

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X Case No.
ROXAN DENTON-LOTTS,

Plaintiff,

- against -

COMPLAINT

PUTNAM COUNTY PERSONNEL DEPARTMENT, and
PUTNAM COUNTY SHERIFF'S DEPARTMENT,

PLAINTIFF DEMANDS
A TRIAL BY JURY

Defendants.
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Plaintiff ROXAN DENTON-LOTTS, by and through her attorneys, NISAR LAW GROUP, P.C., hereby complains of Defendants, upon information and belief, as follows:

NATURE OF THE CASE

1. Plaintiff complains pursuant to Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (amended in 1972, 1978 and by the Civil Rights Act of 1991, Pub. L. No. 102-166) ("Title VII"), and the New York State Human Rights Law, New York State Executive Law § 296, *et seq.* ("NYSHRL"), and seeks damages to redress the injuries Plaintiff has suffered as a result of being **unlawfully retaliated against and denied employment for complaining of sexual harassment/ sexual assault.**

JURISDICTION AND VENUE

2. Jurisdiction of this Court is proper under 42 U.S.C. § 2000e-5(f)(3), 28 U.S.C. §§ 1331 and 1343.
3. The Court has supplemental jurisdiction over the plaintiff's claims brought under state law pursuant to 28 U.S.C. § 1367.
4. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) as it is a judicial district

in which a substantial part of the events or omissions giving rise to the claim occurred.

PROCEDURAL PREREQUISITES

5. On or about September 18, 2017, Plaintiff filed a complaint of discrimination/ retaliation with the New York State Division of Human Rights (“NYSDHR”). This complaint was cross-filed with the Equal Employment Opportunity Commission (“EEOC”).
6. Following an investigation, on March 21, 2018, the NYSDHR issued a Determination After Investigation, concluding that Probable Cause existed to believe that Defendants had engaged in or are engaging in unlawful conduct.
7. On November 10, 2018, the NYSDHR issued an Order of Dismissal for Administrative Convenience in light of Plaintiff’s request for dismissal of the matter so that she could pursue her claims in federal court.
8. Plaintiff thereafter received a Notice of Right to Sue from the EEOC dated February 22, 2019, with respect to the herein charges of discrimination/ retaliation. A copy of this Notice is annexed hereto.
9. This Action is being commenced within ninety (90) days of receipt of said Notice.

PARTIES

10. At all times relevant, Plaintiff ROXAN DENTON-LOTTIS (“Plaintiff”) was and is a resident of the State of New York and Dutchess County.
11. At all times relevant, Defendant PUTNAM COUNTY SHERIFF’S DEPARTMENT was and is a municipal entity duly organized and existing under, and by virtue of, the laws of the State of New York, with offices located at 3 County Center, Carmel, New York 10512.
12. At all times relevant, Defendant PUTNAM COUNTY PERSONNEL DEPARTMENT was and is a municipal entity duly organized and existing under, and by virtue of, the

laws of the State of New York, with offices located at 110 Old Route 6, Carmel, New York 10512.

13. At all times relevant, Defendants PUTNAM COUNTY SHERIFF'S DEPARTMENT and PUTNAM COUNTY PERSONNEL DEPARTMENT shall be herein referred to together as "Defendants."

MATERIAL FACTS

14. In or around 2012, Plaintiff passed Defendants' Civil Service Examination.
15. In or around early May 2016, while Plaintiff was working for the New York State Office of Children & Family Services ("OCFS"), she was sexually assaulted by a co-worker during training at the Redhook Residential Center ("Redhook"). She filed a police report and made a formal complaint to the Director of Redhook the following day. This formal complaint was then forwarded to OCFS's Office of Equal Opportunity and Diversity Development ("EODD") for an internal investigation.
16. In or around December 2016, Plaintiff's employment with the OCFS ended.
17. However, on or about January 3, 2017, OCFS' Affirmative Action Officer—to wit, a person named Robert Wilson—sent Plaintiff a letter which stated, in relevant part:
- EODD has completed its investigation regarding [your June 28, 2016] complaint and has concluded that conduct that violated OCFS Policy occurred. OCFS' Legal Division has reviewed EODD's investigative findings, and concurs. The file will be forwarded to Labor Relations for further action as deemed necessary.
18. On or about February 11, 2017, Plaintiff sat for Defendants' Civil Service Examination a second time and again passed.
19. On or about February 23, 2017, Plaintiff received a letter from Defendants advising her that she was eligible for the position of "Correction Officer" with Defendants.

20. Generally speaking, after a candidate becomes eligible for the position of Correction Officer, Defendants require that applicants successfully complete the following steps prior to being hired: (1) Application (which included documentation concerning any divorce), (2) Pre-Employment Interview, (3) Interview, (4) Background Investigation, (5) Fingerprinting, (6) Offer, and (7) Urine Tests and Psychological Evaluation.
21. As such, on or about February 24, 2017, Plaintiff submitted an application for the position of “Correction Officer” with Defendants, in which Plaintiff disclosed that she was a victim of sexual harassment/ sexual assault and to which she attached all requested documents, including, documentation concerning her prior divorce.
22. In fact, on or about March 13, 2017, Defendants completed a check list of documents which confirmed that Defendants had received “Marriage or Divorce Paperwork” from Plaintiff.
23. The next day, on or about March 14, 2017, Investigator Shaun Menton called Plaintiff and requested that she report to Defendants’ office for a pre-employment interview on March 20, 2017 to review her application and supporting documents. When Plaintiff agreed to do so, Investigator Shaun Menton awkwardly asked her whether she had a babysitter for her kids. While Plaintiff thought that this was an awkward question to ask, she nevertheless responded in the affirmative.
24. On or about March 20, 2017, Plaintiff met with Investigator Shaun Menton, during which he first reviewed all of the documents that she had submitted with her application and confirmed that Defendants had everything that they had requested from her.
25. Investigator Shaun Menton then began questioning Plaintiff about the fact that she stated she was a victim of sexual harassment/ sexual assault on her application. In response,

Plaintiff disclosed to Investigator Shaun Menton that after she had been sexually assaulted by a co-worker at a previous job, she had filed a sexual harassment/ sexual assault complaint, in which OCFS had concluded that conduct had occurred which violated OCFS Policy.

26. Approximately two weeks later (in or around early-April 2017), Plaintiff was interviewed by Captain Patrick O'Malley, Lieutenant Sheila Hanley, and Lieutenant James Greenough, during which she was again questioned about her prior sexual assault complaint to which she again responded that she had previously filed a complaint of sexual harassment/ sexual assault against a co-worker and that her allegations were found to have been substantiated. Again, Plaintiff was particularly perplexed as to why Defendants seem to only be focused on her previous sexual harassment/ sexual assault complaint and not on any of her accomplishments or experience.
27. That same day, Defendants informed Plaintiff that her interview went well, that she had successfully passed Defendants' background check, and that she should hear from them soon regarding the next step in the hiring process.
28. Also, in or around early-April 2017, Defendants notified Plaintiff that she was scheduled to take a polygraph examination on April 10, 2017.
29. However, on or about April 10, 2017, right before Plaintiff was scheduled to undergo the polygraph examination, Investigator Shaun Menton informed Plaintiff that he had looked into her sexual harassment/ sexual assault allegations and he was told by a detective on the case that they believed that Plaintiff had lied about the sexual harassment/ sexual assault she had suffered. Investigator Shaun Menton then stated that Defendants were going to ask her about her complaint during the polygraph exam and that if she didn't

want to answer those questions, she could withdraw her application from consideration. Plaintiff replied that she had always truthful and had nothing to hide. Given the tone and content of her discussion with Investigator Shaun Menton, Plaintiff believed Defendants were trying to intimidate her into withdrawing her application due to the fact that she had previously filed a sexual harassment / sexual assault complaint against a co-worker.

30. Moments later, Plaintiff sat down for her polygraph exam with a Detective Peters who informed Plaintiff that Defendants had provided him with a list of questions to ask her. Detective Peters then proceeded to administer Plaintiff's polygraph exam during which Detective Peters first asked Plaintiff whether she had ever slept with a co-worker, to which Plaintiff answered that she had slept with her husband when they were co-workers. She also explained that because she had always worked at 24-hour facilities, she had dated other co-workers in the past too.
31. Oddly, Detective Peters next instructed Plaintiff to provide a list of all co-workers with whom she had ever had sexual relations. Plaintiff quickly realized that this was a thinly-veiled attempt to make her feel uncomfortable and manufacture a pretextual reason to deny her employment and cover up the actual reason they wanted to deny her employment—in retaliation for filing her 2016 sexual harassment/ sexual assault complaint against a co-worker. Although Plaintiff was completely humiliated by these questions, Plaintiff nonetheless gave Detective Peters the names of the individuals, as she did not want to allow Defendants to use her failure to answer these questions as an excuse not to hire her.
32. The next question that Detective Peters asked Plaintiff was if she had ever filed a false report, to which Plaintiff responded that she had not. Detective Peters then threatened

Plaintiff, telling her that if Defendants determine that she was not being truthful, they will bring her up on criminal charges. Then, just as Investigator Shaun Menton had told her previously, Detective Peters told Plaintiff that she always has the option of withdrawing her application from consideration. At this point it was even more evident that Defendants were trying to get Plaintiff to voluntarily withdraw her application and did not want to hire her as a result of her sexual harassment / sexual assault complaint.

33. On one more instance during the polygraph exam, Detective Peters alerted Plaintiff that she could end this whole process if she just withdrew her application. When Plaintiff (again) declined to do so, Detective Peters oddly informed Plaintiff that she had passed the polygraph examination (i.e., that her responses demonstrated complete truthfulness).
34. Although Plaintiff was humiliated and distraught over these inappropriate questions that were asked during her polygraph examination, Plaintiff was nevertheless relieved that it was over and patiently waited to hear back from Defendants.
35. However, in or around mid-May 2017, since Plaintiff had not heard from Defendants in over a month, Plaintiff's husband Tyrone Lotts (who was/ is employed by Defendants) inquired with Lieutenant James Greenough about the status of Plaintiff's application process. Lieutenant James Greenough responded that Defendants chose not to hire Plaintiff because "something did not seem right" and Plaintiff's story "d[id]n't add up." Upon information and belief, these reasons were simply fabricated in a further attempt to justify the unlawful refusal to hire Plaintiff.
36. In fact, Plaintiff thereafter learned that Defendants officially stated that the reasons they did not hire Plaintiff were due to her poor interview, her failure to fully and truthfully answer application questions, and her refusal to provide the required documents regarding

her divorce.

37. However, the aforementioned reasons for non-hire are clearly pretextual, as each can easily be disproven. First, if Plaintiff failed to fully and truthfully answer application questions and refused to provide the required documents regarding her divorce, Plaintiff never would have progressed to the interview stage. Second, Defendants had already confirmed with Plaintiff several times that they had received all the requested documents from her, including her documentation regarding her prior divorce. Third, if Plaintiff had in fact given a “poor interview,” Defendants never would have had Plaintiff sit down for a polygraph examination (which she passed nonetheless).
38. Further, Defendants treated Plaintiff differently and disparately than all other applicants with respect to the questions that were asked during the interviews and polygraph exam. In fact, Plaintiff was the only applicant who was questioned about filing false reports and about sexual relations during the interviews and polygraph exam. Not surprisingly, upon information and belief, Plaintiff was also the only applicant who had previously filed a sexual harassment/ sexual assault complaint against a co-worker.
39. For example, on or about April 10, 2017, Defendants administered a polygraph examination to applicant Ms. Randi Ruocco. However, Ms. Ruocco was not questioned about filing false reports or her sexual relations.
40. On or about April 11, 2017, Defendants administered a polygraph examination to applicant Ms. Jessica Elora Tomarello. Ms. Tomarello was not asked about filing false reports or her sexual relations.
41. On or about April 13, 2017, Defendants administered a polygraph examination to applicant Ms. Ashley M. Piqueras. However, Ms. Piqueras had not been questioned

about filing false reports or her sexual relations.

42. In or around April 2017, Defendants administered a polygraph examination to applicant Ms. Sheri Citrone. However, Ms. Citrone was not asked about filing false reports or her sexual relations.
43. In or around April 2017, Defendants administered a polygraph examination to applicant Ms. Michelle Mione. During her polygraph examination, Ms. Mione was not asked about filing false reports or her sexual relations.
44. In or around April 2017, Defendants administered a polygraph examination to applicant Ms. Tara Martin. Ms. Martin was not asked about filing false reports or her sexual relations.
45. In or around April 2017, Defendants administered a polygraph examination to applicant Ms. Kelly DiSciorio. The polygraph examination of Ms. DiSciorio did not include questions about filing false reports or her sexual relations.
46. Plaintiff has been unlawfully retaliated against and denied employment for filing a sexual harassment/ sexual assault complaint against a former co-worker.
47. Defendants' actions and conduct were intentional and intended to harm Plaintiff.
48. As a result of the acts and conduct complained of herein, Plaintiff has suffered and will continue to suffer the loss of income, the loss of a salary, bonuses, benefits and other compensation which such employment entails, and Plaintiff has also suffered future pecuniary losses, emotional pain, suffering, inconvenience, loss of enjoyment of life, and other non-pecuniary losses.
49. Defendants' conduct has been malicious, willful, outrageous, and conducted with full knowledge of the law. As such, Plaintiff demands Punitive Damages as against both

Defendants, jointly and severally.

**AS A FIRST CAUSE OF ACTION
FOR RETALIATION UNDER TITLE VII**

50. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.

51. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-3(a) provides that it shall be unlawful employment practice for an employer:

“(1) to ... discriminate against any of his employees ... because he has opposed any practice made an unlawful employment practice by this subchapter, or because he has made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this subchapter.”

52. Defendants engaged in unlawful employment practices prohibited by 42 U.S.C. § 2000e, *et seq.*, by retaliating against Plaintiff with respect to the terms, conditions or privileges of employment because of her complaint of sexual harassment against a co-worker.

**AS A SECOND CAUSE OF ACTION FOR RETALIATION
UNDER THE NEW YORK STATE EXECUTIVE LAW**

53. Plaintiff repeats, reiterates and realleges each and every allegation made in the above paragraphs of this Complaint as if more fully set forth herein at length.

54. The New York State Executive Law § 296(7) provides: “It shall be an unlawful discriminatory practice for any person engaged in any activity to which this section applies to retaliate or discriminate against any person because he or she has opposed any practices forbidden under this article or because he or she has filed a complaint, testified or assisted in any proceeding under this article.”

55. Defendants engaged in an unlawful retaliatory practice in violation of the New York State Executive Law § 296(7) by retaliating against Plaintiff because of her opposition to sexual harassment/ sexual assault.

JURY DEMAND

56. Plaintiff demands a trial by jury.

WHEREFORE, Plaintiff respectfully requests a judgment against the Defendants:

- A. Declaring that Defendants engaged in unlawful employment practices prohibited by Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq., and the New York State Executive Law, as Defendants unlawfully retaliated against Plaintiff and failed to hire her solely due to her complaint of sexual harassment/ sexual assault;
- B. Awarding damages to Plaintiff for all lost wages and benefits resulting from Defendants' unlawful retaliation and to otherwise make her whole for any losses suffered as a result of such unlawful employment practices;
- C. Awarding Plaintiff compensatory damages for mental, emotional and physical injury, distress, pain and suffering and injury to her reputation in an amount to be proven;
- D. Awarding Plaintiff punitive damages;
- E. Awarding Plaintiff attorneys' fees, costs, and expenses incurred in the prosecution of the action; and
- F. Awarding Plaintiff such other and further relief as the Court may deem equitable, just and proper to remedy the Defendants' unlawful employment practices.

Dated: New York, New York
May 21, 2019

NISAR LAW GROUP, P.C.



By: _____

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DENTON-LOTTS,

Plaintiff(s),

ORDER

- against -

19 Civ. 4680 (NSR)

PUTNAM COUNTY PERSONNEL DEPARTMENT, et al.,

Defendant(s).

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Román, D.J.:

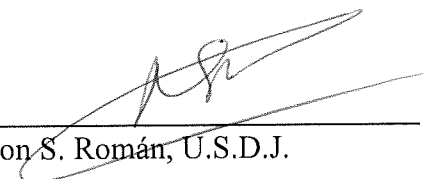
The Court having been advised that all claims asserted herein have been settled, it is

ORDERED, that the above-entitled action be and hereby is discontinued, without costs to either party, subject to reopening should the settlement not be consummated within sixty (60) days of the date hereof.

The parties are advised that if they wish the Court to retain jurisdiction in this matter for purposes of enforcing any settlement agreement, they must submit the settlement agreement to the Court within the next 60 days with a request that the agreement be “so ordered” by the Court.

SO ORDERED.

Dated: White Plains, New York
March 2, 2020



Nelson S. Román, U.S.D.J.

Clerk of the Court requested to terminate the motion (doc. 18).

