

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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ALEXANDRA BONACARTI,

Plaintiff,

Index No. 159035/2017

- against -

**AMENDED COMPLAINT**

NEW YORK COUNTY DEFENDER SERVICES, INC.,  
STANISLAO GERMÁN, and CHRISTOPHER BOYLE,

**JURY TRIAL  
DEMANDED**

Defendants.  
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Plaintiff Alexandra Bonacarti (hereinafter “Bonacarti” or “Plaintiff”), by her attorneys, Beranbaum Menken LLP, complains of Defendants New York County Defender Services, Inc. (hereinafter “NYCDS”), Stanislao Germán (hereinafter “Germán”), and Christopher Boyle (hereinafter “Boyle”) (collectively “Defendants”) as follows:

**PRELIMINARY STATEMENT**

1. Plaintiff brings this action, pursuant to the New York City Human Rights Law (“NYCHRL”), Administrative Code of the City of New York §§ 8-101 *et seq.*, to remedy Defendants’ sexual harassment, sex-based harassment, sex discrimination and unlawful retaliation, and the common law claims of negligent training and retention of a supervisor, negligent supervision, and intentional infliction of emotional distress. Plaintiff seeks injunctive and declaratory relief, compensatory and punitive damages, attorneys’ fees, and all other appropriate relief.

**JURISDICTION AND VENUE**

2. This Court has jurisdiction over Plaintiff’s claims pursuant to the New York City Admin. Code §§ 8-101 *et seq.*, and the common law of the State of New York.

3. Venue is proper in this Court because the acts that form the basis of this lawsuit occurred within this County and Defendant NYCDS is a resident of this County.

4. On information and belief, Plaintiff's damages exceed the monetary jurisdiction of all Courts below that would otherwise have jurisdiction over this action.

5. Contemporaneous with the filing of the Complaint, Plaintiff served a copy of the Complaint with the New York City Commission on Human Rights and the Corporation Counsel for the City of New York. With the filing of the Amended Complaint, Plaintiff will provide a copy to both governmental entities.

### **PARTIES**

6. Plaintiff is an adult individual who resides in Brooklyn, New York, and at all relevant times has been an employee of NYCDS.

7. Defendant NYCDS is a public defender office providing free legal assistance to indigent criminal defendants. NYCDS is funded by the City of New York and the State of New York and is headquartered in New York, New York. At all relevant times, NYCDS has been Bonacarti's employer within the meaning of the NYCHRL, New York City Admin. Code § 8-102(5).

8. Since 2015, Defendant Germán has served both as NYCDS' Executive Director and a member of its Board of Directors. In that capacity, Germán is Bonacarti's employer.

9. Defendant Christopher Boyle is an employee of NYCDS and an aider of and abettor to the unlawful harassment to which Bonacarti was subjected at NYCDS.

### **FACTUAL ALLEGATIONS**

#### **NYCDS' Equal Employment Opportunity Policies**

10. NYCDS prohibits harassment based on sex and all other legally protected characteristics. According to the NYCDS Personnel Manual, "[a]ny employee who engages in [harassment,

discrimination or insensitivity] will be subject to disciplinary action and/or termination.” (NYCDS Personnel Manual at 4-5).

11. NYCDS also prohibits retaliation against an employee for making a harassment complaint: “No hardship, loss or benefit and no penalty of any kind may be imposed on an employee as punishment for: filing or responding to a bona fide complaint of discrimination or harassment.” (NYCDS Personnel Manual at 4-5).

12. NYCDS has failed to meaningfully enforce its policy proscribing workplace harassment and unlawful harassment. In the 20 years Bonacarti has worked there, NYCDS has never held trainings for staff members on its equal employment opportunity policies, and in particular, on its harassment and anti-retaliation policies.

#### **Boyle’s Longstanding Sexual Harassment of Bonacarti**

13. Bonacarti and Boyle became friends in 1996 when they both worked as staff attorneys for the Legal Aid Society, Criminal Defense Division.

14. Bonacarti began working for NYCDS as a staff attorney in September 1997. In her twenty years working at NYCDS, Bonacarti has distinguished herself as a talented, dedicated, and highly effective advocate for indigent clients.

15. Boyle was hired as a staff attorney by NYCDS shortly after Bonacarti began working there.

16. Sometime in or about 2000, Boyle told Bonacarti that he wanted to have an affair with her. Over the next several years, he repeatedly told her that “we were meant to be together forever.”

17. Boyle’s expressed sexual and romantic interest in Bonacarti escalated into sexual harassment. Boyle stalked Bonacarti by, among other things, finding excuses to be near her, such

as by switching shifts to work alongside her at arraignments; trying to coax her into sharing cab rides with him to her home; and following her home. Boyle's behavior toward Bonacarti became threatening. On one occasion he told her, "You were so drunk last night I could have raped you."

18. Boyle pursued a relationship with Bonacarti although he was married and had a young child. When his wife became pregnant with a second child, Boyle, as he related to Bonacarti, was angry at her, thinking his chances of having a relationship with Plaintiff would be hurt. After telling Bonacarti about his wife's pregnancy, Boyle told Bonacarti that he needed to have sex every day which, given his wife's condition, Plaintiff understandably took as a not-too subtle invitation.

19. Boyle later would tell Bonacarti that he left his wife so he could be with her.

20. In or around 2010, Bonacarti told Boyle she would never have a romantic relationship with him.

21. Bonacarti began avoiding Boyle, and for his part, Boyle acted as if he were a spurned lover. Whenever he saw Bonacarti, Boyle would slam objects down on the table, make faces, and cause other disruptions to display his anger.

22. Bonacarti and Boyle eventually stopped speaking to each other and, although working at the same office, had limited contact.

23. Even though she and Boyle stopped talking, Bonacarti would later learn that he frequently spoke to coworkers about her and his feelings for her.

#### **Bonacarti's Warnings about Boyle Further Harassing Her**

24. In or about August 2015, NYCDS promoted Boyle to supervisor and assigned him to supervise Bonacarti's officemate, Anton Robinson. Bonacarti was very uncomfortable with this

arrangement because it meant that Boyle would spend time in her office when meeting with Robinson.

25. The day after learning of Boyle's promotion, Bonacarti spoke to Germán. She related her past experience with Boyle and expressed concern that there would be further problems if he supervised her officemate Robinson. She asked Germán to reassign Robinson to a different supervisor so that Boyle wouldn't have reason to visit her office.

26. Germán was dismissive of Bonacarti's concerns, saying that whatever went on with Boyle was "ancient history," and he denied her request to re-assign Robinson to a different supervisor.

27. Bonacarti also spoke to her direct supervisor, Neal Allen, about her fears that Boyle would use his newly elevated position to sexually harass her. She also raised these same concerns with another supervisor, Sergio DelaPava, on two separate occasions.

28. Just as she feared, Boyle, emboldened by his promotion, increasingly sought contact with Bonacarti. Boyle persisted in holding his regular supervisory meetings with Robinson in Bonacarti's office, and went so far as to try transferring his office to the one adjacent to Bonacarti's. He was thwarted in doing so only after Allen and a female supervisor intervened on Bonacarti's behalf.

29. Bonacarti was disturbed by the increased contacts with Boyle which interfered with her work and created a hostile working environment.

#### **The June 2016 Performance Evaluation**

30. In or about June 2016, after being informed of Boyle's sexual harassment, Germán asked Bonacarti to meet with him privately to discuss her performance evaluation. The meeting was

unusual since the practice at NYCDS was for staff attorneys to review evaluations with their direct supervisors.

31. At the meeting, Bonacarti told Germán that Boyle was lurking around her, and again asked that Robinson be reassigned to a different supervisor. When Bonacarti brought up Boyle's prior sexual harassment, Germán, repeating his phrase from their prior meeting, called it "ancient history."

32. Bonacarti's performance evaluation, given to her by Germán, was biased, infused with sexist stereotypes, and underrated her contribution to the office.

33. The evaluation consisted of five sections. Of those five sections, Bonacarti received the highest rating, "Superior," in three—Advocacy Skills and Development; Relationships with Client Community; and Case Preparation and Caseload Management—and an "Average" rating in two others, Relationships with Colleagues, and Professionalism.

34. Based upon her three "Superior" and two "Average" scores, Bonacarti rightly should have received an overall rating of "Superior" on the evaluation, yet Germán rated her as "Average."

35. On information and belief, the many laudatory comments appearing in the evaluation were written by Bonacarti's supervisor, Allen, while Germán was responsible for all the negative ones.

36. As to Plaintiff's Professionalism, Allen commented along the lines of: "Alex is well regarded in court and works late and on weekends. Alex sometimes confounds judges with her persistence on behalf of her clients." It was Germán, on information and belief, who added that Bonacarti had an "emotional reaction" to a judge's adverse ruling and, another time in court, was

“out of control.” The comments were not only unfounded, but tainted by the sexist stereotype that women are overly emotional and more irrational than men.

37. In the Relationships with Colleagues section, Allen noted that during the past year Bonacarti had volunteered to try another attorney’s violent felony case after the attorney had abruptly left; mentored the office’s younger attorneys; willingly switched into arraignment shifts in order to accommodate other attorneys; and was otherwise cooperative. On information and belief, it was Germán who added that Bonacarti should be more patient with support staff, although he gave no examples of her alleged impatience. Here too, Germán’s comment was unfounded. In almost two decades of service with NYCDS, no support staff member had ever complained to Plaintiff about her alleged lack of patience.

38. Subsequent to receiving her performance evaluation, Plaintiff used her own money to obtain transcripts of the two court appearances at which, according to Germán, she was overly “emotional” and “out of control.” The transcripts belied Germán’s criticisms. But when Bonacarti asked Germán to review the transcripts so he could see that the negative comments were unjustified and should be removed from the evaluation, he refused to do so.

39. In 2016, Bonacarti’s raise was among the lowest of all the attorneys in the office, despite her performance being, by all measures, “Superior.”

40. On information and belief, Germán negatively skewed Bonacarti’s performance evaluation, and gave her an unduly small raise in retaliation for her warnings and complaints about Boyle—who he was responsible for promoting—and because of sex bias.

#### **Failure to Heed Additional Warnings about Boyle**

41. On October 12, 2016, Boyle, not for the first time since becoming supervisor, sat himself in Bonacarti’s office and refused to leave. That same day, Bonacarti emailed Boyle, copying

Allen and Human Resources Director Wendy D'Amico, writing, "It was my belief that we had an understanding in light of our personal history ... that once you became a supervisor, you would not behave in any way to cause me to feel further harassed .... Your repeated entries into my office interfere with my personal space in a way which makes me very uncomfortable."

Bonacarti concluded, "Please respect this in the future in order to avoid any issues for either of us (and for this organization in which you are now management)."

42. Although alerted that Boyle's presence in her office made Bonacarti "very uncomfortable," senior management did not address the matter with Bonacarti or, upon information and belief, order Boyle to stay away from her.

43. It was left to Bonacarti's supervisor, Allen, Boyle's co-equal, to tell him: "leave her alone."

44. Towards the end of 2016, Allen informed Germán that Boyle was being "too intrusive" with Bonacarti. Exhibiting a gross lack of concern for Bonacarti's welfare and NYCDS' equal employment opportunity policy, Germán, upon information and belief, told Allen, "He's a supervisor. She has to deal with it."

45. Despite being put on notice of Boyle's harassing conduct, Defendants NYCDS and Germán failed to instruct Boyle to stay away from Bonacarti or to prevent him from subjecting her to sexual and sex-based harassment.

#### **The May 10, 2017, Incident**

46. Unrestrained by NYCDS management and still obsessed with Bonacarti, Boyle, on May 10, 2017, treated Bonacarti in a manner explicitly proscribed by NYCDS' Personnel Manual, that is, acting towards her with "the purpose o[r] effect of unreasonably interfering with an



individual's work performance or creating an intimidating, hostile, or offensive working environment." (NYCDS Personnel Manual, Harassment, Discrimination & Insensitivity, at 4).

47. As a practice, NYCDS does not assign supervisors to arraignment shifts. Nonetheless, on that day Boyle showed up at arraignments court without a work-related reason and knowing, upon information and belief, that Bonacarti was scheduled to be there.

48. Apart from court officers sitting in another section, Bonacarti was the only other person in the courtroom when Boyle arrived during the lunch hour. He sat in the second row of the audience leering at Bonacarti.

49. After 15 to 20 minutes, Bonacarti became unnerved by Boyle's presence and left the courtroom to call her supervisor, Allen. Allen suggested that she stay away from the courtroom until other lawyers arrived.

50. When Bonacarti returned to arraignments, Boyle, two other NYCDS lawyers, and a clerk were present, all cramped together in NYCDS' workspace. Bonacarti sat at the work table used by NYCDS, and Boyle stood directly behind her, only eight to ten inches away. Boyle is 6'4" tall, and Bonacarti 5'6," making such close proximity all the more intimidating.

51. Bonacarti felt threatened by Boyle looming over her and twice asked him to "please move." Plaintiff then told Boyle that if he didn't move she was going to call Carolyn Wilson, NYCDS's Director.

52. Boyle refused to move away and told Bonacarti in a loud, patronizing voice, "Enough, Alex! Enough!"

53. Bonacarti immediately left the courtroom and called Wilson from the hallway. Bonacarti, extremely upset, told Wilson what she had just experienced. She told Wilson that Boyle was harassing her and subjecting her to a hostile work environment.

54. In calling Wilson, Bonacarti complied with the NYCDS Personnel Manual, which lists a Director as someone to whom an employee should report harassment.

55. While Bonacarti was on the phone with Wilson, Boyle walked by her. She told him, "I'm on the phone with Carolyn," to which he responded something to the effect of, "I don't care." On information and belief, Boyle, upon learning that Bonacarti was speaking to Wilson, returned to the office to lodge a complaint against her with the evident purpose of deflecting Plaintiff's charges against him.

56. Bonacarti's encounter with Boyle that day left her visibly shaken, so much so that a coworker and a court officer felt the need to comfort her.

**NYCDS Sexual Harassment Officer's Conclusion: Boyle Sexually Harassed Plaintiff**

57. The next day, May 11, 2017, Bonacarti followed up her complaint to Wilson by speaking to Natasha Lapiner-Giresi, an attorney and NYCDS' Sexual Harassment Liaison. Because of her schedule, Lapiner-Giresi interviewed the Plaintiff on May 15, 2017.

58. Based upon the interview, Lapiner-Giresi determined that Boyle had created a hostile working environment for Bonacarti. That same day, May 15, 2017, Lapiner-Giresi forwarded to Germán her report containing the following conclusion:

The actions taken by Mr. Boyle, now a supervisor and part of the management team, after management had already been put on notice, . . . creates a problem for this office. After meeting with Ms. Bonacarti and hearing her complaint I conclude that this cannot be chalked up as a "petty slight" or isolated incident. The U.S. Equal Employment Opportunity Commission has stated that offensive conduct includes, but is not limited to, mockery, insults, put downs, interference with work performance, jokes and slurs. This incident has created an uncomfortable if not hostile work environment for Ms. Bonacarti.

59. In writing that Boyle's treatment of Bonacarti was more than a "petty slight," Lapiner-Giresi was referring to the NYCHRL's sexual harassment standard. *See Williams v New York*

*City Hous. Auth.*, 61 AD3d 62, 74-75, 872 NYS2d at 41 (1st Dep't 2009) (under the NYCHRL sexually harassing conduct must be more than "petty slights and trivial inconveniences.").

### **Defendants' Retaliatory Suspension of Bonacarti**

60. On May 19, 2017, just four days after receiving Lapiner-Giresi's report, Germán summoned Bonacarti to a meeting where he summarily suspended her without pay for three weeks.

61. Before the suspension, Bonacarti had not received any warnings and had never once been disciplined.

62. At the meeting, Germán threatened to fire Bonacarti, telling her that she "should listen to me as if your job depends on it, because it does."

63. Plaintiff asked Germán, "What about my complaint against Boyle?" She continued, "You never asked me what happened with Boyle. I told you there would be a problem when Chris became a manager."

64. Bonacarti tried explaining what had occurred at arraignments, but Germán cursorily rejected her account. He also, now for the third time, brushed off Boyle's prior interactions with Bonacarti as "ancient history."

65. The suspension was retaliatory and made in bad faith. Defendants NYCDS and Germán suspended Bonacarti and effectively absolved Boyle without providing her the most basic procedural safeguards. Defendants failed to inform Bonacarti of the substance of Boyle's complaint against her; failed to hear her account of what happened at arraignments; failed to conduct an investigation; and ignored their own Sexual Harassment Liaison's finding that Boyle sexually harassed her that day.

66. The suspension also was unlawfully motivated by Bonacarti's gender. In justifying the suspension, Germán repeated the same kind of sex-biased and sex-stereotyped comments about Bonacarti that he made when giving her the performance evaluation.

#### **Prejudicing a Client's Interests to Punish Bonacarti**

67. In their urgency to punish Bonacarti, Defendants NYCDS and Germán sacrificed the interests of one of their clients, T.W., who Bonacarti was representing at a trial scheduled to start June 5, 2017. T.W., facing a life sentence, by June 2017 had already had been detained at Rikers awaiting trial for over a year.

68. By suspending Bonacarti for three weeks, Defendants NYCDS and Germán knew that the trial would have to be adjourned and T.W.'s pre-trial incarceration further extended. When Bonacarti asked to shorten the suspension to allow her to try the case on June 5, 2017, Defendants NYCDS and Germán refused.

69. While Plaintiff was serving the suspension and without her knowledge, Defendants NYCDS and Germán had the trial adjourned with a new date set for the end of September.

70. In addition to being responsible for lengthening T.W.'s pre-trial incarceration by almost four months, Defendants NYCDS and Germán sought to interfere with his attorney-client relationship. When advising T.W. of the adjournment, an NYCDS supervisor asked him, "How do you get along with Ms. Bonacarti? How do you feel about her as an attorney?" The client, as he later told Plaintiff, took the supervisor's questioning as an attempt to drive a wedge between him and Bonacarti, and to dig up dirt to use against her.

#### **Defendants' Belated, Sham Investigation**

71. Upon being put on notice of the harassment suffered by Ms. Bonacarti on May 10, 2017, Defendants NYCDS and Germán did not take prompt remedial action to safeguard Bonacarti,

and, in particular, failed to order Boyle to have no contact with Plaintiff unless absolutely necessary to perform his job duties.

72. Defendants NYCDS and Germán also failed to promptly investigate Bonacarti's May 10, 2017, sexual harassment complaint.

73. Whereas Defendants NYCDS and Germán hastily suspended Bonacarti without so much as investigating Boyle's complaint, they were content to wait more than a month, until June 16, 2017, to even notify Plaintiff that they would be carrying out an investigation of her sexual harassment complaint. An additional six weeks went by (two of which were due to Bonacarti's hesitation to participate in an unfair investigation) before Plaintiff was interviewed. And then Bonacarti had to wait yet another month and a half to learn the investigation's findings. In all, it took Defendants NYCDS and Germán more than four months to investigate Plaintiff's sexual harassment complaint.

74. The long delay in carrying out the investigation did not assure its legitimacy. Quite to the contrary, from beginning to end the investigation was a sham.

75. Defendants NYCDS and Germán assigned responsibility for investigating Bonacarti's complaint to the office manager, someone who had never conducted a harassment investigation nor been trained in how to conduct such an investigation. This was despite the fact that NYCDS employed over 50 attorneys, and its Board of Directors was made up of experienced attorneys.

76. Moreover, as Defendants NYCDS and Germán knew or should have known before selecting her, the office manager was Boyle's close friend.

77. On information and belief, Defendants NYCDS and Germán chose the office manager because they believed she would be pliant to senior management's directions.

78. The interview of Bonacarti showed how compromised the investigation was.

79. As noted, NYCDS' Sexual Harassment Liaison, the attorney Lapiner-Giresi, had already interviewed the Plaintiff on May 15, 2017, in connection with her complaint. There was no reason to hold a second interview, two and a half months later, except that Defendants NYCDS and Germán were unwilling to accept Lapiner-Giresi's finding that Boyle sexually harassed Bonacarti.

80. Without explanation as to why her interview with NYCDS' Sexual Harassment Liaison was not sufficient, Bonacarti was re-interviewed on July 26, 2017, by the office manager.

81. At the interview, the office manager deliberately avoided asking Bonacarti about the events of May 10, 2017, even though Boyle's conduct that day was the basis for Plaintiff's complaint.

82. At the interview, the office manager only asked Bonacarti about her pre-2015 interactions with Boyle.

83. Germán had directed the office manager not to question Bonacarti about the May 10, 2017, incident. On information and belief, Germán did so because he knew that Plaintiff's account would contradict Boyle's, and, therefore, bring to light the improper rush to judgment in suspending Plaintiff.

84. Over Plaintiff's objection, the office manager failed to interview the court officer who had worked at arraignments on May 10, 2017.

85. On September 13, 2017, Human Resources Director D'Amico informed Bonacarti that the results of the sexual harassment investigation were "inconclusive."

86. On information and belief, it was Germán and other members of NYCDS senior management, not the office manager conducting the investigation, who decided to call the results "inconclusive."

87. Defendants NYCDS and Germán sought to cover up Boyle's sexual harassment of Bonacarti by claiming that the investigation was "inconclusive." In fact, the remedial actions taken by Defendants NYCDS and Germán as a result of the investigation revealed that they knew Boyle sexually harassed her.

88. Defendants NYCDS and Germán's remedial measures all were aimed at preventing Boyle from further harassing Bonacarti, including guaranteeing Plaintiff that Boyle would have no role in her evaluation or supervision; re-assigning Bonacarti's officemate to a different supervisor; ordering Boyle to have limited contact with Plaintiff; instructing Boyle to desist from telling coworkers about his earlier relationship with Bonacarti; and providing sexual harassment training to the NYCDS staff.

89. At the same time, Defendants NYCDS and Germán failed to discipline Boyle for sexually harassing Bonacarti, rendering their remedial actions inadequate.

90. In unduly delaying the investigation, undertaking a sham investigation, and ordering inadequate remedial measures, Defendants NYCDS and Germán condoned Boyle's sexual harassment of Bonacarti.

#### **Continuing Impact of the Sexual Harassment and Retaliation**

91. In or about June 2017, Defendants NYCDS and Germán informed all the Staff Attorneys of the size of their annual bonuses, and Bonacarti's bonus was among the smallest. Defendants NYCDS and Germán gave Plaintiff a reduced bonus, despite her being a highly esteemed advocate and her superior performance, in retaliation for her sexual harassment complaint.

92. By July 2017, Defendants NYCDS and Germán had given all the other Staff Attorneys, except Bonacarti and those on maternity or paternity leave, their annual performance evaluations. Bonacarti did not receive her annual review until October 5, 2017, and then only after her lawyer

provided Defendants with a draft of the Complaint alleging that the failure to give her a performance evaluation was unlawful disparate treatment.

93. At the October 5, 2017, meeting when Bonacarti received the belated evaluation, Germán was contemptuous and disrespectful toward Bonacarti, subjecting her to a hostile work environment. During the meeting Germán repeatedly referred to Plaintiff's anticipated lawsuit, demonstrating that his latest round of hostility was fueled by her expressed intention to vindicate her rights through litigation.

94. On October 27, 2017, D'Amico and the office manager summoned Plaintiff to a meeting at which they reprimanded her for having spoken critically, two days earlier at arraignments court, about NYCDS' actions in changing the format of the attorneys' arraignments folders without prior notice and in unfairly terminating the employment of one of its clerks.

95. Bonacarti was not the only NYCDS staff member speaking critically of NYCDS management in arraignments that day. Bonacarti made her remarks about the arraignment folders and the terminated clerk during a conversation with three male NYCDS staff attorneys. The conversation with the NYCDS attorneys was wide-ranging, and Bonacarti was not alone in expressing criticisms about management's actions.

96. Bonacarti and the other three staff attorneys were engaging in legally protected concerted activity.

97. Upon information and belief, of the four staff attorneys in arraignments court, Defendants reprimanded only Bonacarti for her speech. Defendants singled out Bonacarti for punishment in retaliation for her having engaged in protected activity, in particular, having filed this lawsuit.



98. Upon information and belief, Defendants NYCDS and Germán, by singling out Bonacarti for punishment and creating a hostile environment in which for her to work, are acting to make Plaintiff's working conditions so intolerable that she will quit.

99. Bonacarti has lost compensation and in the future will continue to lose compensation as a result of Defendants' unlawful treatment in, among other things, suspending her without cause for three weeks and giving her a reduced bonus and raise.

100. As a further result of Defendants' unlawful conduct, Bonacarti has been diagnosed with Post-Traumatic Stress Disorder and requires psychiatric treatment to cope with this condition. She has suffered and continues to suffer from depression, anxiety, weight loss, crying spells, and a stomach ulcer.

**FIRST CAUSE OF ACTION**  
**VIOLATION OF NEW YORK CITY HUMAN RIGHTS LAW**  
**SEXUAL HARASSMENT, SEX-BASED HARASSMENT AND SEX DISCRIMINATION:**  
**NYCDS AND GERMÁN**

101. Plaintiff repeats and realleges each and every allegation contained in this Amended Complaint with the same force and effect as if fully set forth herein.

102. From 2000 to 2010, Boyle subjected Bonacarti to sexual and sex-based harassment and to a sexually hostile work environment, and in 2015 resumed such harassment after being promoted to supervisor.

103. Despite Bonacarti's repeated warnings, NYCDS and Germán failed to take appropriate action to protect her from being unlawfully harassed by Boyle.

104. Defendants NYCDS and Germán condoned Boyle's unlawful harassment of Bonacarti by assigning an untrained, inexperienced, and potentially biased individual to conduct the investigation; failing to conduct and complete its investigation in a timely fashion; undertaking a

sham investigation of Plaintiff's complaint; and reaching an erroneous conclusion that the evidence was inconclusive as to whether Boyle sexually harassed her.

105. Defendants NYCDS and Germán discriminated against Bonacarti because of her sex by underrating her superior performance in her 2016 evaluation, suspending her, and giving her a reduced salary increase and bonus.

106. Defendant Germán, in addition to being directly liable for the unlawful harassment and discrimination against Bonacarti, aided and abetted NYCDS' unlawful conduct.

107. Defendants NYCDS and Germán acted with malice and reckless indifference to Plaintiff's rights under the anti-discrimination provisions of the NYCHRL.

108. Plaintiff has lost wages and other benefits and compensation, and has suffered and continues to suffer mental anguish, emotional distress, humiliation, and other compensable injuries as a result of the unlawful conduct of Defendants NYCDS and Germán.

**SECOND CAUSE OF ACTION**  
**VIOLATION OF NEW YORK CITY HUMAN RIGHTS LAW:**  
**BOYLE'S LIABILITY FOR SEXUAL AND SEX-BASED HARASSMENT**

109. Plaintiff repeats and realleges each and every allegation contained in this Amended Complaint with the same force and effect as if fully set forth herein.

110. Defendant Boyle is directly liable for sexually harassing Bonacarti and subjecting her to sex-based harassment and a sexually hostile work environment.

111. Boyle is also liable for aiding and abetting NYCDS and Germán's sexual harassment of Plaintiff.

112. Boyle acted with malice and reckless indifference to Plaintiff's rights to be free of unlawful harassment in the workplace.

113. Plaintiff has lost wages and other benefits and compensation, and has suffered and continues to suffer mental anguish, emotional distress, humiliation, and other compensable injuries as a result of Boyle's unlawful conduct.

**THIRD CAUSE OF ACTION**  
**VIOLATION OF NEW YORK CITY HUMAN RIGHTS LAW**  
**RETALIATION: NYCDS AND GERMÁN**

114. Plaintiff repeats and realleges each and every allegation contained in this Amended Complaint with the same force and effect as if fully set forth herein.

115. Plaintiff engaged in protected activity by relating to Germán and NYCDS her concerns that Boyle, upon receiving his promotion, would resume his sexual and sex-based harassment of her, and then by complaining about Boyle's sexual harassment.

116. In retaliation for engaging in such protected activity, Germán and NYCDS suspended Plaintiff for three weeks without pay, gave her a reduced raise and bonus, and created a hostile work environment.

117. In addition to his direct liability for unlawfully retaliating against Bonacarti, Germán aided and abetted NYCDS' retaliation.

118. NYCDS and Germán acted with malice and reckless indifference to Plaintiff's rights under the anti-retaliation provision of the NYCHRL.

119. Plaintiff has lost wages and other benefits and compensation, and has suffered and continues to suffer mental anguish, emotional distress, humiliation, and other compensable injuries as a result of the unlawful conduct of NYCDS and Germán.

**FOURTH CAUSE OF ACTION**  
**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS:**  
**ALL DEFENDANTS**

120. Plaintiff repeats and realleges each and every allegation contained in this Amended Complaint with the same force and effect as if fully set forth herein.

121. Boyle engaged in extreme and outrageous conduct with the intent to cause or the disregard of a substantial likelihood of causing Bonacarti severe emotional distress.

122. Boyle's conduct, in fact, caused Bonacarti severe emotional distress.

123. Defendant Germán deliberately and intentionally refused to restrain Boyle's interactions with Bonacarti and responded to requests from her and her supervisor that he stay away from Plaintiff with such callous statements as, "He's a supervisor. She has to deal with it," and that Boyle's infatuation with her was "ancient history."

124. Defendants NYCDS and Germán are vicariously liable for Boyle's intentional acts to harm Bonacarti under the doctrine of *respondeat superior*.

125. Boyle, NYCDS and Germán acted with malice and reckless indifference to Plaintiff's rights and well-being.

126. Plaintiff has suffered and continues to suffer mental anguish, emotional distress, humiliation, and other compensable injuries as a result of Defendants' unlawful conduct.

**FIFTH CAUSE OF ACTION**  
**NEGLIGENT TRAINING, SUPERVISION, AND RETENION:**  
**NYCDS AND GERMÁN**

127. Plaintiff repeats and realleges each and every allegation contained in this Amended Complaint with the same force and effect as if fully set forth herein.

128. Defendants NYCDS and Germán were on notice of Boyle's propensity to harass and otherwise harm Bonacarti.

129. Defendants NYCDS and Germán acted with gross negligence in their training and supervision of Boyle and in retaining Boyle in his role as a supervisor, so as to prevent him from harassing and otherwise deliberately harming Bonacarti.

130. Defendants NYCDS and Germán breached the duty of care they owed to Bonacarti to safeguard her from harm deliberately inflicted upon her by co-workers and supervisors.

131. As a result of Defendants' gross negligence, Boyle harassed, threatened and intimidated Bonacarti causing ongoing severe emotional distress.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that this Court enter a judgment:

- a. Declaring the acts and practices complained of herein to be violations of the New York City Human Rights Law;
- b. Enjoining and permanently restraining these violations of law;
- c. Directing NYCDS to take such affirmative action as is necessary to ensure that the effects of these unlawful employment practices are eliminated;
- d. Directing Defendants to place Plaintiff in the position she would have occupied but for Defendants' unlawful conduct, and making her whole for all earnings and other benefits she would have received but for Defendants' unlawful conduct, including but not limited to wages, commissions, other lost benefits, loss of good will, and interest thereon;
- e. Directing Defendants to pay plaintiff compensatory damages, including damages for her mental anguish, denial of life's pleasures, pain and suffering and humiliation, as well as punitive damages;
- f. Awarding Plaintiff the costs of this action together with reasonable attorney's fees;
- g. Granting such other relief as this Court deems necessary and proper.

Dated: New York, New York  
October 30, 2017

By: 

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