

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

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EMILY DAVIS,

Plaintiff

-against-

PHOENIX ANCIENT ART, S.A. d/b/a
PETRACH, and HICHAM ABOUTAAM,

Defendants.
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Index No.:

Date Purchased:

SUMMONS

Plaintiff designates NY
County as the place for trial.


TO THE ABOVE-NAMED DEFENDANTS:

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

The basis of venue is CPLR 503(a).

Dated: New York, New York
October 16, 2012

MINTZ & GOLD LLP

By: 

Jeffrey D. Pollack
470 Park Avenue South
10th Floor North
New York, New York 10016
(212) 696-4848

To: Hicham Aboutaam
47 East 66th Street
New York, NY 10065

Phoenix Ancient Art, S.A.
d/b/a Petrach
47 East 66th Street
New York, NY 10065

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

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EMILY DAVIS,	:	Index No. 2012/ _____
	:	
Plaintiff,	:	
	:	
v.	:	
	:	<u>COMPLAINT</u>
PHOENIX ANCIENT ART, S.A. d/b/a	:	
PETRACH, and HICHAM ABOUTAAM	:	Jury Trial Demanded
	:	
Defendants,	:	
-----X	:	

Plaintiff, Emily Davis (“Plaintiff”), by her attorneys, Mintz & Gold LLP, complains of defendants as follows:

Nature of the Action

1. Plaintiff brings this action to remedy sex discrimination (sexual harassment) in employment and retaliation under the New York State Human Rights Law, New York Executive Law § 296 et seq. (the “Executive Law”) and the Administrative Code of the City of New York § 8-107 et seq. (the “City Law”).
2. Plaintiff seeks compensatory and punitive damages, including damages for physical pain and suffering, back pay, front pay, interest, costs and attorneys’ fees, and other appropriate equitable and legal relief.
3. Pursuant to § 8-502(c) of the City Law, prior to filing the Complaint, Plaintiff served a copy of the Complaint on the City of New York Commission on Human Rights and the City of New York Corporation Counsel.

The Parties

4. Upon information and belief, Phoenix Ancient Art S.A. ("Phoenix") is a foreign corporation doing business as Petrarch, an art gallery located at 47 East 66th Street in Manhattan.

5. Phoenix is an employer within the meaning of the Executive Law and the City Law.

6. At all relevant times, Phoenix had at least four (4) employees.

7. Plaintiff was employed by Phoenix as a project manager and client development specialist from May 2010 until approximately May 2012, when she was constructively discharged.

8. Plaintiff is a citizen of New York State.

9. Defendant Hicham Aboutaam ("Aboutaam") is an owner and the President of Phoenix.

Facts

10. During Plaintiff's employment with Phoenix, Aboutaam supervised her and had the authority to control the terms and conditions of her employment.

11. In September 2010, Plaintiff traveled with Aboutaam to Paris, France to attend the Biennale desAntiquaires art fair.

12. Plaintiff had her own hotel room in Paris for the part of the trip that was scheduled in advance.

13. Plaintiff was originally scheduled to return to New York on September 17th or 18th 2010.

14. On September 16th or 17th, however, Aboutaam asked her to stay a few extra days in order to fill in for short staff at the fair.

15. At the same time, Aboutaam also told Plaintiff that there were no hotel rooms available for her.

16. At the same time, Aboutaam also told Plaintiff that he had a 2-bedroom hotel suite in which he told Plaintiff she would have to stay.

17. On September 19th, 2010, after Plaintiff and Aboutaam returned from dinner with Michael Hedqvist and Christina Nabel, Aboutaam entered Plaintiff's bedroom, grabbed her arm, and asked her to sleep with him.

18. She fought to release herself from his grasp, and Aboutaam said "I'm not going to let you go until you at least kiss me."

19. Aboutaam then forcibly kissed Plaintiff.

20. The next day, Plaintiff returned to New York.

21. Aboutaam returned to New York approximately two weeks later.

22. Shortly thereafter, he insincerely apologized to Plaintiff, and told her that he expected her to not say anything about what had happened in the Paris hotel room.

23. Additionally, on numerous instances, clients came into the art gallery and openly questioned Plaintiff about her sex life.

24. All of these harassing comments were said in the presence of Aboutaam.

25. Aboutaam never told any of the clients not to make such comments. To the contrary, Aboutaam would laugh at the comments.

26. In March 2012, in Aboutaam's presence, a client was asking Plaintiff and her co-worker Karen Simons sexual questions.

27. When the client and Aboutaam went into back room Plaintiff left the gallery in order to remove herself from the inapposite treatment by the client.

28. The next day, Amabout reprimanded Plaintiff for “bailing” on him.

29. In addition to these incidents, Plaintiff was constantly the victim of verbal abuse by Ms. Simons.

30. Simons repeatedly told Aboutaam, in Plaintiff’s presence, that she “hated” Plaintiff and could not work with her.

31. Moreover, Simons was constantly yelling at Plaintiff, in the presence of both Aboutaam and Gherardi, that “I hate you” and “I don’t want to work with you.”

32. In or about March, 2012, Simons compounded this by physically getting in Plaintiff’s face.

33. Finally, the cumulative conditions at work got so objectively intolerable that Plaintiff was constructively discharged.

First Cause of Action
Executive Law – Discrimination
(Against All Defendants)

34. Plaintiff repeats and realleges paragraphs 1 through 33 of this Complaint as if set forth herein.

35. By the acts and practices described above, Defendants discriminated against Plaintiff on the basis of her gender in violation of the Executive Law.

36. Defendant Aboutaam is liable under the Executive Law as Plaintiff’s employer, as an individual who participated in the discrimination, and as an aider and abettor of the discrimination against Plaintiff.

37. Defendant Phoenix is liable for the discrimination as Plaintiff’s employer.

Second Cause of Action
City Law – Discrimination
(Against All Defendants)

38. Plaintiff repeats and realleges paragraphs 1 through (37) of this Complaint as if set forth herein.

39. By the acts and practices described above, Defendants discriminated against Plaintiff on the basis of her gender in violation of the City Law.

40. Defendants acted willfully, intentionally, and with malice and/or reckless indifference to Plaintiff's statutorily protected rights.

41. Defendant Aboutaam is liable under City Law as Plaintiff's employer, as an individual who participated in the discrimination, and as an aider and abettor of the discrimination against Plaintiff.

42. Defendant Phoenix is liable for the discrimination as Plaintiff's employer.

Prayer for Relief

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

A. Directing Defendants to take such affirmative action as is necessary to ensure that the effects of these unlawful employment practices are eliminated;

B. Directing Defendants to pay Plaintiff back pay, front pay, lost benefits, compensatory damages and damages for her mental anguish, humiliation, and physical pain and suffering;

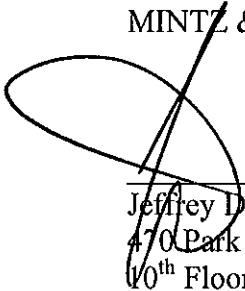
C. Directing Defendants to pay Plaintiff punitive and/or liquidated damages, pursuant to the City Law for their intentional disregard of, and/or reckless indifference to, Plaintiff's rights;

D. Awarding Plaintiff the costs of this action together with reasonable attorneys' fees, as well as interest; and

E. Awarding such other and further relief as this Court deems necessary and proper.

Dated: New York, New York
October 16, 2012

MINTZ & GOLD LLP



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