and every allegation contained in this Complaint as if fully set forth herein.

667. Hoffman, Scarpulla, Silver, Marks, DiFiore, McConnell, DeSole, Porter, Evans, and Reo acted pursuant to explicit and/or implicit agreements and engaged in coordinated and overt acts for the purpose of retaliating against Plaintiff for opposing sex- and race-based harassment, discrimination, and retaliation.

668. Defendants' conduct deprived Plaintiff of her right to equal protection guaranteed by the Fourteenth Amendment to the United States Constitution.

669. Defendants' conduct caused Plaintiff damages enumerated below.

Count III

Equal Protection Under § 1983 – Discrimination & Harassment:

Defendants in their individual capacities

670. Plaintiff realleges and incorporates by reference each and every allegation contained in this Complaint as if fully set forth herein.

671. Hoffman, Scarpulla, Silver, Marks, DiFiore, McConnell, DeSole, Porter, Evans, Sattler, and Reo subjected Plaintiff to discrimination on the basis of her sex and race, subjected Plaintiff to sex- and race-based stereotyping discrimination, subjected Plaintiff to sex- and race-based hostile work environment harassment, and subjected Plaintiff to sex- and race-based quid pro quo harassment.

672. Defendants' conduct deprived Plaintiff of her right to equal protection guaranteed by the Fourteenth Amendment to the United States Constitution.

673. Defendants were personally involved in depriving Plaintiff of her right to equal protection by directly subjecting Plaintiff to sex- and race-based discrimination and harassment; failing to remedy sex- and race-based discrimination and harassment against Plaintiff after being informed through a report or appeal; creating or allowing the continuance of a policy or custom under which sex- and race-based discrimination and harassment against Plaintiff occurred; exhibiting gross negligence in failing to supervise subordinates who committed sex- and race-based discrimination and harassment against Plaintiff; and/or exhibiting deliberate indifference in failing to act on information indicating that sex- and race-based discrimination and harassment against Plaintiff was occurring.

674. Each Defendant's conduct was intentional.

675. Defendants' conduct caused Plaintiff damages enumerated below.

Count IV

Due Process Under § 1983:

Defendants in their individual capacities

676. Plaintiff realleges and incorporates by reference each and every allegation contained in this Complaint as if fully set forth herein.

677. Plaintiff possessed the following constitutionally protected interests:

- a. a property interest in continued employment as a principal court attorney in the New York State court system that derives from the New York Civil Service Law;
- b. a property interest in a transfer or reassignment within the New York State court system that derives from Plaintiff's collective bargaining agreement; and
- c. liberty and property interests in a retaliation-free workplace that derive from the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, Title VII of the Civil Rights Act of 1964, the New York State Human Rights Law, the New York City Human Rights Law, and the New York State court system's official policies and procedures.

678. With respect to subparagraph (a), Plaintiff was actually or de facto employed as a law clerk and principal court attorney in the non-competitive class of the New York State civil service for over five years. Despite the New York State court system's designation to the contrary, Plaintiff was not a confidential employee. *Matter of Lippman v. Pub. Emp't Relations Bd.*, 263 A.D.2d 891, 903 (App. Div. 3d Dep't 1999) (holding that law assistants to judges are

not “confidential” within the meaning of the New York Civil Service Law). Accordingly, Plaintiff was not an at-will employee. Plaintiff was terminated from employment without a disciplinary hearing showing incompetency or misconduct. *See* N.Y. Civ. Serv. Law § 75(1)(c), (2).

679. With respect to subparagraph (b), section 9.15 of Plaintiff’s collective bargaining agreement reads: “To the extent that an employee’s request for reassignment or transfer can be accommodated, the State shall do so.” Plaintiff’s repeated requests for a transfer and reassignment within the New York State court system were ignored and thereby denied without notice; impartial decision-making; a written determination; evidentiary showing that Plaintiff’s request could not be accommodated; opportunity to review or challenge any such showing; and opportunity to appeal.

680. With respect to subparagraph (c), to the extent that the New York State court system initiated an internal adjudication in response to Plaintiff’s discrimination, harassment, and retaliation complaints, and then terminated Plaintiff’s employment pursuant to that adjudication, the court system did so without providing Plaintiff with notice; written final response or determination; impartial decision-making; identifiable decision-makers; identifiable standards for decision-making; opportunity to identify or challenge any factual, legal, or credibility findings; opportunity to identify, question, or respond to any adverse evidence or witnesses; opportunity to create or examine an evidentiary record; and opportunity to appeal. Under every applicable anti-retaliation law or internal policy, New York State is not entitled to resolve or adjudicate the merits of an internal discrimination, harassment, and retaliation complaint through an entirely secret proceeding that results in no response and termination of the complainant’s employment.

681. Silver, Marks, McConnell, DeSole, Porter, and Evans deprived Plaintiff of property and liberty interests in her employment in violation of Plaintiff's right to procedural due process guaranteed by the Fourteenth Amendment to the United States Constitution.

682. DiFiore, Fahey, Feinman, Garcia, Rivera, Stein, and Wilson were personally involved in depriving Plaintiff of her right to procedural due process by failing to remedy the due process violation after being informed through a report or appeal; creating or allowing the continuance of a policy or custom under which the due process violation occurred; exhibiting gross negligence in failing to supervise subordinates who committed the due process violation; and/or exhibiting deliberate indifference in failing to act on information indicating that the due process violation was occurring.

683. Each Defendant's conduct was intentional.

684. Defendants' conduct caused Plaintiff damages enumerated below.

Count V

First Amendment Under § 1983 – Retaliation:

Defendants in their individual capacities

685. Plaintiff realleges and incorporates by reference each and every allegation contained in this Complaint as if fully set forth herein.

686. Plaintiff engaged in constitutionally protected speech on matters of public concern, including, but not limited to, speech concerning ongoing and systemic discrimination, harassment, and retaliation within the New York State court system; the absence of a functioning harassment, discrimination, and retaliation complaint process within the New York State court system; a retaliatory revision of the New York State court system's sexual harassment policy; misuse of the New York State court system's Office of the Inspector General by court system

judges and administrators; discriminatory and corrupt hiring practices within the New York State court system; and administrative and procedural errors affecting litigants in Hoffman's part.

687. Hoffman, Silver, Marks, DiFiore, McConnell, DeSole, Porter, and Evans unlawfully retaliated against Plaintiff for engaging in constitutionally protected speech in violation of the First Amendment to the United States Constitution.

688. Defendants' retaliation caused Plaintiff damages enumerated below.

Count VI

Equal Protection – Complaint Practices & Procedures:

DiFiore in her official capacity

689. Plaintiff realleges and incorporates by reference each and every allegation contained in this Complaint, including the allegations in ¶¶ 3-9, 590-613, as if fully set forth herein.

690. Under DiFiore's supervision and administration, the New York State court system has a policy and custom of ignoring, suppressing, and retaliating against employees who oppose unlawful discrimination, harassment, and retaliation by judges and other highly placed or politically connected personnel.

691. This policy and custom discriminates against Plaintiff and court system employees who are subject to and/or oppose unlawful discrimination, harassment, and retaliation in violation of their right to equal protection guaranteed by the Fourteenth Amendment to the United States Constitution.

692. Plaintiff seeks injunctive relief enumerated below.

Count VII

Equal Protection – Hiring Practices:

DiFiore in her official capacity

693. Plaintiff realleges and incorporates by reference each and every allegation contained in this Complaint, including the allegations in ¶¶ 188, 228, 281, 302, 614-638, as if fully set forth herein.

694. Under DiFiore’s supervision and administration, the New York State court system has a policy and custom of engaging in noncompetitive hiring practices.

695. This policy and custom, as applied, discriminates against Plaintiff and court system employees who are subject to and/or oppose unlawful discrimination, harassment, and retaliation in violation of their right to equal protection guaranteed by the Fourteenth Amendment to the United States Constitution.

696. Plaintiff seeks injunctive relief enumerated below.

Count VIII

Equal Protection – Sexual Harassment Policy:

DiFiore in her official capacity

697. Plaintiff realleges and incorporates by reference each and every allegation contained in this Complaint, including the allegations in ¶¶ 538-573, 575-589, as if fully set forth herein.

698. Under DiFiore’s supervision and administration, the New York State court system promulgated a revised state-wide sexual harassment policy.

699. The revised policy, in its purpose, application, and effect, discriminates against Plaintiff and New York State court system employees who are subject to and/or oppose unlawful discrimination, harassment, and retaliation in violation of their right to equal protection guaranteed by the Fourteenth Amendment to the United States Constitution.

700. Plaintiff seeks injunctive relief enumerated below.

Count IX

Title VII – Retaliation:

State of New York

701. Plaintiff realleges and incorporates by reference each and every allegation contained in this Complaint as if fully set forth herein.

702. The State of New York retaliated against Plaintiff for opposing sex- and race-based harassment, discrimination, and retaliation in violation of 42 U.S.C. § 2000e-3(a).

703. The State of New York caused Plaintiff damages enumerated below.

Count X

Title VII – Discrimination and Harassment:

State of New York

704. Plaintiff realleges and incorporates by reference each and every allegation contained in this Complaint as if fully set forth herein.

705. The State of New York subjected Plaintiff to discrimination on the basis of her sex and race, subjected Plaintiff to sex- and race-based stereotyping discrimination, subjected Plaintiff to sex- and race-based hostile work environment harassment, and subjected Plaintiff to sex- and race-based quid pro quo harassment in violation of 42 U.S.C. § 2000e-2(a).

706. The State of New York caused Plaintiff damages enumerated below.

Count XI

Article VI § 28(c) of the New York Constitution:

Defendants in their individual capacities

707. Plaintiff realleges and incorporates by reference each and every allegation contained in this Complaint, including the allegations in ¶¶ 540, 543, 562-566, as if fully set forth herein.

708. Marks, DiFiore, Fahey, Feinman, Garcia, Rivera, Stein, and Wilson promulgated the New York State court system's revised state-wide sexual harassment policy in violation of the procedures set forth in Article VI § 28(c) of the New York State Constitution.

709. Plaintiff seeks declaratory relief enumerated below.

Count XII

NYSHRL and NYCHRL – Retaliation:

Defendants in their individual capacities

710. Plaintiff realleges and incorporates by reference each and every allegation contained in this Complaint as if fully set forth herein.

711. Hoffman, Scarpulla, Silver, Marks, DiFiore, McConnell, DeSole, Porter, Evans, Sattler, Reo, Chalfen, Fahey, Feinman, Garcia, Rivera, Stein, and Wilson unlawfully retaliated and/or aided and abetted retaliation against Plaintiff for opposing sex- and race-based harassment, discrimination, and retaliation.

712. Defendants' retaliation violated the New York State Human Rights Law, Executive Law §§ 290 *et seq.* and the New York City Human Rights Law, Administrative Code §§ 8-101 *et seq.*

713. Defendants' conduct caused Plaintiff damages enumerated below.

Count XIII

NYSHRL and NYCHRL – Harassment & Discrimination:

Defendants in their individual capacities

714. Plaintiff realleges and incorporates by reference each and every allegation contained in this Complaint as if fully set forth herein.

715. Hoffman, Scarpulla, Silver, Marks, DiFiore, McConnell, DeSole, Porter, Evans, Sattler, and Reo subjected Plaintiff to discrimination on the basis of her sex and race, subjected Plaintiff to sex- and race-based stereotyping discrimination, subjected Plaintiff to sex- and race-based hostile work environment harassment, subjected Plaintiff to sex- and race-based quid pro quo harassment, and/or aided and abetted sex- and race-based discrimination and harassment against Plaintiff.

716. Defendants' retaliation violated the New York State Human Rights Law, New York State Executive Law §§ 290 *et seq.* and the New York City Human Rights Law, Administrative Code §§ 8-101 *et seq.*

717. Defendants' conduct caused Plaintiff damages enumerated below.

Count XIV

Negligence and Negligent Supervision:

Defendants in their individual capacities

718. Plaintiff realleges and incorporates by reference each and every allegation contained in this Complaint as if fully set forth herein.

719. Scarpulla, Silver, Marks, DiFiore, McConnell, DeSole, Porter, Evans, Sattler, Reo, Fahey, Feinman, Garcia, Rivera, Stein, and Wilson owe a duty to safeguard Plaintiff from the intentional and/or negligent torts and unlawful conduct committed against Plaintiff by other Defendants.

720. Defendants breached their duty to Plaintiff by negligently failing to supervise, failing to train, permitting, contributing to, and/or failing to remedy the intentional and/or negligent torts and unlawful conduct committed against Plaintiff by other Defendants.

721. Defendants' negligence and/or negligent supervision caused Plaintiff damages enumerated below.

Count XV

Intentional Infliction of Emotional Distress:

Defendants in their individual capacities

722. Plaintiff realleges and incorporates by reference each and every allegation contained in this Complaint as if fully set forth herein.

723. Hoffman, Scarpulla, Silver, Marks, DiFiore, McConnell, DeSole, Porter, Evans, Sattler, Reo, Chalfen, Fahey, Feinman, Garcia, Rivera, Stein, and Wilson intentionally and/or

recklessly engaged in extreme and outrageous conduct causing Plaintiff severe emotional distress.

724. Throughout the events described herein and subsequently, Plaintiff suffered severe and sustained emotional distress, anger, and anguish, as well as, at various times, rapid weight loss, sensory disorientation, fear, and physical pain.

725. Defendants' extreme and outrageous conduct caused Plaintiff damages enumerated below.

Count XVI

Fraud:

Defendants in their individual capacities

726. Plaintiff realleges and incorporates by reference each and every allegation contained in this Complaint, including the allegations in ¶¶ 235, 296, 366, 417, 448, as if fully set forth herein.

727. Scarpulla, Silver, DeSole, Porter, Evans, and Reo knowingly made various fraudulent representations and/or omissions.

728. Plaintiff reasonably relied on those representations and/or omissions to her detriment.

729. Defendants' conduct caused Plaintiff damages enumerated below.

Count XVII

Fraudulent Inducement:

Hoffman and Sattler in their individual capacities

730. Plaintiff realleges and incorporates by reference each and every allegation contained in this Complaint, including the allegations in ¶¶ 177, 533-534, and ¶¶ 72, 74, 85, 89-90, 108, 169, 174, as if fully set forth herein.

731. Hoffman and Sattler made fraudulent representations and/or omissions for the purpose of inducing Plaintiff to accept a position as Hoffman's principal court attorney.

732. Plaintiff reasonably relied on those representations and/or omissions and accepted a position as Hoffman's principal court attorney to her detriment.

733. Hoffman and Sattler's conduct caused Plaintiff damages enumerated below.

Count XVIII

Breach of Contract:

Hoffman in his individual capacity

734. Plaintiff realleges and incorporates by reference each and every allegation contained in this Complaint, including the allegations in ¶ 177 and ¶¶ 72, 74, 85, 89-90, 108, 116, 130-133, 139-140, 174, as if fully set forth herein.

735. Hoffman entered into written and oral contracts with Plaintiff and into a separate oral contract with Scarpulla to employ Plaintiff as a principal court attorney who would perform legal work in accordance with her title and job description.

736. Hoffman breached these contracts.

737. Hoffman's conduct caused Plaintiff damages enumerated below.

Count XIX

Defamation:

Hoffman in his individual capacity

738. Plaintiff realleges and incorporates by reference each and every allegation contained in this Complaint, including the allegations in ¶¶ 37-41, 62, 119, 132, 137, 140-141, 148, 164-165, 182, 197-199, 207, 224, 228, 242-245, 281, 298, as if fully set forth herein.

739. Hoffman made false and defamatory statements to Silver, Scarpulla, and/or other court system officials regarding Plaintiff's professional work ethic, abilities, credibility, and/or character.

740. Hoffman made these statements with actual malice.

741. Hoffman's statements caused severe injury to Plaintiff's professional reputation.

742. Hoffman's conduct caused Plaintiff damages enumerated below.

Count XX

Tortious Interference with Prospective Contractual Relations:

Hoffman in his individual capacity

743. Plaintiff realleges and incorporates by reference each and every allegation contained in this Complaint, including the allegations in ¶¶ 136-141, 148, 193-194, 197-199, 204, 206, 208, 224, 241-243, 245, 281, 298, as if fully set forth herein.

744. Silver intended to hire Plaintiff as his principal court attorney and to enter into an employment relationship with Plaintiff.

745. Hoffman intentionally and wrongfully prevented Silver from hiring Plaintiff.

746. Hoffman's conduct caused Plaintiff damages enumerated below.

Count XXI

Tortious Interference with Business Relations:

Hoffman in his individual capacity

747. Plaintiff realleges and incorporates by reference each and every allegation contained in this Complaint, including the allegations in ¶¶ 40-41, 140-141, 148, 182, 188, 197-201, 207, 213-214, 228, as if fully set forth herein.

748. Plaintiff enjoyed a professional relationship with Scarpulla with the likelihood of substantial benefit to Plaintiff's future career as an attorney.

749. Hoffman intentionally and wrongfully disrupted that professional relationship.

750. Hoffman's conduct caused Plaintiff damages enumerated below.

Count XXII

Promissory Estoppel, Quantum Meruit, and Unjust Enrichment:

Scarpulla in her individual capacity

751. Plaintiff realleges and incorporates by reference each and every allegation contained in this Complaint, including the allegations in ¶¶ 40-41, 182, 226-228, 232, as if fully set forth herein.

752. Plaintiff worked for Scarpulla for five years on a first-year salary grade.

753. During this same period, Scarpulla advanced her judicial career on the strength of Plaintiff's work product.

754. Plaintiff in good faith invested substantial time, effort, and skill into the professional work she performed for Scarpulla with the expectation of receiving the benefits of a judicial clerkship.

755. Scarpulla made explicit promises to provide Plaintiff with such benefits. For example, Scarpulla repeatedly referred to a “mutually beneficial relationship” between Scarpulla and Plaintiff. On one occasion, she told Plaintiff, “We have a mutually beneficial relationship. You’ve done a really good job and I want you to squeeze every drop you can get out of your clerkship.”

756. Plaintiff received neither the implicitly expected nor the explicitly promised benefits of a judicial clerkship with Scarpulla.

757. Scarpulla’s judicial career and reputation benefitted substantially as a result of Plaintiff’s work and at Plaintiff’s expense.

758. It is against equity and good conscience to permit Scarpulla to retain benefits she obtained at Plaintiff’s expense.

759. Scarpulla’s conduct caused Plaintiff damages enumerated below.

Count XXIII

Defamation:

Chalfen in his individual capacity

760. Plaintiff realleges and incorporates by reference each and every allegation contained in this Complaint, including the allegations in ¶¶ 307, 312-369, 373-374, 386-388, 397-398, 407-408, 410-412, 421-422, 424-426, 428, 430, 434, 436-438, 440-441, 445, 448, 590-596, 600-608, as if fully set forth herein.

761. Lucian Chalfen is the Director of Public Information of the New York State court system. Chalfen also acts as personal spokesperson to DiFiore.

762. On August 17, 2018, while referring to the New York State court system's policy not to comment on pending litigation, Chalfen described Plaintiff's lawsuit in the press as "frivolous" and "nonsensical."

763. On August 21, 2018, Chalfen stated in the press that Plaintiff's allegations were "fully and comprehensively investigated by our inspector general," and that "in fact, Ms. Marquez, after several attempts were made to interview her, declined to participate in our investigation."

764. These statements were published in the New York Law Journal and other publications.

765. The following statements made by Chalfen in the press were false: (a) that Plaintiff pursued and filed "frivolous" or "nonsensical" claims in federal court; (b) that Plaintiff "declined to participate in our investigation"; and (c) that Plaintiff's internal complaints were "fully and comprehensively investigated."

766. Chalfen made these statements negligently, recklessly, or with actual malice.

767. Chalfen's statements caused severe injury to Plaintiff's professional reputation.

768. Chalfen's conduct caused Plaintiff damages enumerated below.

VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court:

769. Declare that the New York State court system's revised sexual harassment policy was promulgated in violation of the procedures set forth in Article VI § 28(c) of the New York State Constitution and is invalid.

770. Enjoin DiFiore, in her official capacity, from condoning and permitting the New York State court system to continue implementing a policy and custom of ignoring, suppressing,

and retaliating against employees who oppose unlawful discrimination, harassment, and retaliation by judges and other highly placed or politically connected personnel.

771. Order DiFiore, in her official capacity, to establish, subject to the Court's approval, state-wide internal bias complaint procedures specifically tailored to the New York State court system that eliminate ongoing violations of, and allow for periodic monitoring to evaluate compliance with, the equal protection guarantee of the Fourteenth Amendment to the United States Constitution.

772. Order DiFiore, in her official capacity, to strictly enforce such state-wide internal bias complaint procedures.

773. Enjoin DiFiore, in her official capacity, from condoning and permitting the New York State court system to continue implementing a policy and custom of noncompetitive hiring practices that, as applied, unlawfully discriminates against Plaintiff.

774. Order DiFiore, in her official capacity, to establish, subject to the Court's approval, state-wide hiring standards and practices specifically tailored to the New York State court system that eliminate ongoing violations of, and allow for periodic monitoring to evaluate compliance with, the equal protection guarantee of the Fourteenth Amendment to the United States Constitution.

775. Order DiFiore, in her official capacity, to strictly enforce such state-wide hiring standards and practices.

776. Enjoin DiFiore, in her official capacity, from condoning and permitting the New York State court system to continue implementing a revised state-wide sexual harassment policy that, in its purpose, application, and effect, unlawfully discriminates against Plaintiff.

777. Order DiFiore, in her official capacity, to establish, subject to the Court's approval, a state-wide sexual harassment policy specifically tailored to the New York State court system and designed to eliminate ongoing violations of the equal protection guarantee of the Fourteenth Amendment to the United States Constitution.

778. Order DiFiore, in her official capacity, to strictly enforce such a state-wide sexual harassment policy.

779. Direct DiFiore, in her official capacity, to reinstate Plaintiff to a position and title that Plaintiff would have occupied but-for the unlawful employment practices alleged herein at least equivalent to principal court attorney to the Deputy Chief Administrative Judge of the New York State court system.

780. Given the substantial likelihood of future retaliation against Plaintiff by court system judges and administrators, enjoin DiFiore, in her official capacity, from permitting or enabling future retaliation against Plaintiff within the New York State court system.

781. Order Hoffman, Scarpulla, Silver, Marks, DiFiore, McConnell, DeSole, Porter, Evans, Sattler, Reo, Chalfen, Fahey, Feinman, Garcia, Rivera, Stein, and Wilson to personally and jointly and severally make Plaintiff whole by providing compensation for past and future pecuniary losses resulting from Defendants' unlawful conduct, including but not limited to, back pay, front pay, lost benefits, loss of professional reputation and standing, future lost earnings, and any other consequential losses, in amounts to be determined at trial.

782. Order Hoffman, Scarpulla, Silver, Marks, DiFiore, McConnell, DeSole, Porter, Evans, Sattler, Reo, Chalfen, Fahey, Feinman, Garcia, Rivera, Stein, and Wilson to personally and jointly and severally make Plaintiff whole by providing compensation for past and future non-pecuniary losses resulting from Defendants' unlawful conduct, including but not limited to,

mental anguish, emotional pain and suffering, stress, inconvenience, and loss of enjoyment of life, in amounts to be determined at trial.

783. Order Hoffman, Scarpulla, Silver, Marks, DiFiore, McConnell, DeSole, Porter, Evans, Sattler, Reo, Chalfen, Fahey, Feinman, Garcia, Rivera, Stein, and Wilson to pay Plaintiff punitive damages to the extent that each Defendant's liability is based upon malicious, reckless, or reprehensible action and/or inaction, in amounts to be determined at trial and designed to punish Defendants' past unlawful conduct and to deter future unlawful conduct.

784. Award reasonable attorney's fees and costs to Plaintiff.

785. Grant such other and further relief as the Court may deem equitable and proper.

DATED: November 5, 2018

By: /s/ Anthony Vassilev

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