

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

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SHAQUANA BATTLE,		
Plaintiff,		
- against -		Index No.:
PRET A MANGER (USA) LIMITED and JAIRO RAMOS		SUMMONS
Defendants,		
-----	X	

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to serve upon plaintiff’s attorney an answer to the complaint in this action within twenty days after the service of this summons, exclusive of the day of service, or within thirty days after service is complete if this summons is not personally delivered to you within the State of New York. In case of your failure to answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis for the venue designated is plaintiff’s residence in Bronx County.

Dated: New York, New York
July 1, 2020

Respectfully submitted,

ARENSEN, DITTMAR & KARBAN

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**SUPREME COURT OF THE STATE OF NEW YORK
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SHAQUANA BATTLE,	
Plaintiff,	
- against -	
PRET A MANGER (USA) LIMITED and JAIRO RAMOS	
Defendants,	
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Civil Action

Index No.:

Jury Trial Demanded

COMPLAINT

Plaintiff Shaquana Battle (“Plaintiff”), by and through her attorneys, Arenson, Dittmar & Karban, as and for her Complaint against Pret A Manger (USA) Limited (“Pret”) and Jairo Ramos (“Ramos”) (collectively, the “Defendants”), alleges upon personal knowledge as to herself and upon information, belief and investigation of counsel as to all other matters as follows:

NATURE OF THE ACTION

1. This action arises out of a discriminatory and hostile work environment on the basis of race created and fostered by Defendants.
2. Plaintiff brings this action pursuant to under the New York City Administrative Code § 8-107, et seq. (“NYCHRL”) for compensatory damages, punitive damages and attorney’s fees and costs.

3. Venue is proper in this County pursuant to New York Civil Practice Laws and Rules (“NYCPLR”) § 503.

PARTIES

PLAINTIFF

4. Plaintiff is and was, at all relevant times, a female African American adult individual residing in Bronx, NY.

DEFENDANTS

5. Defendant Pret owns and operates an international chain of over 500 shops that offer handmade ready-to-eat sandwiches, salads, and drinks. As part of that chain, Pret has owned and operated a shop located at 60 Broad Street, New York, New York since approximately 2000. Pret is registered in New York County as a foreign business corporation incorporated in England. It maintains a New York office located at 853 Broadway, New York, NY 10003.
6. Upon information and belief, Ramos is a resident of the State of New York.
7. Ramos was the general manager of Pret’s shop at 60 Broad Street (“60 Broad”) from approximately January 2018 through approximately August 2018.
8. Ramos exercised managerial authority over Plaintiff, acting as Plaintiff’s direct supervisor. He had the authority to hire and fire Plaintiff.
9. Upon information and belief, as General Manager Ramos made the decisions for employees of Pret’s 60 Broad Street shop, including decisions regarding hiring, firing, promotions, work assignment and schedules, and determining the rate of employee pay.

FACTUAL ALLEGATIONS

10. Defendants created and fostered a discriminatory and hostile work environment against Plaintiff on the basis of her race.
11. Plaintiff began working at Pret as a cashier at 60 Broad on or around November 28, 2017. She reported to the shop's General Manager. At the time of Plaintiff's hire the General Manager was Samanta Masinara.
12. Pret hired Plaintiff as a Full Time employee.
13. Pret's offer letter to Plaintiff informs her that as a Full Time employee, she is expected to work 30 hours or more per week.
14. In or around January 2018, Pret replaced Ms. Masinara as General Manager of 60 Broad with Defendant Ramos.
15. Upon his ascension to the role of General Manager of 60 Broad, Defendant Ramos immediately began to discriminate against Plaintiff and other non-Hispanic employees. He cut Plaintiff's hours to less than 30 per week, despite her full time status. He empowered Hispanic Team Leaders to give Plaintiff work assignments, which consisted of menial tasks such as taking out the garbage to a degree disproportionate to the assignments received by Hispanic employees. He also passed Plaintiff over for promotions in favor of newly-hired Hispanic employees.
16. Defendant Ramos tolerated widespread use of the N-word at 60 Broad by the shop's mostly-Hispanic employees and supervisors on a daily basis and frequently used it himself.
17. On a daily basis, many of the shop's Hispanic employees, including Tamika Rosario, who was a Team Leader, addressed African American employees and each other as "Nigger" or "My nigger." They would sometimes use the N-word to address Plaintiff

directly, such as, by way of example only, asking her for her view on a matter by saying, “You feel me, my nigger?” Similarly, on one occasion Plaintiff walked in a minute or two late and Rosario said to her, “Nigger, you late.”

18. The shop’s Hispanic employees would also regularly use the N-word to discuss and comment on customers, such as saying, by way of example only, “Look at that nigger’s shoes” or “This nigger never got no money, I ain’t giving this nigger another free coffee.”
19. Beginning in approximately February 2018 Ramos began regularly using the N-word in conversation with team members and supervisors under his management. By way of example only, he would variously admonish, summon, and express disbelief to subordinates with the following phrases, respectively: “Stop playing, nigger,” “Come here, my nigger,” and “Fuck outta here, my nigger.” During the course of her employment Plaintiff overheard and was offended by many such instances of Ramos using the N-word. However, Plaintiff was initially reluctant to object to it because of Ramos’s authority over her and the shop and because she did not want to create a conflict with the shop’s mostly-Hispanic employees who used the N-word themselves on a daily basis.
20. Ramos also accepted and normalized the use of the N-word by Team Members. By way of example only, on a regular basis, Randy, the Hot Chef, would address Ramos as “My nigger” and Ramos would address Randy as “My G” [i.e., “My gansta”].
21. Plaintiff complained to Ramos in approximately the middle of February, that, among other things, employees at the shop were using the N-word a lot. He told her, “People don’t mean anything by it. We all grew up in the ‘hood.” Plaintiff responded, “What

makes you think I grew up in the ‘hood?’” Plaintiff had not told Ramos about where she grew up. Ramos said he would bring up the issue of using the N-word to Team Members.

22. Ramos took no steps to deter the N-word’s usage among the shop’s employees and, indeed, continued to use it himself.
23. Despite her complaint to Ramos, Plaintiff’s coworkers and supervisors continued to use racial slurs in her presence on a regular basis.
24. In approximately late February 2018, Plaintiff was eating lunch in the lunch area with four or five other employees, including Randy, the Hot Chef. Randy was complaining to Plaintiff about how he was being treated at work. In the course of the conversation he said to Plaintiff, “My nigger, you know what I’m talking about, because they be doing it to you, too.” He soon followed that up by saying he was “tired of niggers” telling him he was not working fast enough. Plaintiff told Randy that she was offended by his use of the N-word, that it was an offensive word, a racial slur, and that she did not want him to use it. She mentioned that she had already spoken to management about the issue, so she felt that she should not have to speak to him personally, but since employees continued to use the N-word she was telling him, personally, how she felt. Another African American present at the lunch agreed with her that it was an offensive term. Randy and the other employees present, however, told Plaintiff they did not see the problem with using the word, with Randy explaining, “I’m from the ‘hood, you’re from the ‘hood.” In the end, Plaintiff’s attempts to explain that it was an offensive term fell on deaf ears. The conversation ended by Randy saying, in reference to the N-word, “I can say that. I’m not changing the way I’m talking.”

25. After Plaintiff explained to her coworkers that she was offended by their use of racial slurs, they began to use it even more frequently in her presence. For example, if a group of coworkers were working wordlessly and Plaintiff approached their area, one of them would make a comment addressing his coworker as “My nigger” just to make sure Plaintiff heard it.
26. In approximately March 2018, the “front of the house” (the customer-facing part of the shop including the cashiers) was short-staffed, so Ramos dispatched a female Hispanic Team Member who usually worked in the “back of the house” (i.e., the kitchen) to help out. However, when it came time to take care of some of the tasks usually performed by those in the front, such as stocking the sodas, the female Team Member returned to the kitchen. When asked by another Team Member in the kitchen why she was returning instead of helping with the tasks, the female Team Member responded that she did not need to help because “Jairo’s gonna make the niggers work like Mexicans.” Jacklyn, the Kitchen Leader, was in the kitchen and heard the remark without objection.
27. That same day, Plaintiff complained to Ramos about the remark she had heard. Ramos said he did not believe that the Team Member said that because “she would never say that.” He also told Plaintiff that he was prepared to vouch for the Team Member, meaning that if Plaintiff complained to Pret’s corporate team he would back up the Team Member.
28. Approximately one week later, Plaintiff overheard that same Team Member speaking to Ramos in Ramos’s office. The Team Member said to Ramos, “I don’t give a fuck about that shit, nigger. We can say ‘nigger.’ ‘Nigger,’ ‘nigger,’ ‘nigger.’” At that point Ramos

heard Plaintiff approaching and said to the Team Member, “Chill out, chill out, chill out,” to indicate that the Team Member should be quiet.

29. In the weeks following that incident, the Team Member would regularly say the N-word in Plaintiff’s presence and then glare at Plaintiff defiantly.
30. Ramos did not discipline the Team Member for her use of racial slurs.
31. Ramos initially cut Plaintiff’s hours below 30 per week in or around January 2018. When Plaintiff complained to Ramos that he had cut her hours below full time, he told her it was just for that week. Then it happened again the next week and the week after that. At that point, when Plaintiff complained to Ramos again, Ramos told her that Adrian, the Field Manager, was responsible for cutting her hours. When Plaintiff contacted Adrian about the issue, he told her that he had nothing to do it and that Ramos was responsible.
32. Plaintiff was also harassed and discriminated against in many smaller ways that cumulatively degraded the conditions of her employment. Another African American coworker named Destiny suffered many of these same indignities. By way of example, Plaintiff and Destiny were ordered by supervisors, usually Ramos, to take out the garbage a disproportionate number of times. This was especially remarkable because female workers at 60 Broad were not usually tasked with dragging the heavy trash bags to the garbage dump. Seeing Plaintiff dragging these bags to the garbage dump, the garbage man asked her, “What are you doing back here? I never heard of them sending a female to do garbage pickup.”
33. On orders from Rosario and Ramos, Plaintiff and Destiny also made a disproportionate amount of deliveries during the winter when the weather was cold and it was snowing.

Once the weather improved enough that making deliveries became pleasant, the Hispanic employees began making them.

34. With reference to the menial tasks given to Plaintiff, a Team Member named Jasmine asked Plaintiff, “Why are they asking one person to do everything?”
35. While Rosario trained Hispanic employees to be able to work as baristas (a role that paid better than the cashier position Plaintiff had) she never trained Plaintiff.
36. On approximately ten occasions--whenever Ramos made a scheduling error and scheduled too many workers to work on the same shift at 60 Broad—Plaintiff was sent to work at other shops upon her arrival to work. It was always Plaintiff who was reassigned. In this manner she was assigned to work at the Pret shop at 50 Broadway three or four times. She also worked at the shops at 179 Broadway and 147 Fulton Street.
37. The N-word was used pervasively by employees at those other Pret locations, as well. Despite the widespread use of the N-word at those locations, Plaintiff only heard a supervisor at one of those locations reprimand employees for using racial slurs on one occasion.
38. In approximately late March an employee from Pret’s corporate People Support (i.e., Human Resources) team visited the shop. Upon information and belief, this person was Jasmin Burke, the supervisor of Pret’s People Support Manager, Glenda Gregorio. Burke interviewed all of the 60 Broad employees one-on-one, including Plaintiff. Burke told Plaintiff she was visiting to look into complaints about employees’ hours being cut. Plaintiff confirmed that her hours had been cut. Plaintiff also told her about the incident where her coworker used the phrase “make the niggers work like Mexicans.” In response,

Burke said she was just there to deal with the hours issue, and that if Plaintiff had a different issue Plaintiff should call a hotline dedicated to dealing with complaints.

39. In or around early April, Plaintiff called the hotline to which the human resources representative had referred her. The call went to voicemail. Plaintiff left a voicemail during which she complained about her hours being cut and that her shop was “a hostile work environment.”
40. On April 13 and 17, 2018 Glenda Gregorio visited 60 Broad and spoke to Plaintiff and other employees there. Plaintiff again complained about the use of racial slurs in the shop and told Gregorio about the incident where her coworker used the phrase “make the niggers work like Mexicans.” In response, Gregorio counseled Plaintiff to try to go about her business and avoid drama at the shop.
41. After her visit, on April 17, 2018, Gregorio sent Plaintiff an email write-up that mischaracterized and/or omitted many of the issues Plaintiff raised. Notably absent from the write-up was any mention of racial slurs, including the incident Plaintiff told Gregorio about.
42. Soon afterwards, Plaintiff contacted Gregorio and noted that Gregorio left certain important things out of her write-up, including her complaint about use of the N-word. Gregorio promised to resend Plaintiff an updated version which included the slurs. Plaintiff asked Gregorio if she could record future meetings in light of the omissions. Gregorio refused. Despite her promise, Gregorio did not send Plaintiff a revised version of the write-up.
43. In or around May 2018, Team Leader Evelyn De La Cruz (who was Hispanic) was working at the first cashier station in front of customers who were on line. Plaintiff was

working two cashiers down from De La Cruz. Randy, the Hot Chef at the time, passed by De La Cruz and told her, "You're always burning the cookies." She responded, "Fuck outta here, my nigger." Plaintiff confronted her, saying, "Are you serious? Are you doing this on purpose?" and asking De La Cruz how she could say that in front of customers, especially after speaking with Gregorio in April about the use of racial slurs. De La Cruz started berating Plaintiff, telling her, "You can't tell me what to do." Ramos reported the incident to Gregorio, but no action was taken by Pret.

44. In approximately June 2018, De La Cruz again publicly used a racial slur in front of Plaintiff. She was standing in the front of the house with baristas, just behind the registers, within earshot of the customers standing on line. The Hot Chef came by and said to her, "Move over, fat ass." She responded to him, "Shut up, nigger." Plaintiff once again complained to Gregorio, without result.
45. Rosario once found drug paraphernalia in the bathroom. In a joking manner she asked Plaintiff, "You in there doing this thing?"
46. After complaining to Ramos and Pret's People Team in March and April, Plaintiff was subjected to retaliation by Ramos, the shop's supervisors, and her coworkers. Their use of the N-word did not abate; rather it became more frequent. In addition, Plaintiff was singled out for mistreatment in many smaller ways that cumulatively made her work environment more difficult.
47. After Plaintiff complained, Randy, the Hot Chef, speaking to Plaintiff about De La Cruz and Rosario, said, "They trying to get you fired."
48. Although Pret mandated that nails could only be painted in a nude color, in practice many of the female employees at 60 Broad got their nails done in different colors. In or around

the end of April 2018, Plaintiff had her nails done in a nude color, per Pret's regulations.

When De La Cruz saw Plaintiff's nails she said, "Did Jairo see your nails?" She then told Plaintiff, "You not going to be able to wear them nails."

49. Pret had a policy in place permitting employees to eat a free lunch from certain foods available at Pret. Beginning in approximately late April or early May 2018, De La Cruz, Rosario, and Ramos began to harass Plaintiff about taking the food she was permitted under Pret's policies, claiming that certain permitted items she was taking were not permitted. On at least one occasion Ramos interrupted Plaintiff's lunch to demand a receipt. While De La Cruz, Rosario, and Ramos were attempting to hold Plaintiff to a standard beyond the requirements of Pret's policy, they did not hold other employees to this standard, allowing other employees to take food that was not on the menu of items that could be taken as part of the free lunch. Moreover, Rosario's cousin, who worked for the Post Office, would frequently receive free coffees and food at 60 Broad. At a certain point, because of the harassment she faced from her supervisors, Plaintiff gave up attempting to avail herself of the free lunch.

50. After Plaintiff's complaints, Plaintiff was also given a heavier workload and more menial tasks as well. She was regularly assigned to clean the bathroom and break room. Pret's policies mandate posting these duties so that the rotation of employees assigned to them is clear. Rosario refused to post them and, when Plaintiff brought up the policies, claimed that Plaintiff's handbook was out of date.

51. In approximately July 2018 Plaintiff was also barred from the break room, while other employees were allowed to eat there. Instead she was told to take off her uniform and go eat in the public area.

52. After Plaintiff's complaints, Ramos began using a more aggressive tone of voice and body language to address Plaintiff and assign her work. In response to Plaintiff's objection to a certain assignment Ramos told Plaintiff, "Don't talk to me. You already complained. If you have an issue you might as well call the [people] you already complained to," by which he meant the Human Resources team.
53. Ramos passed Plaintiff over for several promotions. By way of example only, in or around June 2018 Ramos hired a Hispanic female with no experience to fill a vacant Hot Chef position, which was a higher paid position than Plaintiff's. Plaintiff had been asked to perform many of the duties of a Hot Chef, including baking cookies and croissants, and individually wrapping breads to dip into soup. Plaintiff continued to perform many of the Hot Chef's duties as the person Ramos hired was often late and did not perform many of the required tasks.
54. On July 11, 2018, Plaintiff sent Ramos a series of text messages in which she complained that she was being treated worse than other employees because of her race. Among other concerns, Plaintiff cited her coworkers' use of the N-word, Ramos's tolerance of the usage of slurs, and the lack of results from her previous complaints to Pret's corporate team.
55. On July 12, 2018 Plaintiff sent Gregorio an email in which she cited, among other concerns, her coworkers' use of racial slurs and the lack of action taken in response to her prior complaints. She also mentioned that she had sent Ramos a text about her concerns and that he had not responded and refused to discuss her concerns.
56. Faced with these explicit, written complaints, Pret lurched into action, albeit a kind both belated and insufficient. Gregorio spoke to Plaintiff about her concerns on or around July

13, 2018. In a July 16, 2018 email she told Plaintiff that she would be conducting an investigation.

57. In or around August 4, 2018 Gregorio sent Plaintiff a follow up email in which she shared the results of her investigation. Under the heading “Inappropriate Language” she confirmed that she was able to substantiate Plaintiff’s allegations that racial slurs are used in the shop. Under the heading “Hostile Work Environment” she confirmed that she was able to substantiate Plaintiff’s concerns, especially relating to the “front of the house” where Plaintiff worked. She also wrote that she would transfer Plaintiff to the shop at 350 Hudson Street as of August 6, 2018.

58. Despite these findings, Pret did not terminate Ramos’s employment.

FIRST CAUSE OF ACTION

Discrimination on the Basis of Race In Violation of Section 8-107 of Title 8 of The New York City Charter and Administrative Code

59. Plaintiff repeats and re-alleges each and every allegation set forth above in as if fully set forth herein.

60. As set forth more fully above, Defendants subjected Plaintiff to discrimination, racial harassment, and a hostile work environment based on race, consisting of, among other things, daily use of the N-word both addressed to Plaintiff herself and to other people in Plaintiff’s presence, despite Plaintiff’s repeated objections; cutting her hours below 30 despite her status as a full time employee; passing her over for promotions; assigning her a heavier workload with a disproportionate amount of menial tasks in comparison with her Hispanic coworkers; and sending her to work at other shops whenever there was a scheduling conflict.

61. As set forth more fully above, Defendants participated in, approved of, condoned and ratified the racial harassment, discrimination and the hostile work environment on the basis of race perpetrated against Plaintiff.
62. The racial harassment, discrimination and the hostile work environment that Defendants perpetrated against Plaintiff were continuing and intentional in nature.
63. As a result of the racial harassment, discrimination and hostile work environment on the basis of race, Plaintiff has suffered, and continues to suffer, *inter alia*, pain and suffering, emotional distress, mental anguish, and other non-pecuniary losses, as to which he is entitled to past, present and future compensatory damages, in the maximum amount permitted by law.
64. Because Defendants acted with malice or reckless indifference to Plaintiff's rights, Plaintiff is entitled to punitive damages in an amount to be determined at trial, but not less than the maximum amount permitted by law.

SECOND CAUSE OF ACTION
Retaliation In Violation of Section 8-107 of
Title 8 of The New York City Charter and Administrative Code

65. Plaintiff repeats and re-alleges each and every allegation set forth above in as if fully set forth herein.
66. As set forth more fully above, Plaintiff opposed the discrimination and racial harassment that permeated 60 Broad, by, on multiple occasions, objecting to and complaining about it to her coworkers, supervisors, manager, and members of Pret's human resources department.
67. As set forth more fully above, Defendants retaliated against Plaintiff by, among other things, increasing and intensifying their racial harassment of her, passing her over for promotion, assigning her a heavier workload with a disproportionate amount of menial

tasks, harassing her into not availing herself of the lunch Pret's policies afforded her, and barring her from eating in the break room.

68. As a result, Plaintiff has suffered economic losses.

69. As a result of the retaliation, Plaintiff has suffered, and continues to suffer, *inter alia*, pain and suffering, emotional distress, mental anguish, and other non-pecuniary losses, as to which she is entitled to past, present and future compensatory damages, in the maximum amount permitted by law.

70. Because Defendants acted with malice or reckless indifference to Plaintiff's rights, Plaintiff is entitled to punitive damages in an amount to be determined at trial, but not less than the maximum amount permitted by law.

THIRD CAUSE OF ACTION

Aiding, Abetting, and Inciting In Violation of Section 8-107 of Title 8 of The New York City Charter and Administrative Code

71. Plaintiff repeats and re-alleges each and every allegation set forth above in as if fully set forth herein.

72. As set forth more fully above, Ramos aided, abetted, incited, compelled and/or coerced the following unlawful practices, and/or attempted to do so: the creation, fostering, and approval of racial harassment, discrimination, and a hostile work environment on the basis of race suffered by Plaintiff and retaliation against Plaintiff for objecting to these violations of law.

73. The discrimination that Defendants perpetrated against Plaintiff was continuing and intentional in nature.

74. As a result, Plaintiff has suffered economic losses.

75. As a result of the discrimination on the basis of race, Plaintiff has suffered, and continues to suffer, *inter alia*, pain and suffering, emotional distress, mental anguish, and other non-pecuniary losses, as to which she is entitled to past, present and future compensatory damages, in the maximum amount permitted by law.
76. Because Defendants acted with malice or reckless indifference to Plaintiff's rights, Plaintiff is entitled to punitive damages in an amount to be determined at trial, but not less than the maximum amount permitted by law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief:

- a. A declaratory judgment that the practices complained of herein are unlawful under the NYCHRL;
- b. An award of monetary damages to be determined at trial for, plus prejudgment interest, to compensate Plaintiff for all monetary and/or economic damages, including but not limited to, compensation for her economic losses, pain and suffering, mental anguish and emotional distress, humiliation and loss of self-esteem.
- c. An award of punitive damages;
- d. An award of attorneys' fees and costs incurred in this action; and
- e. Such other and further relief as this Court deems just and proper.

Dated: New York, New York
July 1, 2020

Respectfully submitted,

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