

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

-----X
TREVLYN HEADLEY

Plaintiff,

NOTICE OF MOTION FOR
DEFAULT JUDGMENT

-against-

Index No.: 155228/2025

CITY OF NEW YORK, SHATORRA FOSTER, TANIA
KINSELLA

Defendants
-----X

NOTICE OF MOTION FOR DEFAULT JUDGMENT

PLEASE TAKE NOTICE that, upon the accompanying Affirmation of Eric Sanders, Esq., dated July 11, 2026; the exhibits annexed thereto; the accompanying Memorandum of Law; the pleadings and proceedings previously had herein; and upon all prior papers filed in this action, defendant/counterclaim-plaintiff SHATORRA FOSTER will move this Court, before the Supreme Court of the State of New York, County of New York, Motion Submission Part Room 130 at the courthouse located at 60 Centre Street, New York, New York 10007, on the 27th day of August 2026, at 9:30 a.m., or as soon thereafter as counsel may be heard, for an Order pursuant to CPLR 3011, 3211(f), and 3215(a), (b), and (f):

1. determining that plaintiff/counterclaim-defendant TREVLYN HEADLEY defaulted by failing to serve a reply to the counterclaims asserted in defendant/counterclaim-plaintiff SHATORRA FOSTER's Verified Answer and Counterclaims after the denial of HEADLEY's motion to dismiss those counterclaims and the service of notice of entry of the Court's Decision and Order;

2. granting defendant/counterclaim-plaintiff SHATORRA FOSTER a default judgment against plaintiff/counterclaim-defendant TREVLYN HEADLEY as to liability on the First Counterclaim for sexual harassment under the New York State Human Rights Law, Executive Law § 296;

3. granting defendant/counterclaim-plaintiff SHATORRA FOSTER a default judgment against plaintiff/counterclaim-defendant TREVLYN HEADLEY as to liability on the Second Counterclaim for hostile work environment under the New York State Human Rights Law, Executive Law § 296;

4. granting defendant/counterclaim-plaintiff SHATORRA FOSTER a default judgment against plaintiff/counterclaim-defendant TREVLYN HEADLEY as to liability on the Third Counterclaim for retaliation under the New York State Human Rights Law, Executive Law § 296;

5. granting defendant/counterclaim-plaintiff SHATORRA FOSTER a default judgment against plaintiff/counterclaim-defendant TREVLYN HEADLEY as to liability on the Fourth Counterclaim for sexual harassment under the New York City Human Rights Law, Administrative Code of the City of New York § 8-107;

6. granting defendant/counterclaim-plaintiff SHATORRA FOSTER a default judgment against plaintiff/counterclaim-defendant TREVLYN HEADLEY as to liability on the Fifth Counterclaim for hostile work environment under the New York City Human Rights Law, Administrative Code of the City of New York § 8-107;

7. granting defendant/counterclaim-plaintiff SHATORRA FOSTER a default judgment against plaintiff/counterclaim-defendant TREVLYN HEADLEY as to liability on the

Sixth Counterclaim for retaliation under the New York City Human Rights Law, Administrative Code of the City of New York § 8-107(7);

8. granting defendant/counterclaim-plaintiff SHATORRA FOSTER a default judgment against plaintiff/counterclaim-defendant TREVLYN HEADLEY as to liability on the Seventh Counterclaim under the New York City Gender-Motivated Violence Act, Administrative Code of the City of New York § 10-1101 et seq.;

9. directing that the well-pleaded factual allegations contained in SHATORRA FOSTER's Verified Answer and Counterclaims be deemed admitted by TREVLYN HEADLEY for purposes of determining liability on the counterclaims;

10. directing an inquest to determine the amount of compensatory damages, punitive damages, attorneys' fees, costs, and all other monetary and equitable relief recoverable against TREVLYN HEADLEY, or, alternatively, directing that those issues be determined at the trial of the remaining claims in this action;

11. directing that TREVLYN HEADLEY may participate in any inquest or trial concerning damages but may not contest liability on the counterclaims upon which default judgment is entered; and

12. granting SHATORRA FOSTER such other and further relief as the Court deems just, proper, and equitable.

PLEASE TAKE FURTHER NOTICE that, pursuant to CPLR 2214(b), answering affidavits and any notice of cross-motion, if any, shall be served within the time prescribed by law.

Dated: July 11, 2026
New York, N.Y.

Respectfully submitted,

By: /s/Eric Sanders
Attorney for Defendant Shatorra Foster

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SUPREME COURT OF THE STATE OF NEW YORK
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TREVLYN HEADLEY

Plaintiff,

-against-

Index No.: 155228/2025

CITY OF NEW YORK, SHATORRA FOSTER, TANIA
KINSELLA

Defendants
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**AFFIRMATION OF ERIC SANDERS, ESQ.
IN SUPPORT OF MOTION FOR DEFAULT JUDGMENT**

ERIC SANDERS, an attorney duly admitted to practice law before the courts of the State of New York, affirms the following under the penalties of perjury pursuant to CPLR 2106:

1. I am the owner and president of The Sanders Firm, P.C., attorneys for defendant/counterclaim-plaintiff SHATORRA FOSTER (“Foster”) in this action.
2. I am fully familiar with the facts and procedural history of this action based upon my representation of Foster, my participation in the proceedings, and my review of the pleadings, motion papers, orders, and filings maintained on the New York State Courts Electronic Filing System (“NYSCEF”).
3. I submit this Affirmation in support of Foster’s motion, pursuant to CPLR 3011, 3211(f), and 3215, for an Order:
 - a. determining that plaintiff/counterclaim-defendant TREVLYN HEADLEY (“Headley”) defaulted by failing to serve a reply to Foster’s counterclaims;
 - b. granting Foster a default judgment against Headley as to liability on the counterclaims asserted against her;

- c. directing that Foster's well-pleaded factual allegations be deemed admitted by Headley for purposes of liability;
- d. directing an inquest concerning compensatory damages, punitive damages, attorneys' fees, costs, and any other recoverable relief, or alternatively directing that those issues be determined at the trial of the remaining claims; and
- e. granting such other and further relief as the Court deems just and proper.

PRELIMINARY STATEMENT

4. This is not a default arising from a failure to receive the pleading, uncertainty concerning the claims asserted, or an inability to formulate a response.

5. Headley received Foster's Verified Answer and Counterclaims, affirmatively moved to dismiss the counterclaims, fully litigated their legal and factual sufficiency, and received a detailed Decision and Order denying her motion in its entirety.

6. Foster thereafter served Headley with notice of entry of the Decision and Order.

7. Headley nevertheless failed to serve the reply required by CPLR 3011 within the period prescribed by CPLR 3211(f).

8. Headley did not request an extension before the expiration of her time to reply, did not seek Foster's consent to serve a late reply, and did not move for leave to serve a late reply.

9. Instead, Headley continued actively prosecuting this action and filed a Request for Preliminary Conference after her time to reply had expired.

10. Headley's counterclaim default therefore occurred after actual notice, extensive motion practice, a substantive adverse ruling, formal service of notice of entry, and the expiration of the statutory response period.

FOSTER'S VERIFIED ANSWER AND COUNTERCLAIMS

11. On June 27, 2025, Foster electronically filed and served her Verified Answer and Counterclaims through NYSCEF as NYSCEF Document No. 2.

12. A true and correct copy of Foster's Verified Answer and Counterclaims is annexed hereto as Exhibit "1."

13. Foster's pleading contains a general denial, specific responses to the allegations of Headley's Verified Complaint, affirmative defenses, and detailed counterclaims against Headley and the City of New York.

14. Foster's counterclaims arise from allegations that Headley, while serving as a supervisory officer within the New York City Police Department, used her superior rank and institutional authority to subject Foster to unwanted sexual conduct, coercion, psychological manipulation, threats, and retaliation.

15. Among other allegations, Foster alleges that Headley repeatedly used emotional pressure and the threat of professional consequences to compel Foster to maintain unwanted personal and sexual contact.

16. Foster further alleges that when she attempted to distance herself from Headley, Headley became increasingly intrusive and retaliatory, including by making uninvited appearances at Foster's work locations and communicating that she could make matters professionally difficult for Foster.

17. Foster alleges that, on March 14, 2024, while Foster was on duty and sleeping in a dormitory room at One Police Plaza, Headley entered the room, removed Foster's clothing, forcibly spread her legs, and performed a sex act without Foster's consent.

18. Foster also alleges that Headley made repeated sexually explicit, possessive, and threatening statements, displayed sex devices while threatening their future use upon Foster, and continued unwanted sexual conduct notwithstanding Foster's resistance and attempts to disengage.

19. Foster alleges that Headley subsequently spread damaging rumors, threatened complaints and legal action, falsely characterized Foster as the wrongdoer, and caused or contributed to retaliatory disciplinary action against Foster.

20. Based upon those allegations, Foster asserted counterclaims arising under the New York State Human Rights Law, the New York City Human Rights Law, and the New York City Gender-Motivated Violence Act.

21. Foster personally verified the Verified Answer and Counterclaims.

22. Foster's verified pleading is based upon her personal knowledge of the underlying conduct and constitutes proof of the facts supporting the counterclaims for purposes of CPLR 3215(f).

HEADLEY'S MOTION TO DISMISS THE COUNTERCLAIMS

23. Rather than serving a reply, Headley moved pursuant to CPLR 3211(a)(1) and (7) to dismiss Foster's counterclaims.

24. Headley's motion was designated Motion Sequence No. 001.

25. Headley argued, among other things, that selected text messages purportedly contradicted Foster's allegations and established that Foster had consented to the challenged conduct.

26. Foster opposed the motion and explained that the selected communications could not be evaluated outside the alleged context of supervisory power, coercion, emotional manipulation, threats, trauma, and retaliation.

27. The parties fully briefed the legal and factual sufficiency of Foster's counterclaims.

28. By Decision and Order dated March 18, 2026, and entered on March 20, 2026, this Court denied Headley's motion in its entirety.

29. A true and correct copy of the Court's Decision and Order is annexed hereto as Exhibit "2."

30. In rejecting Headley's documentary-evidence argument, the Court found that the parties' communications were susceptible to differing interpretations and required context and credibility determinations.

31. The Court explained that Foster's allegations had to be evaluated in light of the alleged "power imbalance, emotional manipulation, and explicit threats."

32. The Court further stated:

"This Court will not conclude that defendant Foster consented to any particular act or acts based on the text messages submitted in support of the motion."

33. The Court expressly recognized that human reactions to abuse, coercion, domestic violence, trauma, and assault may appear inconsistent or irrational when viewed outside the circumstances in which the conduct occurred.

34. The Court also determined that Foster had "convincingly argued that her counterclaims do have a substantial basis in law and fact, and if proven, would establish violations of the State and City Human Rights Law."

35. Accordingly, the Court denied Headley's motion to dismiss the counterclaims in its entirety.

36. The Decision and Order therefore rejected Headley's attempt to dispose of the counterclaims and restored her obligation to serve a reply within the period prescribed by CPLR 3211(f).

SERVICE OF NOTICE OF ENTRY

37. Although the Decision and Order was entered on March 20, 2026, Foster did not immediately serve notice of entry.

38. On May 9, 2026, Foster electronically filed and served a Notice of Entry attaching the Decision and Order through NYSCEF as NYSCEF Document No. 19.

39. A true and correct copy of the Notice of Entry, together with the attached Decision and Order, is annexed hereto as Exhibit "3."

40. The Notice of Entry advised Headley that the attached Decision and Order had been entered in the Office of the Clerk of the Supreme Court, New York County, on March 20, 2026.

41. Headley was represented by counsel throughout the proceedings and was an authorized NYSCEF participant in this electronically filed action.

42. Service of the Notice of Entry triggered Headley's time under CPLR 3211(f) to serve a reply to Foster's counterclaims.

43. Because Foster did not serve notice of entry immediately following entry of the Decision and Order, Headley received approximately seven additional weeks before the statutory reply period commenced.

44. Headley therefore had considerably more practical time to prepare her responsive pleading than she would have received had Foster immediately served notice of entry.

HEADLEY'S FAILURE TO REPLY

45. Headley did not serve or file a reply to Foster's counterclaims within the period prescribed by CPLR 3211(f).

46. Headley has not served or filed a reply at any time since Foster served notice of entry.

47. No reply to Foster's counterclaims appears on the NYSCEF docket.

48. A true and correct copy of the relevant NYSCEF docket is annexed hereto as Exhibit "4."

49. Headley did not request Foster's consent to extend her time to reply before the deadline expired.

50. Headley did not move under CPLR 2004 or 3012(d) for an extension of time to reply before the deadline expired.

51. Headley did not serve a proposed reply accompanied by a request that Foster accept the pleading as timely.

52. Headley did not communicate that she misunderstood the effect of the Court's Decision and Order or the service of notice of entry.

53. Headley did not contend that she lacked access to Foster's counterclaims or the motion record.

54. Headley's failure to reply cannot reasonably be attributed to unfamiliarity with the counterclaims because she had already analyzed them, challenged them, submitted documentary evidence concerning them, and fully litigated their sufficiency.

HEADLEY'S CONTINUED PROSECUTION OF THE ACTION

55. Headley continued actively prosecuting this action after her time to reply expired.

56. On June 12, 2026, Headley, through counsel, electronically filed a Request for Preliminary Conference as NYSCEF Document No. 20.

57. A true and correct copy of Headley's Request for Preliminary Conference is annexed hereto as Exhibit "5."

58. In that filing, Headley represented to the Court that "[i]ssue has been or is about to be joined."

59. Headley also requested that the Court establish a discovery schedule and otherwise manage the action.

60. Headley's June 12, 2026 filing demonstrates that she and her counsel remained actively engaged in this litigation after the time to reply had expired.

61. Yet Headley did not serve a reply with the Request for Preliminary Conference, did not disclose that Foster's counterclaims remained unanswered, and did not request leave to cure the default.

62. Headley thus continued seeking affirmative judicial relief while leaving the counterclaims against her unanswered.

THE DEFAULT WAS NOT CAUSED BY LACK OF NOTICE OR TIME

63. Headley had actual notice of Foster's counterclaims from the date they were electronically filed and served.

64. Headley demonstrated her actual knowledge by moving to dismiss the counterclaims and addressing their allegations in detail.

65. Headley received a full opportunity to litigate the sufficiency of those claims.

66. Headley received the Court's detailed Decision and Order rejecting her arguments.

67. Headley received formal service of notice of entry through NYSCEF.

68. Headley received the statutory period to serve a reply following service of notice of entry.

69. Headley thereafter continued prosecuting this action without serving the required reply.

70. Accordingly, Headley's default did not result from a failure of service, lack of actual notice, ambiguity concerning the claims, or insufficient time to respond.

PROOF OF THE FACTS CONSTITUTING THE COUNTERCLAIMS

71. Foster's Verified Answer and Counterclaims contains detailed factual allegations based upon Foster's personal knowledge.

72. The pleading identifies the alleged course of coercive and unwanted sexual conduct, the parties' respective positions within the NYPD, the use of supervisory authority, the alleged March 14, 2024 sexual assault at One Police Plaza, the alleged threats, and the subsequent retaliatory conduct.

73. The Court has already reviewed those allegations under CPLR 3211 and determined that Headley's submissions did not conclusively refute them.

74. The Court further determined that Foster had convincingly demonstrated that her counterclaims possess a substantial basis in law and fact and, if proven, would establish violations of the State and City Human Rights Laws.

75. The verified pleading, together with the Court's prior Decision and Order, supplies more than the minimal proof necessary to establish facts constituting Foster's counterclaims for purposes of CPLR 3215(f).

RELIEF REQUESTED

76. Headley's failure to reply constitutes a default in pleading with respect to Foster's counterclaims.

77. By defaulting, Headley has admitted the well-pleaded factual allegations concerning liability, although Foster recognizes that the amount of damages must be established separately.

78. Foster therefore respectfully requests that the Court enter a default judgment against Headley as to liability on the counterclaims asserted against her.

79. Foster further requests that the Court direct an inquest to determine compensatory damages, punitive damages, attorneys' fees, costs, and all other available relief.

80. Alternatively, because Foster's counterclaims and Headley's remaining affirmative claims arise from overlapping events, Foster requests that the Court direct that damages and other relief be determined at the trial of the remaining claims while precluding Headley from contesting liability on the counterclaims upon which default judgment is entered.

81. Foster is not seeking a default judgment against the City of New York through this motion.

82. This motion is directed solely to Headley's failure to reply to the counterclaims asserted against her.

83. No prior motion has been made for the relief requested herein.

WHEREFORE, defendant/counterclaim-plaintiff SHATORRA FOSTER respectfully requests that the Court issue an Order:

- a. determining that plaintiff/counterclaim-defendant TREVLYN HEADLEY defaulted by failing to serve a reply to Foster's counterclaims;
- b. granting Foster a default judgment against Headley as to liability on each counterclaim asserted against her;
- c. deeming admitted the well-pleaded factual allegations supporting liability;
- d. directing an inquest concerning damages, attorneys' fees, costs, and other available relief, or alternatively reserving those issues for determination at the trial of the remaining claims;
- e. precluding Headley from contesting liability on the counterclaims upon which default judgment is entered; and
- f. granting such other and further relief as the Court deems just, proper, and equitable.

Dated: July 11, 2026
New York, N.Y.

Respectfully submitted,

By: /s/Eric Sanders
Attorney for Defendant Shatorra Foster

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

-----X
TREVLYN HEADLEY,

Answer

Index No. 155228/2025

Plaintiff,

-against-

THE CITY OF NEW YORK; SHATORRA FOSTER, Individually,
And TANIA KINSELLA, Individually

Defendants'

-----X
**VERIFIED ANSWER AND COUNTERCLAIMS
ON BEHALF OF DEFENDANT SHATORRA FOSTER**

Defendant SHATORRA FOSTER ("Defendant"), by and through her attorneys, hereby
answers the Verified Complaint of Plaintiff TREVLYN HEADLEY ("Plaintiff") as follows:

GENERAL DENIAL

Pursuant to CPLR 3015 and 3018, Defendant SHATORRA FOSTER denies each and
every allegation contained in the Verified Complaint not specifically admitted herein and
respectfully demands strict proof thereof.

ANSWER TO ALLEGATIONS

1. Denies the allegations in Paragraph 1, except admits only that Plaintiff filed this
action in the Supreme Court of the State of New York, County of New York, and purports to
assert claims within the statute of limitations period. Defendant denies any implication that the
claims have merit or are factually or legally sound.

2. Denies knowledge or information sufficient to form a belief as to the truth of the
allegations contained in Paragraph 2.

3. Denies the allegations in Paragraph 3. Defendant states upon personal knowledge that Plaintiff does not exclusively identify as a lesbian, but has repeatedly stated she is sexually fluid and has dated both men and women.

4. Denies the allegations in Paragraph 4. See response to Paragraph 3.

5. Denies the allegations in Paragraph 5.

6. Admits the allegations in Paragraph 6.

7. Denies the allegation in Paragraph 7 that she was Plaintiff's "lover"; asserts that the relationship was not one of mutual affection but marked by coercion, manipulation, and Plaintiff's exploitation of Defendant's personal and professional connections.

8. Admits the allegations in Paragraph 8.

9. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 9.

10. Denies the allegations in Paragraph 10, and denies that the NYPD or its officials took proper remedial action in response to Plaintiff's or Defendant's complaints.

11. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11.

12. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12.

13. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 13.

14. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 14.

15. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 15.

16. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 16.

17. Denies the allegations in Paragraph 17. Upon information and belief, Plaintiff's career was not without serious incident, including a 2010 suspension following an out-of-state assault arrest.

18. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 18 - 26.

19. Denies the allegations in Paragraph 27.

20. Admits the allegations in Paragraph 28.

21. Admits the allegations in Paragraph 29.

22. Denies the allegations in Paragraph 30.

23. Denies the allegations in Paragraph 31, Timothy Pearson is a long-standing family friend and that Plaintiff's claims of departmental conspiracy are unfounded.

24. Denies the allegations in Paragraph 32.

25. Denies the allegations in Paragraph 33.

26. Denies the allegations in Paragraph 34.

27. Denies the allegations in Paragraph 35. Asserts that Plaintiff herself asked Defendant to arrange meetings with Chief Benoit and Alden Foster to facilitate a transfer for her friend, which she followed up with thank-you messages. Defendant possesses copies of those texts.

28. Admits the allegations in Paragraph 36.

29. Denies the allegations in Paragraph 37.

30. Denies the allegations in Paragraph 38. Asserts that Plaintiff initiated the relationship after discovering Defendant's family ties and rank within the department

31. Admits the allegations in Paragraph 39 that a "relationship" existed, but denies it was mutual or healthy; Defendant contends it was exploitative and used by Plaintiff for career gain.

32. Denies the allegations in Paragraph 40.

33. Admits the allegations in Paragraph 41.

34. Denies the allegations in Paragraph 42. Asserts that Plaintiff was upset a MOS was playing with her hair, arguing with defendant the entire event, then deciding to leave.

35. Denies the allegations in Paragraph 43.

36. Denies the allegations in Paragraph 44.

37. Denies the allegations in Paragraph 45.

38. Denies the allegations in Paragraph 46.

39. Denies the allegations in Paragraph 47.

40. Denies the allegations in Paragraph 48. Asserts that Plaintiff insisted upon Defendant sharing her location to keep tabs upon her.

41. Denies the allegations in paragraph 49.

42. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 50.

43. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 51.

44. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 52.

45. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 53.

46. Denies the allegations in Paragraph 54.

47. Denies the allegations in Paragraphs 55–59. Asserts that Plaintiff was not fearful for her life and frequently laughed at the messages she now claims were threatening. Plaintiff also boasted to Defendant that she had several ex-girlfriends who attempted suicide or threatened self-harm after their relationships ended with her.

48. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 60.

49. Admits the allegations in Paragraph 61. Asserts the Defendant did so to stop Plaintiff from hovering over her.

50. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 62.

51. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 63.

52. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 64.

53. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 65

54. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 66.

55. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 67.

56. Denies the allegations in Paragraph 68. Asserts that Plaintiff still communicated with Defendant for the purposes of engaging her in unwanted sexual contact.

57. Denies the allegations in Paragraph 69. Defendant affirmatively asserts that it was Plaintiff who invited her to hang out on the night in question and then persuaded Defendant to stay over. During the course of the night, Plaintiff initiated non-consensual sexual contact by placing her mouth on Defendant's vulva while simultaneously inserting her finger inside Defendant's vagina. Plaintiff further violated Defendant's bodily autonomy by secretly recording the sexual act without Defendant's knowledge or consent.

58. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 70.

59. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 71.

60. Denies the allegations in Paragraph 72.

61. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 73 - 104.

62. Denies the allegations in Paragraph 105. Asserts that Defendant Reported to the NYPD Internal Affairs Bureau that Plaintiff was stealing time, operating department vehicles while intoxicated, and other related complaints.

63. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 106 – 220.

64. Denies the allegations in Paragraph 221.

- 65. Denies the allegations in Paragraph 222.
- 66. Denies the allegations in Paragraph 223.
- 67. Denies the allegations in Paragraph 224.
- 68. Denies the allegations in Paragraph 225.
- 69. Denies the allegations in Paragraph 226.
- 70. Denies the allegations in Paragraph 227.
- 71. Denies the allegations in Paragraph 228.
- 72. Denies the allegations in Paragraph 229.
- 73. Denies the allegations in Paragraph 230.
- 74. Denies the allegations in Paragraph 231.
- 75. Denies the allegations in Paragraph 232.
- 76. Denies the allegations in Paragraph 233.
- 77. Denies the allegations in Paragraph 234.
- 78. Denies the allegations in Paragraph 235.
- 79. Denies the allegations in Paragraph 236.
- 80. Denies the allegations in Paragraph 237.
- 81. Denies the allegations in Paragraph 238.
- 82. Denies the allegations in Paragraph 239.
- 83. Denies the allegations in Paragraph 240.
- 84. Denies the allegations in Paragraph 241.
- 85. Denies the allegations in Paragraph 242.
- 86. Denies the allegations in Paragraph 243.
- 87. Denies the allegations in Paragraph 244.

- 88. Denies the allegations in Paragraph 245.
- 89. Denies the allegations in Paragraph 246.
- 90. Denies the allegations in Paragraph 247.
- 91. Denies the allegations in Paragraph 248.
- 92. Denies the allegations in Paragraph 249.
- 93. Denies the allegations in Paragraph 250.
- 94. Denies the allegations in Paragraph 251.
- 95. Denies the allegations in Paragraph 252.
- 96. Denies the allegations in Paragraph 253.
- 97. Denies the allegations in Paragraph 254.
- 98. Denies the allegations in Paragraph 255.
- 99. Denies the allegations in Paragraph 256.
- 100. Denies the allegations in Paragraph 257.
- 101. Denies the allegations in Paragraph 258.
- 102. Denies the allegations in Paragraph 259.
- 103. Denies the allegations in Paragraph 260.
- 104. Denies the allegations in Paragraph 261.
- 105. Denies the allegations in Paragraph 262.
- 106. Denies the allegations in Paragraph 263.
- 107. Denies the allegations in Paragraph 264.
- 108. Denies the allegations in Paragraph 265.
- 109. Denies the allegations in Paragraph 266.
- 110. Denies the allegations in Paragraph 267.

- 111. Denies the allegations in Paragraph 268.
- 112. Denies the allegations in Paragraph 269.
- 113. Denies the allegations in Paragraph 270.
- 114. Denies the allegations in Paragraph 271.
- 115. Denies the allegations in Paragraph 272.
- 116. Denies the allegations in Paragraph 273.
- 117. Denies the allegations in Paragraph 274.
- 118. Denies the allegations in Paragraph 275.
- 119. Denies the allegations in Paragraph 276.
- 120. Denies the allegations in Paragraph 277.
- 121. Denies the allegations in Paragraph 278.
- 122. Denies the allegations in Paragraph 279.
- 123. Denies the allegations in Paragraph 280.
- 124. Denies the allegations in Paragraph 281.
- 125. Denies the allegations in Paragraph 282.
- 126. Denies the allegations in Paragraph 283.
- 127. Denies the allegations in Paragraph 284.
- 128. Denies the allegations in Paragraph 285.
- 129. Denies the allegations in Paragraph 286.
- 130. Denies the allegations in Paragraph 287.
- 131. Denies the allegations in Paragraph 288.
- 132. Denies the allegations in Paragraph 289.
- 133. Denies the allegations in Paragraph 290.

- 134. Denies the allegations in Paragraph 291.
- 135. Denies the allegations in Paragraph 292.
- 136. Denies the allegations in Paragraph 293.
- 137. Denies the allegations in Paragraph 294.
- 138. Denies the allegations in Paragraph 295.
- 139. Denies the allegations in Paragraph 296.
- 140. Denies the allegations in Paragraph 297.
- 141. Denies the allegations in Paragraph 298.
- 142. Denies the allegations in Paragraph 299.
- 143. Denies the allegations in Paragraph 300.
- 144. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 301 – 312.

AFFIRMATIVE DEFENSES

First Affirmative Defense – Failure to State a Claim

145. The Verified Complaint fails to state facts sufficient to constitute one or more causes of action under the New York City Human Rights Law (NYCHRL), New York State Human Rights Law (NYSHRL), or applicable common law, including but not limited to assault, battery, intentional infliction of emotional distress, or retaliation.

Second Affirmative Defense – Plaintiff Was the Harasser

146. Plaintiff, not Defendant, was the more senior officer and primary aggressor in the relationship. She initiated unwanted sexual contact, emotionally manipulated Defendant, and used her departmental authority and influence to coerce personal access and control. Her own

conduct disqualifies her from asserting claims of harassment or discrimination under NYCHRL or NYSHRL.

Third Affirmative Defense – No Actionable Discriminatory or Retaliatory Conduct

147. Even if Plaintiff's allegations were taken as true (which Defendant denies), they do not rise to the level of unlawful discrimination or retaliation under the NYCHRL or NYSHRL. Plaintiff has not suffered any tangible or intangible adverse action causally connected to a protected activity or protected characteristic.

Fourth Affirmative Defense – Conduct Constitutes Petty Sights or Trivial Inconveniences

148. The conduct alleged by Plaintiff amounts to no more than isolated incidents, miscommunications, or trivial disputes. Under NYC Admin. Code § 8-107(1), liability may not be imposed for conduct that constitutes merely "petty slights or trivial inconveniences."

Fifth Affirmative Defense – Lack of Proximate Cause

149. Any emotional distress or reputational harm claimed by Plaintiff was not proximately caused by Defendant's conduct, but rather stems from Plaintiff's own actions, relationships with third parties, and efforts to preempt scrutiny of her professional misconduct.

Sixth Affirmative Defense – Plaintiff's Consent and Initiation of Contact

150. To the extent Plaintiff alleges sexual misconduct, assault, battery, or harassment, such claims are barred by her express and implied consent, as demonstrated by written communications, verbal expressions of desire, and repeated invitations to Defendant. Plaintiff initiated multiple encounters and was an active, willing participant in the alleged conduct. She also recorded sexual acts without Defendant's knowledge—negating any claim that she was a passive or unwilling participant.

Seventh Affirmative Defense – Unclean Hands and Abuse of Process

151. Plaintiff brings this action in bad faith, not to vindicate any legitimate harm, but to deflect attention from her own inappropriate conduct and to suppress Defendant's anticipated reporting of misconduct. Plaintiff's pattern of manipulation, retaliation, and institutional misuse of her authority bars her from obtaining equitable or legal relief.

Eighth Affirmative Defense – Statute of Limitations

152. One or more of Plaintiff's claims may be barred in whole or in part by the applicable statute of limitations, particularly with respect to alleged acts occurring more than three years prior to the filing of the Complaint.

Ninth Affirmative Defense – After-Acquired Evidence

153. Defendant reserves the right to introduce after-acquired evidence of Plaintiff's misconduct—including policy violations, retaliatory reporting tactics, and misuse of NYPD resources—which, if known at the time, would have resulted in discipline or disqualification, and which now bar or limit any equitable recovery.

COUNTERCLAIMS

154. At all relevant times, Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY, while acting under color of her official duties as a supervisory officer within the New York City Police Department (NYPD), subjected Defendant/Counterclaim-Plaintiff SHATORRA FOSTER to a sustained course of coerced sexual conduct, psychological manipulation, and retaliatory abuse. Despite the clear indicia of misconduct—including workplace rumors, observable proximity between the parties, and subsequent disciplinary escalation against FOSTER—Defendant THE CITY OF NEW YORK failed to intervene, investigate, or remediate the harm. As such, the City is liable under the New York State Human Rights Law (NYSHRL) and New York City Human Rights Law (NYCHRL), and its agents' conduct enabled violations actionable

under the New York City Gender-Motivated Violence Act (GMVA), Administrative Code § 10-1101 et seq.

PARTIES

155. Defendant/Counterclaim-Plaintiff SHATORRA FOSTER is an individual residing in the City and State of New York, and at all relevant times was employed by the New York City Police Department.

156. Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY is an individual residing in the City and State of New York, and at all relevant times was employed as a supervisor within the New York City Police Department.

157. Counterclaim Defendant THE CITY OF NEW YORK is a municipal entity organized under the laws of the State of New York. The City operates and maintains the New York City Police Department (“NYPD”) and is responsible for the hiring, training, supervision, and discipline of its employees.

158. At all relevant times, Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY acted under color of her official duties as a supervisory officer within the New York City Police Department (NYPD), exploiting her authority to initiate, coerce, and sustain a pattern of unwanted sexual conduct and psychological domination over Defendant/Counterclaim-Plaintiff SHATORRA FOSTER. These acts occurred on and off duty, including within official NYPD facilities, and were known or knowable to other members of the service and agents of the City of New York.

159. Despite indicia of misconduct—including observable favoritism, concerning proximity, workplace gossip, and retaliatory disciplinary escalation—Defendant THE CITY OF NEW YORK failed to intervene, investigate, or implement remedial measures. Instead, through

deliberate indifference or tacit approval, it enabled and ratified Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY's misconduct, ultimately retaliating against Defendant/Counterclaim-Plaintiff SHATORRA FOSTER by initiating formal disciplinary charges.

160. Accordingly, Defendant THE CITY OF NEW YORK is liable under the New York State Human Rights Law (NYSHRL) and the New York City Human Rights Law (NYCHRL) for maintaining a hostile work environment, permitting gender-based harassment, and enabling supervisory abuse in violation of statutory protections.

Sexual Misconduct and Gender-Based Violence by Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY, with the Knowledge and Acquiescence of Defendant THE CITY OF NEW YORK, in Violation of the NYCHRL, NYSHRL, and the Gender-Motivated Violence Act

161. Defendant/Counterclaim-Plaintiff SHATORRA FOSTER, by her attorneys, brings the following counterclaims against Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY, and alleges as follows:

162. Upon information and belief, supervisory personnel and internal oversight bodies within the NYPD—including the Office of Equity and Inclusion and Internal Affairs Bureau—were aware, or should have been aware, of Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY's longstanding pattern of sexually inappropriate, coercive, and retaliatory conduct toward other female officers, both within and outside the workplace.

163. Despite this actual or constructive knowledge, the NYPD failed to take remedial or disciplinary action, demonstrating deliberate indifference and a reckless disregard for the rights and safety of subordinate officers, including Defendant/Counterclaim-Plaintiff SHATORRA FOSTER.

164. On or about September 6, 2023, Defendant/Counterclaim-Plaintiff SHATORRA FOSTER, a junior officer, attended a retirement luncheon at One Police Plaza (1PP). It was

during this event that she was first introduced to Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY, a police supervisor.

165. The interaction consisted of brief, inconsequential small talk. At the time, there was no personal or professional relationship between the parties.

166. On or about October 16, 2023, Defendant/Counterclaim-Plaintiff SHATORRA FOSTER visited the Police Commissioner's Office to see her mother's friend, Detective Tiesha Thompson.

167. Upon finding that Detective Thompson was not present, Defendant/Counterclaim-Plaintiff FOSTER entered the Operations Office to briefly greet a former colleague.

168. As Defendant/Counterclaim-Plaintiff FOSTER was preparing to exit, Plaintiff/Counterclaim-Defendant HEADLEY, seated at her desk, summoned her over in a manner that suggested authority and familiarity, saying, "Hey, come over here."

169. Defendant/Counterclaim-Plaintiff FOSTER approached, unsure of the purpose. When she inquired about Detective Thompson's whereabouts, HEADLEY informed her she was off duty that day.

170. Plaintiff/Counterclaim-Defendant HEADLEY then requested they take a photograph together to send to Detective Thompson.

171. After capturing the image, Plaintiff/Counterclaim-Defendant HEADLEY texted the photo to Detective Thompson.

172. Immediately afterward, HEADLEY asked Defendant/Counterclaim-Plaintiff FOSTER for her phone number, ostensibly to send her a copy of the picture.

173. When FOSTER provided her personal cell number, HEADLEY specifically confirmed it was her personal line—not her department-issued phone—indicating a desire to initiate nonprofessional communication.

174. As Defendant/Counterclaim-Plaintiff FOSTER attempted to exit again, HEADLEY prolonged the interaction by striking up a casual conversation about FOSTER's Gucci backpack.

175. HEADLEY asked where the backpack had been purchased. When FOSTER responded that it came from the Gucci outlet, HEADLEY expressed interest in sale items.

176. FOSTER, feeling cornered but attempting to be polite, shared several pictures of Gucci merchandise while still at HEADLEY's desk.

177. Defendant/Counterclaim-Plaintiff FOSTER then left the office, unsettled by the overly familiar and intrusive exchange initiated by her superior officer.

178. Shortly thereafter, between October 19 and October 22, 2023, Plaintiff/Counterclaim-Defendant HEADLEY began sending unsolicited text messages to Defendant/Counterclaim-Plaintiff FOSTER.

179. These messages grew in frequency and inappropriateness. On or about October 22, 2023, HEADLEY placed a late-night FaceTime audio call while audibly intoxicated, slurring her words and using flirtatious language.

180. Defendant/Counterclaim-Plaintiff FOSTER did not welcome this behavior and felt deeply uncomfortable, but was wary of provoking her supervisor.

181. From October 24 through October 27, 2023, the contact escalated. HEADLEY made repeated late-night calls and texts to FOSTER, often discussing her own romantic history in disturbing terms.

182. HEADLEY boasted that several of her ex-girlfriends had become suicidal or emotionally unstable after the relationship ended, implying that she held powerful emotional control over her partners.

183. Plaintiff/Counterclaim-Defendant HEADLEY repeatedly implied that only “strong” women could handle being with her, suggesting that rejecting her advances would mean FOSTER was weak.

184. These messages, couched in emotional manipulation and power dynamics, made Defendant/Counterclaim-Plaintiff FOSTER increasingly anxious and fearful.

185. Between October 28 and October 30, 2023, HEADLEY began aggressively pressuring Defendant/Counterclaim-Plaintiff FOSTER to come to her apartment.

186. When FOSTER declined, HEADLEY would lash out, accusing her of abandonment, and insinuating she was on the verge of a breakdown.

187. HEADLEY framed her emotional state as fragile, frequently suggesting she might harm herself if FOSTER didn’t comply—further intensifying the psychological pressure on a subordinate who felt professionally and personally trapped.

188. Feeling manipulated, guilt-ridden, and fearful of retaliation, Defendant/Counterclaim-Plaintiff FOSTER ultimately acquiesced and visited Plaintiff/Counterclaim-Defendant HEADLEY’s residence on or about November 2, 2023.

189. Once there, Plaintiff/Counterclaim-Defendant HEADLEY engaged Defendant/Counterclaim-Plaintiff FOSTER in conversation that quickly turned personal and intimate.

190. Plaintiff/Counterclaim-Defendant HEADLEY initiated physical contact which rapidly escalated into sexual conduct.

191. Defendant/Counterclaim-Plaintiff FOSTER did not affirmatively consent to the encounter but felt coerced by the weight of prior emotional manipulation and fear of potential workplace retaliation.

192. From November through December 2023, HEADLEY used this encounter as leverage to force continued contact.

193. HEADLEY regularly texted FOSTER, reminding her of their “special bond” and insisting that she had never connected with anyone else in the same way.

194. Defendant/Counterclaim-Plaintiff FOSTER attempted to maintain boundaries, but HEADLEY’s emotional manipulation intensified—portraying rejection as betrayal and escalating feelings of guilt and anxiety in FOSTER.

195. HEADLEY’s behavior grew increasingly controlling. She questioned FOSTER’s friendships, monitored her social media activity, and even demanded explanations for whom she followed on Instagram.

196. On or about December 22, 2023, FOSTER declined to meet HEADLEY over the holidays.

197. In response, HEADLEY sent guilt-laden text messages, implying that FOSTER’s refusal to spend time with her was tantamount to abandonment and that there would be personal and professional consequences.

198. Between December 24 and December 31, 2023, HEADLEY continued using emotional blackmail to coerce FOSTER into resumed physical intimacy—repeatedly asserting that only FOSTER could “stabilize” her emotionally.

199. HEADLEY’s communications vacillated between affectionate overtures and emotional threats, further destabilizing FOSTER’s mental and emotional well-being.

200. During this period, FOSTER increasingly feared the situation was becoming unsustainable but remained reluctant to report the misconduct due to HEADLEY's supervisory rank and volatile behavior.

201. These events laid the foundation for an unwanted, psychologically coercive, and professionally dangerous relationship imposed by Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY under the guise of concern, mentorship, and emotional vulnerability.

202. In January 2024, Defendant/Counterclaim-Plaintiff SHATORRA FOSTER began distancing herself from Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY in an effort to reclaim her personal and professional boundaries.

203. In response, HEADLEY's behavior became more erratic, intrusive, and retaliatory. She bombarded FOSTER with texts and calls, accusing her of being disloyal, dishonest, and "just like all the others."

204. HEADLEY expressed paranoia that FOSTER was telling others about their relationship and demanded verbal and written reassurances of loyalty and silence.

205. HEADLEY continued to manipulate FOSTER emotionally by asserting that any attempt to sever contact would "destroy her."

206. In February 2024, HEADLEY began making uninvited appearances at FOSTER's job sites, particularly when she was working late tours.

207. HEADLEY's presence was not work-related. Instead, she loitered near the precinct, texting FOSTER to come outside under the pretense of needing to talk.

208. When FOSTER refused, HEADLEY would leave threatening or cryptic messages such as "You know I can make things very difficult," or "You should be more careful about who you ignore."

209. FOSTER became fearful that her career was now under threat due to the increasingly hostile and unhinged conduct of her supervisor.

210. On or about March 14, 2024, while on duty and in uniform, Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY approached the dormitory room on the 6th Floor of NYPD Headquarters located at One Police Plaza where Defendant/Counterclaim-Plaintiff SHATORRA FOSTER was sleeping. HEADLEY knew FOSTER would be alone at the time.

211. Without warning or consent, Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY knocked on the door and entered the room, removed Defendant/Counterclaim-Plaintiff SHATORRA FOSTER's pants and underwear, pushed her onto the bed, and forcibly spread her legs. When FOSTER asked, "Are you crazy?" HEADLEY replied, "Yes," and continued undeterred.

212. Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY then performed oral sex on Defendant/Counterclaim-Plaintiff SHATORRA FOSTER, including licking her vagina, labia, and clitoris for approximately ten (10) minutes until FOSTER ejaculated. Upon completion, HEADLEY remarked, "Thank you," and left the room.

213. Defendant/Counterclaim-Plaintiff SHATORRA FOSTER did not consent to the sexual act but refrained from physically resisting or reporting it due to fear of retaliation, shame, and a well-founded belief that internal NYPD investigators would side with her supervisor, Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY, rather than her as a subordinate officer.

214. Following the incident, Defendant/Counterclaim-Plaintiff SHATORRA FOSTER felt humiliated, violated, and disempowered. She took a second shower that morning to try to

emotionally process the experience, but continued to conceal the assault out of fear of professional and personal repercussions.

215. In March 2024, Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY began spreading false and malicious rumors within the department, insinuating that Defendant/Counterclaim-Plaintiff SHATORRA FOSTER was emotionally unstable, untrustworthy, and sexually promiscuous.

216. These defamatory statements reached mutual colleagues, who began to question Defendant/Counterclaim-Plaintiff SHATORRA FOSTER's judgment and reputation.

217. HEADLEY also referenced their prior sexual contact in text messages, threatening to "show people what [FOSTER] really is" if she continued to rebuff her.

218. HEADLEY's retaliatory behavior caused FOSTER significant emotional distress, professional embarrassment, and fear of being transferred or subjected to baseless internal discipline.

219. By April 2024, HEADLEY began threatening formal complaints and legal action, asserting that she was the victim and that FOSTER was trying to "set her up."

220. HEADLEY falsely claimed that FOSTER had engaged in misconduct, including stalking and harassment, despite there being no factual basis for such claims.

221. On or about May 2024, HEADLEY escalated by contacting a superior officer and accusing FOSTER of improprieties in her personal conduct, prompting an informal inquiry.

222. FOSTER was blindsided by this development and feared for her standing in the department.

223. Between June and August 2024, HEADLEY continued her campaign of retaliation, targeting FOSTER's professional relationships and insinuating that she could affect her assignments, evaluations, or promotion prospects.

224. HEADLEY's texts during this period alternated between threats and apologies, continuing the pattern of coercion: "I didn't mean it, but you bring out the worst in me" followed by "If you push me, I'll have no choice but to go public."

225. HEADLEY continued to assert that she had "receipts" and "records" and could "end" FOSTER if she chose to.

226. HEADLEY's campaign created a toxic and hostile work environment for FOSTER, not just due to the personal harassment, but through intentional professional sabotage.

227. In or around September 2024, HEADLEY became aware that FOSTER had consulted with a legal representative and began to preemptively spread a false narrative portraying herself as the target of a smear campaign.

228. HEADLEY told colleagues and mutual acquaintances that FOSTER was "obsessed," "dangerous," and "not over her," despite HEADLEY being the persistent initiator of contact and threats.

229. In or around October 2024, HEADLEY made veiled public statements suggesting she might be preparing to sue or file complaints, as a tactic to deter FOSTER from coming forward.

230. HEADLEY repeatedly stated, "She won't be believed—people always assume the supervisor is the problem, but I kept everything," in an attempt to silence and discredit FOSTER in advance.

231. On or about October 14, 2024, Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY, while assigned as a Lieutenant at the 88th Precinct, orchestrated an encounter with Police Officer Precious C. Redhead, a former romantic partner of Defendant/Counterclaim-Plaintiff SHATORRA FOSTER.

232. At the conclusion of Police Officer Redhead's tour (End of Tour or "EOT"), as she exited the precinct building, Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY instructed a female sergeant subordinate to the Department to intercept Police Officer Redhead and direct her to return inside to the desk.

233. Upon Police Officer Redhead's return, Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY instructed her to wait outside the precinct for further discussion. A few minutes later, HEADLEY exited the building and walked with Police Officer Redhead under the pretense of escorting her to her vehicle.

234. Instead of going directly to the vehicle, Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY diverted the walk to a nearby closed restaurant, insisted on entering despite staff informing her the premises were closed, and persuaded the employees to allow her and Police Officer Redhead to sit inside.

235. Once inside, Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY launched into an intrusive and personal interrogation of Police Officer Redhead concerning her past relationship with Defendant/Counterclaim-Plaintiff SHATORRA FOSTER. She demanded to know whether Redhead remained in contact with FOSTER, when they last spoke or saw each other, and whether Redhead continued any communication with FOSTER's mother.

236. Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY further asked Police Officer Redhead to explain the reasons for her prior breakup with Defendant/Counterclaim-

Plaintiff SHATORRA FOSTER, and then abruptly shifted the conversation to Redhead's internal disciplinary history within the NYPD.

237. Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY stated, "I know everything," and asserted that she was aware Police Officer Redhead had previously been placed on department modification status for approximately eighteen (18) months. When Redhead asked how she obtained that information, HEADLEY responded confidently and without hesitation that it was because Redhead was "suicidal."

238. This exchange deeply unsettled Police Officer Redhead, who expressed that she no longer wished to continue the conversation. In response, Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY asked, "Are you intimidated by me?"—a remark that underscored the inherent power imbalance of the interaction.

239. Before Redhead departed, Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY made an additional unsolicited disclosure by stating that she and Defendant/Counterclaim-Plaintiff SHATORRA FOSTER were subjects of an "open active IAB case," information that was not previously known to Police Officer Redhead and raised concerns about improper access to internal investigative matters.

240. Upon information and belief, Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY engaged in this interaction not for any legitimate supervisory or professional purpose, but to surveil, intimidate, and manipulate a third party who had historical ties to Defendant/Counterclaim-Plaintiff SHATORRA FOSTER, thereby exerting psychological control and spreading retaliatory innuendo through unofficial channels.

241. This incident further evidences Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY's misuse of NYPD authority, her pattern of retaliatory conduct, and her ongoing

obsession with Defendant/Counterclaim-Plaintiff SHATORRA FOSTER's private relationships, which she sought to dominate and control through intimidation, surveillance, and the strategic misuse of confidential personnel data.

242. On or about November 6, 2024, Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY commenced the instant civil action against Defendant/Counterclaim-Plaintiff SHATORRA FOSTER.

243. The filing was not motivated by any genuine legal grievance but was calculated to preemptively silence FOSTER, discredit her, and undermine any potential complaint or disclosure of HEADLEY's misconduct.

244. The Complaint filed by HEADLEY is rife with misrepresentations, omissions, and distortions of fact, which are intended to weaponize the court system as a shield against accountability for her predatory and retaliatory conduct.

245. Defendant/Counterclaim-Plaintiff SHATORRA FOSTER has suffered emotional distress, reputational harm, professional damage, and fear of retaliation as a direct result of HEADLEY's actions.

246. HEADLEY's conduct toward FOSTER was unwelcome, exploitative, and unlawful under both the New York State Human Rights Law and the New York City Human Rights Law.

247. Upon information and belief, following the breakdown of the inappropriate supervisory-subordinate relationship she initiated and sustained, Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY engaged in a sustained pattern of harassment, coercion, and retaliatory abuse of authority directed at Defendant/Counterclaim-Plaintiff SHATORRA FOSTER.

248. Rather than accept the termination of personal contact, HEADLEY escalated her retaliatory conduct by leveraging her supervisory status within the New York City Police Department (“NYPD”) to surveil, intimidate, and undermine FOSTER’s professional reputation.

249. This campaign included repeated threats to use her influence to damage FOSTER’s career, spreading false and malicious rumors within the Department, and exploiting NYPD resources to investigate or monitor FOSTER for retaliatory purposes.

250. On or about December 18, 2024, the NYPD served formal Charges and Specifications upon Defendant/Counterclaim-Plaintiff SHATORRA FOSTER, containing allegations that stemmed from HEADLEY’s retaliatory and pretextual complaints.

251. These Charges included multiple counts of criminal and departmental misconduct, including but not limited to: (1) Stalking in the Fourth Degree (Penal Law § 120.45), (2) Aggravated Harassment in the Second Degree (Penal Law § 240.30), (3) Falsely Reporting an Incident (Penal Law § 240.50), (4) Improper Database Inquiries (P.G. 219-14), and (5) Improper Use of Department-Issued Cell Phone (P.G. 219-32).

252. These disciplinary charges were initiated and fueled by HEADLEY’s retaliatory intent, not by legitimate investigative concerns. The allegations contained in the charges are unsubstantiated, distort the timeline of contact, and misrepresent FOSTER’s conduct.

253. Upon information and belief, HEADLEY made repeated efforts to initiate these charges behind the scenes by communicating with NYPD Internal Affairs, Legal Bureau staff, and other supervisors, all while positioning herself falsely as the victim.

254. HEADLEY’s retaliatory efforts were contemporaneous with her threats to “end” FOSTER, her statements that she would “go public,” and her preemptive filing of the instant civil action as a litigation shield.

255. The issuance of formal disciplinary charges against FOSTER—instigated by the complainant in this action—constitutes clear and actionable retaliation under both the New York State Human Rights Law and the New York City Human Rights Law.

256. HEADLEY's misuse of Departmental authority and disciplinary processes further illustrates the structural imbalance and coercive dynamic inherent in the relationship, whereby HEADLEY groomed, manipulated, and ultimately punished her subordinate for asserting boundaries and resisting further abuse.

257. From approximately October 2023 through June 2024, Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY engaged in repeated, coercive, and unwanted sexual conduct toward Defendant/Counterclaim-Plaintiff SHATORRA FOSTER under the guise of a personal relationship, while exploiting her supervisory position within the New York City Police Department.

258. Throughout this period, Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY performed oral sex on Defendant/Counterclaim-Plaintiff SHATORRA FOSTER on numerous occasions at her apartment located in Harlem, New York, and repeatedly demanded that FOSTER reciprocate, notwithstanding FOSTER's discomfort and unwillingness.

259. Defendant/Counterclaim-Plaintiff SHATORRA FOSTER frequently attempted to avoid sexual contact by falsely claiming to be menstruating, because she feared emotional and professional repercussions if she did not comply with Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY's sexual demands. FOSTER understood from experience that HEADLEY became emotionally volatile and aggressive if she declined to engage in sexual activity.

260. The sexual encounters were exclusively oral in nature; however, Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY routinely performed oral sex in a rough and aggressive manner that caused Defendant/Counterclaim-Plaintiff SHATORRA FOSTER significant discomfort, both physically and emotionally.

261. Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY insisted on continuing the sexual act until Defendant/Counterclaim-Plaintiff SHATORRA FOSTER ejaculated, even when FOSTER expressed resistance or attempted to disengage. FOSTER was often compelled to force herself to climax simply to end the unwanted contact.

262. Following these coercive sexual acts, Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY would often withdraw emotionally and avoid communication, leaving Defendant/Counterclaim-Plaintiff SHATORRA FOSTER feeling objectified and emotionally destabilized.

263. On multiple occasions between October 2023 and June 2024, Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY made disturbing and possessive statements to Defendant/Counterclaim-Plaintiff SHATORRA FOSTER, including but not limited to: “I don’t want no one to ever have your pussy,” and “You and I don’t have a relationship—I have a relationship with your pussy.”

264. During this same period, HEADLEY repeatedly told FOSTER that she cut her fingernails short so she could digitally penetrate FOSTER’s vagina, despite FOSTER never consenting to such conduct.

265. Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY also frequently displayed large sex toys, including oversized dildos, to Defendant/Counterclaim-Plaintiff

SHATORRA FOSTER, boasting, “One day I’m going to use this on you and toss you around,” further contributing to the hostile and sexually charged atmosphere she created.

266. The unwanted sexual acts, coercive statements, and repeated intrusions by Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY caused Defendant/Counterclaim-Plaintiff SHATORRA FOSTER profound emotional and psychological harm. HEADLEY’s abuse of supervisory authority to compel sexual contact—including forced oral sex, sexually explicit threats, and domination masked as intimacy—deeply undermined FOSTER’s personal autonomy, sense of safety, and dignity as both an employee and human being. These actions fostered a sustained atmosphere of fear, submission, and humiliation, constituting a hostile work environment in violation of the New York City Human Rights Law (NYCHRL) and the New York State Human Rights Law (NYSHRL). The psychological impact was exacerbated by the power imbalance between a commanding officer and subordinate, the retaliatory risk of non-compliance, and the City’s failure to intervene or protect FOSTER from this escalating misconduct.

FIRST COUNTERCLAIM

Sexual Harassment in Violation of the New York State Human Rights Law (NYSHRL), Executive Law § 296

267. Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY subjected Defendant/Counterclaim-Plaintiff SHATORRA FOSTER to severe, pervasive, and unwanted sexual conduct from October 2023 through June 2024, while both were employed by the New York City Police Department.

268. The conduct included repeated nonconsensual oral sex, explicit sexual propositions, coercive sexual threats, and attempts at physical penetration—all initiated by HEADLEY while acting in a supervisory capacity over FOSTER.

269. HEADLEY exploited her position of authority to initiate and perpetuate a non-mutual sexual relationship with FOSTER, leveraging fear of retaliation, professional harm, and isolation to extract sexual compliance.

270. These actions materially altered the terms and conditions of FOSTER's employment and would cause a reasonable employee to feel intimidated, degraded, and unsafe.

271. The CITY OF NEW YORK had actual or constructive knowledge of HEADLEY's misconduct and failed to prevent, investigate, or remediate it. The City further ratified the retaliatory conduct by initiating formal disciplinary charges against FOSTER following her withdrawal from the coerced relationship.

272. These acts constitute unlawful sexual harassment in violation of the NYSHRL.

SECOND COUNTERCLAIM

Hostile Work Environment in Violation of the New York State Human Rights Law (NYSHRL), Executive Law § 296

273. Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY's conduct created a sexually hostile work environment through repeated, invasive, and degrading acts, including unwanted oral sex, controlling sexual commentary, public surveillance of Defendant/Counterclaim-Plaintiff SHATORRA FOSTER's romantic life, and ongoing psychological coercion.

274. The March 14, 2024 sexual assault inside NYPD Headquarters occurred while FOSTER was isolated in a secured dormitory and HEADLEY was on-duty and in uniform, further aggravating the coercive power dynamics.

275. These acts were not isolated but part of a sustained campaign of sexual domination, humiliation, and psychological manipulation, motivated in substantial part by FOSTER's sex and perceived sexual orientation.

276. These actions, statements, and unwanted physical intrusions caused FOSTER severe emotional distress, undermined her sense of autonomy, and created a hostile work environment under the NYSHRL.

THIRD COUNTERCLAIM

Retaliation in Violation of the New York State Human Rights Law (NYSHRL), Executive Law § 296

277. After Defendant/Counterclaim-Plaintiff SHATORRA FOSTER began resisting Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY's unwanted sexual advances and withdrew from the coerced sexual relationship, HEADLEY retaliated against her.

278. The retaliatory actions included social isolation, interference with job duties, disparaging comments to others, deliberate humiliation, and the initiation of false disciplinary charges intended to damage FOSTER's career.

279. The CITY OF NEW YORK ratified this retaliation by sustaining the formal charges and ignoring the context of HEADLEY's prior misconduct, despite actual or constructive notice.

280. The adverse actions taken against FOSTER were causally connected to her rejection of HEADLEY's sexual advances and withdrawal from the unwanted relationship.

281. These acts constitute unlawful retaliation under the NYSHRL.

FOURTH COUNTERCLAIM

Sexual Harassment in Violation of the New York City Human Rights Law (NYCHRL), Administrative Code § 8-107

282. The same conduct described above also violates the broader protections of the NYCHRL, which prohibits gender-based harassment regardless of severity or pervasiveness.

283. Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY's unwanted sexual advances, coercive sexual comments, and nonconsensual physical acts would cause a reasonable person in Defendant/Counterclaim-Plaintiff SHATORRA FOSTER's position to feel threatened, humiliated, or abused.

284. These acts altered FOSTER's work environment and interfered with her psychological well-being and ability to function professionally.

285. The CITY OF NEW YORK, through its agents and officers, failed to take appropriate remedial action, and is vicariously liable under the NYCHRL.

FIFTH COUNTERCLAIM

Hostile Work Environment in Violation of the New York City Human Rights Law (NYCHRL), Administrative Code § 8-107

286. Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY's conduct created an environment of fear, degradation, and sexualized control in violation of the NYCHRL.

287. Defendant/Counterclaim-Plaintiff SHATORRA FOSTER was subjected to sexual comments, pressure, and conduct—including in private spaces and public settings—designed to undermine her independence and professional dignity.

288. HEADLEY's behavior persisted throughout their supervisory relationship and was emboldened by the City's failure to intervene.

289. FOSTER's reasonable efforts to maintain professional boundaries were met with increased hostility and unwanted surveillance, further exacerbating the hostile environment.

SIXTH COUNTERCLAIM**Retaliation in Violation of the New York City Human Rights Law (NYCHRL),
Administrative Code § 8-107(7)**

290. Defendant/Counterclaim-Plaintiff SHATORRA FOSTER's refusal to engage in further sexual acts with Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY, as well as her efforts to distance herself from the relationship, constituted protected activity under the NYCHRL.

291. In direct response, HEADLEY engaged in retaliatory actions, including workplace sabotage, humiliation, and false accusations.

292. The CITY OF NEW YORK ratified these retaliatory acts by failing to discipline HEADLEY and instead punishing FOSTER through formal disciplinary proceedings, despite the clear evidence of abuse.

293. The retaliatory acts are independently actionable under the NYCHRL.

SEVENTH COUNTERCLAIM**Gender-Motivated Violence in Violation of the New York City Gender-Motivated Violence Act (GMVA), Administrative Code § 10-1101 et seq.**

294. The oral sex committed on March 14, 2024, while Defendant/Counterclaim-Plaintiff SHATORRA FOSTER was isolated in a secured dormitory, was committed without consent, through abuse of authority and psychological coercion, and qualifies as criminal sexual conduct under N.Y. Penal Law §§ 130.05 and 130.50.

295. These actions meet the definition of a gender-motivated act of violence under the GMVA.

296. The March 14, 2024 act was not an isolated incident but part of a pattern of power-based sexual misconduct aimed at controlling and degrading FOSTER based on her gender.

297. As a direct and proximate result of this assault, FOSTER suffered physical invasion, emotional trauma, loss of personal autonomy, and reputational harm.

298. FOSTER is entitled to compensatory and punitive damages, injunctive relief, and attorneys' fees under the GMVA.

JURY TRIAL

299. Defendant/Counterclaim-Plaintiff SHATORRA FOSTER demands a trial by jury of all issues in this action that are so triable.

PRAYER FOR RELIEF

WHEREFORE, Defendant/Counterclaim-Plaintiff SHATORRA FOSTER demands judgment against Plaintiff/Counterclaim-Defendant TREVLYN HEADLEY and Defendant CITY OF NEW YORK, jointly and severally, awarding compensatory damages, punitive damages, injunctive relief, attorneys' fees and costs, and such other and further relief as the Court deems just and proper.

Dated: June 26, 2025
New York, N.Y.

Respectfully submitted,
By: /s/Eric Sanders
Eric Sanders

Eric Sanders, Esq.
THE SANDERS FIRM, P.C.
30 Wall Street, 8th Floor
New York, NY 10005
(212) 652-2782 (Business Telephone)
(212) 652-2783 (Facsimile)

Website: <http://www.thesandersfirmnpc.com>

VERIFICATION

STATE OF NEW YORK

ss:

COUNTY OF NEW YORK

I, SHATORRA FOSTER, being duly sworn, deposes and says:

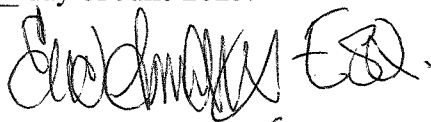
I am the Defendant and Counterclaim-Plaintiff in the within action. I have read the foregoing Verified Answer with Counterclaims and know the contents thereof. The same is true to my knowledge, except as to matters therein stated to be alleged on information and belief, and as to those matters, I believe them to be true.

SHATORRA FOSTER



(Signature)

Sworn to before me this

26TH day of June 2025.

Notary Public

State of New York

[Commission Info]

COUNTY OF WESTCHESTER
REG. NO. 02SA0013820
EXP. 09.26.2027

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

INDEX NO.: 155228/2025

TREVLYN HEADLEY,

Plaintiff,

-against-

THE CITY OF NEW YORK; SHATORRA FOSTER, Individually,
And TANIA KINSELLA, Individually

Defendants'

VERIFIED ANSWER WITH COUNTERCLAIMS

Duly submitted by:

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THE SANDERS FIRM, P.C.
30 Wall Street, 8th Floor
New York, NY 10005
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. ARIEL D. CHESLER PART 62M

Justice

-----X

TREVLIN HEADLEY,

Plaintiff,

- v -

CITY OF NEW YORK, SHATORRA FOSTER, TANIA
KINSELLA

Defendant.

-----X

INDEX NO. 155228/2025

MOTION DATE 07/17/2025

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 4, 5, 6, 7, 8, 9, 10, 11, 12

were read on this motion to/for DISMISSAL.

Upon the foregoing documents, it is

BACKGROUND

In this case, plaintiff, who identifies as a Black woman and lesbian, and who is a current Lieutenant in the New York City Police Department ("NYPD"), brings claims against the City of New York, and Shatorra Foster and Tania Kinsella, individually.

Pursuant to the State and City Human Rights Law, plaintiff alleges gender and sex discrimination, sexual harassment, retaliation and hostile work environment were created by the defendants.

Plaintiff alleges that defendant Foster, a Detective Specialist with the NYPD, is her ex-lover, and that Foster worked under Kinsella, who is a current 1st Deputy Commissioner in the NYPD and seven ranks above plaintiff. She alleges that Kinsella was connected to others in the NYPD who had significant influence throughout the NYPD.

Although plaintiff and defendant Foster had a consensual relationship for some time, plaintiff claims she was subjected to a campaign of harassment and stalking by Foster over a period of nine months. Specifically, she alleges that she continuously received text messages from anonymous numbers which included photographs of plaintiff, information about her location, and messages which were sexual in nature. This harassment came from over seventy numbers and included thousands of text messages. According to plaintiff, Foster also sent herself harassing messages as part of her campaign and as a ruse. Additional messages were also sent to various colleagues of plaintiff.

Plaintiff claims that she and Foster ended their relationship in April 2024 but remained friends and had a consensual sexual encounter in June 2024.

Plaintiff also claims that the City was aware of the above concerns and in fact that an intervention was held after which defendant Foster was directed to seek therapy and leave her firearms at work. In addition, plaintiff met with Assistant Commissioner Alden Isaiah Foster, the brother of defendant Foster, regarding the harassment.

In July 2024, plaintiff also reported the harassment to NYPD Internal Affairs, and filed a criminal complaint report at a precinct. Thereafter, all the officers in defendant Kinsella's office ceased speaking to plaintiff for two months and plaintiff was then reassigned/demoted to a patrol precinct despite her requested reassignment.

Plaintiff further alleges that after being promoted to Lieutenant in August 2024 she was transferred to the 88th Precinct but denied her planned assignment as Integrity Control Officer, and stuck on patrol duty. In addition, following this assignment to the 88th Precinct false allegations were made about plaintiff's work performance. Separately, a false claim of sexual

harassment was made against plaintiff and she was then transferred to the 52nd Precinct and placed on probation.

Meanwhile, defendant Foster was placed on modified duty and referred for possible prosecution. However, plaintiff maintains that no supervisory intervention took place for all the years she was subjected to harassment and retaliation.

In her Answer, defendant Foster included various counterclaims against plaintiff, including violation of the Gender Motivated Violence Act (“GMVA”), as well as for harassment, hostile work environment, and retaliation pursuant to the State and City Human Rights Law.

Defendant Foster alleges that plaintiff was the “harasser,” initiated unwanted sexual contact, emotionally manipulated defendant Foster, recorded sexual acts without consent, and used her departmental authority and influence to coerce personal access and control.

According to defendant Foster, supervisory personnel and internal oversight bodies within the NYPD—including the Office of Equity and Inclusion and Internal Affairs Bureau—were aware, or should have been aware, of plaintiff’s longstanding pattern of sexually inappropriate, coercive, and retaliatory conduct toward other female officers, both within and outside the workplace.

Defendant Foster claims that she was a junior officer when she met plaintiff in September 2023. She alleges that the following month plaintiff manipulated/coerced her into sharing her personal cell phone number and that plaintiff then began sending her unsolicited messages. The messages were inappropriate and grew more frequent.

Defendant Foster claims that plaintiff pressured and manipulated her into visiting plaintiff’s residence at which point plaintiff initiated physical contact which escalated into sexual contact. Defendant maintains that she did not affirmatively consent to the encounter but felt

coerced and feared workplace retaliation. Defendant Foster further alleges that plaintiff then used this encounter as leverage to force continued contact.

According to Defendant Foster, over a period of months plaintiff grew controlling, unstable, and demanding, and used emotional blackmail. Defendant Foster was reluctant to report anything due to plaintiff's supervisory rank and volatile behavior.

When Defendant Foster distanced herself in January 2024 plaintiff became more erratic. The following month plaintiff made uninvited appearances to Defendant's Foster's job sites, and at other times at her precinct. Defendant claims that plaintiff engaged in unwanted sexual conduct numerous times with her over many months and exploited her supervisory position. These included nonconsensual sex, sexual propositions, and sexual threats.

Defendant Foster further alleges that on March 14, 2024, while on duty and in uniform, plaintiff came to the dormitory room at One Police Plaza where Defendant Foster was sleeping. Plaintiff then entered the room, removed Defendant Foster's underwear and forcibly engaged in a sex act without Defendant's consent.

Thereafter, plaintiff began spreading rumors about Defendant Foster and began threatening to make a formal complaint and pursue legal action. She also falsely claimed Defendant Foster had engaged in stalking and harassment. According to Defendant Foster, plaintiff continued a campaign of retaliation between June and August 2024, culminating in formal disciplinary charges in December 2024 which were based on retaliatory and pretextual complaints.

THE MOTION

Plaintiff moves to dismiss defendant Foster's counterclaims pursuant to CPLR 3211[a][1] and [7]. Plaintiff contends that the counterclaims are implausible and demonstrably false. In

support of this claim, plaintiff relies on a series of text message exchanges between plaintiff and defendant Foster. Specifically, plaintiff highlights certain messages expressing affection, longing, and romantic desire, as well as those in which defendant Foster repeatedly professed love, requested to see and touch plaintiff, and described her body as “the safest place on earth” (Pl. Ex. C). According to plaintiff, “these messages flatly contradict Foster’s current claims of fear and abuse. They reveal a rejected romantic partner attempting to rekindle an emotional and sexual connection—not someone processing the trauma of sexual assault” (Pl. Memo of Law, pg. 2).

Plaintiff further argues that the text messages “reveal not a trace of fear, confusion, or trauma. Instead, they show someone deeply obsessed, manipulative, and unwilling to accept reality. They were sent voluntarily and repeatedly. Some were sexually suggestive. Others were emotional blackmail. But none were consistent with a person recovering from assault” (*Id.* at 5)

Separately, plaintiff argues that the counterclaims fail to state any cognizable legal claims because they are retaliatory and undermined by the timeline and admissions made. Finally, plaintiff claims that the counterclaims should be dismissed under New York’s anti-SLAPP statutes.

DISCUSSION

Plaintiff seeks to dismiss the counterclaims based on a select group of text messages between her and defendant Foster. However, CPLR 3211(a)(1) permits dismissal only where the documentary evidence submitted is “unambiguous, authentic, and undeniable” and utterly refutes the factual allegations, conclusively establishing a defense as a matter of law (*see Goshen v. Mut. Life Ins. Co. of N.Y.*, 98 NY2d 314, 326 [2002]). An executed contract definitively providing for

the rights and obligations of the parties is the type of documentary evidence that might warrant a dismissal on this ground. In other words, it must be unambiguous, conclusive proof.

Accepting that text messages, emails and other communications could constitute documentary evidence, it would be exceptionally rare for such evidence to utterly refute a claim. This is because they are susceptible to multiple interpretations and require context and credibility determinations (*see e.g. Art & Fashion Group Corp. v. Cyclops Prod., Inc.*, 120 AD3d 436, 438 [1st Dept 2014][finding emails insufficient to warrant dismissal under CPLR 3211[a][1]]).

If emails rarely suffice to warrant dismissal in the business context, it is far less appropriate to warrant or even consider dismissal here. By reviewing the competing allegations in the pleadings, it is apparent that the relationship between plaintiff and defendant Foster was complex, complicated, confused, and contradictory, and perhaps toxic. Plaintiff's selection of certain text messages does not come close to utterly refuting any of the counterclaims. Plaintiff and defendant Foster make competing allegations and the Court cannot determine anything with certainty based on a handful of text messages.

As defendant Foster points out, the text messages must be evaluated in light of the specific, coercive context alleged, including the power imbalance, emotional manipulation, and explicit threats. Moreover, human reactions to abuse, trauma, coercion, domestic violence, and even assault in the context of a complicated romantic relationship may vary, appear irrational, or be quite different from what someone viewing the situation from a safe distance might do. It is hard to imagine that serious allegations in this area could ever be neatly and swiftly refuted by a few text messages. One thing is for certain. This Court will not conclude that defendant Foster consented to any particular act or acts based on the text messages submitted in support of the motion.

The Court does not opine whatsoever on the merits of the complaint or the counterclaims. These claims are more appropriately considered by a jury who can consider and weigh the competing inferences and credibility of those involved. Indeed, in sexual harassment cases, it is often better to leave questions of consent, coercion, and intent to the jury, because these inquiries are both sensitive and fact-intensive¹.

Plaintiff next appears to half-heartedly contend that the counterclaims fail to state a claim based solely on the notions that they were filed in a retaliatory fashion and contends they lack merit because of the text exchanges. This contention fails.

In considering a motion to dismiss, the Court must accept all factual allegations as true, accord the non-movant the benefit of every possible favorable inference, and determine only whether the facts as alleged fit within any cognizable legal theory. (*Leon v. Martinez*, 84 NY2d 83, 87–88 [1994]).

The New York State Human Rights Law (“NYSHRL”), as amended in 2019, eliminated the “severe or pervasive” requirement for harassment claims, replacing it with a standard that merely requires a showing that a plaintiff was subjected to “inferior terms, conditions, or privileges of employment” because of her protected status. N.Y. Exec. Law § 296(1)(h).

The New York City Human Rights Law (“NYCHRL”) requires only that the plaintiff prove she was “treated less well than other employees” at least in part because of her gender. N.Y.C. Admin. Code § 8-107(1)(a).

Here, the allegations involving unwanted sexual contact, repeated sexual propositions, sexually explicit remarks, and retaliatory workplace mistreatment satisfies the pleading

¹ Counsel should be cautious in making motions to dismiss on ill-considered grounds in these types of delicate and complicated cases.

requirements under both the NYSHRL and NYCHRL (*see Eustache v. Bd. of Educ. of the City Sch. Dist. of the City of N.Y.*, 228 AD3d 482, 483–84 [1st Dept 2024]).

It is also significant, as pointed out by defendant Foster, that Federal courts applying the standards under the NYSHRL and NYCHRL have held that a victim's continued contact with the alleged harasser does not, as a matter of law, negate coercion, hostility, or the absence of consent—particularly where the relationship involves a significant power imbalance, emotional manipulation, or threats of retaliation (*See Menos v. City of New York*, 2023 WL 5097873, at 14 [S.D.N.Y. Aug. 9, 2023])[rejecting argument that plaintiff's post-incident communications with supervisor demonstrated consent, emphasizing that continued contact can reflect fear of professional consequences]; *Eckhart v. Fox News Network, LLC*, 2025 WL 786536, at 12–13 [S.D.N.Y. Mar. 12, 2025])[denying summary judgment where plaintiff engaged in sexually explicit communications after alleged assaults, noting expert testimony that such conduct can be a common response to trauma in coercive workplace relationships]).

Thus, nothing alleged or admitted in defendant Foster's pleading warrants dismissal of her claims at this stage.

The counterclaims also sufficiently state a claim pursuant to the GMVA because they allege sexual assault and a pattern of sexual coercion and contact by a superior officer (see *Eckhart v. Fox News Network, LLC*, 2025 WL 786536, at 12–13[finding testimony describing multiple sexual assaults by a high-profile colleague—accompanied by coercive conduct, violent acts, and implied career related threats—raised genuine issues of fact for the jury]; *see also Calle v. Kearney*, 2025 WL 2172437, at 2 [S.D.N.Y. July 31, 2025])[denying Rule 12(b)(6) motion where the plaintiff alleged a years-long pattern of gender based violence, including degrading

comments, physical abuse, and multiple acts of sexual assault such as forced oral sex in a moving vehicle]).

There is also no merit to plaintiff's contention that the counterclaims violate the Anti-SLAPP statute and should be dismissed on that ground. Critically, the purpose of the law is to protect individuals from frivolous lawsuits intended to chill their exercise of free speech or petitioning rights in connection with a matter of public interest (*see A.R.P. v City of New York*, 2026 NY Slip Op 50118(U), 88 Misc 3d 1217(A) [Sup Ct, NY County 2026]). As noted by Defendant Foster, the law does not "create immunity for private actors accused of unlawful, non-expressive conduct such as sexual assault, gender-motivated violence, coercion, and workplace retaliation" (Def. Memo of Law in Opp, pg. 26).

Indeed, dismissal based on violation of the Anti-SLAPP laws more commonly involve frivolous defamation claims and not complex, detailed, complicated claims of violations of the State and City Human Rights Law. Nor is it appropriate to utilize Anti-SLAPP laws to shield alleged unlawful conduct merely because it involved, in part, methods of communication.

Here, the counterclaims do not seek to penalize plaintiff for making protected statements in her complaint or otherwise. Rather, they seek redress for tangible, unlawful acts. The fact that the allegations were purportedly never made until the counterclaims were pleaded is of no moment. Filing counterclaims in response to a complaint occurs in the normal course of litigation and there is nothing inappropriate about the same. Nor is there a basis to find that such counterclaims are inherently or only an effort to chill plaintiff's advocacy.

While it may be the case that plaintiff's complaint involves a matter of public interest, thus potentially implicating the Anti-SLAPP provisions, assuming *arguendo* that it does, plaintiff has not demonstrated that defendant Foster's counterclaims lack a substantial basis in law. To the

contrary, Foster has convincingly argued that her counterclaims do have a substantial basis in law and fact, and if proven, would establish violations of the State and City Human Rights Law (*see* CPLR 3211[g]; Civil Rights Law 76-a[1][a]).

Accordingly, the motion to dismiss the counterclaims is denied in its entirety.

HON. ARIEL D. CHESLER
J.S.C.



ARIEL D. CHESLER, J.S.C.

3/18/2026

DATE

CHECK ONE:

☐

CASE DISPOSED

☐

GRANTED

☒

DENIED

☒

NON-FINAL DISPOSITION

☐

GRANTED IN PART

☐

OTHER

APPLICATION:

☐

SETTLE ORDER

☐

SUBMIT ORDER

CHECK IF APPROPRIATE:

☐

INCLUDES TRANSFER/REASSIGN

☐

FIDUCIARY APPOINTMENT

☐

REFERENCE

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

-----X
TREVLYN HEADLEY

Plaintiff,

NOTICE OF ENTRY

-against-

Index No.: 155228/2025

CITY OF NEW YORK, SHATORRA FOSTER, TANIA
KINSELLA

Defendants
-----X

PLEASE TAKE NOTICE, that the attached is a true copy of an Order in this matter that was entered in the Office of the Clerk, Supreme Court, County of New York, on the 20th day of March 2026.

Dated: May 8, 2026
New York, N.Y.

Respectfully submitted,

By: /s/Eric Sanders
Attorney for Defendant Shatorra Foster

THE SANDERS FIRM, P.C.
30 Wall Street, 8th Floor
New York, NY 10005
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ARIEL D. CHESLERPART62M
Justice
X
INDEX NO.155228/2025
TREVLYN HEADLEY,MOTION DATE07/17/2025
Plaintiff,MOTION SEQ. NO.001
- v -
CITY OF NEW YORK, SHATORRA FOSTER, TANIA
KINSELLA
Defendant.
X

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It is also significant, as pointed out by defendant Foster, that Federal courts applying the standards under the NYSHRL and NYCHRL have held that a victim’s continued contact with the alleged harasser does not, as a matter of law, negate coercion, hostility, or the absence of consent—particularly where the relationship involves a significant power imbalance, emotional manipulation, or threats of retaliation (*See Menos v. City of New York*, 2023 WL 5097873, at 14 [S.D.N.Y. Aug. 9, 2023])[rejecting argument that plaintiff’s post-incident communications with supervisor demonstrated consent, emphasizing that continued contact can reflect fear of professional consequences]; *Eckhart v. Fox News Network, LLC*, 2025 WL 786536, at 12–13 [S.D.N.Y. Mar. 12, 2025])[denying summary judgment where plaintiff engaged in sexually explicit communications after alleged assaults, noting expert testimony that such conduct can be a common response to trauma in coercive workplace relationships]).

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The counterclaims also sufficiently state a claim pursuant to the GMVA because they allege sexual assault and a pattern of sexual coercion and contact by a superior officer (see *Eckhart v. Fox News Network, LLC*, 2025 WL 786536, at 12–13[finding testimony describing multiple sexual assaults by a high-profile colleague—accompanied by coercive conduct, violent acts, and implied career related threats—raised genuine issues of fact for the jury]; *see also Calle v. Kearney*, 2025 WL 2172437, at 2 [S.D.N.Y. July 31, 2025])[denying Rule 12(b)(6) motion where the plaintiff alleged a years-long pattern of gender based violence, including degrading

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While it may be the case that plaintiff's complaint involves a matter of public interest, thus potentially implicating the Anti-SLAPP provisions, assuming *arguendo* that it does, plaintiff has not demonstrated that defendant Foster's counterclaims lack a substantial basis in law. To the

contrary, Foster has convincingly argued that her counterclaims do have a substantial basis in law and fact, and if proven, would establish violations of the State and City Human Rights Law (see CPLR 3211[g]; Civil Rights Law 76-a[1][a]).

Accordingly, the motion to dismiss the counterclaims is denied in its entirety.

HON. ARIEL D. CHESLER
J.S.C.


ARIEL D. CHESLER, J.S.C.

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155228/2025 - New York County Supreme Court

Short Caption: **Trevlyn Headley v. City of New York et al**
Case Type: **Torts - Other (Employment Discrimination)**
Case Status: **Active**
eFiling Status: **[Full Participation Recorded](#)**
Assigned Judge: **Ariel D. Chesler**

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1	SUMMONS + COMPLAINT	SCOLA, JOHN ANDREW Filed: 04/22/2025 Received: 04/22/2025	Processed Confirmation Notice
2	ANSWER WITH CROSS-CLAIM(S)	SANDERS, ERIC Filed: 06/27/2025 Received: 06/27/2025	Processed Confirmation Notice
3	STIPULATION - TIME TO ANSWER <i>Stipulations Extending City and Kinsella's Time to Respond</i>	QUINN, CONNER JAMES Filed: 07/08/2025 Received: 07/08/2025	Processed Confirmation Notice
4	NOTICE OF MOTION (Motion #001)	SCOLA, JOHN ANDREW Filed: 07/17/2025 Received: 07/17/2025	Processed Confirmation Notice Payment Receipt
5	MEMORANDUM OF LAW IN SUPPORT (Motion #001)	SCOLA, JOHN ANDREW Filed: 07/17/2025 Received: 07/17/2025	Processed Confirmation Notice
6	EXHIBIT(S) - A (Motion #001) <i>Summons and Complaint</i>	SCOLA, JOHN ANDREW Filed: 07/17/2025 Received: 07/17/2025	Processed Confirmation Notice
7	EXHIBIT(S) - B (Motion #001) <i>Answer</i>	SCOLA, JOHN ANDREW Filed: 07/17/2025 Received: 07/17/2025	Processed Confirmation Notice
8	EXHIBIT(S) - C (Motion #001) <i>Text Messages From Foster Professing Love</i>	SCOLA, JOHN ANDREW Filed: 07/17/2025 Received: 07/17/2025	Processed Confirmation Notice
9	EXHIBIT(S) - D (Motion #001) <i>Plaintiff Affidavit</i>	SCOLA, JOHN ANDREW Filed: 07/17/2025 Received: 07/17/2025	Processed Confirmation Notice
10	RJI -RE: NOTICE OF MOTION (Motion #001)	SCOLA, JOHN ANDREW Filed: 07/17/2025 Received: 07/17/2025	Processed Confirmation Notice Payment Receipt
11	MEMORANDUM OF LAW IN OPPOSITION (Motion #001)	SANDERS, ERIC Filed: 08/12/2025 Received: 08/12/2025	Processed Confirmation Notice
12	AFFIDAVIT OR AFFIRMATION IN REPLY (Motion #001)	SCOLA, JOHN ANDREW Filed: 08/13/2025 Received: 08/13/2025	Processed Confirmation Notice
13	ANSWER <i>Municipal Defendants' Answer to Plaintiff Headley's Complaint</i>	QUINN, CONNER JAMES Filed: 10/31/2025 Received: 10/31/2025	Processed Confirmation Notice
14	ANSWER <i>Municipal Defendants' Answer to Defendant Foster's Counter Claims</i>	QUINN, CONNER JAMES Filed: 10/31/2025 Received: 10/31/2025	Processed Confirmation Notice
15	PRELIMINARY CONFERENCE REQUEST	SCOLA, JOHN ANDREW Filed: 01/09/2026 Received: 01/09/2026	Processed Confirmation Notice
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17	DEMAND FOR: <i>GF Letter</i>	SCOLA, JOHN ANDREW Filed: 02/11/2026 Received: 02/11/2026	Processed Confirmation Notice
18	DECISION + ORDER ON MOTION (Motion #001)	Court User Filed: 03/20/2026 Received: 03/18/2026	Processed Confirmation Notice
19	NOTICE OF ENTRY	SANDERS, ERIC	Processed

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

TREVLYN HEADLEY,
Plaintiff(s),

Index No.: 155228/2025

-against-

**REQUEST FOR PRELIMINARY
CONFERENCE**

THE CITY OF NEW YORK, ET AL.,
Defendant(s).

TO THE CLERK OF THE COURT AND TO ALL PARTIES:

PLEASE TAKE NOTICE that plaintiff, by and through undersigned counsel, hereby requests, pursuant to 22 NYCRR § 202.12, that the Court schedule a Preliminary Conference in the above-captioned action.

In support of this request, the undersigned respectfully states:

1. This is a civil action commenced by the filing of a Summons and Complaint. The nature of the action is: Employment discrimination and civil rights.
2. Issue has been or is about to be joined.
3. A Request for Judicial Intervention has been or is being filed in connection with this request.
4. No prior request for a preliminary conference has been made in this action.
5. A preliminary conference would assist the parties and the Court in establishing a discovery schedule and in the orderly management of this case.

The names, addresses, telephone numbers, and e-mail addresses of all attorneys who have appeared in this action are as follows:

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Dated: New York, New York
June 12, 2026

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

-----X
TREVLYN HEADLEY,

Index No. 155228/2025

Plaintiff,

-against-

THE CITY OF NEW YORK; SHATORRA FOSTER, Individually,
And TANIA KINSELLA, Individually

Defendants'

-----X

**DEFENDANT/COUNTERCLAIM-PLAINTIFF SHATORRA FOSTER'S
MEMORANDUM OF LAW IN SUPPORT OF HER MOTION FOR A DEFAULT
JUDGMENT AGAINST PLAINTIFF/COUNTERCLAIM- DEFENDANT TREVLYN
HEADLEY**

Respectfully submitted,

By: /s/Eric Sanders
Attorney for Defendant Shatorra Foster

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PRELIMINARY STATEMENT

Defendant/counterclaim-plaintiff SHATORRA FOSTER (“Foster”) respectfully submits this Memorandum of Law in support of her motion pursuant to CPLR 3011, 3211(f), and 3215 for a default judgment against plaintiff/counterclaim-defendant TREVLYN HEADLEY (“Headley”) on liability upon Foster’s counterclaims.

This is not a default arising from uncertainty over whether a response was required, lack of notice, defective service, or an inability to formulate a defense. Headley received Foster’s Verified Answer and Counterclaims, studied those claims, moved to dismiss them, submitted selected communications in an effort to defeat them, and fully litigated their legal and factual sufficiency.

By Decision and Order dated March 18, 2026, and entered on March 20, 2026, this Court denied Headley’s motion in its entirety. The Court held that the communications relied upon by Headley did not utterly refute Foster’s allegations; refused to determine consent as a matter of law from selected text messages; and found that Foster had “convincingly argued that her counterclaims do have a substantial basis in law and fact, and if proven, would establish violations of the State and City Human Rights Law.”

Foster did not immediately serve notice of entry. She electronically filed and served notice of entry through NYSCEF on May 9, 2026. Headley therefore received approximately seven weeks after entry of the Order before the ten-day period prescribed by CPLR 3211(f) commenced. Even with that additional time, Headley did not serve the reply mandated by CPLR 3011. She requested no extension, tendered no proposed reply, and sought no relief under CPLR 2004 or 3012(d).

Headley instead continued prosecuting her affirmative claims. On June 12, 2026, after

her time to reply had expired, she filed a Request for Preliminary Conference stating that “[i]ssue has been or is about to be joined.” That filing confirms active participation in this action while Foster’s counterclaims remained unanswered.

The governing law is direct. CPLR 3011 requires a reply to a counterclaim denominated as such. The First Department has held that a plaintiff defaults by failing to serve that reply within the time allowed. *Simons v Doyle*, 262 A.D.2d 236, 237 (1st Dep’t 1999). CPLR 3215 applies to defaults on counterclaims, notwithstanding that counterclaims are not expressly listed in the statute. *Giglio v NTIMP, Inc.*, 86 A.D.3d 301, 307 (2d Dep’t 2011).

Foster has supplied the proof required by CPLR 3215(f): service of the Verified Answer and Counterclaims; Headley’s failure to reply after service of notice of entry; and firsthand proof of the facts constituting the counterclaims through Foster’s personally verified pleading. See *Woodson v Mendon Leasing Corp.*, 100 N.Y.2d 62, 70–71 (2003); *Mullins v DiLorenzo*, 199 A.D.2d 218, 219–220 (1st Dep’t 1993).

The Court should therefore enter default judgment against Headley on liability, deem the well-pleaded factual allegations admitted for that purpose, and direct that compensatory damages, punitive damages, attorneys’ fees, costs, and other available relief be determined at an inquest or, for judicial economy, together with the remaining claims.

STATEMENT OF FACTS

On June 27, 2025, Foster filed and served her Verified Answer and Counterclaims through NYSCEF as Document No. 2. The pleading expressly denominated Foster’s affirmative claims as “COUNTERCLAIMS,” identified Headley as a counterclaim-defendant, and demanded affirmative relief against her.

The counterclaims allege that Headley, while serving as a supervisory member of the

New York City Police Department, exploited a rank and institutional power imbalance to obtain and maintain unwanted personal and sexual access to Foster. The pleading describes alleged coercive sexual conduct, psychological manipulation, explicit threats, workplace intrusion, retaliatory complaints, and professional sabotage.

Among other specific allegations, Foster alleges that on March 14, 2024, while Foster was on duty and sleeping in a dormitory room at One Police Plaza, Headley entered the room and committed a nonconsensual sex act. Foster further alleges repeated unwanted sexual acts, sexually explicit and possessive statements, threats tied to Foster's efforts to disengage, and retaliatory use of complaints and NYPD processes.

Foster personally verified the Answer and Counterclaims. Her verification is based upon firsthand knowledge of the conduct she alleges she experienced.

Headley did not initially reply. Instead, she moved under CPLR 3211(a)(1) and (7) to dismiss Foster's counterclaims. Headley argued that selected text messages contradicted the allegations and demonstrated consent. Foster opposed, explaining that the communications required evaluation within the alleged context of supervisory authority, coercion, threats, trauma, and retaliation.

By Decision and Order dated March 18, 2026, the Court denied Headley's motion in its entirety. The Court determined that the communications were susceptible to competing interpretations and required context and credibility determinations. It expressly stated that it would not conclude, from the messages submitted, that Foster consented to any particular act.

The Court further held that Foster had convincingly demonstrated that her counterclaims possess a substantial basis in law and fact and, if proven, would establish violations of the NYSHRL and NYCHRL. The counterclaims therefore remained pending and required a

responsive pleading.

The Order was entered on March 20, 2026. Foster electronically filed and served a Notice of Entry on May 9, 2026 as NYSCEF Document No. 19. The Notice of Entry attached the Order and advised that it had been entered in the Office of the Clerk.

Headley did not serve or file a reply within the period prescribed by CPLR 3211(f). No reply appears on the NYSCEF docket. Headley did not request an extension, ask Foster to accept a late pleading, tender a proposed reply, or move to enlarge her time.

On June 12, 2026, Headley filed a Request for Preliminary Conference as NYSCEF Document No. 20. Counsel represented that “[i]ssue has been or is about to be joined” and requested a discovery schedule. Headley did not cure or disclose her failure to reply to Foster’s counterclaims.

ARGUMENT

POINT I

CPLR 3011 REQUIRED HEADLEY TO SERVE A REPLY TO FOSTER’S COUNTERCLAIMS

CPLR 3011 provides in mandatory terms that “[t]here shall be a reply to a counterclaim denominated as such.” Foster’s pleading left no ambiguity. It labeled the claims “COUNTERCLAIMS,” identified Headley as the counterclaim-defendant, separately pleaded the factual basis and causes of action, and demanded affirmative relief.

The First Department has directly enforced this requirement. In *Simons v Doyle*, 262 A.D.2d 236, 237 (1st Dep’t 1999), the Court held that the plaintiff defaulted in replying to counterclaims because no reply denominated as such was served within the prescribed period. *Simons* controls the procedural question presented here.

Headley’s complaint, appearance, and motion practice did not satisfy CPLR 3011. A

motion to dismiss may extend the time to plead under CPLR 3211(f), but it is not itself a reply. It neither admits nor denies the allegations, interposes affirmative defenses, nor joins issue on the counterclaims.

The mandatory reply requirement is especially clear here because Headley treated the counterclaims as claims requiring adjudication. She moved specifically to dismiss them, submitted evidence against them, and obtained a ruling determining their sufficiency. After that motion was denied, the obligation to plead remained.

POINT II
CPLR 3211(f) REQUIRED HEADLEY TO SERVE HER
REPLY AFTER SERVICE OF NOTICE OF ENTRY

CPLR 3211(f) provides that service of a pre-answer motion under CPLR 3211(a) or (b) extends the movant's time to serve the responsive pleading "until ten days after service of notice of entry of the order." The extension is temporary; denial of the motion restores the obligation to plead.

The Court denied Headley's motion by Order dated March 18, 2026 and entered March 20, 2026. Foster served notice of entry through NYSCEF on May 9, 2026. Electronic service through NYSCEF is complete upon transmission of the notification to participating counsel. 22 NYCRR 202.5-b(h)(3). CPLR 2103(b)(7) adds one business day where a period is measured from electronic service.

Thus, even giving Headley the benefit of the additional business day, her reply was due no later than May 20, 2026. She served nothing.

The surrounding chronology eliminates any credible claim of surprise. Headley had possessed and litigated the counterclaims for months. She received the Court's detailed ruling and then had approximately seven additional weeks before Foster served notice of entry and

commenced the statutory period.

Headley's time was therefore not merely adequate; it was substantially longer in practical terms than the minimum contemplated by CPLR 3211(f). Yet she neither replied nor sought an enlargement before the deadline expired.

POINT III
HEADLEY'S FAILURE TO REPLY CONSTITUTES A
PLEADING DEFAULT SUBJECT TO CPLR 3215

CPLR 3215(a) permits a party to seek default judgment where an adverse party "has failed to appear, plead or proceed to trial." Headley appeared, but she failed to plead in response to Foster's counterclaims. The statute is written in the disjunctive; a prior appearance does not excuse a later failure to serve a required pleading.

Although CPLR 3215 does not expressly list counterclaims, appellate authority establishes that it applies to them. *Giglio v NTIMP, Inc.*, 86 A.D.3d 301, 307 (2d Dep't 2011), held that the statute's legislative history demonstrates its intended application to counterclaims, cross claims, and third-party claims in addition to complaints.

New York courts accordingly grant default relief when a plaintiff fails to reply to a counterclaim. See *Simons*, 262 A.D.2d at 237; *Zheng v Evans*, 63 A.D.3d 791, 792 (2d Dep't 2009). Most recently, in *Quintero v MBH Capital, LLC*, 2026 N.Y. Slip Op. 03010, *2 (2d Dep't 2026), the Appellate Division held that a plaintiff who failed to provide a reasonable excuse remained in default in replying to a counterclaim and could not obtain nunc pro tunc acceptance of the late reply.

Headley's appearance does affect notice, not the existence of default. Because she appeared, CPLR 3215(g)(1) entitles her to at least five days' notice of the application. Foster is proceeding by noticed motion and is providing more than the statutory minimum.

POINT IV
FOSTER HAS SATISFIED CPLR 3215(f)

CPLR 3215(f) requires proof of service, proof of the default, and proof of the facts constituting the claim. See *Woodson v Mendon Leasing Corp.*, 100 N.Y.2d 62, 70–71 (2003). The showing is not intended to replicate a trial. It need only supply enough competent proof to permit the Court to determine that a viable claim exists. *Id.* at 71; *Feffer v Malpeso*, 210 A.D.2d 60, 61 (1st Dep’t 1994).

First, service is established. Foster filed and served the Verified Answer and Counterclaims through NYSCEF. Headley’s subsequent motion to dismiss those precise counterclaims independently confirms actual receipt and detailed knowledge.

Second, default is established. The dismissal motion was denied, notice of entry was served, the CPLR 3211(f) period expired, and no reply was served. The NYSCEF docket confirms the omission. Headley’s later preliminary-conference request confirms that she remained represented and actively participating after the deadline.

Third, Foster has provided firsthand proof of the facts constituting her counterclaims. A pleading verified by the party with personal knowledge may serve as the affidavit of facts contemplated by CPLR 3215(f). *Mullins v DiLorenzo*, 199 A.D.2d 218, 219–220 (1st Dep’t 1993). The First Department recently reaffirmed that the statutory reliance on a verified pleading is proper where the verified pleading was served. *Gaviola v City of New York*, 234 A.D.3d 525, 526 (1st Dep’t 2025).

Foster personally verified the Answer and Counterclaims. The allegations concern conduct she personally experienced: the parties’ interactions; the supervisory imbalance; the alleged unwanted sexual conduct; the alleged March 14, 2024 assault; express threats and statements; and the alleged retaliatory acts that followed.

The verified pleading is also unusually detailed. It supplies dates, locations, statements, conduct, the parties' positions, the nature of the alleged coercion, and the asserted employment consequences. It therefore provides substantially more than conclusory allegations or an attorney's affirmation without personal knowledge.

The Court has already scrutinized the same pleading in adversarial motion practice. It held that Headley's documentary submissions did not utterly refute the allegations and that Foster convincingly demonstrated a substantial basis in law and fact for the Human Rights Law counterclaims. That ruling does not itself establish liability, but it confirms that the verified allegations describe legally viable claims.

Taken together, the verified pleading, service record, docket, and prior Order satisfy every component of CPLR 3215(f).

POINT V
HEADLEY'S DEFAULT ADMITS THE WELL-PLEADED
FACTUAL ALLEGATIONS ESTABLISHING LIABILITY

A defaulting party is deemed to admit all traversable factual allegations and the reasonable inferences flowing from them, although the Court must still determine that those allegations state a viable claim. *Woodson*, 100 N.Y.2d at 71; *Rokina Optical Co. v Camera King, Inc.*, 63 N.Y.2d 728, 730 (1984).

The admission created by default extends to liability, not to the amount of unliquidated damages. *Rokina Optical*, 63 N.Y.2d at 730. Headley therefore may not contest the well-pleaded factual allegations establishing liability once default judgment is entered, but she may participate in an inquest concerning the amount of damages.

Foster does not ask the Court to treat bare legal conclusions as admitted. Her counterclaims allege specific acts: exploitation of superior rank; unwanted sexual contact;

nonconsensual sexual conduct; explicit threats; retaliatory complaints; dissemination of damaging accusations; and misuse of institutional processes. Those are traversable factual allegations.

The Court's prior Order reinforces the distinction. The Court did not adjudicate liability, but it determined that the counterclaims were sufficiently pleaded and could not be defeated by Headley's selected messages as a matter of law. Headley's subsequent default supplies the procedural admission that her failed dismissal motion did not.

POINT VI
HEADLEY'S CONTINUED PROSECUTION OF HER
AFFIRMATIVE CLAIMS DID NOT CURE THE DEFAULT

Headley may argue that her active prosecution of the complaint is inconsistent with default. It is not. CPLR 3215 addresses a failure to "appear, plead or proceed." A party may appear and litigate one aspect of an action while remaining in default on a pleading obligation arising from another claim.

Neither Headley's motion to dismiss nor her Request for Preliminary Conference constituted a reply. The dismissal motion only extended her time under CPLR 3211(f). The preliminary-conference request did not admit or deny allegations, assert defenses, or otherwise join issue.

Indeed, the June 12, 2026 request aggravates the procedural failure. Counsel represented that issue "has been or is about to be joined" after the deadline had expired, yet did not serve the missing reply or request relief from the default. The filing demonstrates continuing access to NYSCEF, continuing representation, and continuing awareness of the action.

Quintero confirms that a party who fails to provide a reasonable excuse for not replying remains in default notwithstanding later litigation activity. 2026 N.Y. Slip Op. 03010, *2.

Headley has not even tendered a late reply or moved to vacate the default.

**POINT VII
NO EXTRAJUDICIAL WARNING WAS REQUIRED
BEFORE FOSTER SOUGHT DEFAULT RELIEF**

Headley received every notice the CPLR requires. She was served with the counterclaims, litigated their sufficiency, received the Court's ruling, and was served with notice of entry through NYSCEF. She then received the statutory response period and the notice required for this motion.

No provision of CPLR 3011, 3211(f), or 3215 requires opposing counsel to send a private reminder after a represented party misses a statutory pleading deadline. The formal notice mechanisms exist so that enforceable obligations do not depend upon informal professional courtesies.

The point is not punitive. Foster delayed service of notice of entry for approximately seven weeks, thereby giving Headley considerably more practical time than immediate service would have allowed. Once notice of entry was served, Foster was entitled to rely upon counsel's compliance with the CPLR.

**POINT VIII
DAMAGES SHOULD BE DETERMINED AT AN
INQUEST OR WITH THE REMAINING CLAIMS**

Foster's damages are unliquidated. They include alleged emotional distress, professional and reputational injury, punitive damages, attorneys' fees, costs, and other statutory relief. The amount cannot be determined by ministerial computation.

Accordingly, default judgment should be entered on liability, with damages determined at an inquest. *Rokina Optical*, 63 N.Y.2d at 730. Headley may participate in that proceeding to contest the quantum of damages and present mitigation evidence, but not to relitigate liability.

Alternatively, because Headley's affirmative claims and Foster's counterclaims arise from overlapping events, the Court may direct that damages and other relief be determined together with the trial of the remaining claims. That approach would preserve the legal consequence of Headley's default while avoiding duplicative testimony and inconsistent scheduling.

CONCLUSION

Headley received Foster's Verified Answer and Counterclaims, moved to dismiss them, fully litigated their sufficiency, and lost that motion. Foster then served notice of entry. CPLR 3211(f) required Headley to serve her reply within ten days, as extended by the applicable electronic-service rule. She did not.

Headley requested no extension, tendered no proposed pleading, and moved for no relief. She instead continued prosecuting her own claims while leaving Foster's counterclaims unanswered.

Foster has established service, default, and facts constituting viable claims through her personally verified pleading, the NYSCEF record, and the Court's prior Order. Accordingly, the Court should grant default judgment against Headley on liability, deem the well-pleaded factual allegations admitted for that purpose, direct an inquest or reserve damages for determination with the remaining claims, and grant such other and further relief as the Court deems just and proper.

Dated: July 11, 2026
New York, N.Y.

Respectfully submitted,

By: /s/Eric Sanders
Attorney for Defendant Shatorra Foster

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CERTIFICATE OF COMPLIANCE

I certify under Rule 202.8-b of the Uniform Civil Rules for the Supreme Court and County Court of the State of New York that the total number of words in the foregoing document, exclusive of the caption, table of contents, table of authorities, and signature block is approximately 3, 349 according to the “Word Count” function in Microsoft® Word LTSC MSO (Version 2408 Build 16.0.17932.20842) 64-bit, the word processing software used to prepare this document, and thus the document complies with the word count limit set-forth in Rule 202.8-b.

Dated: July 11, 2026
New York, N.Y.

Respectfully submitted,

By: /s/Eric Sanders
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