

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

-----X  
GEORGE P. FLETCHER,

Plaintiff,

Index No.

- against -

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

Defendants.  
-----X

**VERIFIED COMPLAINT**

Plaintiff George P. Fletcher (“Fletcher” or “Plaintiff”), by his attorneys, as and for his complaint against defendants Columbia University and the Trustees of Columbia University in the City of New York (“Columbia” or the “Law School”), Gillian Lester (“Lester”), and Avery Katz (“Katz”; together with Columbia and Lester, “Defendants”), alleges as follows:

**Nature Of The Case**

1. By this action, Plaintiff seeks a remedy for harm caused as a result of disparate treatment by Defendants because of his age. Specifically, Defendants have undertaken a campaign of harassment and have altered the terms and conditions of Plaintiff’s employment with Columbia on the basis of his age, in violation of the New York State Human Rights Laws (“NYSHRL”), N.Y. Exec. L. §§ 290 *et seq.*, and the New York City Human Rights Laws (“NYCHRL”), N.Y. Admin. L. §§ 8-101 *et seq.*

**Parties**

2. Fletcher is a renowned legal scholar who has served as a tenured Professor of Law at Columbia since July 1, 1983; was the Charles Keller Beekman Professor of Law from 1989 to

1993; and has been the Cardozo Professor of Jurisprudence since 1994. Before joining Columbia in 1983, Fletcher was a Professor of Law at the University of California, Los Angeles, from 1969 to 1983. Columbia's website describes Fletcher as "one of the leading scholars in the United States in the fields of torts and criminal law, and, in particular, comparative and international criminal law."

3. Fletcher is 78 years of age.

4. Fletcher has published twenty (20) books, which have been translated into many languages, as well as over one hundred and fifty (150) law review articles. His most famous and widely cited law review article is "Fairness and Utility in Tort Theory." Fletcher is the only American legal scholar to have been cited by the International Criminal Court, and he has been the recipient of many international awards. In 2004, Fletcher was elected to the American Academy of Arts and Sciences, considered the highest honor in the field of law.

5. Columbia is an eminent educational institution located at 435 West 116th Street in New York, New York. According to Columbia's Mission Statement, as set forth on its website, the Law School is "renowned for the intellectual rigors of its curriculum and the groundbreaking scholarship of its faculty", and "[d]raw[s] unparalleled strength from the vast interdisciplinary resources of our distinguished research university".

6. Upon information and belief, Columbia is, and was at all times hereinafter mentioned, a private university duly organized and existing under and by virtue of the laws of the State of New York.

7. Upon information and belief, Columbia's principal place of business is, and was at all times hereinafter mentioned, located in New York City, New York.

8. Lester is Dean and the Lucy G. Moses Professor of Law at Columbia. She joined the Law School as Dean in 2015.

9. Katz is a Vice Dean and the Milton Handler Professor of Law at Columbia. Upon information and belief, he has served as Vice Dean for Curriculum since 2006.

### **Jurisdiction And Venue**

10. This Court has jurisdiction over Columbia because Columbia is located and operates in the State of New York.

11. This Court has jurisdiction over Lester and Katz because both parties work at Columbia and both parties, upon information and belief, reside within this State.

12. Venue in this County is proper under Civil Practice Law and Rules § 503(a) because Columbia is located within this County.

### **Facts**

13. Fletcher has served as a tenured faculty member at Columbia for almost thirty-four (34) years. In that time, he successfully has taught a variety of courses, including Torts, Criminal Law, Comparative Introduction to American Law, Jurisprudence of War, multiple seminars, and Introduction to American Law.

14. Fletcher has made deep contributions to the Law School and its community in his time as Professor. In addition to teaching various courses in both the J.D. and L.L.M. programs, he has been a prolific scholar and researcher. Through his teaching and his written works, he has elevated Columbia's credentials in the areas of torts and comparative and international criminal law.

15. Fletcher has taught and cultivated generations of lawyers and law professors in his years at the Law School, and has invested innumerable hours in developing sophisticated and

challenging coursework for his students. Among his former students and protégées are current leading professors of criminal law in Israel, and a conference on his work has been scheduled at the academic college of Kiryat Ono. Fletcher's courses have been well-received, and he consistently receives positive teaching evaluations from students in his classes.

16. Fletcher persistently strives to adhere to all administrative expectations established, both formally and informally, by Columbia, including the timely preparation of syllabi for classes; providing review sessions for students prior to exams; and creating course content to ensure that classes meet American Bar Association requirements for course credit.

17. In 2005, Fletcher entered into an arrangement with Columbia, whereby he would teach all his courses – and satisfy the conventional ten (10) point teaching quota to maintain his tenure – in the fall semesters. Fletcher conveyed, and the Law School understood, that Fletcher would spend the spring semesters in Israel, where he is active in many scholarly programs, including at the Van Leer Institute, the Hartman Institute, the Institute of Advanced Studies, and the Hebrew University Law School.

18. That arrangement worked successfully for many years, with Fletcher continuously committing to teach at least ten (10) points each fall semester, and working in Israel during the spring semesters.

19. On occasion, certain courses that Fletcher committed to teaching in the fall were subscribed in relatively low numbers, and Columbia canceled those offerings as formal courses. In those instances, Fletcher was not penalized for the cancellations, given that he committed to teaching those courses and it was the Law School's decision to remove them from the schedule. Moreover, Fletcher would instead cumulate teaching hours by meeting with students, Fulbright Fellows and visiting scholars in his office on a fixed schedule, rather than in a classroom format.

20. In 2016, however, the Law School changed its approach with respect to Fletcher.

***Defendants Undertake A Pattern Of Harassment And Disparate Treatment,  
In An Apparent Effort To Force Fletcher To Retire***

21. Fletcher and the Law School agreed in 2015 that Fletcher would teach Introduction to American Law (“IAL”) in the fall semester of 2016. IAL would count for two (2) points out of the customary nine to ten (9 to 10) point teaching quota for tenured professors for the 2016-17 school year. IAL is a mandatory course offering for LLM students, which means there is little to no chance of it being undersubscribed and therefore cancelled by the Law School.

22. Fletcher taught IAL in the fall of 2016 as agreed. He used his own book, “American Law In A Global Context”, as the basis for the syllabus, without any objection from Defendants. When the course had concluded, approximately ninety percent (90%) of the evaluations that were turned in by students gave the course, and Fletcher, positive reviews. Only three (3) students expressed that they were unhappy with the class.

23. Nevertheless, Katz began to harass Fletcher about purported issues relating to the course, starting in late fall of 2016. Until that point, there had never been any objection to the organization of Fletcher’s courses.

24. For instance, on October 16, 2016, Katz sent Fletcher an email in which Katz set forth unsupported claims that Fletcher had failed to comply with administrative requirements for the IAL course, such as late submission of the syllabus and failure to provide students with feedback on their exam performance. Katz also complained that Fletcher had failed to respond in a timely matter to Katz’s emails, which was untrue. Katz was attempting to micro-manage Fletcher’s teaching of the class, including the content, and purportedly did so with Lester’s

approval. Upon information and belief, younger professors have not been subjected to similar oversight.

25. Fletcher responded to the claimed issues raised in Katz's October 16 email and corrected the record with respect to each one. Fletcher also reiterated his loyalty to the Law School.

26. Then, in January of 2017, Lester informed Fletcher that he would not be permitted to teach IAL in upcoming fall semesters. Lester noted that the course previously was offered in only two sections, but acknowledged that "[g]iven the mandatory nature of [the] course for LLM students, a substantial enrollment would be guaranteed" even with three sections.

27. Lester claimed that the decision to remove Fletcher from the course was "partly due to the challenges in eliciting [Fletcher's] compliance with some basic procedural and substantive aspects of the course and partly due to the relative weakness of the student evaluations of [Fletcher's] section."

28. As Fletcher informed the Law School, Lester's claimed justifications for the decision were false, and were mere pretext for removing Fletcher from the IAL course. Fletcher complied with the procedural and substantive requirements for IAL, as he has with various other courses he's taught at Columbia over his decades as a professor.

29. Lester further stated in her communication in January of 2016 that the Law School would "like to go back to offering just two sections of Introduction to American Law, taught by the other instructors." The other instructors referenced by Lester are less qualified than Fletcher: for instance, they are not members of the American Academy of Arts and Sciences, to which Fletcher was elected in 2004. Membership in the Academy is a primary measurement of

prestige in law school circles, and is used in determining law school rankings. Upon information and belief, the other two professors are ten (10) or more years younger than Fletcher.

30. Having taken the IAL course away from Fletcher, Lester stated that, instead of teaching IAL (which is a mandatory component of the LLM curriculum), Fletcher could teach an elective course on international and comparative criminal law.

31. In response, Fletcher stated that he was willing to teach the proposed elective course, but noted that Columbia should assume responsibility in the event of low enrollment, as it had in the past. In other words, since Fletcher was fully willing and prepared to teach ten credit points' worth of courses, it would not be fair for the Law School to reassign him to a class with a risk of cancellation, which would place Fletcher's credit total and status with the Law School at risk.

32. Lester would not provide Fletcher with any assurance in this regard. To the contrary, she told him that "we will treat this course in a manner consistent with our usual policy, which is that we reserve discretion to cancel classes that draw very low enrollments. I am hopeful that all of your offerings will generate sufficient enrollment to go ahead, but if they do not I cannot guarantee that they will not be cancelled."

33. Thus, it was made clear to Fletcher that, despite his willingness to teach ten (10) credits worth of courses, he might nevertheless come up short due to the Law School's unilateral elimination of those credits. In an effort to prevent that outcome, he proposed that he be assigned to teach a different mandatory course, such as Torts – a subject matter in which his well-earned and well-known expertise is publicized by Columbia on its website.

34. Columbia declined that proposal, stating that Fletcher would have to substitute IAL with an upper-year elective – which, again, would place him at risk of having his course

under-enrolled and ultimately cancelled. Lester also wrote to Fletcher that if that “option is not acceptable to you, we will have to revisit the arrangement whereby you load all of your teaching into one semester, or we will need to discuss moving to a fractional appointment.”

35. Taken together, this series of communications from Defendants over the past several months have placed new terms and conditions upon Fletcher’s continued tenure as a Professor at the Law School. Rather than allowing Fletcher to teach a mandatory course to ensure that he earns the full ten (10) credit points that he is willing and able to earn, the Law School has placed his credit total, and therefore his tenure, directly at risk and subject to Defendants’ unilateral discretion.

36. Moreover, the threat of moving Fletcher to a “fractional appointment” confirms what was already apparent: that Defendants improperly are attempting to force Fletcher to retire. Defendants have been harassing Fletcher with false and unsupported complaints about his teaching procedures, in the first instance – and worse, actually have removed him from a course and have threatened his tenure based on those fabrications.

37. Meanwhile, upon information and belief, faculty members who are much younger than Fletcher have had real, and more egregious, administrative shortcomings in their performance. Those younger faculty members nevertheless have been allowed to keep teaching mandatory classes, with virtually guaranteed enrollment and annual teaching credits.

### **COUNT I**

**(Age Discrimination Under New York State Human Rights Law, N.Y. Exec. L. §§ 290 *et seq.*)**

38. Plaintiff realleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

39. Plaintiff is 78 years of age. As a person over forty (40) years of age in this State, he is a member of a protected class under the NYSHRL.

40. Plaintiff is eminently qualified as a law professor, and to teach mandatory courses offered by Columbia, including IAL and Torts. He consistently has received positive reviews from former students in his classes.

41. Defendants have, over the past several months, altered the terms and conditions of Plaintiff's employment at Columbia by repeatedly contacting Plaintiff to express purported administrative issues with Plaintiff's teaching of the IAL course. The claimed issues are based on false representations of fact, or are altogether unsupported. Plaintiff has been forced to spend time and personal resources responding to Defendants' unfounded allegations, in an attempt to preserve his reputation and his status as a tenured professor of the Law School.

42. Defendants have removed Plaintiff as the professor of IAL, placing his credit quota and his tenure with the Law School at risk. Defendants' conduct evidently is directed at forcing Plaintiff to retire.

43. Upon information and belief, younger professors have demonstrated actual shortcomings in their administrative performance – shortcomings more serious than those of which Plaintiff has been accused – but have not experienced any adverse consequences as a result. For instance, Fletcher is not aware of any younger professor who has been removed from teaching a mandatory course in the upcoming school year as a result of administrative performance issues.

44. In addition, upon information and belief, since Lester has become Dean, she and her administration have attempted to force out higher paid faculty at the Law School in favor of lower paid, and generally younger, faculty, to the detriment of older faculty like Plaintiff.

45. Defendants have violated the NYSHRL directly, through disparate treatment and harassment, and indirectly, by aiding and abetting disparate treatment and harassment.

46. As a direct and proximate consequence of Defendants' conduct, Plaintiff has suffered, and continues to suffer, emotional and psychological distress, damage to his good name and reputation, and lasting embarrassment, humiliation, and anguish.

47. Defendants' conduct is intentional, outrageous, and malicious. It was intended to injure, and was done with reckless indifference to Plaintiff's statutorily-protected rights.

48. As a result of Defendants' unlawful conduct, Plaintiff is entitled to damages in an amount to be determined at trial, including but not limited to damages for emotional stress, attorneys' fees and costs, and such other legal and equitable relief as this Court deems just and proper.

## **COUNT II**

### **Age Discrimination – Harassment**

#### **Under New York City Human Rights Law, N.Y. Admin. L. §§ 8-101 *et seq.***

49. Plaintiff realleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

50. Plaintiff is 78 years of age. As a person over forty (40) years of age living and working in New York City, he is a member of a protected class under the NYCHRL.

51. Plaintiff is eminently qualified as a law professor, and to teach mandatory courses offered by Columbia, including IAL and Torts. He consistently has received positive reviews from former students in his classes.

52. Defendants have, over the past several months, altered the terms and conditions of Plaintiff's employment at Columbia by repeatedly contacting Plaintiff to express purported administrative issues with Plaintiff's teaching of the IAL course. The claimed issues are based

on false representations of fact, or are altogether unsupported. Plaintiff has been forced to spend time and personal resources responding to Defendants' unfounded allegations, in an attempt to preserve his reputation and his status as a tenured professor of the Law School.

53. Defendants have removed Plaintiff as the professor of IAL, placing his credit quota and his tenure with the Law School at risk. Defendants' conduct evidently is directed at forcing Plaintiff to retire.

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55. Defendants have violated the NYCHRL directly, through disparate treatment and harassment, and indirectly, by aiding and abetting disparate treatment and harassment.

56. As a direct and proximate consequence of Defendants' conduct, Plaintiff has suffered, and continues to suffer, emotional and psychological distress, damage to his good name and reputation, and lasting embarrassment, humiliation, and anguish.

57. Defendants' conduct is intentional, outrageous, and malicious. It was intended to injure, and was done with reckless indifference to Plaintiff's statutorily-protected rights.

58. As a result of Defendants' unlawful conduct, Plaintiff is entitled to damages in an amount to be determined at trial, including but not limited to damages for emotional stress, punitive damages, attorneys' fees and costs, and such other legal and equitable relief as this Court deems just and proper.

**Prayer For Relief**

WHEREFORE, Plaintiff is entitled to a judgment against Defendants as follows:

- (a) A declaratory judgment that the acts and practices of Defendants complained of herein are in violation of the laws of the State and the City of New York;
- (b) An order enjoining and permanently restraining Defendants' violations of the laws of the State and the City of New York as to Plaintiff;
- (c) An order directing Defendants to reinstate Plaintiff to the position he would have occupied but for Defendants' discriminatory treatment of him, as well as to take such affirmative action as is necessary to ensure that the effects of these unlawful employment practices are eliminated and do not continue to affect Plaintiff's status at a tenured professor at the Law School;
- (d) An order awarding Plaintiff monetary damages in an amount to be determined at trial; and
- (e) Such other and further relief as the Court deems just and proper.

Dated: New York, New York  
March 18, 2017

GOLENBOCK EISEMAN ASSOR BELL  
& PESKOE LLP

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\_\_\_\_\_  
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*Attorneys For Plaintiff George P. Fletcher*

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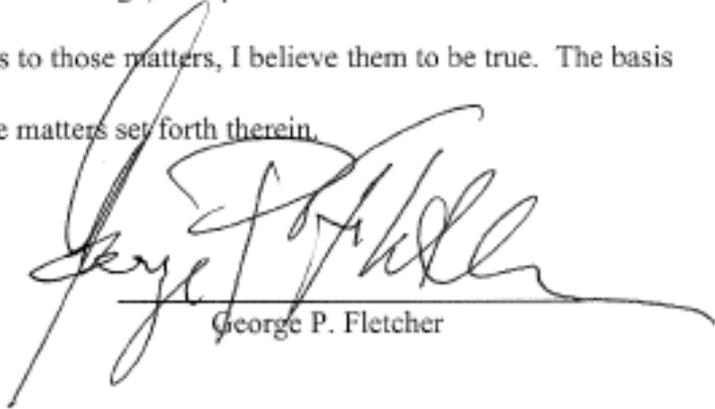
Defendants  
-----X

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

George P. Fletcher, under penalty of perjury, verifies as follows:

1. That I am the Plaintiff in the foregoing Action.
2. That I have read the Verified Complaint and know the contents thereof.
3. That the same is true to my knowledge, except as to the matters therein stated to

be alleged on information and belief, and as to those matters, I believe them to be true. The basis for my knowledge is my involvement in the matters set forth therein.



George P. Fletcher

Sworn to before me this  
18 day of March, 2017

See CA Notary Attachment  
Notary Public

# JURAT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

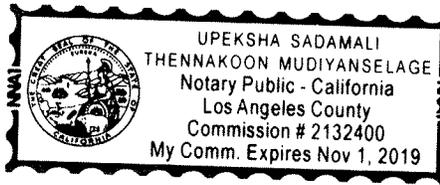
County of Los Angeles

Subscribed and sworn to (or affirmed) before me on this 18 day of March,

2017 by George P Fletcher

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Upeksha Thennakoon  
Signature (Seal)



## OPTIONAL INFORMATION

### DESCRIPTION OF THE ATTACHED DOCUMENT

Verified Complaint  
(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages — Document Date —

Additional information

## INSTRUCTIONS

The wording of all Jurats completed in California after January 1, 2015 must be in the form as set forth within this Jurat. There are no exceptions. If a Jurat to be completed does not follow this form, the notary must correct the verbiage by using a jurat stamp containing the correct wording or attaching a separate jurat form such as this one with does contain the proper wording. In addition, the notary must require an oath or affirmation from the document signer regarding the truthfulness of the contents of the document. The document must be signed AFTER the oath or affirmation. If the document was previously signed, it must be re-signed in front of the notary public during the jurat process.

- State and county information must be the state and county where the document signer(s) personally appeared before the notary public.
- Date of notarization must be the date the signer(s) personally appeared which must also be the same date the jurat process is completed.
- Print the name(s) of the document signer(s) who personally appear at the time of notarization.
- Signature of the notary public must match the signature on file with the office of the county clerk.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different jurat form.
  - ❖ Additional information is not required but could help to ensure this jurat is not misused or attached to a different document.
  - ❖ Indicate title or type of attached document, number of pages and date.
- Securely attach this document to the signed document with a staple.