

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

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ASMA BAGUM,

CASE NO.

Plaintiff.

- against -

COMPLAINT

**DESH BIDESH UNISEX BARBER SHOP, INC.,
SURUJ N. SHIL, and PORIMAL BISWAS,**

Defendants.

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Plaintiff ASMA BAGUM (“Plaintiff Bagum”), by and through her attorneys, FISHER TAUBENFELD LLP, alleges against Defendants DESH BIDESH UNISEX BARBER SHOP, INC. (“Corporate Defendant” or the “Company,”) SURUJ N. SHIL (Defendant Shil), and PORIMAL BISWAS (Defendant Biswas) (collectively “Individual Defendants”) (together with the Company, “Defendants”) as follows:

NATURE OF THE ACTION

1. This action arises under Title VII of the Civil Rights Act (“Title VII”), the New York State Human Rights Law (“NYSHRL” or “State Law”), codified in the New York State Executive Law Article 15 §§ 290 *et. Seq.* (“State Law”), and the New York City Human Rights Law (“NYCHRL”). Based on the following acts and/or omissions, Defendants knowingly violated Plaintiff’s rights under federal, state and city law and such actions were committed intentionally and/or willfully with knowledge that Plaintiff would be economically injured:

- a) Sexual harassment against Plaintiff;
- b) Retaliation based on Plaintiff's complaints of sexual harassment.

2. Damages and other legal relief are sought pursuant to Title VII, State Law, and City

Law.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (original federal question jurisdiction). Supplemental jurisdiction over Plaintiff's State and City Law claims is conferred by 28 U.S.C. § 1367(a), as such claims are so related in this action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.

4. Plaintiff has satisfied all jurisdictional prerequisites under Title VII. Prior to filing this Complaint, Plaintiff timely filed a Charge of Discrimination with the Equal Employment Opportunity Commission (EEOC) on March 4, 2023, and on April 4, 2024 received a Notice of Right to Sue from the EEOC, thereby giving Plaintiff the right to proceed in federal court and conferring jurisdiction upon this Court.

5. Venue is proper in this District because Defendants operate in this District and the acts and/or omissions giving rise to the claims alleged herein took place in this District.

PARTIES

Plaintiff

6. Plaintiff is a New York resident.

7. Plaintiff was at all times an "employee" within the meaning of federal, State, and City law, protected from employment harassment, retaliation, and discrimination on the basis of gender.

Defendants

8. Defendants were at all relevant times Plaintiff's employers.

9. Defendants operate a salon at 37-53 73rd St., Jackson Heights, NY 11372, where

Plaintiff was employed.

10. At all relevant times hereto, the Individual Defendants held supervisory positions over Plaintiff and had authority over the terms and conditions of Plaintiff's employment. Therefore, Individual Defendants were Plaintiff's employers under federal, state and city law.

11. Upon information and belief, Individual Defendants were co-owners of Corporate Defendant, and exercised control over Corporate Defendant, in part through financial control.

12. Individual Defendants each engaged in the acts, facilitated the acts, and/or aided and abetted the unlawful acts alleged in this Complaint.

FACTUAL ALLEGATIONS

13. Over the last three years of her employment with the Company, Defendants Shil and Biswas, and Plaintiff's coworker, Mohammed "Sadam" Hussein, subjected Plaintiff to severe sexual harassment.

14. Individual Defendants and Hussein intentionally made physical contact with Plaintiff against her will, including touching her breasts.

15. While Plaintiff was in a break room, the Individual Defendants and Hussein at various times feigned "accidentally" bumping into her as an excuse to grope her.

16. In September 2023, Hussein grabbed and embraced her, claiming that it was an accident. Plaintiff strongly rejected this unwelcome conduct, demanding that it stop, but the behavior continued.

17. The harassment toward Plaintiff took both verbal and physical form.

18. Hussein made frequent inappropriate comments to Plaintiff, such as "Let's go out," "Let's go to a hotel," and "Help me get my papers."

19. When Plaintiff tried to retrieve her pay from Defendant Shil, he made suggestive

remarks, such as: “What is it that you want me to give you? I only have one special thing that I can give you.”

20. Defendant Biswas also made inappropriate statements, such as, “My wife isn’t able to have a child, have a child with me.”

21. All three commented about Plaintiff’s clothes and appearance, such as: “You’re Bangladeshi, how could you dress this way,” “Don’t you think you’re going to die one day and you’ll have to answer to God for how you’re dressed?”

22. At lunchtime, Plaintiff sometimes sat with a male coworker.

23. Individual Defendants and Hussein often insinuated that there was a relationship between Plaintiff and this coworker, asking him “Where did you take her?”

24. Defendant Shil frequently teased Plaintiff about her meal breaks, saying “she won’t come eat with us, she doesn’t like us, she likes [another coworker].” This teasing occurred multiple times per day.

25. On one occasion when Plaintiff was leaving work at the end of her shift and was in a hurry to get home, Defendant Shil asked her: “Why are you in such a rush, are you going to go take a shower and sleep with your husband?”

26. On another occasion, the receipt printer paper in the credit card machine ran out, and Plaintiff asked Defendant Biswas to replace it, saying: “can you put this in?” In response, Defendant Biswas suggestively said “where do you want me to put it in?”

27. Plaintiff was pressured to marry coworkers because of their immigration status. Individual Defendants made comments including, “you don’t have anyone else, so what’s the problem,” completely disregarding her husband.

28. Individual Defendants urged her to leave her husband to “help out” coworkers who

didn't have green cards, including going as far as to offer her money to do so.

Retaliation Against Plaintiff

29. Because Plaintiff resisted and pushed back against the harassment, Individual Defendants made her working conditions more difficult on order to force her to quit.

30. For example, when Plaintiff had a doctor's appointment, Individual Defendants made it difficult for her to take time off work. However, taking time off for appointments was not an issue for any other employee.

31. When Plaintiff arrived late to or left early from work, Individual Defendants commented and complained, but did not do so for the other salon employees.

32. Hussein came to work as late as 8:00 p.m. without issue.

33. Individual Defendants tried to change Plaintiff's schedule such that she worked from 10 a.m. to 8 p.m., but they were aware that schedule conflicted with her childcare obligations.

34. Plaintiff is diabetic, suffers from high cholesterol, and has lingering problems with her legs from an accident, meaning that it is not safe for her to be standing for long periods of time.

35. Plaintiff and her husband both pleaded with the owners to allow her to begin work at noon and return to her flexible schedule.

36. Because Plaintiff rejected their advances, Defendant Shil took away her flexible schedule and told her that she had to work the new hours or quit.

37. When Plaintiff started working at the store, it was with the understanding that she would have a flexible schedule.

38. While Plaintiff was on vacation, Defendant Shil took advantage of her absence to assign her usual chair in the salon to someone else. Defendant Shil was aware that she preferred working at the chair closest to the door because the other chairs were further inside of the salon,

making it more difficult to see from outside and leaving her more vulnerable to advances from the male barbers and customers.

39. The workplace occasionally became violent. On one Friday in the fall of 2023 when Plaintiff arrived late to work, Defendant Biswas raised his voice at her and cursed at her as soon as she entered the salon. Defendant Biswas grabbed her purse and threw it out of the store in an attempt to remove her. Plaintiff's husband was nearby and witnessed the scene. He walked back into the salon and told Defendant Biswas to calm down, saying that Plaintiff was working long hours and could not get to bed sometimes until 3:00 or 4:00 a.m. However, Defendant Biswas threw her purse again in front of her husband, saying that he would throw them both out, and even threatening to literally pick up Plaintiff's chair and throw it out of the salon. Plaintiff stated: "The way you're behaving with me is completely inappropriate, I could call the police now." Defendant Biswas replied: "You should be lucky that I haven't pulled you by the neck and thrown you out." Defendant Biswas walked out of the store, ending the confrontation.

40. On October 31, 2023, Plaintiff was constructively terminated due to Defendants' discriminatory and retaliatory acts.

FIRST CAUSE OF ACTION

(Sexual Harassment/Gender Discrimination in Violation of Title VII as to Corporate Defendant)

41. Plaintiff repeats and realleges all paragraphs above as though fully set forth herein.

42. Corporate Defendant willfully violated federal law when it subjected Plaintiff to discrimination in the terms and conditions of her employment on the basis of her gender.

43. As a proximate result of the Corporate Defendant's unlawful acts of discrimination, Plaintiff has endured emotional pain and suffering, inconvenience, mental anguish, loss of

enjoyment of life, loss of personal dignity, loss of self-esteem, loss of career fulfillment, embarrassment, humiliation and harm to her reputation.

44. As a proximate result of the Corporate Defendant's unlawful acts of discrimination, Plaintiff has suffered and continues to suffer substantial losses in past and future earnings and other fringe benefits.

SECOND CAUSE OF ACTION

**(Gender Discrimination
in Violation of State Law
as to All Defendants)**

45. Plaintiff repeats and realleges all paragraphs above as though fully set forth herein.

46. Defendants willfully violated State Law when they subjected Plaintiff to discrimination in the terms and conditions of her employment on the basis of her gender.

47. As a proximate result of Defendant's unlawful acts of discrimination, Plaintiff has endured emotional pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, loss of personal dignity, loss of self-esteem, loss of career fulfillment, embarrassment, humiliation and harm to her reputation.

48. As a proximate result of Defendant's unlawful acts of discrimination, Plaintiff has suffered and continues to suffer substantial losses in past and future earnings and other fringe benefits.

THIRD CAUSE OF ACTION

**(Gender Discrimination
in Violation of City Law
as to All Defendants)**

49. Plaintiff repeats and realleges all paragraphs above as though fully set forth herein.

50. Defendants willfully violated City Law when they subjected Plaintiff to

discrimination in the terms and conditions of employment on the basis of her gender.

51. As a proximate result of Defendants' unlawful acts of discrimination, Plaintiff has endured emotional pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, loss of personal dignity, loss of self-esteem, loss of career fulfillment, embarrassment, humiliation and harm to her reputation.

52. As a proximate result of Defendants' unlawful acts of discrimination, Plaintiff has suffered and continues to suffer substantial losses in past and future earnings and other fringe benefits.

FOURTH CAUSE OF ACTION

(Retaliation in Violation of Title VII as to Corporate Defendant)

53. Plaintiff repeats and realleges all paragraphs above as though fully set forth herein.

54. Corporate Defendant willfully violated federal law when it subjected Plaintiff to retaliation for reporting and complaining about sexual harassment/discrimination.

55. As a proximate result of the Corporate Defendant's unlawful acts, Plaintiff has endured emotional pain, emotional suffering, inconvenience, mental anguish, loss of enjoyment of life, loss of personal dignity, loss of self-esteem, loss of career fulfillment, embarrassment, humiliation and harm to her reputation.

56. As a proximate result of the Corporate Defendant's unlawful acts, Plaintiff has suffered and continues to suffer substantial losses in past and future earnings and other fringe benefits.

FIFTH CAUSE OF ACTION

**(Retaliation
in Violation of State Law
as to All Defendants)**

57. Plaintiff repeats and realleges all paragraphs above as though fully set forth herein.

58. By the acts and practices described above, Defendants retaliated against Plaintiff for reporting and complaining about sexual harassment/discrimination.

59. Defendants knew that their actions constituted retaliation and willfully disregarded Plaintiff's statutorily protected rights.

60. As a proximate result of Defendants' unlawful acts, Plaintiff has suffered and will continue to suffer irreparable injury, monetary damages, mental anguish, humiliation, and damage to her reputation as a proximate result of Defendants' retaliatory practices, unless and until this Court grants the relief hereinafter described.

61. As a proximate result of Defendants' unlawful acts, Plaintiff has suffered and continues to suffer substantial losses in past and future earnings and other fringe benefits.

SIXTH CAUSE OF ACTION

**(Retaliation
in Violation of City Law
as to All Defendants)**

62. Plaintiff repeats and realleges all paragraphs above as though fully set forth herein.

63. By the acts and practices described above, Defendants retaliated against Plaintiff for reporting and complaining about sexual harassment/discrimination.

64. Defendants knew that their actions constituted retaliation and willfully disregarded Plaintiff's statutorily protected rights.

65. As a proximate result of Defendants' unlawful acts, Plaintiff has suffered and will

continue to suffer irreparable injury, monetary damages, mental anguish, humiliation, and damage to her reputation as a proximate result of Defendants' retaliatory practices, unless and until this Court grants the relief hereinafter described.

66. As a proximate result of Defendants' unlawful acts, Plaintiff has suffered and continues to suffer substantial losses in past and future earnings and other fringe benefits.

PRAYER FOR RELIEF

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

- a. back pay, prejudgment interest, front pay, damages for all employment wage and benefits Plaintiff would have received but for the unlawful acts and practices of Defendants;
- b. compensatory damages for emotional distress;
- c. reasonable attorneys' fees and costs incurred in this action; and
- d. any other relief that the Court deems just and proper.

DEMAND FOR TRIAL BY JURY

Plaintiff demands a trial by jury.

Dated: New York, New York
August 8, 2024

Respectfully submitted,

FISHER TAUBENFELD LLP



Liane Fisher, Esq.
Attorneys for Plaintiff
225 Broadway, Suite 1700
New York, New York 10007
Phone: (212) 571-0700
Fax: (212) 505-2001