

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

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KATE MERLI,	:	
	:	INDEX NO.
Plaintiff,	:	
	:	
-against-	:	
	:	<b><u>SUMMONS</u></b>
SNOW PARK CAPITAL PARTNERS, LP and	:	
JEFFREY PIERCE,	:	
	:	
Defendants.	:	
	:	
	:	
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TO: THE ABOVE-NAMED DEFENDANTS:

**YOU ARE HEREBY SUMMONED**, to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's undersigned attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated:           New York, New York  
                    May 21, 2018

Yours, etc.

ROPER MAJESKI KOHN & BENTLEY

/s/ Andrew L. Margulis

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*Attorneys for Plaintiffs*

TO:

SNOW PARK CAPITAL PARTNERS, L.P.  
515 Madison Avenue, 20<sup>th</sup> Floor  
New York, NY 10022

JEFFREY PIERCE  
c/o Snow Park Capital Partners, L.P.  
515 Madison Avenue, 20<sup>th</sup> Floor  
New York, NY 10022

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

-----	X	
KATE MERLI,	:	
	:	
Plaintiff,	:	INDEX NO.
	:	
-against-	:	<b><u>VERIFIED COMPLAINT</u></b>
	:	
SNOW PARK CAPITAL PARTNERS, LP and	:	
JEFFREY PIERCE,	:	
	:	
Defendants.	:	
	:	
	:	
-----	X	

Plaintiff, Kate Merli (“Plaintiff” or “Merli”), by her undersigned attorneys, as and for her Verified Complaint against Defendants, alleges as follows:

**PARTIES, VENUE AND NATURE OF ACTION**

1. Plaintiff Kate Merli is a natural person residing in New York County, New York.
2. Upon information and belief, defendant Snow Park Capital Partners, L.P. (“Snow Park”) is a Delaware limited partnership with a principal place of business in the City, County and State of New York, and is registered to conduct business in New York. Snow Park is an investment advisor firm that focuses on publicly traded real estate securities.
3. Jeffrey Pierce (“Pierce”) is a natural person and is the managing partner of Snow Park. Pierce is employed by Snow Park in its offices in New York County, New York and resides in New York County, New York.
4. During the tenure of Plaintiff’s employment, defendants encouraged, fostered and maintained a hostile environment of persistent sexual and gender harassment that humiliated, degraded, intimidated, and offended Plaintiff. The sexual harassment included, but was not

limited to, unwelcome sexual advances, physical and sexual assault, derogatory and obscene remarks regarding Plaintiff based on her gender, and the creation of a generally sexualized work environment.

5. Defendants' conduct constituted a pattern and practice of sexual harassment. This action seeks compensatory and punitive damages for defendants' violations of State and City anti-discrimination statutes.

6. Venue is proper in this County as the parties reside in this County and the acts giving rise to this action took place in this County.

### **FACTUAL BACKGROUND**

7. Plaintiff is a Certified Public Accountant and commenced employment with Snow Park as its Chief Financial Officer (“CFO”) in October 2016.

8. Throughout her employment with Snow Park, Plaintiff was employed in Snow Park’s principal office located in the City, County and State of New York.

9. Plaintiff, as CFO, reported directly to Pierce, the managing partner of Snow Park, who was Plaintiff’s direct supervisor.

10. As the managing partner of Snow Park, Pierce was responsible for and was in direct control of the day to day operations of Snow Park.

11. At the Snow Park holiday party in December 2016, Pierce made several lewd and improper remarks to Plaintiff, including calling her “hot” and requested that Plaintiff engage in a sexual relationship with Pierce. Pierce also sexually assaulted Plaintiff by groping and touching various parts of Plaintiff’s body and attempting to cause Plaintiff to touch parts of Pierce’s body. Pierce also attempted to force Plaintiff to kiss Pierce. Plaintiff repeatedly requested that Pierce cease such activity but Pierce refused.

12. The day after the Snow Park party in December 2016, Pierce went to Plaintiff's office, remarked that he had made certain sexual comments to Plaintiff the prior evening, and stated that he did not regret having made those comments because "it was true that" Plaintiff was "hot." Pierce made other inappropriate remarks of a sexual nature to Plaintiff and again pressured Plaintiff to engage in sexual activity with Pierce. Plaintiff again rejected Pierce's advances and again requested that he cease engaging in such conduct.

13. Over the following several months, Plaintiff attempted to maintain a professional relationship with her superior, Pierce, despite Pierce's inappropriate conduct and despite the hostile work environment that Pierce had created.

14. On July 7, 2017, after engaging in what Plaintiff had hoped was a professional dinner meeting with Pierce, Pierce again proceeded to make inappropriate comments of a sexual nature to Plaintiff, requested that Plaintiff engage in a sexual relationship with Pierce, and again inappropriately and without Plaintiff's consent groped and touched various parts of Plaintiff's body.

15. In an attempt to document the conduct by Pierce, Plaintiff began recording on her smartphone the conversation with Pierce and the inappropriate comments Pierce was making. Pierce discovered that Plaintiff was recording the conversation, and became enraged and began shouting at Plaintiff and demanding that Plaintiff give him her phone so he could delete the recording.

16. When Plaintiff refused, Pierce physically and viciously assaulted Plaintiff, tackling her to the ground and attempting to wrestle the phone away from Plaintiff. Fearful for her physical safety and in order to put an end to the violence being perpetrated against her by

Pierce, Plaintiff relented and deleted the recording. Plaintiff filed a police report with the New York City Police Department concerning this incident.

17. After this July 7, 2017 incident, the workplace at Snow Park became even more hostile and in fact toxic towards Plaintiff, and Plaintiff was in constant fear of Pierce, feared for her job and even her physical safety.

18. On other occasions Pierce continued to make inappropriate sexual remarks to Plaintiff, continued to pressure Plaintiff to engage in a sexual relationship with Pierce, and engaged in unwanted and unwelcome physical touching of Plaintiff.

19. Plaintiff attempted to get Pierce to cease this conduct by threatening to take action and going public about Pierce's conduct. Pierce threatened Plaintiff, stating that if she did so, no company would ever hire Plaintiff again and it would ruin her professional reputation, and further commented that he would draw out and prolong any legal battle so that she could not afford counsel to pursue any action. Pierce made these threats to improperly coerce Plaintiff into keeping silent about Pierce's conduct, thereby retaliating against Plaintiff for engaging in protected activity and threatening her future employment.

20. Despite the hostile work environment, Plaintiff continued to do her job but was in constant fear and anxiety over Pierce's conduct and whether she would be terminated as a result of her refusal to engage in a sexual relationship with Pierce.

21. In December 2017, Pierce demanded that he be given the Snow Park company checkbook so he could write checks in the total amount of \$7,850 so that he could use those company funds to pay Christmas tips to the staff of the building in which he resided. Plaintiff, the CFO, commented that this was not an appropriate use of company funds, and also noted that there were insufficient funds to issue such checks due to the short notice of the request by Pierce.

Pierce proceeded to berate and belittle Plaintiff in front of the entire office, and made comments impugning her integrity and abilities as CFO. This conduct by Pierce was done in retaliation against Plaintiff as a result of Plaintiff's repeated refusal to engage in a sexual relationship with Pierce.

22. Following the December 2017 incident, Plaintiff was unable to return to the Snow Park office, as she was in fear of being in contact with Pierce and was in a state of constant anxiety about the prospect of being in the same office as Pierce. Plaintiff has been constructively discharged by Snow Park.

23. Despite defendants' notice of the discriminatory and retaliatory conduct, defendants failed to take reasonable measures to remedy the situation and/or protect Plaintiff.

24. Defendants' actions toward plaintiff were done maliciously and/or in reckless disregard of Plaintiffs rights.

25. Upon information and belief, defendants knew that their actions with respect to Plaintiff were violative of state and city civil rights laws.

26. Defendants' unlawful conduct resulted in a severely hostile working environment that substantially interfered with Plaintiff's ability to perform her work, thereby altering and affecting the terms and conditions of her employment.

27. By letter dated January 4, 2018 to defendants' counsel, Plaintiff formally complained about the defendants' conduct and asserted a claim to enforce her rights against defendants. Upon information and belief, defendants were made aware of Plaintiff's January 4, 2018 letter.

28. Following Plaintiff's January 4, 2018 letter, and in direct retaliation against Plaintiff for Plaintiff having asserted her rights, defendants further retaliated against Plaintiff by

making false statements to third parties concerning Plaintiff impugning Plaintiffs' honesty and integrity. These statements by defendants concerning Plaintiff were made for the purpose of coercing Plaintiff into giving up her rights to attempt to force Plaintiff not to take action against defendants to remedy the acts complained of in this complaint.

29. By reason of defendants' unlawful conduct, Plaintiff was deeply degraded, offended and intimidated.

30. Defendants conduct has had a continuing impact on Plaintiff.

31. As a result of Defendants' conduct, Plaintiff has suffered, and continues to suffer, from mental distress, anguish, and emotional pain and suffering.

**FIRST CAUSE OF ACTION  
(Gender Discrimination—Sexual Harassment—New York Executive Law § 296)**

32. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 31 as if set forth at length herein.

33. Plaintiff is a woman and therefore a member of a protected class.

34. Plaintiff was discriminated against in the terms and conditions of her employment because of her gender, in the form of repeated sexual harassment by defendants during her employment with Snow Park.

35. The sexual harassment Plaintiff suffered while employed at Snow Park was severe and pervasive, unwelcome by Plaintiff, and would be offensive to a reasonable person.

36. The sexual harassment that Plaintiff suffered while employed at Snow Park severely affected the terms and conditions of her employment, as set forth in detail herein and created a hostile work environment.

37. Snow Park's most senior officer and employee, Pierce, participated in the conduct alleged herein and was thus aware of the discrimination. Plaintiff repeatedly objected to the



discrimination and reported the harassment to Defendants. Therefore, Defendants knew or should have known about the sexual harassment and the effect it had on Plaintiffs employment. Yet, Defendants failed to take the necessary remedial actions.

38. As a direct and proximate result of said unlawful employment practices, Plaintiff has suffered the indignity of discrimination, the invasion of her rights to be free from discrimination, and great humiliation, which has manifested in serious emotional stress and physical illness.

39. By reason of the foregoing, defendants have violated New York State Executive Law § 296.

40. As a direct and proximate result of said unlawful employment practices, Plaintiff has suffered damages, including extreme mental anguish, outrage, and severe anxiety about her future and her ability to support herself, harm to her employability and earning capacity, lost past and future earnings, painful embarrassment among her family, friends, and co-workers, damage to her good reputation, disruption of her personal life, and the loss of enjoyment of the ordinary pleasures of everyday life, in an amount to be proven at trial but exceeding \$2,000,000.

**SECOND CAUSE OF ACTION**  
**((Gender Discrimination—Sexual Harassment—New York City Administrative Code §§ 8-107 and 8-502))**

41. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 40 as if set forth at length herein.

42. Plaintiff was discriminated against in the terms and conditions of her employment because of her gender, in the form of repeated sexual harassment by defendants during her employment with Snow Park.

43. All of the conduct alleged herein took place in the City of New York.

44. By reason of the foregoing, defendants have violated New York City Administrative Code §§ 8-107 and 8-502.

45. As a direct and proximate result of said unlawful employment practices, Plaintiff has suffered damages, including extreme mental anguish, outrage, and severe anxiety about her future and her ability to support herself, harm to her employability and earning capacity, lost past and future earnings, painful embarrassment among her family, friends, and co-workers, damage to her good reputation, disruption of her personal life, and the loss of enjoyment of the ordinary pleasures of everyday life, in an amount to be proven at trial but exceeding \$2,000,000.

**THIRD CAUSE OF ACTION  
(Defamation)**

46. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 45 as if set forth at length herein.

47. In late January or early February 2018, defendant Pierce, while skiing in Park City, Utah, stated to an investor in Snow Park that Plaintiff had been suspended from her job at Snow Park without pay and that Plaintiff had stolen \$10,000 from Pierce and/or Snow Park.

48. The statements by Pierce as alleged herein were made by Pierce in his capacity as a partner of Snow Park and during the course of his employment with Snow Park and were made with the knowledge of Snow Park and/or were ratified by Snow Park.

49. The aforesaid statements by Pierce were false and were made by Pierce with knowledge that they were false.

50. Each and every one of the statements alleged herein was made without privilege or authorization.

51. These statements defame and otherwise impugn Plaintiff's character, integrity, and falsely imputed criminal activity on the part of Plaintiff, and are slanderous *per se*.

52. By the aforesaid acts and conduct of Defendants, Plaintiff has been directly and proximately caused to suffer actual damages including, but not limited to, loss of earnings and future earning capacity, medical and related expenses for care and procedures both now and in the future, attorney's fees, and other pecuniary loss.

53. As a further direct and proximate result of the acts and conduct of Defendant, Plaintiff has been caused to suffer, and did suffer, and continues to suffer severe and permanent emotional and mental distress and anguish, humiliation, embarrassment, fright, shock, pain, discomfort and anxiety.

54. By reason of the foregoing, Plaintiff has been damaged in an amount to be proven at trial but exceeding \$2,000,000.

**WHEREFORE**, Plaintiff demands judgment against Defendant as follows:

- (i) on the First Cause of Action, for compensatory and punitive damages against Defendants in an amount to be determined at trial but exceeding \$2,000,000;
- (ii) on the Second Cause of Action, for compensatory and punitive damages against Defendants in an amount to be determined at trial but exceeding \$2,000,000;
- (iii) on the Third Cause of Action, for compensatory and punitive damages against Defendants in an amount to be determined at trial but exceeding \$2,000,000;
- (iv) awarding Plaintiff her attorneys' fees and costs in this action; and
- (v) for such other and further relief as the Court deems just and proper.

Dated: New York, New York  
May 21, 2018

Respectfully submitted,  
  
ROPERS, MAJESKI, KOHN & BENTLEY

By: */s/ Andrew L. Margulis*

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750 Third Avenue, 25<sup>th</sup> Floor  
New York, NY 10017  
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*Attorneys for Plaintiff*

VERIFICATION

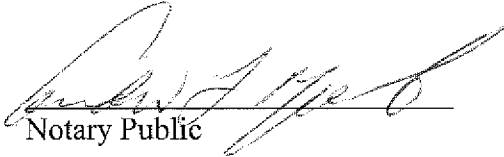
STATE OF NEW YORK    )  
                                  :        ss.:  
COUNTY OF NEW YORK )

KATE MERLI, being duly sworn, deposes and says follows:

I am the plaintiff in the above-entitled action. I have read the foregoing complaint, and the contents thereof are true to my knowledge, except as to those matters alleged upon information and belief, and as to those matters I believe them to be true.

  
KATE MERLI

Sworn to before me this 21st  
day of February, 2018

  
Notary Public

ANDREW L. MARGULIS  
Notary Public, State of New York  
No. 31-4957577  
Qualified in New York County  
Commission Expires October 16, 20 21