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

GEORGE P. FLETCHER,

Plaintiff,

v.

COLUMBIA UNIVERSITY and the TRUSTEES OF COLUMBIA UNIVERSITY IN THE CITY OF NEW YORK, GILLIAN LESTER, and AVERY KATZ,

Defendants.

Index No. 152759/2017

MOTION SEQUENCE NO. 1

ORAL ARGUMENT REQUESTED

MEMORANDUM OF LAW IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS THE COMPLAINT

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TABLE OF CONTENTS

Page

PRELIMINARY STATEMENT 1

BACKGROUND 2

ARGUMENT 4

I. PLAINTIFF FAILS TO STATE A CAUSE OF ACTION UNDER THE NYSHRL 4

A. Fletcher Did Not Suffer An Adverse Employment Action 5

B. Defendants Did Not Treat Fletcher Differently On The Basis Of His Age 9

II. PLAINTIFF FAILS TO STATE A CAUSE OF ACTION UNDER THE NYCHRL... 13

CONCLUSION 16

TABLE OF AUTHORITIES

Cases **Page(s)**

Boise v. Boufford,
121 F. App'x 890 (2d Cir. 2005) 6

Castro v. N.Y.C. Bd. of Educ. Pers.,
No. 96 Civ. 6314 (MBM), 1998 WL 108004 (S.D.N.Y. Mar. 12, 1998) 9

Cron v. Hargro Fabrics,
91 N.Y.2d 362 (1998) 4

Davis v. CUNY,
No. 94 Civ. 7277, 1996 WL 243256 (S.D.N.Y. May 9, 1996) 8

Elsky v. KM Ins. Brokers,
139 A.D.2d 691 (2d Dep't 1988) 4

Foster v. Humane Soc'y,
724 F. Supp. 2d 382 (W.D.N.Y. 2010) 12

Furfero v. St. John's Univ.,
94 A.D.3d 695 (2d Dep't 2012) 6

Galabya v. N.Y.C. Bd. of Educ.,
202 F.3d 636 (2d Cir. 2000) 5

Grant v. N.Y. State Off. for People with Developmental Disabilities,
No. 12 Civ. 4729 (SJF), 2013 WL 3973168 (E.D.N.Y. July 30, 2013) 6

Henry v. NYC Health & Hosp. Corp.,
18 F. Supp. 3d 396 (S.D.N.Y. 2014) 5, 10

Hernandez v. Kaisman,
103 A.D.3d 106 (1st Dep't 2012) 13

Kent v. The Papert Cos.,
309 A.D.2d 234 (1st Dep't 2003) 4

Klein v. New York University,
786 F. Supp. 2d 830 (S.D.N.Y. 2011) 7

Leder v. Spiegel,
819 N.Y.S.2d 26 (1st Dep't 2006) 4

Leon v. Martinez,
84 N.Y.2d 83 (1994) 4

Mejia v. Roosevelt Island Med. Assocs.,
31 Misc. 3d 1206(A) (Sup. Ct. 2011), aff'd 95 A.D. 3d 570 (1st Dep't 2012)...................... 9, 11

Mesias v. Cravath, Swaine & Moore LLP,
106 F. Supp. 3d 431, 437 (S.D.N.Y. 2015).. 9

Mills v. S. Conn. State Univ.,
No. 08 Civ. 1270 (VLB), 2011 WL 3490027 (D. Conn. Aug. 10, 2011)................................ 6

Moore v. Verizon,
No. 13 Civ. 6467 (RJS), 2016 WL 825001 (S.D.N.Y. Feb. 5, 2016).......................... 13, 14, 15

Negussey v. Syracuse Univ.,
No. 95 Civ. 1827, 1997 WL 141679 (N.D.N.Y. Mar. 24, 1997).. 8

Nelson v. HSBC Bank USA,
87 A.D.3d 995 (2d Dep't 2011) 9

Norville v. Staten Island Univ. Hosp.,
196 F.3d 89 (2d Cir. 1999).. 11

Ochei v. Mary Manning Walsh Nursing Home Co.,
No. 10 Civ. 2548 (CM), 2011 WL 744738 (S.D.N.Y. March 1, 2011).................................. 12

Pagan v. Morrisania Neighborhood Fam. Health Ctr.,
No. 12 Civ. 9047 (WHP), 2014 WL 464787 (S.D.N.Y. Jan. 22, 2014) 15

Ponterio v. Kaye,
25 A.D.3d 865 (3d Dep't 2006) 6

Ruggieri v. Harrington,
146 F. Supp. 2d 202 (E.D.N.Y. 2001) 6, 7, 8

Sanders v. N.Y.C. Human Res. Admin.,
361 F.3d 749 (2d Cir. 2004).. 5, 7

Sanders-Peay v. NYC Dept. of Educ.,
No. 14 Civ. 4534 (CBA), 2014 WL 6473507 (E.D.N.Y. Nov. 18, 2014) 10

Soloviev v. Goldstein,
104 F. Supp. 3d 232 (E.D.N.Y. 2015) 12, 13, 14, 15

Sommersett v. City of N.Y.,
No. 09 Civ. 5916 (LTS), 2011 WL 2565301 (S.D.N.Y. June 28, 2011) 5

Williams v. N.Y.C. Health & Hosp. Corp.,
No. 08 Civ. 4132 (RRM), 2010 WL 2836356 (E.D.N.Y. July 16, 2010) 11, 13

Williams v. Victoria's Secret,
No. 15 Civ. 4715 (PGG), 2017 WL 384787 (S.D.N.Y. Jan. 27, 2017) 10, 11, 14, 15

Yan v. Ziba Mode Inc.,
No. 15 Civ. 47 (RJS), 2016 WL 1276456, (S.D.N.Y. Mar. 29, 2016) 11

Statutes

CPLR 3211(a)(7) 1

NY Exec. L. § 296 4

N.Y.C. Admin. Code § 8-107 13

Defendants Trustees of Columbia University in the City of New York ("Columbia" or the "University"), Gillian Lester, and Avery Katz (collectively, "Defendants") respectfully submit this memorandum of law in support of their motion to dismiss pursuant to CPLR 3211(a)(7) for failure to state a cause of action.

PRELIMINARY STATEMENT

George Fletcher, a law professor at Columbia University, complains in this action that the University did not accommodate his preferred teaching schedule. Specifically, Fletcher wanted to teach a course entitled "Introduction to American Law," a LL.M. course he had taught once before. The University did not accommodate his request, and Fletcher—who is 78—now alleges that he was the victim of age discrimination. There is simply no basis for that allegation, and none appears in the Complaint. In any event, it is well settled (and common sense) that a university's mere failure to accommodate a professor's preferred course schedule does not give rise to a discrimination claim. Yet Fletcher offers no more than that—he remains a tenured professor, he maintains the same salary, he maintains the same benefits, and he maintains the same responsibilities. In short, he suffered no adverse employment action, and therefore has no actionable claim. Accordingly, this Court should dismiss Fletcher's claims.

Even if Fletcher had alleged an adverse employment action, his claim would fail for the additional, independent reason that he has not alleged facts supporting an inference that any action taken by Defendants had anything whatsoever to do with Fletcher's age. The Complaint makes no allegation that anyone at the University mentioned Fletcher's age at any time, or did anything that would suggest that his age had any bearing on any decision. Although the Complaint vaguely posits that there are other (unnamed) professors younger than Fletcher who were treated better than he, those conclusory allegations are devoid of any detail. They are plainly insufficient to create an inference of discriminatory intent.

Accordingly, Fletcher's Complaint should be dismissed in its entirety.

BACKGROUND[1]

Fletcher, who is 78 years old, is a law professor at Columbia. Compl.[2] ¶¶ 2-3. According to the Complaint, in 2005, Fletcher requested that the University allow him to teach all of the courses required to meet his 10-point teaching quota in the fall semester so that he could spend the spring semester in Israel working with programs not affiliated with the University. Compl. ¶ 17. The University agreed to accommodate Fletcher's request, and has permitted him to satisfy his teaching quota exclusively in the fall semester every year since 2005. Compl. ¶ 18. On several occasions during this time period, certain of Fletcher's courses were undersubscribed and ultimately canceled. Compl. ¶ 19. Nevertheless, the University permitted Fletcher to earn teaching credit through other activities, such as meeting with students and visiting scholars, instead of requiring Fletcher to teach in the spring semester. Compl. ¶ 19.

For the fall semester of 2016, the University assigned Fletcher to teach one of three sections of Introduction to American Law ("IAL"), a required course for LL.M. students. Compl. ¶ 21. Fletcher alleges that, during the fall 2016 semester, Dean Katz, the Vice Dean for Curriculum, purportedly "harass[ed]" Fletcher about issues relating to his teaching of IAL. Compl. ¶ 23. According to the Complaint, this purported "harassment" took the form of Dean Katz emailing Fletcher regarding the administrative requirements for IAL as well as attempting to "micro-manage Fletcher's teaching of the class." Compl. ¶¶ 23-24. Fletcher alleges that,

[1] Although Defendants dispute virtually every material aspect of Plaintiff's allegations with respect to his employment at Columbia and the conduct of Defendants, the allegations in the Complaint are assumed to be true for the purposes of this motion.

[2] The Complaint is attached as Exhibit A to the accompanying Affirmation of Andrew W. Schilling, dated May 23, 2017.

upon information and belief, "younger professors were not subjected to similar oversight," although he alleges no information regarding any of these professors. Compl. ¶ 24.

For the fall semester of 2017, the University decided to offer just two sections of IAL, as it had done in the past, to be taught by professors other than Fletcher. Compl. ¶ 29. The University explained to Fletcher that its decision not to assign Fletcher to one of the two sections of IAL was the result of relatively weak student evaluations as well as Fletcher's failure to comply with "basic procedural and substantive aspects of the course," such as Fletcher's late submission of a syllabus and his failure to provide students with feedback on their exam performance. Compl. ¶¶ 24, 27. Fletcher alleges that the two professors assigned to teach IAL in the fall of 2017 were "ten or more years younger than Fletcher," or approximately in their sixties. Compl. ¶ 29.

According to the Complaint, in place of the section of IAL, Fletcher was assigned to teach an elective course on international and comparative criminal law. Compl. ¶ 30. There is no dispute that, by teaching this elective instead of IAL, Fletcher was not subjected to any material change in the terms of his employment—his salary, benefits, title, and tenure all remained unchanged. Nevertheless, Fletcher allegedly raised a concern to Dean Lester that his teaching an elective created the risk that his class could be undersubscribed and canceled, which, given Fletcher's unwillingness to teach in the spring semester, could jeopardize his ability to satisfy his teaching quota. Compl. ¶ 31. Dean Lester responded that she was "hopeful" that Fletcher's classes would generate sufficient enrollment, but that she could not guarantee they would not be canceled if they were undersubscribed. Compl. ¶ 32. According to the Complaint, Dean Lester further told Fletcher that, in the event that his classes were canceled, the University would have to "revisit the arrangement whereby you load all of your teaching into one semester,"

or, in the event that Fletcher remained unwilling to teach in the spring semester, to "discuss moving to a fractional appointment." Compl. ¶ 34.

On March 23, 2017, Fletcher filed the Complaint in this action, alleging that Defendants' failure to accommodate his preferred teaching schedule and their purported "micro-managing" of his compliance with administrative requirements constitutes age discrimination under the New York State Human Rights Law ("NYSHRL") and the New York City Human Rights Law ("NYCHRL").

ARGUMENT

On a motion to dismiss, the complaint's allegations are generally accepted as true, *see Leon v. Martinez*, 84 N.Y.2d 83, 87 (1994), but are not presumed true where they "consist of bare legal conclusions, or . . . are inherently incredible or unequivocally contradicted by documentary evidence," *Leder v. Spiegel*, 819 N.Y.S.2d 26, 27 (1st Dep't 2006) (citing *Cron v. Hargro Fabrics*, 91 N.Y.2d 362, 366 (1998)). Thus, claims based solely on "conclusory allegations lacking factual support" fail as a matter of law. *Elsky v. KM Ins. Brokers*, 139 A.D.2d 691, 691 (2d Dep't 1988).

I. PLAINTIFF FAILS TO STATE A CAUSE OF ACTION UNDER THE NYSHRL

The NYSHRL makes it an "unlawful discriminatory practice" for an employer, because of an individual's age, to "refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment." NY Exec. L. § 296(a). In assessing whether a plaintiff has stated a cause of action under the NYSHRL, New York courts "track the same standards as the federal courts." *See Kent v. The Papert Cos.*, 309 A.D.2d 234, 241 (1st Dep't 2003). Thus, to state a claim for age discrimination under the NYSHRL, a plaintiff must allege that: (1) he is a member

of a protected class; (2) his job performance was satisfactory; (3) he suffered an adverse employment action; and (4) the circumstances surrounding that action permit an inference of discrimination based on age. *Sommersett v. City of N.Y.*, No. 09 Civ. 5916 (LTS), 2011 WL 2565301, at *6 (S.D.N.Y. June 28, 2011). Because Fletcher fails to allege that he suffered an adverse employment action or that any action by Defendants was taken because of Fletcher's age, Fletcher's NYSHRL claim should be dismissed.

A. Fletcher Did Not Suffer An Adverse Employment Action

Fletcher principally alleges that the University discriminated against him on the basis of his age by not assigning him to teach a section of IAL in the fall 2017 semester. Courts have repeatedly found, however, that a university's decision not to accommodate a professor's preferred course schedule does not rise to the level of an adverse employment action.

To constitute an adverse employment action, the defendant's conduct must result in a "materially adverse change in the terms and conditions of employment." *Galabya v. N.Y.C. Bd. of Educ.*, 202 F.3d 636, 640 (2d Cir. 2000). "To be materially adverse, a change in working conditions must be more disruptive than a mere inconvenience or an alteration of job responsibilities." *Sanders v. N.Y.C. Human Res. Admin.,* 361 F.3d 749, 755 (2d Cir. 2004). Thus, courts have found an adverse employment action only where the plaintiff has alleged material changes in circumstances such as "termination of employment, a demotion evidenced by a decrease in wage or salary, a less distinguished title, a material loss of benefits, [or] significantly diminished material responsibilities." *Galabya*, 202 F.3d at 640.

By contrast, courts have routinely dismissed discrimination claims where the plaintiff's allegations arise out of dissatisfaction with his work schedule. *See, e.g., Henry v. NYC Health & Hosp. Corp.*, 18 F. Supp. 3d 396, 406 (S.D.N.Y. 2014) (dismissing plaintiff's claims under the

NYSHRL and finding that plaintiff's allegations that she received "worse assignments" and "undesirable shifts normally relegated to newer hires" failed to allege an adverse employment action); *Grant v. N.Y. State Off. for People with Developmental Disabilities,* No. 12 Civ. 4729 (SJF), 2013 WL 3973168, at *7 (E.D.N.Y. July 30, 2013) (dismissing complaint where "[t]he only adverse employment action that plaintiff alleges . . . was his assignment to more onerous work assignments" and stressing that allegations of "unfair work assignments, without more, do not amount to adverse employment actions"); *Ponterio v. Kaye*, 25 A.D.3d 865, 869 (3d Dep't 2006) (dismissing employment discrimination claim and finding that a job reassignment "which did not involve a demotion, decrease in salary, loss of privilege, diminution of responsibilities or loss of benefits, did not constitute an adverse employment action").

In the university context specifically, it is well established that a university's decision not to accommodate a professor's preferred course schedule does not constitute an adverse employment action. *See Furfero v. St. John's Univ.*, 94 A.D.3d 695, 698 (2d Dep't 2012) (finding "no merit to the plaintiffs' contention that they were subjected to an adverse employment action due to the assignment of unfavorable course schedules"); *Boise v. Boufford*, 121 F. App'x 890, 892-98 (2d Cir. 2005) (concluding that assignment of the professor plaintiff to four courses rather than five, where the professor had not alleged any resulting loss in wages, did not constitute an adverse employment action); *Mills v. S. Conn. State Univ.*, No. 08 Civ. 1270 (VLB), 2011 WL 3490027, at *9 (D. Conn. Aug. 10, 2011) (finding that denial of professor's requests to be assigned to teach upper level classes and to accommodate the schedule she wanted did not constitute adverse employment actions).

Ruggieri v. Harrington, 146 F. Supp. 2d 202 (E.D.N.Y. 2001), is instructive. There, a university professor brought claims under Title VII, the NYSHRL, and the NYCHRL, alleging

that her employer retaliated against her for filing a previous discrimination lawsuit by, among other things, failing to appoint her as a department chair and cancelling certain courses that she sought to teach. *Id*. at 217. The court found that the professor "simply suffered no adverse employment action" as a result of these actions, because neither of these instances caused her to suffer a "materially adverse change in her employment." *Id*. To the contrary, the plaintiff "remained a full, tenured professor . . . with no reduction in salary, benefits, or responsibilities" and was merely denied "opportunities to which she was not absolutely entitled simply based on her status as a tenured professor." *Id*.

Likewise, in *Klein v. New York University*, 786 F. Supp. 2d 830 (S.D.N.Y. 2011), a professor at New York University's business school sued NYU under Title VII alleging, among other things, that the university discriminated against her on the basis of gender by assigning her an "unfavorable teaching schedule" and by not allowing her to teach a Ph.D.-level course. *Id*. at 847. There, the court observed that "[a] university professor's dissatisfaction with course assignments when he or she does not allege any resulting loss in wages is not an adverse employment action." *Id.* Accordingly, the court rejected the plaintiff's discrimination claims, finding that her complaints about her course schedule did not have an impact on her compensation or other material benefits. *Id*.

Here, Fletcher's allegation that he was not assigned to teach a section of IAL in the fall 2017 semester—a course that he had taught only once before—falls well short of alleging an adverse employment action. At most, Fletcher's dissatisfaction with his course schedule is a "mere inconvenience" that caused no change to any of the material conditions of Fletcher's employment. *Sanders*, 361 F.3d at 755. Fletcher remained a full, tenured professor with no reduction in salary, benefits, or responsibilities. Thus, like the plaintiff in *Ruggieri*, Fletcher

"simply suffered no adverse employment action" as a result of being denied the opportunity to teach IAL, an opportunity "to which [he] was not absolutely entitled based on [his] status as a tenured professor." *Ruggieri,* 146 F. Supp. 2d at 217.

Unable to articulate any facts showing a material change to the terms of his employment, Fletcher resorts to speculation, alleging that teaching an elective rather than IAL places him at a greater risk of having his classes undersubscribed, which in turn could make it more difficult for Fletcher to satisfy his entire teaching quota in the fall semester, which in turn could force Fletcher to teach classes in the spring semester, which—if Fletcher remains unwilling to do—could lead to Fletcher not earning enough teaching credits to maintain his tenure. But such an attenuated and speculative series of contingent events is insufficient to allege an adverse employment action. Even where, unlike here, a plaintiff has alleged emotional or psychological injury in anticipation of a potential change to the terms of his employment, courts have found that such "inchoate matters" do not constitute an adverse employment action. *Davis v. CUNY,* No. 94 Civ. 7277, 1996 WL 243256, at *8-*9 (S.D.N.Y. May 9, 1996) (finding that plaintiff's "embarrassment or anxiety" while waiting for a tenure decision that "ultimately redounded to her benefit" was not a materially adverse change in her employment); *see also Ruggieri*, 146 F. Supp. 2d at 216 (finding plaintiff failed to allege an adverse employment action during the months she waited for her teaching reduction to be reinstated, even though she alleged that she was "embarrassed" and "wasn't sleeping" and that her "life was literally hell" during that time); *Negussey v. Syracuse Univ.,* No. 95 Civ. 1827, 1997 WL 141679, at *10 (N.D.N.Y. Mar. 24, 1997) (plaintiff's feelings of "uncertainty and anxiousness . . . [while] awaiting the result of his grievance" and "considerable turmoil and personal upheaval" did not have "a lasting effect on the terms, privileges, or duration of plaintiff's employment").

Finally, to the extent that the Complaint alleges that the University's purported "harassment" of Fletcher constitutes an adverse employment action, such a claim also fails as a matter of law. The entirety of Fletcher's "harassment" allegations is that University deans attempted to "micro-manage" Fletcher's teaching and sent Fletcher emails asking him to comply with certain administrative requirements. Compl. ¶¶ 23-24. These allegations fall well short of alleging the type of "severe or pervasive" harassment that is actionable under the NYSHRL. *Nelson v. HSBC Bank USA*, 87 A.D.3d 995, 999 (2d Dep't 2011); *see also Mejia v. Roosevelt Island Med. Assocs.*, 31 Misc. 3d 1206(A) (Sup. Ct. 2011) (citing cases for the proposition that an employer's "enhanced scrutiny" of an employee does not "constitute adverse employment actions"), *aff'd*, 95 A.D.3d 570 (1st Dep't 2012); *Mesias v. Cravath, Swaine & Moore LLP*, 106 F. Supp. 3d 431, 437 (S.D.N.Y. 2015) (dismissing plaintiff's discrimination claims and finding that plaintiff's allegation that she received unjustified written warnings did not constitute an adverse employment action); *Castro v. N.Y.C. Bd. of Educ. Pers.*, No. 96 Civ. 6314 (MBM), 1998 WL 108004, at *7 (S.D.N.Y. Mar. 12, 1998) ("[A]lthough reprimands and close monitoring may cause an employee embarrassment or anxiety, such intangible consequences are not materially adverse alterations of employment conditions.").

Because Fletcher's Complaint fails to allege that he suffered an adverse employment action, his NYSHRL claim should be dismissed.

B. Defendants Did Not Treat Fletcher Differently On The Basis Of His Age

Fletcher's NYSHRL claim also fails to state a cause of action for the independent reason that the Complaint alleges no facts supporting an inference that any action by Defendants was taken because of Fletcher's age.

As courts have stressed, the "*sine qua non*" of a discrimination claim under the NYSHRL is that the plaintiff was treated differently "*because of* [a protected characteristic]." *Henry v. NYC Health & Hosp. Corp.*, 18 F. Supp. 3d 396, 407 (S.D.N.Y. 2014); *Williams v. Victoria's Secret*, No. 15 Civ. 4715 (PGG), 2017 WL 384787, at *11 (S.D.N.Y. Jan. 27, 2017) (citing cases for the proposition that employment discrimination laws "do[] not guarantee a utopian workplace, or even a pleasant one" and thus the court's role is to prevent unlawful employment practices, "not to act as a super personnel department that second guesses employers' business judgments"). Thus, "[n]aked assertions" of discrimination "without any specific factual allegation of a causal link between the defendants' conduct and the plaintiff's protected characteristic are too conclusory to withstand a motion to dismiss." *Sanders-Peay v. NYC Dept. of Educ.*, No. 14 Civ. 4534 (CBA), 2014 WL 6473507, at *3 (E.D.N.Y. Nov. 18, 2014) (internal quotation marks and alterations omitted).

Here, Fletcher's Complaint is entirely devoid of any concrete allegation that would permit an inference of age discrimination by Defendants. Fletcher, who is 78, does not allege that anyone at the University ever commented on his age or that, at any time prior to the fall 2016 semester, he believed he was treated differently because of his age. Instead, Fletcher's claim is based solely on two conclusory assertions that Fletcher was treated less favorably than other, purportedly younger, professors: (i) the two professors assigned to teach IAL in the fall 2017 semester were, "upon information and belief . . . , ten or more years younger than Fletcher," Compl. ¶ 29, and (ii) "younger professors" who, "upon information and belief," have allegedly had "more egregious[] shortcomings" than Fletcher were not subject to "oversight" by the University's deans and were allowed to teach mandatory classes, Compl. ¶¶ 24, 37. But these bare assertions are plainly insufficient to allege discriminatory treatment by Columbia.

First, Fletcher alleges no information whatsoever about the other, purportedly younger, professors that he claims received more favorable treatment from the University. As courts have explained, a plaintiff's "bare assertion that he was replaced by a younger person is insufficient to create an inference of discriminatory intent." *Williams v. Victoria's Secret*, No. 15 Civ. 4715 (PGG), 2017 WL 38487, at *10 (S.D.N.Y. Jan. 27, 2017) (granting motion to dismiss age discrimination claims); *Mejia v. Roosevelt Island Med. Assocs.*, 31 Misc. 3d 1206(A) (Sup. Ct. 2011) ("The mere fact that [plaintiff] was the oldest doctor at the hospital he worked at is insufficient to give rise to any inference of discrimination based on age."), *aff'd*, 95 A.D.3d 570 (2012). While a plaintiff may support an inference of discrimination by alleging that "similarly situated employees . . . were treated more favorably," to state an age discrimination claim "the plaintiff must compare herself to employees who are similarly situated in all material respects." *Norville v. Staten Island Univ. Hosp.*, 196 F.3d 89, 95 (2d Cir. 1999). But here Fletcher alleges no information about these other professors from which it could be inferred that any purported differential treatment was because of age. Fletcher makes no allegations regarding these professors' experience, qualifications, job performance, responsibilities, conduct, or student evaluations—information that is necessary to show that the other professors are sufficiently similar to Fletcher. Absent such factual allegations, Fletcher's claim fails as a matter of law. *See Yan v. Ziba Mode Inc.*, No. 15 Civ. 47 (RJS), 2016 WL 1276456, at *4-*5 (S.D.N.Y. Mar. 29, 2016) (dismissing employment discrimination claims where plaintiff "fail[ed] to plead any facts regarding how [other] employees' identities, experience levels, and conduct compared to Plaintiff's"); *Williams v. N.Y.C. Health & Hosp. Corp.*, No. 08 Civ. 4132 (RRM), 2010 WL 2836356, at *4 (E.D.N.Y. July 16, 2010) (dismissing Title VII claim where plaintiff merely alleged that "'[u]pon information and belief, males got paid when they were out sick but females

[did] not," and failed to "specify any facts to support her claim that males were indeed treated differently than females in regard to sick-leave pay."); *Soloviev v. Goldstein*, 104 F. Supp. 3d 232, 249 (E.D.N.Y. 2015) (dismissing plaintiff's employment discrimination claim where the complaint "is devoid of allegations regarding . . . similarly situated employees' supervisors, job specifics, job performance, or conduct").

Second, instead of making factual allegations from which discriminatory intent could be inferred, Fletcher's Complaint relies on a "false syllogism" that courts have repeatedly rejected as "patently defective": "I am (fill in the protected class of which the plaintiff is a member); something bad happened to me at work; therefore the bad thing happened because I am (fill in the protected class)." *Ochei v. Mary Manning Walsh Nursing Home Co.*, No. 10 Civ. 2548 (CM), 2011 WL 744738, at *2-*3 (S.D.N.Y. March 1, 2011). As courts have repeatedly stated, such conclusory pleading cannot support an inference of discrimination. *See, e.g.*, *Soloviev*, 104 F. Supp. 3d at 249 (granting motion to dismiss plaintiff's discrimination claims under the NYSHRL where the complaint alleged "no connection between his termination and his gender, race, or national origin" and has "done no more than point to various ways in which [he] feels he was mistreated and argue that it must have been because of his gender, race, and national origin"); *Ochei*, 2011 WL 744738 at *3 ("Where there is no reason to suspect that an employer's actions had anything to do with membership in a protected class, other than plaintiff's bald assertion that she was a member of such a class, and the people who made decisions about her employment were not, no claim is stated."); *Foster v. Humane Soc'y,* 724 F. Supp. 2d 382, 391 (W.D.N.Y. 2010) (dismissing plaintiff's age discrimination claim where "[v]irtually the only allegation that plaintiff has made" is her allegation "that she was replaced by a woman in her early thirties" and stressing that if such allegations sufficed to state a claim, "then any time an

ADEA-covered employer terminated an employee over age forty, the employer would be unable to replace that employee with someone younger, without exposing itself to potential liability for age discrimination").

Because Fletcher fails to allege any facts to support an inference of discrimination, Fletcher's NYSHRL claim should be dismissed with prejudice.

II. PLAINTIFF FAILS TO STATE A CAUSE OF ACTION UNDER THE NYCHRL

The NYCHRL, like the NYSHRL, makes it unlawful for an employer, "because of the . . . age . . . of any person, to discriminate against such person in compensation or in terms, conditions or privileges of employment." N.Y.C. Admin. Code § 8-107(1)(a). Claims brought under the NYCHRL must be analyzed separately from claims brought under the NYSHRL. *Hernandez v. Kaisman*, 103 A.D.3d 106, 114 (1st Dep't 2012). Specifically, an age discrimination claim under the NYCHRL requires the plaintiff to show that he was "treated less well than other employees" because of his age. *Williams v. N.Y.C. Hous. Auth.*, 61 A.D.3d 62, 78 (1st Dep't 2009). While this standard has been construed less rigidly than claims under the NYSHRL, New York courts have stressed that the NYCHRL "is not a general civility code," such that employers can be held liable for "petty slights and trivial inconveniences." *Id*. at 76. And, critically, to survive a motion to dismiss, an NYCHRL claim "must still allege facts on the basis of which a court can find differential treatment—*i.e.* the plaintiff was treated less well—because of a discriminatory intent." *Soloviev*, 104 F. Supp. 3d at 250 (internal quotation marks omitted); *Moore v. Verizon*, No. 13 Civ. 6467 (RJS), 2016 WL 825001, at *8 (S.D.N.Y. Feb. 5, 2016) ("Even under the more liberal NYCHRL, a plaintiff must allege facts giving rise to an inference of discrimination based on age to prevail.").

Here, Fletcher's Complaint fails to state a claim under the NYCHRL for the same reasons that it fails to state a claim under the NYSHRL—Fletcher has not, and cannot, allege that he was treated less well than other employees because of his age. Where, as here, a complaint's allegations of discriminatory intent are based solely on bare assertions and conclusory allegations, a court will dismiss the plaintiff's NYCHRL claims along with any NYSHRL claims.

In *Williams v. Victoria's Secret*, No. 15 Civ. 4715 (PGG), 2017 WL 384787 (S.D.N.Y. Jan. 27, 2017), for example, the plaintiff brought claims under the ADEA, NYSHRL, and NYCHRL alleging, among other things, that his employer discriminated against him by replacing him with a younger person. The court first dismissed the ADEA and NYSHRL claims, finding that the plaintiff failed to allege sufficient details regarding the allegedly younger employee that replaced him—such as when the replacement was hired, who hired the replacement, and what the replacement's experience and qualifications were—and thus "failed to allege any facts that would warrant the conclusion that [the employer's termination] of him occurred under circumstances from which a discriminatory motive can be inferred." *Id*. at *10. Turning to the NYCHRL claim, the *Williams* court noted that despite the NYCHRL's more liberal standard, the statute requires a plaintiff to "plead facts giving rise to an inference that [the adverse employment action] was motivated by age discrimination." *Id*. Thus, the court found that the NYCHRL claim "should be dismissed for the same reasons as his claims under the ADEA and NYSHRL." *Id*. *See also Moore*, 2016 WL 825001, at *7-*8 (dismissing plaintiff's discrimination claims under the ADEA, Title VII, the NYSHRL, and the NYCHRL where plaintiff made "bald assertions," without any supporting facts, that she was subjected to, among other things, excessive monitoring and threats of demotion and finding that "even under

NYCHRL's more liberal standard," the plaintiff failed to plead facts giving rise to an inference of discrimination); *Soloviev v. Goldstein*, 104 F. Supp. 3d 232, 247-50 (S.D.N.Y. 2015) (dismissing plaintiff's discrimination claims under Title VII, the NYSHRL, and the NYCHRL where the complaint alleged "no connection between his termination and his gender, race, or national origin" and finding that the NYCHRL claim failed because the plaintiffs "failed to allege that Mr. Soloviev's termination was *caused by* a discriminatory motive on the part of his employers"); *Pagan v. Morrisania Neighborhood Fam. Health Ctr.*, No. 12 Civ. 9047 (WHP), 2014 WL 464787, at *3 (S.D.N.Y. Jan. 22, 2014) ("[H]aving pleaded no facts allowing for a reasonable inference that Morrisania discriminated against him on the basis of age, [plaintiff's] age discrimination claims under the ADEA, NYSHRL, and NYCHRL are dismissed.").

Here, as in *Williams*, Fletcher's NYCHRL claim fails for the same reason as his NYSHRL claim—he pleads no facts suggesting that Defendants' actions toward him were driven by discriminatory animus. First, as described above, the Complaint provides only conclusory assertions that purportedly younger professors were assigned to the IAL course instead of Fletcher. These barebones allegations do not raise an inference of discriminatory animus. *See Moore*, 2016 WL 825001, at *7-*8. Likewise, Fletcher's bare assertion that certain unspecified "younger professors" with "more egregious[] shortcomings" than Fletcher "have not experienced any adverse consequences as a result," Compl. at ¶ 54, is far too conclusory to support a cause of action under the NYCHRL. *See Soloviev*, 104 F. Supp. 3d at 249.

In sum, Fletcher's Complaint does not raise even the most minimal inference that his age influenced Columbia's conduct. Accordingly, Fletcher's NYCHRL claims should be dismissed.

CONCLUSION

For all of these reasons, the Court should dismiss the Complaint in its entirety.

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Respectfully submitted,

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