

Judicial Council of the

SECOND

Circuit

COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY

To begin the complaint process, complete this form and prepare the brief statement of facts described in item 4 (below). The RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, adopted by the Judicial Conference of the United States, contain information on what to include in a complaint (Rule 6), where to file a complaint (Rule 7), and other important matters. The Rules are available in federal court clerks' offices, on individual federal courts' websites, and on www.uscourts.gov.

Your complaint (this form and the statement of facts) should be typewritten and must be legible. For the number of copies to file, consult the local rules or clerk's office of the court in which your complaint is required to be filed. Enclose each copy of the complaint in an envelope marked "COMPLAINT OF MISCONDUCT" or "COMPLAINT OF DISABILITY" and submit it to the appropriate clerk of court. **Do not put the name of any judge on the envelope.**

1. Name of Complainant: Lidia M. Orrego [REDACTED]
 Contact Address: 95-08 Queens Blvd. 3 E
 Rego Park, NY 11374

Daytime telephone: (347) 453-2234

2. Name(s) of Judge(s): Gary R. Brown
 Court: Eastern District New York

3. Does this complaint concern the behavior of the judge(s) in a particular lawsuit or lawsuits?

☒ Yes ☐ No

If "yes," give the following information about each lawsuit:

Court: Central Islip

Case Number: 20CV3361 (GRB) (AYS)

Docket number of any appeal to the _____ Circuit: _____

Are (were) you a party or lawyer in the lawsuit?

☒ Party ☐ Lawyer ☐ Neither

If you are (were) a party and have (had) a lawyer, give the lawyer's name, address, and telephone number:

Pro se

Judicial Council of the SECOND Circuit

COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY

4. **Brief Statement of Facts.** Attach a brief statement of the specific facts on which the claim of judicial misconduct or disability is based. Include what happened, when and where it happened, and any information that would help an investigator check the facts. If the complaint alleges judicial disability, also include any additional facts that form the basis of that allegation.

I attach the brief statement of facts 5-Page.

5. **Declaration and signature:**

I declare under penalty of perjury that the statements made in this complaint are true and correct to the best of my knowledge.

Signature:  Date: 05/10/2022

May 10, 2022

Re: *Orrego v. Knipfing, et al*, 20-CV-03361-GRB-AYS

4. Brief Statement of Facts:

- 1) July 23, 2020 - ECF doc. [1]: Proceeding pro se, I filed my complaint in this matter.
- 2) August 17, 2020 - ECF doc. [8]: I filed the Amended Complaint ("AC") asserts claims.
- 3) September 15, 2020 - ECF: H. Judge Gary R. Brown's ORDER granting [14] Motion for Pre-Motion Conference on October 9, 2020.
- 4) September 21, 2020 - ECF doc. [15]: I filed Letter MOTION to Appoint Counsel and provide an Interpreter for October 9th conference.
- 5) September 22, 2020 - ECF: H. Judge Brown canceled the Conference on October 9, 2020 and ordered the briefing schedule to file the Motion to Dismiss, Opposition to Motion, and Reply to file the fully briefed motion on or before December 11, 2020.
- 6) October 21, 2020 - ECF doc. [19]: I filed a letter motion to compel to give permission to Order Service by publication because the Defendants in bad faith refused to receive the AC and wanted to apply the bad service to dismiss the case.
- 7) September 22, 2020 - ECF: Judge Brown's "*ORDER denying [15] my Motion to Appoint Counsel. Additionally, in light of this Court's order adjourning the pre-motion conference and waiving the pre-motion conference requirement, plaintiff's application for an interpreter to be present at the conference is denied as moot*". However, despite this order and several letter requests, Judge Anne Y. Shields has denied me access to an interpreter until today. Judge Brown never again ruled on my request for an interpreter.
- 8) December 11, 2020 - ECF doc. [22]: Fully Briefed MOTION to Dismiss for Failure to State a Claim. the Defendants went from accusing me of being "delusional", and filing contradictory statements in their pleadings, witnesses' false testimony, and production of false documents. Since none of this works due to the evidence in my possession (recordings, messages from text, and emails) that expose the Defendants' lies and perjury in this matter.
- 9) September 8, 2021 - ECF doc. [24]: I filed MOTION for Leave to File Document a second Amended Complaint due to new evidence the copy of Freedom of Information Law (FOIL) "Summary of Findings" Child Protective Services' Report dated September 14, 2021.
- 10) September 13, 2021 - ECF doc. [25]: Defendants filed their opposition to file the "Second Amended" contradicts what they said or done before in their pleadings and brought to light other cases that are irrelevant in this matter with prejudice against me, inserting a stigma because I am Hispanic, a woman, Pro Se and I have an invisible disability.

11) September 17, 2021 – ECF doc. [26]: I filed my Amended Objection to Defendants' Opposition to file the Second Amended attaching 21 Exhibits, a total 183-Page, and plenty of documentary evidence that the Defendants' Opposition in the ECF doc. 26 are lies and twisted explanations of the cases that are NOT relevant in this matter appealing to character assassination, to which I objected in my pleadings.

12) September 21, 2021 - ECF doc. [28]: H. Judge Tomlinson's last order blocked Defendant's bad faith in their intent to play dirty with the service process. In fact, the Defendants were reprimanded and ordered to surrender in this attempt to plating with the service papers. This was the only time the Defendants were punished for their outrageous behavior after almost 1 year of having filed my Motion on October 21, 2020, ECF doc. [19].

13) September 30, 2021 ECF doc. [30] at 12:49 pm: After 9 months, Judge Brown's ORDER granting in part and denying in part ECF doc. [22] dated December 11, 2020 Motion to Dismiss for Failure to State a Claim. The Amended Complaint contains 70 facts and allegations clearly supported by the Law and 34 Exhibits that supported my claims.

Judge Brown never penalized the Defendants for lying in their pleadings, filing false documentation, and false witness testimony. Violation of Code of Conduct for United States Judges, "*Canon 1: A Judge Should Uphold the Integrity and Independence of the Judiciary*"; "*Canon 2: A Judge Should Avoid Impropriety and the Appearance of Impropriety in all Activities*"; "*Canon 3: A Judge Should Perform the Duties of the Office Fairly, Impartially and Diligently.*"

14) September 30, 2021 – ECF doc. [30]: Judge Brown's ORDER denying [24] Motion for Leave to File. Judge Brown denied the second amended complaint, despite the fact the new evidence does not include the claims that were dismissed.

Judge Brown never applied the Estoppel principle ("prevents someone from arguing something or asserting a right that contradicts what they previously said or agreed to by law. It is meant to prevent people from being unjustly wronged by the inconsistencies of another person's words or actions.")

Judge Brown never warned or punished to Defendants' outrageous behavior despite my objections because the Defendants are changing their arguments or defenses to bring to this matter pending cases in other forums. Judge Brown allows the Defendants' character assassination strategy against me, through distortion and misrepresentations because they do not have any arguments or evidence that can challenge my claims and plenty of evidence in my possession.

Judge Brown ignore my objections against the character assassination strategy.

15) October 14, 2021 – ECF doc. [33]: Defendants filed their Answer to the AC ¶ 73¹ (pages 19 & 20) with a character assassination strategy in addition to continuing to make false statements of facts, laws,

and procedures in their pleadings with fraudulent misrepresentations, manipulating facts, and half-truths avoiding answering the direct, documentary, and testimonial evidence.

16) November 2, 2021 – ECF doc. [35]: I filed the letter motion to strike and remove from the docket objected and requested removal from the record the cases contained in the Defendants' Answer to AC ¶ 731, Pages 19-20 for being prejudicial. (Character Assassination)

17) November 5, 2021 – ECF doc. [36]: Defendants filed their Opposition to my Motion to Strike.

18) November 9, 2021 – ECF doc. [37]: I filed the Reply to Defendants' Opposition to Motion to Withdraw Defendants' Answer to Amended Complaint (“AC”) paragraph 73 (pages 19 & 20) and Answer to Counterclaims ECF Doc. [36]: Defendants try to distract with the judicial pending cases (insufficient defense, immaterial and prejudicial) to avoid talking about the other victim and bystander intervention, Ms. Rebeca Uzategui, my former co-worker, who exposes in a recording all the abuses and discrimination because the Defendants cannot explain how two people who suffered the same abuse, discrimination and made the same complaint, among others, were treated unequally: a) I was terminated, harassed, suffer all the kind of retaliation and defamations as “Slander” or “delusional”, however, b) Ms. Uzategui, continues working for the Knipfings. I am looking forward to facts and evidence that somehow support this gross inconsistency.

The Defendants are wrong to point out what Plaintiff “believe” can prove, because at this stage only the EVIDENCE matters and so far, the Defendants have no evidence other than tampering with documentation/witnesses and fraudulent misrepresentations.

Defendants cannot file counterclaims for defamation, extortion, or another tort because my claims with strong and irrefutable evidence support my position revealing that I speak the truth.

19) November 16, 2021 - ECF: H. Judge Brown again despite all the evidence and Defendants' inconsistencies, misrepresentations, and filed fraudulent evidence, denied my Motion to Strike, also ORDERED “*While plaintiff is not entitled to counsel as of right, the Pro Se Department is respectfully directed to find counsel for plaintiff from this Court's pro bono panel.*” I had requested a bilingual Spanish - English ECF doc. [3] page 2, dated July 23, 2020.

20) November 22, 2021, ECF doc. [38]: H. Judge Brown ordered, pointed to The Dratch Law Firm, PC, by Brian M. Dratch.

21) December 2, 2021 - ECF doc. [41]: Scheduling Order: Judge Shields' “Order and Protocols” for the Discovery Process according to the Federal Rules of Civil Procedure (“F.R.C.P.”) Rule 26. The initial conference is scheduled for February 14, 2022, at 11:30 am.

22) February 10, 2022 – ECF doc. [42] at 5:53 pm: My counsel Mr. Dratch and the Defendants' counsels filed ECF Doc. #42 [1] [2] without my knowledge of the content, review, approval, and signature.

23) February 11, 2022 – **ECF at 9:45 am**: Incredibly fast, H. Judge Shields’s order to the initial conference scheduled for February 14, 2022, is CANCELED. Order and protocols entail F.R.C.P. Rule 26 were ignored, violating my rights to Due Process of Law. However, my letters are published very late.

24) February 14, 2022 – ECF doc. [43]: I filed the Motion letter requesting Mr. Dratch’s removal from my case for filing a document without my knowledge of the content, review, approval, and signature violating my rights and our agreement. Mr. Dratch never informed me or gave me a copy of the ECF Doc. [42]. I requested a new Counsel / Attorney – bilingual Spanish be assigned to my case.

Judge Brown never answered my request to stop the Counsel’s misconduct or sanctions for the contempt of court and the attempt to have deceived me with a document that they filed without my knowledge and consent **ECF doc. [42]**.

25) February 17, 2022 – ECF doc. [45]: My letter addressed to H. Judge Brown in support of my letter ECF doc. [43], I requested the Judge’s intervention because my former pro bono counsel and the Defendants’ counsels did not execute the order and protocol ECF doc. [41]: a) Initial disclosure was not made by the counsels, a gross violation of Court order and due process; b) Judge Shield’s Protocols “Joint Letter” ECF doc. [42] was filed with incomplete claims according to H. Judge Brown ECF [30] dated September 30, 2021; c) Contains false statements and facts that did not correspond to this matter; d) My former pro bono counsel Mr. Dratch was never able to demonstrate that he participated in this joint letter.

I requested Judge Brown to compel the Defendants with the exchange of information entails the initial disclosures according to the Judge Shields’ order ECF doc. [41]. Judge Brown again ignored my letter and right to a fair process that entails Due Process of Law.

Judge Brown or Judge Shields never sanctioned or compelled the Defendants to comply with F.R.C.P. Rule 26 entails Order ECF doc. [41].

26) April 18, 2022 – ECF doc. [51]: I filed the letter with my decision to proceed as Pro Se. I also respectfully reiterated my request to provide me with an interpreter for future conferences according to the Due Process of Law ECF docs. [46] [48] [50]. Judge Shields never annulled the false ECF doc. [42].

- I filed a total of **1.224 pieces of evidence** that support my claims and damages.

- I urgently reiterated my request to remove the **ECF doc. [42] annulled** from the docket was filed without my knowledge and consent to ruin my case.

- Counsels intentionally failed to point out the correct basis for federal jurisdiction according to the Order by H. Judge Brown dated September 30, 2021, ECF doc. [30]. Gross Violation Due Process of Law and Contempt of Court.

- I objected to the “Defendants Position”, which holds facts irrelevant to this matter because the legal malpractice and misconduct of my former attorneys, also my character are not the issues in this

Federal Action against All Defendants. The counsels **failed** to comply with the Order - Protocols ECF 41-1 Appendix "E". Gross Violation Due Process of Law and Contempt of Court.

27) April 26, 2022: I filed a letter to request the correction for the missing charge against Mr. Kevin Knipfing aka Kevin James has not been included under my claim of hostile work environment Order ECF doc. [52], according to H. Judge Brown's order ECF doc. [30] page 16.

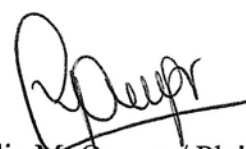
- I complained one more time that the Defendants went from accusing me to "delusional", filed contradictory statements in their pleadings, witnesses' false testimony, and production of false documents. Since none of this works due to the evidence (recordings, messages from text, and emails) that shows their lies. Defendants, again, change as last resource, their arguments to facts irrelevant to this matter that does not respond to any fact to my Amended Complaint (AC) or the frame time of my employment with the Knipfings, until finally accusing me of "extortionist" but after 3 attempts and more than 4 months waiting to exchange "evidence" that supports their "changing contradictory arguments or positions", Defendants still haven't sent me a single piece of evidence or responded to my emails.

Judge Brown never applied judicial estoppel doctrine to avoid the Defendants' cynical and outrageous behavior toward the Court, Laws, and F.R.C.P. that I have exposed with evidence in all my pleadings. **The message of this Court is that the Defendants are above the Law.**

Conclusion: Under the Judicial Conduct and Disability Act of 1980 ("Act"), 28 U.S.C. §§ 351–364: Judge Gary R. Brown's performance has engaged in prejudicial conduct to the effective and expeditious administration of the business of the courts in my case and outside influences manipulate his ruling because I am a Hispanic, Woman, Pro Se with an invisible disability.

Judge Brown's orders/conduct are biased, partial, and ignore certain laws or precedents, under 18 U.S.C. § 242 – Deprivation of Right under color of law. It is obvious that there is a financial or political manipulation because the Defendant is the Actor Kevin James allows violations of Due Process (the promise of legality and fair procedure), F.R.C.P. Rules 26; 16; 37 and helps the Defendants who are avoiding/abusing of the legal system process to delay the case jeopardize the American Jurisprudence and integrity of the U.S. Federal Courts. Violation of Code of Conduct for United States Judges, "*Canon 1: A Judge Should Uphold the Integrity and Independence of the Judiciary*"; "*Canon 2: A Judge Should Avoid Impropriety and the Appearance of Impropriety in all Activities*"; "*Canon 3: A Judge Should Perform the Duties of the Office Fairly, Impartially and Diligently.*"

Respectfully submitted,
Date: May 10, 2022
Rego Park, New York



Lidia M. Orrego / Plaintiff Pro Se
95-08 Queens Blvd. Apart 3E
Rego Park, NY, 11374
Phone (347) 4532234

February 11th, 2022

Honorable Judge Gary R. Brown
Magistrate Judge Anne Y. Shields
United States District Court
Eastern District of New York
100 Federal Plaza, Central Islip, NY 11722
Attn: Pro Se Office

Re: Orrego v. Knipping, et al, 20-CV-03361-GRB-AYS

Dear Judge Gary R. Brown,

In accordance with the Rule VI Pro Se Litigants of Your Honor's Individual Rules, the Plaintiff, Lidia M. Orrego, respectfully submit the following:

I request that attorney, Mr. Brian Dratch, Esq. be removed as my Pro Bono Counsel because we had an agreement that this representation will be contingent upon my review of all documents prior to their filings for my review and approval and this agreement was violated.

The attached document "Doc. #42 [1] [2] CASE MANAGEMENT STATEMENT for Employment Cases with Discovery Plan Worksheet (Attachments: # (1) Proposed Order) (Warnke, Edward)" was submitted on February 10th, 2022, without my knowledge of the content, review, approval, and signature. I object to its content and for this reason, both documents must be annulled.

Please, Your Honor, I request a new Counsel / Attorney – bilingual Spanish be assigned to my case to avoid misunderstandings in the future with my instructions.

Respectfully submitted,

Date: February 11th, 2022
Rego Park, New York



Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd Apart 3E
Rego Park, NY, 11374
Phone (347) 4532234

To: Mr. Kuuku Minahh-Donkoh, Esq., Mr. Alex D. Dumas, Esq., Mr. Edward E. Warnke, Esq. and Mr. Brian Dratch, Esq.
Via ECF and email.

KUUKU MINNAH-DONKOH
KMINNAHDONKOH@GRSM.COM

EDWARD E. WARNKE
EWARNKE@GRSM.COM

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

GORDON & REES ★
SCULLY MANSUKHANI
YOUR SO STATE PARTNER
LONG ISLAND OFFICE

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1 BATTERY PARK PLAZA, 28TH FLOOR
NEW YORK, NY 10004
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February 10, 2022

VIA ECF

The Honorable Anne Y. Shields
United States Magistrate Judge
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Re: *Lidia Orrego v. Kevin Knipfing, et al.*,
Case No. 20-cv-03361-GRB-AYS

Dear Magistrate Judge Shields:

Our office represents defendants, Kevin Knipfing a/k/a Kevin James ("Mr. Knipfing"), Stephanieanna James-Knipfing a/k/a Steffiana de la Cruz, Old Westbury EDDIE LLC, Old Westbury, LLC, and Teresa A. Zantua (collectively, "Defendants"), in connection with the above-referenced action. We, together with counsel for plaintiff Lidia Orrego ("Plaintiff"), submit this joint letter in accordance with the Court's Order dated December 2, 2021 (ECF Doc. No. 41-2,3), directing the parties to provide the Court with certain information in advance of the upcoming initial conference in this matter currently scheduled for Monday, February 14, 2022 at 11:30 a.m.

1. **Name of the Case**

LIDIA M. ORREGO v. KEVIN KNIPFING, et al.¹

2. **Basis for Federal Jurisdiction**

Per Plaintiff, "[t]he basis for federal jurisdiction is 42 U.S.C. 1981."

¹ Defendants note that all claims against Defendant Steve Savitsky were dismissed pursuant to the September 30, 2021 Memorandum and Order. (ECF Doc No. 30). The caption, however, still lists Mr. Savitsky as a defendant. Defendants respectfully request the Court amend the case caption to reflect the dismissal of Mr. Savitsky as a defendant in this action.

February 10, 2022

Page 2

3. Service upon Defendants and Their Answer

All Defendants have been served, and filed their Answer to Amended Complaint on 10/14/2021 (ECF Doc. No. 33).

4. Counterclaims and/or Cross-claims

There are no cross-claims or counterclaims.

5. Plaintiff's Explanation of the Facts

Plaintiff alleges that during her employment with defendants she was subjected to a hostile work environment based on her race by Zantua which the defendants Knipfings failed to address and/or take action against Zantua for creating a hostile work environment against plaintiff.

6. HIPAA Authorizations

Plaintiff will provide authorizations for plaintiff's medical records on or before March 14, 2022.

7. Joint Statement Concerning Discovery

At this time, the parties believe formal document requests will be needed.

8. Proposed Status Letter and Status Conference

Proposed Status Letter due at least 1 week before the Status Conference; and
Status Conference: TBD by This Court.

9. Outstanding Protocols

As of the date of this submission, all discovery protocols remain outstanding.

10. Settlement Position

Plaintiff's Position: Plaintiff is willing to discuss Settlement.

Defendant's Position: Prior to commencing this action, Plaintiff filed a Charge of Discrimination with the United States Equal Employment Opportunity Commission ("EEOC"), alleging claims of discrimination, hostile work environment, and retaliation under Title VII of the Civil Rights Act of 1964 ("Title VII"). Although none of the Defendants qualify as an "employer" under Title VII, which applies only to employers with 15 or more employees – and although it is Defendants' position that Plaintiff's claims are completely meritless, Defendants nonetheless agreed to participate in mediation before the EEOC to see whether an amicable resolution could be reached. On August 20, 2019, the parties participated in mediation before the EEOC, but

February 10, 2022
Page 3

mediation unfortunately was unsuccessful due to positions taken by Plaintiff that were completely unreasonable and utterly devoid from reality.

Since the August 20, 2019 EEOC mediation, Plaintiff has gone through at least three different sets of attorneys, with each relationship ending acrimoniously and Plaintiff filing complaints against each of her former attorneys. Moreover, since the August 20, 2019 EEOC mediation, Plaintiff has engaged in what Defendants can only describe as a scorched-earth campaign of extortion, harassment, and patently false claims against Defendants and others, including judges. For a summary of some of the meritless complaints and accusations Plaintiff has made since August 20, 2019, the Court is respectfully referred to the letter Defendants filed on September 13, 2021, in opposition to Plaintiff's motion for leave to file a Second Amended Complaint. (ECF Doc No. 25).

Based on Plaintiff's past conduct, Defendants are not optimistic about the chances of settlement in this matter.

11. Proposed Dates

The parties respectfully refer the Court to their joint proposed Discovery Plan Worksheet filed contemporaneously with this joint letter.

Respectfully submitted,

GORDON REES SCULLY
MANSUKHANI, LLP

Kuuku Minnah-Denkoh
Kuuku Minnah-Donkoh
Edward E. Warnke

cc: All Counsel of Record (By ECF)

**Tier I Pre-Settlement Discovery
TO BE COMPLETED IN ALL CASES**

03/14/2022

04/12/2022

N/A

02/13/2023

05/15/2023

06/14/2023

09/9/2023

February 17th, 2022

Honorable Judge Gary R. Brown
Magistrate Judge Anne Y. Shields
United States District Court
Eastern District of New York
100 Federal Plaza, Central Islip, NY 11722
Attn: Pro Se Office

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ FEB 17 2022 ★

LONG ISLAND OFFICE

Re: Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS

Dear Judge Gary R. Brown and Magistrate Judge Anne Y. Shields,

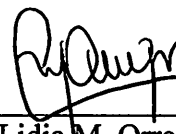
In accordance with Rules VI, IV, Pro Se Litigants of Your Honors' Individual Rules, Plaintiff, Lidia M. Orrego, respectfully submit this letter in support of my ECF Doc. # 43 with the following statement:

According to the records in my possession on February 14th, 2022, I requested my counsel and the Defendants' counsels a copy of my file but I have not received this copy. Entails events compliance litigation process applicable rule F.R.C.P.¹ – Rule 26 (F), Rule 26 (a) (1), Rule 16.

I respectfully request Your Honors intervention because it is very important for me to obtain my file to provide it to my new Counsel / Attorney – bilingual Spanish who will be appointed by the Court.

Respectfully submitted,

Date: February 17th, 2022
Rego Park, New York



Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd. Apart 3E
Rego Park, NY, 11374
Phone (347) 4532234

To:
Plaintiff's Counsel: Mr. Brian Dratch, Esq.
Defendants' Counsels: Mr. Kuuku Minahh-Donkoh, Esq., Mr. Alex D. Dumas, Esq., Mr. Edward E. Warnke, Esq.
Via ECF and email.

¹ Federal Rules of Civil Procedure (F.R.C.P.)

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ NOV 22 2021 ★ November 22, 2021

Honorable Judge Gary R. Brown
United States District Court
Eastern District of New York
100 Federal Plaza, Central Islip, NY 11722
Attn: Pro Se Office

LONG ISLAND OFFICE

RECEIVED

NOV 23 2021

EDNY PRO SE OFFICE

Re: *Orrego v. Knipfing, et al*, 20-CV-03361-GRB-AKT

Dear Judge Gary R. Brown,

In accordance with the Rule VI Pro Se Litigants of Your Honor's Individual Rules, the Plaintiff, Lidia M. Orrego, respectfully submit the Clarification Letter to Your Honor related to her "Reply to Defendants' Opposition to Motion to Withdraw Defendants' Answer to Amended Complaint ("AC") ¶ 73¹ (pages 19 & 20) and Answer to Counterclaims dated November 5, 2021, Doc [35] and Your Honor's order denying [37] Motion to Withdraw Answer to AC (pages 19 & 20) dated November 16, 2021.

According with the order the Plaintiff should show 3 essential elements for her motion: "Under Federal Rule of Civil Procedure 12(f), "[t]he court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." "Accordingly, [t]he standard to prevail on a motion to strike is demanding, requiring that the moving party demonstrate that (1) there may be no question of fact which might allow the defense to succeed; (2) there may be no substantial question of law, a resolution of which could allow the defense to succeed; and (3) the party would be prejudiced by the inclusion of the defense." *Grewal v. Cuneo*, No. 13-CV-6836(RA), 2016 WL 308803, at *4 (S.D.N.Y. Jan. 25, 2016) (citations and internal quotation marks omitted)." See doc. [35]

Plaintiff explain the reasons may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter accordingly with the standard: (1) Constitute as part of the character assassination strategy against the Plaintiff with misleading, half-truths, fraudulent misrepresentations and defamatory statements in the continuous attempt to damage the Plaintiff's reputation because the Defendants have no direct or documentary evidence about the issues in the present Federal Case. Defendants have lied in their pleadings in this Court, also filed false or tampering evidence and witnesses' testimony just as they did in the pending cases; (2) according to the Propensity Evidence²

¹ Paragraphs Defendants' Answer to AC dated October 14, 2021, Doc [33], Pages 1-25.

² Federal Rule of Evidence Rule 404: *Pine v. Koelber*, 389 So. 2d 1191, 1193 (Fla. Dist. Ct. App. 1980), citing 1 S. Gard, *Jones on Evidence* §4: 34 (6th ed. 1972) and *McCormick on Evidence* § 188 (2d ed. 1972): "When a person's character is an essential element in the case, evidence of his character is always admissible because it is in question. On the other hand, evidence of a person's character is offered only to prove probability that he acted consistently with that character on a particular occasion is generally inadmissible."

that character of evidence is inadmissible in the Trial unless it is the issue of the case; (3) the Plaintiff would be prejudiced (included but no limited) with the defenses contained Defendants' Answer to Amended Complaint ("AC") ¶ 73¹ (pages 19 & 20) because the distorted explanation, misleading, half-truths among others can damage the Plaintiff's image and negatively influence the Jury to unconscious bias or implicit bias as prejudice or unsupported judgments against the Plaintiff as compared to another person, in a way that is considered unfair.

In fact, the Supreme Court Queens ("SCQ") Index # 719137/2021 dated August 24, 2021 has no relation to this case, and it also constitutes Propensity Evidence, prejudicial in her character because the was not something caused by the Plaintiff. The Defendants' actions were as matter as fact the causes, when they breach of contract and later retaliated against the Plaintiff, many times, when she claimed her rights and the amount owed with the help of the New York State Department of Labor Case # LS 223 ISSUE=1346010 PROJ=30 dated January 24, 2020. Status: Initial Stage.

In the same way, the New York State Worker's Compensation Board ("WCB") Case # G2584330 dated September 5, 2019 (Plaintiff's lawyers voluntarily and consciously failed) and SCQ Index # 706324/2021 dated March 18, 2021 contained in the Defendants' Answer. Doc. [33], both cases prevail plenty evidence of judicial bias and impropriety for that reason the unfavored outcome against the Plaintiff, through misapplying the laws, overlooked facts and evidence, proof that the rulings were tainted because outsider agents or influences manipulate the Courts' decisions, without any legally permitted explanation how to support their decisions and orders. Indeed, the SCQ Index # 706324/2021 were also the consequences of the Defendants' actions, who filing the last element on defamation and other civil torts in their pleadings.

The plaintiff would be prejudiced in her health condition because her occupational disease is getting worse since the emotional distress continues to rise when she discovered that she must fight the grossly violation of Code Judicial Conduct Canon 1, 2, 3, and Obstruction of Justice because Judges applied the wrong rules, wrong statute of limitations, they made an error regarding the facts, abuse in their discretion and authority, ruling under shadow of law, through manufacture and using the legal instrument to obscure the truth, where the errors are obvious because the allegations, elements and evidence introduced clearly does not support their decisions and orders that were completely unreasonable in both cases. (WCB # G-2584330 / SCQ Index # 706324/2021)

The Plaintiff, despite her health condition, physical and legal knowledge limitations, continue with appeals these decisions to leave these outrageous and scandalous actions as a precedent of a gross

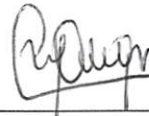
miscarriage of justice to support other possible victims in the same Courts.

Including these 3 defenses, also it would unnecessarily lengthen the process in prejudice to the Plaintiff, denying her right to Due Process and to quickly resolve the case. Defendants' intention is installing their "Dilatory Tactic" because it will force the Plaintiff to bring all the evidence in the 3 cases so that the Jury can understand that the defendants made false statements that were made intentionally or with reckless disregard the truth.

Plaintiff apologizes for not including all the elements for which her motion was Denied and appreciates Your Honor's support pointing out the missing element to properly file her pleadings or evidence to pursuing respect, inclusion, diversity and equity for the Trial with the objective of seek truth and justice.

Respectfully submitted,

Date: November 22, 2021
Rego Park, New York



Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd Apart 3E
Rego Park, NY, 11374
Phone (347) 4532234

To: Mr. Kuuku Minahh-Donkoh, Esq., Mr. Alex D. Dumas, Esq., Mr. Edward E. Warnke, Esq.
Via ECF and email.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Lidia M. Orrego,

Plaintiff,

-against-

Kevin Knipfing a/k/a Kevin James, Stephanieanna
James-Knipfing a/k/a Steffiana de la Cruz, Old
Westbury EDDIE LLC, Old Westbury, LLC,
Steve Savitsky and Teresa A. Zantua.
Defendants,

Affirmation of Service

____ 20 ____ CV ____ 3361 ____ (GRB) (AKT)

I, Lidia M. Orrego, declare under penalty of perjury that I have served a copy of the attached Clarification Letter of "Reply to Defendants' Opposition to Motion to Withdraw Defendants' Answer to Amended Complaint paragraph 73 (pages 19 & 20) and Answer to Counterclaims dated November 9, 2021, Doc. [37]", and attached documents upon the defendant(s) or the attorney for defendant(s) Mr. Kuuku Minahh-Donkoh, Esq. and Mr. Alex D. Dumas, Esq., Edward E. Warnke, Esq. via ECF and email, whose physical address:

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By email address: kminnahdonkoh@grsm.com; adumas@grsm.com;
kminnahdonkoh@gordonrees.com; ewarnke@grsm.com

Dated: November 22, 2021

Rego Park, New York



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U.S. DISTRICT COURT
E.D.N.Y.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND FEDERAL COURTHOUSE
824 FEDERAL PLAZA
CENTRAL ISLIP, NEW YORK 11722-4450

CHAMBERS OF
WILLIAM D. WALL
U.S. MAGISTRATE JUDGE
OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE \$300

Lidia Drago
20-cv-03361
Judge Brown

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

-----X

LIDIA M. ORREGO,

Plaintiff,

-against-

KEVIN KNIPFING, *Employer, also known as Kevin James*; STEPHANIEANNA JAMES-KNIPFING, *Employer, also known as Steffiana de la Cruz*; OLD WESTBURY EDDIE LLC, *Company/Payroll owner Kevin Knipfing*; OLD WESTBURY LLC, *Unknown Entity under registration in NY State*; STEVE SAVITSKY, *Business Manager, Old Westbury LLC*; and TERESA A. ZANTUA,

Defendants.

MEMORANDUM &

ORDER

CV 20-3361 (GRB)(AKT)

-----X

GARY R. BROWN, United States District Judge:

Pro se plaintiff Lidia M. Orrego (“plaintiff”) brings this case against her former employers, Kevin Knipfing, Stephanieanna James-Knipfing, and two LLCs operated by the Knipfings, Old Westbury Eddie LLC and Old Westbury LLC; the business manager of the Westbury LLCs, Steve Savitsky; and her former supervisor (and Ms. Knipfing’s sister), Teresa Zantua (collectively, “defendants”). Before the Court is defendants’ motion to dismiss. For the reasons set forth below, defendants’ motion is GRANTED as to plaintiff’s claims under the NYCHRL, the New York Labor Law, the New York Penal Law, and plaintiff’s claims for discrimination under 42 U.S.C. § 1981 and the NYSHRL; additionally, defendants’ motion is GRANTED as to plaintiff’s retaliation claims against Savitsky and Zantua and plaintiff’s hostile work environment claims against Savitsky. Otherwise, defendants’ motion is DENIED.

I. Factual and Procedural History

As set forth in plaintiff's amended complaint (the "Complaint"), the allegations of which are accepted as true for the purposes of this motion, plaintiff began working for the Knipfings as a nanny (and, later on, as a housekeeper) on January 31, 2018. Complaint, Docket Entry ("DE") 8, at 19. Plaintiff worked in the Knipfings' home, allegedly located in Nassau County. *Id.* at 3, 19. During this time, Ms. Zantua supervised plaintiff and five other employees who worked in the Knipfings' home. *Id.* at 19. At the outset of her employment, plaintiff was given an employment agreement and nondisclosure agreement (NDA) – in English, despite Spanish being her primary language; according to plaintiff, the NDA was missing most of the constituent pages (plaintiff apparently signed these documents on February 15, 2018). *Id.* Critically for purposes of the present motion, under the NDA, plaintiff agreed not to "publish, disseminate, discuss, disclose . . . or cause or induce to be disclosed" any confidential information, including "photographs, films, videotapes, sound recordings, [or] audio tracks" of anyone in the Knipfing family or any employees of the Knipfings. *Id.* at 90-91. The various employment-related documents provided to plaintiff identify different employers: plaintiff's employer is variously identified as the Knipfings, Old Westbury Eddie LLC or Old Westbury LLC. *See, e.g.*, Complaint, DE 8, at 19, 49, 80, 88, 98-102. In any case, plaintiff completed her background check and signed these documents on February 15, 2018. *Id.* at 19.

Plaintiff alleges that she was repeatedly harassed by Zantua for being Hispanic and/or of Paraguayan descent. For example, plaintiff alleges that Zantua often ordered plaintiff not to speak Spanish in front of the Knipfing children, complained about the Knipfings "hir[ing] nannies who only speak Spanish," and wondered aloud why "Mexicans work for American families who speak only English." *Id.* at 20, 23, 24, 25, 27, 31. Zantua also made pejorative comments about

plaintiff's race; for example, at a birthday party for a family friend's son, after Zantua "ordered [plaintiff] to take pictures and videos," a child stepped on plaintiff's hand and injured plaintiff; in response, Zantua commented that plaintiff's "bones [were] useless" because "[y]ou Mexicans eat a lot of corn." *Id.* at 21. On occasions where Zantua perceived that she had been slighted by plaintiff, or that plaintiff had fallen short in her responsibilities, Zantua defaulted to insulting plaintiff "because of her race," including by calling her a "stupid Paraguayan." *Id.* at 25-26, 27. Zantua informed plaintiff that she and Skylar Testa, the house manager, "always made fun of the Plaintiff" because of her accent – an activity the Knipfing children also participated in. *Id.* at 25. Even when not directed specifically at plaintiff, Zantua often made pejorative remarks about Latinos, on one occasion ordering plaintiff to pay the "Mexicans" who cleaned her car at a carwash because the "Mexicans" were disgusting to her," and on another informing plaintiff that "she would never apologize to 'a Mexican.'" *Id.* at 21, 24. Other employees were also subjected to Zantua's race-based harassment. *See id.* at 29. By April 4, 2020, plaintiff began to write a diary documenting these events. *Id.* at 20. Plaintiff alleges that, by August 15, she "had already reported on several occasions of the discriminatory treatment and abuse received from" Zantua. *Id.* at 22. On this date, she "was offered the permanent position of Housekeeper" – apparently a demotion, instigated both by plaintiff's reporting and "because she was Hispanic." *Id.*

Plaintiff also presents certain allegations about Ms. Knipfing's conduct, starting in August 2018. For example, plaintiff alleges that on August 10, she was ignored by Ms. Knipfing when she went to help for a concert; when the event coordinator arrived at some point later, Ms. Knipfing introduced her co-workers, but not plaintiff. *Id.* at 22. Similarly, on August 15, Ms. Knipfing accused plaintiff (via another nanny, a Ms. Uzcategui) of some misstep that apparently was not plaintiff's fault; when plaintiff went to ask about the issue a few days later, Ms. Knipfing asked

plaintiff to leave the room even though “everyone else [was] walk[ing] in and out of” the room. *Id.* Later, toward the end of October, Ms. Knipfing confronted plaintiff when she was sitting down for lunch, asking her “why she was sitting” – a challenge Ms. Knipfing apparently never made to plaintiff’s co-workers. *Id.* at 32. The next day, Ms. Knipfing issued an order prohibiting plaintiff “from texting her co-workers” and “withdrew [plaintiff’s] access to money for expenses”; Ms. Knipfing also excluded plaintiff from attending the “All Saints Parade” on November 1, 2018 – restrictions that applied only to plaintiff. *Id.* at 32. In sum, plaintiff alleges that she was subject to disparate treatment at the hands of Ms. Knipfing.

However, in contrast to the allegations against Ms. Zantua, plaintiff offers little to suggest this treatment emanated from animosity toward Latinos. But on October 2, Ms. Knipfing learned of an incident where Zantua harassed plaintiff, and “started blaming [plaintiff] and making malicious remarks with her co-workers in Plaintiff’s absence” (*id.* at 26).¹ Plaintiff also alleges more generally that Ms. Knipfing “always encourag[ed] this discrimination” and “also harass[ed] the Plaintiff in front of the other workers.” *Id.* at 26. Claims of discriminatory animus on the part of Ms. Knipfing are alleged only in the most general fashion.

Plaintiff also alleges that she was subject to physical assault, specifically by one of the Knipfings’ children (and, on one occasion, their friends). For example, on June 4, 2018, at a birthday celebration held for the son of a family friend, a child “stepping on the Plaintiff’s right hand several time[s] and stood on it injuring her wrist.” *Id.* at 21. Another time, on October 23, plaintiff was assaulted in the kitchen, ostensibly by the Knipfings’ son. *Id.* at 31. Plaintiff claims

¹ Plaintiff further alleges that, in response to plaintiff requesting a sick day to visit a doctor on November 2, Ms. Knipfing “attack[ed] the Plaintiff and sabotage[ed] her work or career with unfair treatment, unjustified negative evaluations, humiliating and degrading her, using insensitive terms, continuing with discrimination and harassment.” Complaint, DE 8, at 34. However, the text messages that plaintiff refers to in support of this claim indicate that Ms. Knipfing’s response was, in fact, fairly mundane, arguably even sympathetic. *See id.* at 129-30.

that she “was the victim of several physical assaults (kick or punch her back, hand, neck, shoulders)” by the child – acts that she claims were instigated by Zantua through “her hate speech against Mexicans.” *Id.* at 31-32. Plaintiff also alleges that she developed pain in her back and neck “as a result of the work,” for example, “work[ing] with the Chef . . . carrying items that were heavy in weight” and “without taking a break,” as well from as the aforementioned assaults. *Id.* at 21, 33. These events led plaintiff to seek medical help for her back and neck pain as well as for the stress “resulting from an environment of discrimination and abuse.” *Id.* at 21. Plaintiff first went to a doctor on June 3, where the doctor referred her to physical therapy and prescribed pain killers. *Id.* She saw two other doctors on November 1 and 2, who took an X-ray and apparently diagnosed plaintiff with tachycardia. *Id.* at 34.

Plaintiff further alleges that on November 2, she submitted to Testa and Ms. Knipfing a complaint via email that she and Ms. Uzcategui had drafted, which set forth all of their allegations about “direct and indirect race discrimination, physical abuse/assault, verbal abuse, hostile work environment[, and] harassment . . . for being Hispanic,” including complaints about Zantua’s behavior. *Id.* at 34, 46. When plaintiff returned from her days off visiting the doctors, she was greeted by Mr. Knipfing, who apparently “admit[ted] that he knew about all the problems between” Zantua and Uzcategui, and “thanked the Plaintiff for letting him know of all the problems” they had in the house; however, he apparently “was unaware that it involved the Plaintiff.” *Id.* at 35. Mr. Knipfing then informed plaintiff that “an investigation would be opened” and promised to call her about the results of the investigation, then asked her to “give him [her] evidence to do the Investigation.” *Id.* Plaintiff alleges that Mr. Knipfing additionally “intimidate[d]” her by saying that “nobody should know anything about her complaint”; plaintiff interpreted this to suggest that he was “obviously concerned that it would become public.” *Id.* At

the conclusion of this conversation, Mr. Knipfing “suspended her from going to work until [the] investigation was completed” – apparently, plaintiff was the only employee subject to a suspension, “even though other co-workers were involved in the complaint.” *Id.* Plaintiff further claims that Testa and Mr. Knipfing “mocked [her] for being Hispanic,” but without any further detail. *Id.*

Two days later, on November 8, plaintiff sent Mr. Knipfing “all the evidence that support[ed] her complaint.” *Id.* at 36. A few days later, Testa texted plaintiff directing her “to meet with Investigators in a Starbucks Coffee location in Rego Park.” *Id.* The next day, plaintiff met with the two investigators, but claims that she “was not physically or emotionally well” at the time “especially for the way she was treated” by Ms. Knipfing “after receiving her complaint.” *Id.* at 36-37. The investigators also asked if she ever saw the complaint that Uzcategui wrote, or her notes or videos; plaintiff answered that she “never saw any of that evidence,” but that Uzcategui had “told her about it all the time.” *Id.* at 37. The investigators then asked “if she would continue working with” Ms. Uzcategui, which ultimately led plaintiff to believe that the investigators “avoided talk about and discrimination and abuse [and] focused more on the issues between her and” Uzcategui. *Id.* Thus, plaintiff claims that the Knipfings used the investigators “to cover the complaint of discrimination and physical assault and other[] abuses in addition to intimidating the Plaintiff.” *Id.*

On November 14, Testa messaged plaintiff requesting her diary; she emailed Mr. Knipfing over the next two days the evidence she had on hand “with Pictures, Videos, Voice Messages, Diary with dates and times [documenting] all acts of discrimination and abuses.” *Id.* at 37. While the investigation was in progress, on November 24, Ms. Knipfing texted plaintiff a photo of a priest or minister overlaid with the message, “Inasmuch as you pray with all your soul for the one who

has slandered you so much will God reveal the truth to them who have believed the slander.” *Id.* at 38. Plaintiff took this to mean that Ms. Knipfing was accusing plaintiff of slander. *Id.* Plaintiff ultimately received a termination letter on November 27 from Old Westbury LLC; the letter was signed by Steve Savitsky,² who identified himself as the business manager of Old Westbury LLC.³ *Id.* at 38, 49. The letter sets forth the following grounds for her termination: (a) “Breach of [plaintiff’s] Non-Disclosure Agreement” including by recording a conversation with Uzcategui in public and taking “recordings and photographs” of the Knipfings’ home; plaintiff’s “statement that [she was] unwilling to continue working with” Uzcategui; and “[their] conclusion that [she] made statements in [her] complaint that [she] know[s] to be false.” *Id.* at 49. The letter also notified plaintiff that she had health insurance through United Healthcare that would be terminated on November 30, and that she was eligible for COBRA benefits. *Id.*

Plaintiff contests the grounds set forth in the termination letter, claiming that she “never received . . . any written warnings or performance reviews related to the content of the Termination Letter.” *Id.* at 38. Plaintiff specifically contests that she violated the NDA, observing that (a) the recording she made of her and Uzcategui’s conversation “was not shared with a third party or disclosed,” and (b) Uzcategui did not seem subject to the same punishment, despite the fact that she “disclosed information . . . about the Knipfing[] Family in a public place and in the presence of a third party[.]” *Id.* Plaintiff also claims that the photographs referred to are “the photographs of the candies” sent to Mr. Knipfing on November 15 “that prove the abuse against” one of the

² Plaintiff claims that, by sending this letter, Savitsky “actively participated in retaliation and discrimination” against her. Complaint, DE 8, at 38.

³ Plaintiff therefore claims that this letter was “illegal because it came from an unknown entity who was not the Plaintiff’s employer.” Complaint, DE 8, at 41. To be sure, as noted above, the Knipfings identified a number of different persons as plaintiff’s employer. Nevertheless, plaintiff concedes that she was terminated by the Knipfings on this date, claiming that Mr. Knipfing “gave the order to Steve Savitsky . . . to manufacture the Termination Letter dated November 27, 2018 under the name of the unknown Entity Westbury LLC.” *Id.* at 38.

children,⁴ but reiterates (as noted above) that other employees also took photographs inside the house (and, apparently, occasionally published those photographs on social media). *Id.* at 39-40, 42. As for the claim that plaintiff was unwilling to work with Uzcategui, plaintiff asserts that the investigators criticized Uzcategui, such that it was unreasonable for them to ask if plaintiff would continue working with her. *Id.* at 40. Finally, plaintiff claims that “according to all the evidence” she had presented, everything in her complaint was true. *Id.*

Following her termination, plaintiff claims that that the Knipfings and Savitsky “discriminated and retaliated against” her by “immediately canceling her medical plan” and denying her COBRA benefits. *Id.* at 41. Plaintiff further alleges that on November 29, two days after her termination, her “Health Insurance [carrier] confirmed that [her former] employers didn’t submit the application for COBRA,” such that plaintiff could not “be covered by insurance.” *Id.* Additionally, the Knipfings “refused to provide reference[s]” for plaintiff to get another job. *Id.* Plaintiff then raises allegations about certain post-termination events that are not relevant here.

Plaintiff filed this action on July 23, 2020, asserting claims for discrimination, retaliation, and hostile work environment under 42 U.S.C. § 1981, the New York State Human Rights Law (“NYSHRL”), and the New York City Human Rights Law (“NYCHRL”); plaintiff also brings claims under New York Labor Law § 195(6), and sections 170 and 210 of the New York Penal Law. Following the submission of a pre-motion letter in anticipation of a motion to dismiss filed by all defendants to this action, the undersigned set forth a briefing schedule for the anticipated motion. *See* Electronic Order of September 22, 2020. The fully briefed motion was filed on December 11, 2020. This opinion follows.

⁴ In essence, plaintiff alleges that Uzcategui was over-feeding one of the children candy on a regular basis in order to placate the child.

II. Discussion

It has been well established that “[a] document filed *pro se* is ‘to be liberally construed,’ and ‘a *pro se* complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers.’” *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (citations omitted). Nevertheless, many of plaintiff’s claims may be dismissed in short order. First, as to plaintiff’s NYCHRL claim, “[t]o state a claim under the NYCHRL, plaintiff must allege that the defendant discriminated against her ‘within the boundaries of New York City.’” *Robles v. Cox & Co.*, 841 F. Supp. 2d 615, 623 (E.D.N.Y. 2012) (quoting *Shah v. Wilco Sys., Inc.*, 27 A.D.3d 169, 175 (N.Y. App. Div. 1st Dep’t 2005)). Nearly all of the activities set forth above that are relevant to a NYCHRL claim are alleged to have occurred in the Knipfings’ household, which, as asserted in the complaint, is located outside of New York City. While plaintiff does allege that Zantua harassed plaintiff during a trip to the NYC Children’s Museum, DE 8 at 26, “[t]he fact that certain acts leading to discrimination may occur in New York City will not necessarily give rise to a claim under the City HRL. *Salvatore v. KLM Royal Dutch Airlines*, No. 98 CIV. 2450 (LAP), 1999 WL 796172, at *16 (S.D.N.Y. Sept. 30, 1999). It is undisputed that the “impact of the offensive conduct” – the lion’s share (indeed, all but one incident) of the harassment, as well as the suspension of plaintiff’s employment privileges, her alleged demotion, and her ultimate termination – all occurred outside of New York City. *See Robles*, 841 F. Supp. 2d at 62. Accordingly, the NYCHRL claim must be dismissed.

Second, as to plaintiff’s New York Labor Law claim, § 195(6) holds that “[e]very employer shall . . . notify any employee terminated from employment, in writing, of the exact date of such termination as well as the exact date of cancellation of employee benefits connected with such termination. In no case shall notice of such termination be provided more than five working days

after the date of such termination.” Plaintiff affirmatively alleges that she was provided such notice by defendants and attached her termination letter which clearly establishes that defendants met this requirement. Although plaintiff contests that this notice was insufficient as § 195(6) also requires the letter to include the “name of [the] employer” – which, as noted above, plaintiff contests – § 195(6) does not, in fact, contain such a requirement. Accordingly, plaintiff’s New York Labor Law claim must also be dismissed.

Finally, plaintiff’s claims under the New York Penal Law (for forgery and perjury) fail, as “forgery[] and perjury . . . are crimes and therefore do not give rise to civil causes of action.” *Lockett v. Bure*, 290 F.3d 493, 497 (2d Cir. 2002). Furthermore, plaintiff asserts in her opposition brief that the complaint “requested no relief in connection with” these claims. DE 22-5 at 26. For both reasons, then, plaintiff’s claims under the New York Penal Law are dismissed.

Plaintiff’s claims under 42 U.S.C. § 1981 and the NYSHRL merit closer examination. First, as to plaintiff’s discrimination claims, “Section 1981[] and NYSHRL discrimination claims [are analyzed] under the same burden shifting framework as first set forth by the Supreme Court in *McDonnell Douglas Corp. v. Green*.” *McGill v. Univ. of Rochester*, 600 F. App’x 789, 790 (2d Cir. 2015). As the Second Circuit noted in *McGill*:

Under the *McDonnell Douglas* framework, a “plaintiff bears the initial burden of establishing a prima facie case of discrimination.” To establish a prima facie case of discriminatory discharge, “a plaintiff must show that (1)[s]he is a member of a protected class; (2)[s]he was qualified for the position [s]he held; (3)[s]he suffered an adverse employment action; and (4) the adverse action took place under circumstances giving rise to the inference of discrimination.”

Id. at 790–91 (citations omitted). Defendants limit their arguments to the fourth element, as there can be little dispute that plaintiff’s allegations meet the first three. First, defendants cite the well-established principle that “[w]hen the same actor hires a person already within the protected class, and then later fires that same person, ‘it is difficult to impute to her an invidious motivation that

would be inconsistent with the decision to hire.” *Carlton v. Mystic Transp., Inc.*, 202 F.3d 129, 137 (2d Cir. 2000) (citation omitted). Likewise, “where the termination occurs within a relatively short time after the hiring there is a strong inference that discrimination was not a motivating factor in the employment decision.” *Id.* at 137-38 (collecting cases finding that this inference applies where the time between hiring and firing was under two years). There can be little dispute that the Knipfings were the ones to both hire and fire plaintiff, and that they did both in a period of under a year. Second, defendants contend that plaintiff “has failed to offer *any* non-conclusory facts or evidence demonstrating that the Knipfings . . . harbored any discriminatory animus against her because of her race or national origin.” DE 22-3 at 18. The allegations set forth in the complaint do not establish any overt acts of discrimination by the *Knipfings*. “[A]bsent direct evidence of discrimination,” then, plaintiff must allege “at least minimal support for the proposition that the employer was motivated by discriminatory intent.” *Littlejohn v. City of New York*, 795 F.3d 297, 311 (2d Cir. 2015). Plaintiff fails to meet even this lesser burden: though she alleges disparate treatment at the hands of Ms. Knipfing, any allegations that such treatment was “motivated by discriminatory intent” are, at best, conclusory. Any allegations about Mr. Knipfing’s discriminatory motives, to the extent they even exist, are even sparser. Otherwise, the same conclusion appears to apply to the corporate defendants, and plaintiff fails to allege that any other defendant instituted an “adverse employment action” (e.g., demotion, suspension, or termination) against her.⁵ Accordingly, plaintiff’s discrimination claims must be dismissed.⁶

⁵ “Examples of materially adverse employment actions include termination of employment, a demotion evidenced by a decrease in wage or salary, a less distinguished title, a material loss of benefits, significantly diminished material responsibilities, or other indices unique to a particular situation.” *Bowen-Hooks v. City of New York*, 13 F. Supp. 3d 179, 211 (E.D.N.Y. 2014). To be sure, plaintiff alleges that Savitsky signed her termination letter, but once again, any allegations that his conduct was in any way “motivated by discriminatory intent” are merely conclusory.

⁶ Defendants also argue that plaintiff’s discrimination claim fails because, “at the time Plaintiff was employed, the Knipfings employed a very diverse group of people, including Uzategui, who is also Hispanic and remains employed.” DE 22-3 at 17. However, “an employer may not escape liability for discriminating against a given

Plaintiff's retaliation claims are analyzed under the same burden-shifting framework. Thus, "to establish a *prima facie* case of retaliation, a plaintiff must demonstrate that (1) she engaged in protected activity; (2) the employer was aware of that activity; (3) the plaintiff suffered a materially adverse action; and (4) there was a causal connection between the protected activity and that adverse action." *Guzman v. City of New York*, 93 F. Supp. 3d 248, 261 (S.D.N.Y. 2015) (citation omitted). "As to the first element of the *prima facie* case, '[t]he term "protected activity" refers to action taken to protest or oppose statutorily prohibited discrimination,' and may take the form of either formal or informal complaints." *Id.* (citations omitted). However, such complaints "qualif[y] as protected activity only if 'the employee has a good faith, reasonable belief that the underlying challenged actions of the employer violated the law.'" *Id.* at 261-62. Defendants only contest the fourth element of this test, claiming that plaintiff "has failed to allege sufficient facts to show that her termination was motivated by" the November 2 email, pointing instead to the rationales set out in the termination letter. DE 22-3 at 25. However, "[p]roof of causation can be shown . . . indirectly, by showing that the protected activity was followed closely by discriminatory treatment." *Hicks v. Baines*, 593 F.3d 159, 170 (2d Cir. 2010). Less than a week elapsed between plaintiff's complaint and her suspension, while less than three weeks elapsed between her complaint and her termination. Moreover, the November 2 email is not the only protected activity alleged by plaintiff: as noted above, plaintiff also alleges that by August 15, she had already "reported on several occasions of the discriminatory treatment and abuse received from" Zantua. It is notable, then, that plaintiff *also* alleges that her disparate treatment at the hands of Ms. Knipfing – including her alleged demotion – began around this time. Given the solicitude granted *pro se* complaints, plaintiff appears to have alleged a sufficient causal connection between her

employee on the basis of race simply because it can prove it treated other members of the employee's group favorably." *Graham v. Long Island R.R.*, 230 F.3d 34, 43 (2d Cir. 2000).

protected activity and the adverse employment actions via temporal proximity. *See Littlejohn*, 795 F.3d at 319-20 (finding “allegations that the [adverse employment action] occurred within days after [plaintiff’s] complaints of discrimination” to be “sufficient to plausibly support an indirect inference of causation”). Thus, plaintiff has pleaded plausible retaliation claims under § 1981 and the NYSHRL against the Knipfings and the corporate defendants. However, as noted above, plaintiff fails to allege that any other defendant instituted an “adverse employment action” against her, so plaintiff’s retaliation claims against Zantua and Savitsky are dismissed.

Finally, “[t]o establish a hostile work environment” claim, “a plaintiff must show that ‘the workplace is permeated with discriminatory intimidation, ridicule, and insult that is sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment.’” *Littlejohn*, 795 F.3d at 320–21; *see also Westbrook v. City Univ. of New York*, 591 F. Supp. 2d 207, 232 (E.D.N.Y. 2008). “The incidents complained of must be more than episodic; they must be sufficiently continuous and concerted in order to be deemed pervasive.” *Littlejohn*, 795 F.3d at 321 (citation omitted). A plaintiff “must show not only that she subjectively perceived the environment to be abusive, but also that the environment was objectively hostile and abusive.” *Guzman*, 93 F. Supp. 3d at 263 (quoting *Demoret v. Zegarelli*, 451 F.3d 140, 149 (2d Cir.2006)). Additionally, a plaintiff must establish that “‘a specific basis exists for imputing’ the objectionable conduct to the employer” and, of course, that “the hostile conduct occurred because of a protected characteristic.” *Tolbert v. Smith*, 790 F.3d 427, 439 (2d Cir. 2015). In evaluating such claims, a court must consider “the totality of the circumstances, . . . including ‘the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee’s work performance.’” *Demoret*, 451 F.3d at 149 (quoting *Harris v. Forklift*

Sys., Inc., 510 U.S. 17, 23 (1993)). However, the Second Circuit “ha[s] repeatedly cautioned against setting the bar too high” in this context, holding that “a plaintiff need only plead facts sufficient to support the conclusion that she was faced with ‘harassment ... of such quality or quantity that a reasonable employee would find the conditions of her employment altered for the worse.’” *Patane v. Clark*, 508 F.3d 106, 113 (2d Cir. 2007) (citation omitted).

Defendants compare plaintiff’s allegations to those in another case, in which the hostile work environment claim was dismissed because the conduct at issue entailed, “at most, isolated and sporadic incidents that occurred over the course of a year.” DE 22-3 at 21 (quoting *Alvarado v. Mount Pleasant Cottage Sch. Dist.*, 404 F. Supp. 3d 763, 781 (S.D.N.Y. 2019)). Indeed, defendants acknowledge that, in *Alvarado*, exactly four incidents occurred. *Id.*; see also *Alvarado*, 404 F. Supp. 3d at 781 (holding that the plaintiff in that case “ha[d] pointed to four incidents”). These cases are far from comparable. Plaintiff here sets forth a continuing pattern of race-based abuse and harassment at the hands of Zantua, a course of conduct that seems to have prevailed over the duration of plaintiff’s tenure in the Knipfing household. Even more troubling, plaintiff alleges that Zantua encouraged other members of the household staff, and even the Knipfings’ children, to participate in this harassment. Indeed, plaintiff alleges that Zantua’s harassment was pervasive enough to drive her to seek assistance from her co-workers in presenting a complaint to the Knipfings – arguably an understandable concern, given that Zantua is Ms. Knipfing’s sister – and to complain to the Knipfings on multiple occasions about Zantua’s behavior. At this early juncture, plaintiff seems to have satisfied the pleading standard.

Much of the remainder of defendants’ argument hinges on whether Zantua was actually plaintiff’s supervisor (or even an employee of the Knipfings). “For the purpose of vicarious liability under § 1981, a supervisor is a person empowered by the employer to take tangible

employment actions against the victim, *i.e.*, to effect a significant change in employment status, such as hiring, firing, failing to promote, reassignment with significantly different responsibilities, or a decision causing a significant change in benefits.” *Lamarr-Arruz v. CVS Pharmacy, Inc.*, 271 F. Supp. 3d 646, 659 (S.D.N.Y. 2017) (quoting *Vance v. Ball State Univ.*, 570 U.S. 421, 431 (2013)) (quotations omitted). To be sure, “[t]his is not a case where supervisory status is readily determinable.” *Id.* Zantua engaged in none of these activities. However, this list is merely illustrative, not exhaustive; moreover, plaintiff alleges that Zantua “ordered” her to engage in, or cease, certain conduct – and suggests that Zantua had similar power over other employees. Thus, at this early stage, particularly in light of the liberal construction applied to *pro se* pleadings, the Court must accept plaintiff’s allegation that Zantua was her supervisor for the purposes of evaluating plaintiff’s hostile work environment claims. Given that Zantua herself did not impose any “tangible employment action,” the Knipfings “may escape liability by establishing, as an affirmative defense, that (1) [they] exercised reasonable care to prevent and correct any harassing behavior and (2) that the plaintiff unreasonably failed to take advantage of the preventive or corrective opportunities that the employer provided.” *Lamarr-Arruz*, 271 F. Supp. 3d at 659 (quoting *Vance*, 570 U.S. at 424).

Defendants therefore contest whether the Knipfings should have known about this harassment, pointing out that, in her November 2 email, plaintiff stated the following: “I am writing to you this letter because I have not had the opportunity to speak or explain personally to you because of all the restrictions I have to communicate with you Mrs. Steffiana,” arguing that this makes it “clear” that this was “the first time Plaintiff put the Knipfings on notice about any issues she may have been having with Zantua.” DE 22-3 at 23-24; DE 8 at 46. Defendants conveniently omit the sentence immediately preceding this one, however, in which plaintiff states that “I am

writing to you and to Skylar as house manager, *about matters as I previously did on several occasions for different reasons* and which I will expose in this email.” DE 8 at 46 (emphasis added). Thus, if anything, the November 2 email only further establishes the conclusion noted above, *i.e.*, that plaintiff had complained to the Knipfings about Zantua’s abuse on multiple occasions prior to the email. Otherwise, defendants do not attempt to claim either that (a) the Knipfings exercise reasonable care to prevent or correct Zantua’s harassment prior to November 2, or that (b) plaintiff failed to take advantage of corrective opportunities. Indeed, the allegations in the complaint clearly lead to the opposite conclusion on both counts. Accordingly, plaintiff has pleaded plausible claims for hostile work environment under § 1981 and the NYSHRL against Zantua, the Knipfings, and the corporate defendants. However, plaintiff fails to allege either that Savitsky either engaged in any harassment or that he functioned as plaintiff’s employer; therefore, plaintiff’s retaliation claims against Savitsky are dismissed.

III. Conclusion

Based on the foregoing, it is hereby Ordered that defendants' motion is GRANTED as to plaintiff's claims under the NYCHRL, the New York Labor Law, the New York Penal Law, and plaintiff's claims for discrimination under 42 U.S.C. § 1981 and the NYSHRL; additionally, defendants' motion is GRANTED as to plaintiff's retaliation claims against Savitsky and Zantua and plaintiff's hostile work environment claims against Savitsky. Otherwise, defendants' motion is DENIED.

Dated: Central Islip, New York
September 30, 2021

/s/ Gary R. Brown
Gary R. Brown
United States District Judge

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

November 9, 2021

Honorable Judge Gary R. Brown
United States District Court
Eastern District of New York
Central Islip, NY 11722
Attn: Pro Se Office

★ NOV 09 2021 ★
LONG ISLAND OFFICE

Re: Orrego v. Knipfing, et al, 20-CV-03361-GRB-AKT

Dear Judge Gary R. Brown,

In accordance with the Rule VI Pro Se Litigants of Your Honor's Individual Rules and Federal Rules of Civil Procedure ("F.R.C.P."), the Plaintiff, Lidia M. Orrego, respectfully submit Reply to Defendants' Opposition to Motion to Withdraw Defendants' Answer to Amended Complaint ("AC") ¶ 73¹ (pages 19 & 20) and Answer to Counterclaims dated November 5, 2021, Doc [36]".

Plaintiff requests remove from the record contained in the Defendants' Answer to AC

The Defendants continue to make false statements of facts, laws and procedures in their pleadings with fraudulent misrepresentations, manipulating facts and with half-truths to mislead this Court and avoid answering the direct, documentary and testimonial evidence.

- Claim with the New York State Worker's Compensation Board ("WCB") Case G2584330, the Claimant did not lose her case, in fact, it was established on November 5, 2019 according to "Notice of Decision", Judge Barry Greenberg ruled in the Claimant's favor under New York New York Workers Compensation Law ("WCL") § 28: 'I FIND PRIMA FACIE MEDICAL EVIDENCE' based on Claimant's MRI's, supporting evidence to **Claim for Occupational Disease**. Plaintiff's lawyers committed fraud among other gross violations. See Exhibit 9 annexed AC Doc. [8], Page 4. Also, Exhibits 58-60 attached hereto pages 5-14.

The Form RB89.2 – Full Review Board for Fraud, Judicial Bias among other filed July 8, 2021 is still pending. See documentary Evidence: Exhibit 46-51 annexed the Plaintiff's Objection dated September 20, 2021, Doc [27]. Also, attached hereto Exhibits 46-49, Doc [27] pages 15-28.

Also, Plaintiff is the one who was filing the Criminal Complaint with the Queens District Attorney requesting the indictment. See Exhibit 61 attached hereto pages 29-30.

- Claim Supreme Court of the State of New York, Queens County, filed August 24, Plaintiff's

¹ Paragraphs Defendants' Answer to AC dated October 14, 2021, Doc [33], Pages 1-25.

former employers 2019-2020 offered to settle but Plaintiff refused because she prefers that a Court decide the amount for her damages. See documentary Evidence: Exhibits 52-53 annexed the Plaintiff's Objection dated September 20, 2021, Doc [27].

The Plaintiff's former employers were hiding to avoid the server process; therefore, the Plaintiff showing good faith insists that they respond instead to file the Motion to Default Judgment. See Exhibit 62 attached hereto pages 31 -33.

The same "Bad Faith" behavior from the Defendants in this Federal Action, who were blocked on September 21, 2021, Doc. [28] ordered by the Honorable A. Kathleen Tomlinson - R.I.P. a humanist, who served 15 years in this Court advocating in defense of women and children. Judge Tomlinson will always be in the hearts of the unprotected and powerless whom she has defended.

- Claim Supreme Court of the State of New York, Queens County, filed March 18, 2021, under index number 706324/2021, the order confirms the Plaintiff's legal actions has grounds (viable), the Defendants want to believe otherwise. Decision based on an absolute privilege and a document that does not exist. The case is pending with the Plaintiff's Motion Reargue and Renew. See documentary Evidence: Exhibits 54-57 annexed the Plaintiff's Objection dated September 20, 2021, Doc [27]. See, Exhibit 49 attached hereto pages 34-37.

Plaintiff's answer to a Counterclaims

Defendants try to distract with the judicial pending cases (insufficient defense, immaterial and prejudicial) to avoid talking about the other victim and bystander intervention, Ms. Rebeca Uzcategui, Plaintiff's former co-worker, because they cannot explain how two people who suffered the same abuse, discrimination and made the same complaint, among others, were treated unequal: a) Plaintiff was terminated, harassed, suffer all the kind of retaliations and defamations as "Slander" or "delusional", however, b) Ms. Uzcategui, continues working for the Knipfings. Plaintiff looking forward to facts and evidence that somehow support this gross inconsistency.

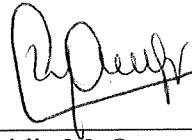
The Defendants are wrong to point out about what Plaintiff "believe" can prove, because at this stage only the EVIDENCE matters and so far, the Defendants NO have any evidence other than tampering documentation / witnesses and fraudulent misrepresentations.

CONCLUSION

WHEREFORE, the Plaintiff respectfully request that her Letter Motion be GRANTED to remove from the record the judicial pending cases because are insufficient defense, immaterial and prejudicial according with the F.R.C.P. 12(f).

Respectfully submitted,

Date: November 9, 2021
Rego Park, New York



Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd Apart 3E
Rego Park, NY, 11374

To: Mr. Kuuku Minahh-Donkoh, Esq., Mr. Alex D. Dumas, Esq., Mr. Edward E. Warnke, Esq.
Via ECF and email.



**Workers'
Compensation
Board**

STATE OF NEW YORK
WORKERS' COMPENSATION BOARD
PO BOX 5205
BINGHAMTON, NY 13902-5205
www.wcb.ny.gov
(877) 632-4996

EXHIBIT 9 AC

State of New York - Workers' Compensation Board
In regard to Lidia M Orrego, WCB Case #G258 4330

NOTICE OF DECISION

keep for your records

At the Workers' Compensation hearing held on 10/31/2019 involving the claim of Lidia M Orrego at the Queens hearing location, Judge Barry Greenberg made the following decision, findings and directions:

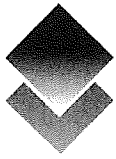
DECISION: Claimant did not appear at the hearing, or was otherwise not prepared to proceed.

Form(s) C-8.1 which raised issues relating to treatment and/or disputed medical bills are resolved in favor of the carrier without prejudice to establishment of the claim. Place on notice- Cannon Cochrane Management services inc po box 1127 Neptune NJ 07754 as third party administrator (T#)100134. I find prima facie medical evidence for the neck back right wrist both knees and major depressive disorder. Claimant is alleging an occupational disease claim, not an accident claim. Claimant to produce C-3 reflecting current claim. The claimant was present, but was not prepared to prosecute the claim. No further action is planned by the Board at this time.

Claimant -	Lidia M Orrego	Employer -	Kevin & Stephanieanna
Social Security No. -		Carrier -	New York Marine & General
WCB Case No. -	G258 4330	Carrier ID No. -	W156665
Date of Accident -	10/23/2018	Carrier Case No. -	18P05J084317
District Office -	NYC	Date of Filing of this Decision -	11/05/2019

ATENCION:

Puede llamar a la oficina de la Junta de Compensacion Obrera, en su area correspondiente, cuyo numero de telefono aparece al principio de la pagina y pida informacion acerca de su reclamacion(caso).



Pasternack Tilker Ziegler
Walsh Stanton & Romano LLP
Attorneys At Law

25 Newbridge Road
Suite 203
Hicksville, NY 11801

P: 800.692.3717
P: 516.742.3636
F: 516.742.3994

www.workerslaw.com

Author's Direct:

June 17, 2021

Exhibit 58

MS. LIDIA ORREGO
95-08 QUEENS BLVD., APT. 3E
REGO PARK, NY 11374

W.C.B. # : G2584330
Claimant : ORREGO, LIDIA
Employer : KEVIN & STEPHANIEANNA KNIPFING
Carrier : CCMSI
Claim # : 18P05J084317
D/A : 10/23/2018
Our Case # : 103292-001QD

Dear Ms. Orrego:

Our office is in receipt of an adverse Board Panel decision regarding your Workers Compensation claim. Since the Board Panel has ruled against your position, the next step in the appeals process is taking an appeal to the New York State Supreme Court Appellate Division, Third Department. The Appellate Division will only reverse the Board Panel if the Board's decision contains clear errors of law or fact.

Our office has reviewed the Board Panel decision and has determined that the Board Panel made no clear errors of fact or law. Therefore, although we disagree with the Board's decision, we will not file a Notice of Appeal to the Appellate Division on your behalf. This letter is to advise that our office will take no steps in furtherance of any appeal to the Appellate Division.

Please be advised that you do have the right to pursue an appeal to the Appellate Division. If you wish to do so, we advise that you **immediately** contact an attorney who specializes in such appeals. Please note that appeals to the appellate division are time sensitive. You have **thirty (30) days** from the filing date of the Boards' decision to file a Notice of Appeal with the Appellate Division. If you do not file such notice in a timely manner, your right to appeal may be denied.

Our office will, of course, continue to represent you in any further proceedings at the Workers Compensation Board level. If you have any questions regarding this letter, please contact our office.

Very truly yours,

PASTERNAK TILKER ZIEGLER
WALSH STANTON & ROMANO LLP

Andrew Ziemjanski

/mv2

6/22/2021

Gmail - Re: Request for WC File - Lidia Orrego WCB #G2584330



Exhibit 59

Lidia Orrego <liorrego@gmail.com>

Re: Request for WC File - Lidia Orrego WCB #G2584330

1 message

Lidia Orrego <liorrego@gmail.com>

Tue, Jun 22, 2021 at 4:46 PM

To: Matt Funk <mfunk@workerslaw.com>

Cc: vpasternack@workerslaw.com, eromano@workerslaw.com, cstanton@workerslaw.com, kwalsh@workerslaw.com, jziegler@workerslaw.com, Andrew Ziemianski <aziemianski@workerslaw.com>, Matt Funk <mfunk@workerslaw.com>, Mariana Vizuite <mvizuite@workerslaw.com>, Corina Jimenez <cjimenez@workerslaw.com>, egonzalez@workerslaw.com, Westchester Medical <westmedc4@gmail.com>, ptcommunication@behavemed.com, chiropracticapproach@yahoo.com, Lidia Orrego <liorrego@gmail.com>, Clientes Grupo MedLegal <clientes@grupomedlegal.com>, jasmine@seldesmd.com, irenec@pmbcllc.com, yiluan2015@gmail.com

Good afternoon Mr. Funk, the next time you contact me please respect my rights as a client according to the “Statement of Client’s Rights Section 1210.1 of the Joint Rules of the Appellate Division amended June 1, 2018 (22 NYCRR §1210.1)” See attached. It is the least I deserve.

I inform that the telephone conference for Thursday at 2pm with Mr. Funk is canceled and I demand from Pasternack et al a letter with the proof that 45 NOTES and Exhibits were filed in my WCB #G2584330 with the **ID and Date or any electronic proof (list from eCASE – WCB)** for tomorrow and from now on I only want communication in writing and in English to **prove otherwise what I detail below** because you are still my lawyers. DO NOT bother to call.

I copy the Medlegal Group who referred me to you with guarantee on the service and to all my doctors who have been financially harmed by this WCB Panel decision.

Please read this letter carefully and I require a written answer statement by tomorrow paragraph by paragraph (total 22) in English.

According to the review of the 1350-page that Pasternack et al emailed me TODAY in 3 parts, none of my strong evidence was presented. NO wonder why the case came against me, did you not present the evidence that supports my injuries.

1) Again, I request “List’s Evidence” filed for both parties with: ID number, Date, Party. According to my rights, you have the obligation to give me a copy of the evidence that was entered in the Court.

2) Below I detail the evidence that are not filed in my Worker Compensation case, but this list can be increase after I corroborate and have the proof of delivery via email which I have received with a copy as a security measure:

3) Material proof about the Perjury: Steve Savitsky, Teresa A. Zantua and Skylar Testa (Incomplete missing 90% pages only this document with text evidence in total 138 pages) Where is the material evidence that the witnesses lied? This confirms why YOU did not call these witnesses again to cross-examine the material evidence of Perjury.

4) IME Doctor Perjury and transcriptions

5) Teresa A. Zantua transcription

6) Cristina Selga transcription

7) Kevin Knipfing, Cristina Selga and Mr. Mike transcription

8) Transcription of the investigators

9) Copy Federal Case EDNY 20CV3361 (GRB) (AKT)

10) Where are the notes of evidence from the emails to my former attorney that includes my WORKER Compensation injuries prior to filing the charges at EEOC dated January 2019? Where is the email that communicates to him about my injuries in January 2019?

11) Now I understand why the Judge and the Panel decided that my story was not credible, Pasternack et al did not present any single evidence.

12) I am making a list and copy of the emails specifying content and date where I send this evidence and more evidence that are not in the copy of my file. I need proof that all of that entered the Court. I applied for a complete review. I can count a few Exhibits and my records show I sent to you 45 Exhibits. An example, the file that I attach dated January 08, 2021, shows the perjury of the IME doctor, this is not part of the file.

13) Another surprise, today 06/22/2021 I discovered for example this note from Dr. Morgovsky. Why was I never notified that Dr Morgovsky lied in his letter? as of July 8, 2020? He had to send the copy of the medical records and if he treated my injuries. Today after one year I found out about this.

14) Because I have physical proof that he is lying, he treated me from December 2018 to September 2019 for my injuries. There are prescriptions for medications

6/22/2021

Gmail - Re: Request for WC File - Lidia Orrego WCB #G2584330

and physical therapy. Where is the document where you ask the Dr. for an explanation about this treatment?

93-40 Queens Blvd, Rego Park, NY 11374 Tel: (718)730-9210 Fax: (718)730-9329

Exhibit 7
STAR MEDICAL OFFICES, P.C.

100-0000000000000000
100-0000000000000000
100-0000000000000000
100-0000000000000000

MEDICAL LEAVE RETURN TO WORK/SCHOOL FORM

To Whom It May Concern:

I am writing in regards to subpoena for medical records relating to the treatment of patient Orrego Lidia, to inform you, that I have never treated her for any problems related to workers compensation, because I do not work with with that particular insurance, hence, I do not have any records relating to the matter.

Sincerely,

V. Lorigovsky M.D.

STAR MEDICAL OFFICES, P.C.
100-0000000000000000
100-0000000000000000
100-0000000000000000
100-0000000000000000

15) Where is the evidence presented by the insurance attorneys? I also need a copy with the ID and Date number.

16) I do not see any single "PLEADING" that any of the attorneys have filed explaining all the evidence, but neither is this my NOTES nor the 45 Evidence "expressly" I instructed that it be delivered to Judge Greenberg. Here I see 1350 pages that do not say anything, the lawyer must speak and explain the evidence.

17) After receiving this letter with the information, I will answer you with the next step about the next step and about the letter dated June 17, 2021, issued by Mr. Andrew Ziemiansky and received today, confirming that Pasternack et al are still my lawyers.

18) Pasternack et al "It was YOUR job that my case be judged according to the evidence that you did not present in accordance with the laws and the facts" that was their obligation and now they abandon me and want me to go to the Court of Appeals without evidence in the original file. How do you think I'm going to win an appeal there?

6/22/2021

Gmail - Re: Request for WC File - Lidia Orrego WCB #G2584330

Dear Ms. Orrego:

Our office is in receipt of an adverse Board Panel decision regarding your Workers Compensation claim. Since the Board Panel has ruled against your position, the next step in the appeals process is taking an appeal to the New York State Supreme Court Appellate Division, Third Department. The Appellate Division will only reverse the Board Panel if the Board's decision contains clear errors of law or fact.

Our office has reviewed the Board Panel decision and has determined that the Board Panel made no clear errors of fact or law. Therefore, although we disagree with the Board's decision, we will not file a Notice of Appeal to the Appellate Division on your behalf. This letter is to advise that our office will take no steps in furtherance of any appeal to the Appellate Division.

Please be advised that you do have the right to pursue an appeal to the Appellate Division. If you wish to do so, we advise that you **immediately** contact an attorney who specializes in such appeals. Please note that appeals to the appellate division are time sensitive. You have **thirty (30) days** from the filing date of the Boards' decision to file a Notice of Appeal with the Appellate Division. If you do not file such notice in a timely manner, your right to appeal may be denied.

Our office will, of course, continue to represent you in any further proceedings at the Workers Compensation Board level. If you have any questions regarding this letter, please contact our office.

Very truly yours,

PASTERNAK TILKER ZIEGLER
WALSH STANTON & ROMANO LLP

19) This case was perfectly covered by WC as you confirm in your letter. Since it had to abide by the law and evidence required by WCB not evidence such as the resume or the witness Steve Savitsky who declared "gossip or hearsay" that is not admitted in any US court since he lives in California and I worked in New York, how can he attest that I did not acquire an occupational disease or severe depression, anxiety, PTSD, etc. that I suffer until today.

20) Now I also understand why Mr. Ziemiansky sent me the email telling me that "I could NOT present the Evidence of the transcription of my co-worker Rebeca Uzcategui" because that would give me the opportunity to win the case and it was the only Pleading that he wrote Mr. Ziemiansky but without any supporting evidence and this evidence along (with the other 44 exhibits) totally **destroyed** the case of my former employers and the Insurer and I would find out that Pasternack et al **were not presenting all the evidence.** So, the Panel also had a free field to "copy / page" Mr. Neuman's Pleading and that evidence would prevent it from doing that. NOW EVERYTHING MAKES SENSE.

21) Pasternack Tilker Ziegler Walsh Stanton & Romano L.L.P. calculated everything very well and made sure the Judge Greenberg NO had any evidence to RULING IN MY FAVOR. There is NO perfect crime.

22) If I do not respond in time **"Board Panel Review dated: June 14, 2021"** to the Appellate Division and lose my case, Pasternack will be responsible for all financial losses, my loss of medical treatment and other damages that correspond to me by law. This can only be done by making a new trial or "REHEARING AND REOPENING" in the Work Compensation Board and entering all the

6/22/2021

Gmail - Re: Request for WC File - Lidia Orrego WCB #G2584330

evidence as appropriate from the beginning, because without ALL this evidence an Appeal has no grounds.

The difference between Pasternack et al and me is that I know my case perfectly and now I also understand about the laws and procedures since I took a course with Legal Aid Society.

Pasternack et al keep surprising me to what extent you think I am Stupid. YOU made me lose 2 years and you also want to make me lose an Appeal with which I have no basis to win because the evidence was not presented. This is outrageous.

Lidia Orrego
Claimant WCB Case G#2584330

As per your request below is the information requested. The depositions were submitted to the Board folder by either the carrier or deposition company.

Deposition of Doctor	ID #	Received date
Rosner	351572270	1/28/21
Delman	351405768	1/25/21
Sesin	351403673	1/25/21
Seldes	351243590	1/21/21
Hochfelder	351098253	1/18/21

From: Lidia Orrego [mailto:liorrego@gmail.com]
Sent: Tuesday, June 22, 2021 11:34 AM
To: Javon Meadows <jmeadows@workerslaw.com>

6/22/2021

Gmail - Re: Request for WC File - Lidia Orrego WCB #G2584330

Cc: Corina Jimenez <CJimenez@workerslaw.com>; Matt Funk <mfunk@workerslaw.com>

Subject: Re: Request for WC File

CAUTION: This e-mail originates from outside the organization.

Good morning,

Mr. Meadows, received. Thank you.

Corina, Invoking "Statement of Client's Rights

Section 1210.1 of the Joint Rules of the Appellate Division amended June 1, 2018 (22 NYCRR §1210.1) "

I requested the list of the evidence including depositions as follows:

- 1- Name
- 2- ID Number
- 3- Submission Date
- 4- Lawyer who Filed (For example Pasternack or Cipriani)

For tomorrow.

Best regards,

Lidia Orrego

On Tue, Jun 22, 2021 at 11:14 AM Javon Meadows <jmeadows@workerslaw.com> wrote:

Good Morning Ms. Orrego,

I was advised to compile your worker's compensation file and send it to you via email. There are three separate attachments that will be sent through three emails due to the attachment size. I have attached the first part of these records to this email.

6/22/2021

Gmail - Re: Request for WC File - Lidia Orrego WCB #G2584330

Javon Meadows

Scan Clerk/Custodian of Records

Pasternack Tilker Ziegler Walsh

Stanton & Romano, LLP

180 Livingston Street, 2nd FL

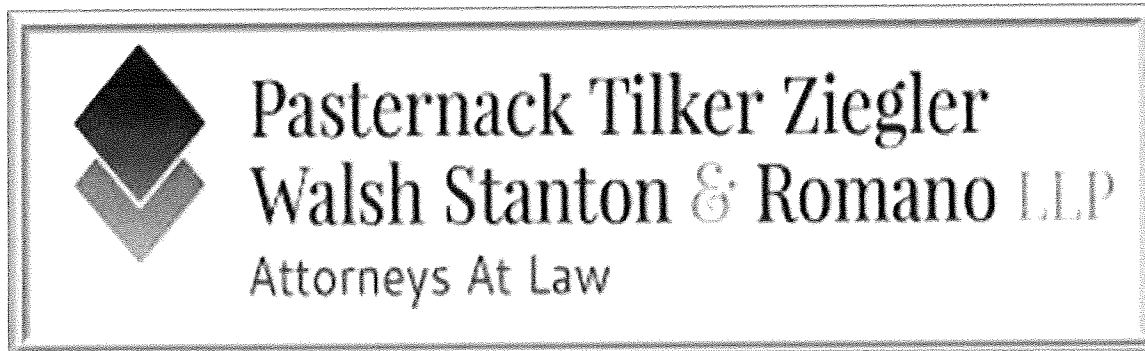
Brooklyn, NY 11201

Phone No. (347) 222-3119

Email: jmeadows@workerslaw.com

Website: www.workerslaw.com

Follow us on:    



--

Lidia Orrego

4 attachments

 **StatementClientsRights-22NYCRR1210-1 (2).pdf**
52K

 **01-08-2021 Claimant_ Lidia Orrego _ WCB case # G2584330.pdf**
53K

 **01-08-2021 Gmail - URGENT Evidence IME Transcription - Perjury - Claimant_ Lidia Orrego _ WCB case # G2584330_.pdf**
113K

 **01-08-2020 Amendment Note dated October 19, 2020.pdf**
16362K

2 Pgs Received, 2 Pgs Transmitted

CLAIMANT REQUEST PROOF OF SERVICE

ECASE ID 359184649 DATED 07-06-2021

Workers'
Compensation
Board**ATTORNEY/LICENSED REPRESENTATIVE REQUEST TO WITHDRAW FROM REPRESENTATION**

PO Box 5205, Binghamton, NY 13902-5205

Web Upload link: <https://wcbdoc.services.conduent.com/>

Pursuant to 12 NYCRR § 300.17, this form must be submitted whenever an attorney or licensed representative seeks to withdraw his or her representation of a claimant before the Board or a Workers' Compensation Law Judge in any claim or claims.

Send this form to the claimant and secure the claimant's signature in Part I. Complete Part II and check the appropriate box in Part II, Section C.

WCB Case #(s) G2584330	Claimant's Name (Last, First, MI) LIDIA ORREGO	Exhibit 60

Part I

I am the claimant in this matter/these matters. I agree to allow my attorney/licensed representative to withdraw from representing me in the above listed case(s).

Claimant Name (Last, First, MI)

Signature of Claimant

Part II

A. I, MATTHEW FUNK, hereby request to withdraw from representation of the above named claimant in the cases listed above. My request to withdraw meets the standards set forth in 12 NYCRR § 300.17, and the Rules of Professional Conduct for attorneys (22 NYCRR 1200.16 Rule 1.16) or the Rules of Conduct for licensed representatives (12 NYCRR 302-2) and is based on the following reason(s):

DISSOLUTION OF THE ATTORNEY CLIENT RELATIONSHIP TO THE POINT THAT **The Claimant never received any communication, written or verbal, from its lawyers after the letter dated June 24, 2021 where they admitted not having presented all the evidence signed by Matthew Funk.**

MY OFFICE CANNOT CONTINUE REPRESENTATION

Legal malpractice

B. Check all applicable boxes:

1. Check ONE of the following:

- ☒ There is no application for review pending before the Board or the Full Board or an appeal to the Appellate Division;
- ☐ There is an appeal pending before _____, and a response is due _____

2. Check ONE of the following:

- ☒ A hearing is not scheduled in this matter and I have not been notified of any other deadline that requires a response;
- ☐ A hearing is set for the date of: _____

3. ☐ A deadline for a response to _____ has been set for the date _____4. ☒ The claimant has not been classified (see Subject Number 046-548, May 28, 2013).5. ☐ The following cases(s) have been settled via Section 32 waiver agreement (list all claims settled via Section 32): _____**C. Check ONE of the following:**

- ☐ The claimant agreed to allow me to withdraw from representation as indicated in Part I above.

- ☒ I attempted in good faith to secure the claimant's signature in Part I above. **PERJURY LAST LETTER JUNE 24, 2021**

D. I certify that the above is true and correct to the best of my knowledge. I have today served a copy of this request on all parties, their representatives, and unrepresented parties in this claim, including the claimant.

Signature of Attorney/Licensed Representative

7/6/21

Date Submitted

180 LIVINGSTON STREET 2ND FLOOR BROOKLYN NY 11201

Address of Attorney/Licensed Representative

347-952-4228

R- 239005

Attorney/Licensed Representative Phone Number

Attorney/Licensed Representative's Identification Number (if any)

Whenever an attorney or licensed representative is notified that the claimant has terminated his or her retainer (12 NYCRR 300.17[g]), or the attorney or licensed representative has withdrawn from representation of the claimant (12 NYCRR 300.17[b][2][iii]), a final attorney's fee application shall be promptly submitted to the Board. The attorney or licensed representative shall file an OC-400.1 with the Board within 30 days of notice that their retainer has been terminated, or their withdrawal from representation, and serve a copy upon the claimant.

PERJURY

OC-400.17 (8-20)

www.wcb.ny.gov • THIS AGENCY EMPLOYS AND SERVES PEOPLE WITH DISABILITIES WITHOUT DISCRIMINATION.



Received by WCB@PAS.com at 2021-07-08 09:22:04

2 Pgs Received, 2 Pgs Transmitted

From: Matt Funk <mfunk@workerslaw.com>
Sent: Thursday, July 08, 2021 09:20:46 AM
To: wcb.dl.WCBClaimsFiling <wcbclaimsfilings@wcb.ny.gov>
CC: Matt Funk <mfunk@workerslaw.com>
Subject: G2584330

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Received by WCB@PAS.com at 2021-07-08 09:22:04



Pasternack Tilker Ziegler
Walsh Stanton & Romano LLP
Attorneys At Law

EXHIBIT 46

June 24, 2021

Doc. [27]

MS. LIDIA ORREGO
95-08 QUEENS BLVD., APT. 3E
REGO PARK, NY 11374

W.C.B. #: G2584330
Claimant: ORREGO, LIDIA
Employer: KEVIN & STEPHANIE ANNA KNIPFING
Carrier: CCMSI
Claim #: 18P05J084317
D/A: 10/23/2018
Our Case #: 103292-001QD

Dear Ms. Orrego:

This letter is in response to the emails sent by you dated June 22, 2021, June 23, 2021, and June 24, 2021. I have reviewed each and every question raised in your emails and reply below.

As you know, our firm provided a substantial amount of legal services to protect your interests, but the Workers' Compensation Board Law Judge ruled against your claim based on credibility issues. Moreover, we did appeal the Law Judge's Decision because we believed in your case, but we were likewise unsuccessful before the Workers' Compensation Board Panel which issued the June 16, 2021 Decision affirming the Law Judge's denial of the claim, which was provided to you.

On September 5, 2019, you retained the law offices of Pasternack, Tilker, Ziegler, Walsh, Stanton & Romano LLP, to represent you in a Workers' Compensation claim for injuries sustained in the course of your employment. As required by the Workers' Compensation Board, you signed the OC-400 Retainer on September 5, 2019 for representation before the Workers' Compensation Board. The retainer agreement that you signed is the standard retainer for Workers' Compensation case and limits our representation to actions for the Workers'

Offices located in:

MANHATTAN • BROOKLYN • BRONX • QUEENS • NASSAU • SUFFOLK • WESTCHESTER • ROCKLAND • ORANGE
Mailing Address: 180 Livingston Street, 2nd Floor, Brooklyn, NY 11201 • 800.692.3717 • www.workerslaw.com

Compensation Board. This means that the retainer did not include legal representation for appeals to the Appellate Division Third Department, or to the New York State Court of Appeals. Our retainer was limited in scope to legal representation before the Workers' Compensation Board and appeals before the Workers Compensation Board only but did not extend to legal representation for appeals to the Appellate Division Third Department, or to the New York State Court of Appeals. On September 5, 2019 you reviewed and signed a document which explains this limitation and thereby acknowledged that the scope of our representation was limited to proceeding at the Workers' Compensation Board only and did not extend to legal representation for appeals to the Appellate Division Third Department, or to the New York Court of Appeals.

Fraudulent misrepresentation on the procedure the RB89.2 Form that they did not file is the Appeal.

Moreover, the retainer agreement provides that legal fees are paid on a contingency basis and that the firm is only paid once successful on appeal, and you are not personally liable to pay our fees unless we are successful. Under Section 24 of the Workers' Compensation Law § 300.17 "*Notices of retainer, appearance, substitution and withdrawal, and fees of claimant's attorney or licensed representative.*" a counsel fee can only be awarded by the Workers' Compensation Board if a monetary award is made to an injured worker. The procedures are set forth in the Workers Compensation Board Rules, at A copy of § 300.17 is attached to the retainer and was provided to you when we sent it to you for your signature.

Your emails request billing information relating to counsel fees, and even though the Law Judge denied your claim so there is no attorney fee payable, we are providing a draft listing of work and legal services provided by our firm for your review.

I note that your email correspondence provides a Case Details Report that you obtained from the Workers Compensation e case-Claims Information System with information that corroborates the substantial amount of the work our firm did for two and half years. However, that Case Details Report does not provide all of the calls, emails and other work done in preparation and support of your claim. Indeed, you are correct when you say no law firm takes on a case to lose at the end. Our firm believed in your case. We did everything we could do and were obligated as any reasonably prudent attorney would do under the circumstances to do to

support your claims and to protect your legal interests. We also kept you apprised of all material issues throughout the representation as the legal procedures, strategies and court tactics that we undertook on your behalf. You also participated in and attended all of the hearing appearances before the Workers Compensation Board.

While our draft bill details the work and legal services provided on your behalf we have also outlined below, the various stages of your claim, our law firm appeared, including the multiple hearings at the Workers' Compensation Board to put forth your claim that you sustained an occupational disease due to the repetitive nature of your employment as a nanny for Kevin and Stephanie Anna Knipfing. We appeared at six hearings presenting, *inter alia* opening statements, testimony, documentary evidence, cross examination of the defense witnesses and summation; was also appealed before the Workers Compensation Board Panel.

At the hearing held on January 9, 2020, the Law Judge found that there was sufficient evidence to proceed with litigation of your claim. Thereafter, a trial date was set for March 19, 2020. ➔ **They never filed the medical records obtained in September 2019.**

An evidentiary hearing was held before the Law Judge on March 19, 2020, you provided detailed testimony as to the nature of your occupation and the daily repetitive tasks you engaged in during the course of your employment as nanny for Kevin and Stephanie Anna Knipfing. During that testimony, you described the medical treatment sought and the statements made to your supervisor about the injuries you sustained. We also presented documentary evidence in support of your claims. ➔ **Filed only a few sheets.**

A second evidentiary hearing was held on June 23, 2020 before the Law Judge. I understand that you were present for the hearing. Testimony was taken of the employer witnesses. We subjected these witnesses to cross-examination to bring forth to the Judge factual information that supported your claim. ➔ **They never confronted the witnesses with the material evidence because they did not file ALL the evidence, just a few sheets.**

A third evidentiary hearing was held on October 28, 2020 before the Law Judge, I understand that you were present for the hearing. The Law Judge directed that the parties secure depositions of various medical witnesses.

These depositions were timely and diligently conducted and finished by January 2021. During these depositions, my office secured testimony from your treating doctor's that supported your claim for an occupational disease. Cross-examination of the insurance carrier consultants was focused on challenging their opinions that contradicted your claim. The transcripts of the depositions were submitted to the Workers' Compensation case folder for the Law Judge to review prior to the issuance of his decision.

At the final hearing held before the Law Judge on March 5, 2021, my office presented summations to the Law Judge. During summation, the attorney from my office requested that the Law Judge establish the claim for repetitive injuries sustained in the course of your employment. The details of your job duties were conveyed to the Law Judge. It was also conveyed to the Law Judge that there were various text messages between yourself and members of the employer's staff that verified your claim. A summary of the medical testimony was presented and argued to validate the causality of your claims. We argued that based on the facts, the evidence presented and the law you should be awarded Workers Compensation Benefits because you sustained an injury in the course of your employment. However, at the conclusion of the testimony the Law Judge ruled that he did not find your testimony credible and disallowed the claim.

Nonetheless, as we believed in the merits of your case, an appeal was filed on your behalf to the Workers' Compensation Board Panel on April 9, 2021. In that appeal we continued to argue on your behalf for the Board Panel to rescind the Law Judge's decision and find that you sustained an injury in the course of your employment.

We also note that in your various emails, you bring up multiple pieces of evidence that you deemed necessary to your claim. During the course of my office's representation of you at the Workers' Compensation Board, an attorney reviewed each and every piece of evidence you submitted. As set forth above but bears repeating, we kept you apprised of all material issues throughout the representation as the legal procedures, strategies and court tactics that we undertook on your behalf. You also participated in and attended all of the hearing appearances before the Workers Compensation Board. However, the attorney's decisions as to the evidence should be submitted to support your claim was bases on legal procedures and strategy and

thereby decided to present relevant evidence, he deemed necessary to establish and support your claim. To put it another way, much of the evidence you cite was insufficient to support your claim.

← **They decided not to present medical records, they did not call a cross-examination to confirm the Carrier Witness' Perjury, etc. There is confirmation via email and recordings where they confirm having submitted ALL the evidence.**

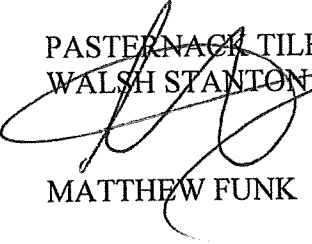
Unfortunately, on June 16, 2021 the Workers' Compensation Board Panel issued a Decision affirming the Law Judge's denial of the claim. After a review of the Decision and the testimony, we sent a letter on June 17, 2021 that this office would not take an appeal to the Appellate Division Third Department of the decision filed on June 16, 2021. This decision not to file an appeal to the Appellate Division Third Department was based upon our judgement. In addition, as set forth above our retainer limited the scope of our obligations to you in this matter. Although our letter advised you of your rights to appeal to the Appellate Division Third Department and advised you of the time frames to file such an appeal, and it appears that you may have consulted with new counsel in this regard, any attorney that you may have consulted would know, but may not have made it clear to you that the thirty day time frame is to file a Notice of Appeal and that the Third Department has other guidelines as to perfecting the appeal by filing briefs etc. If you have retained counsel, please have your new counsel contact us so that we can provide the file for their review. If you have not done so we recommend that you promptly contact the New York City Bar Association's Lawyer Referral Service to obtain the names of attorneys who concentrate in the area of appellate practice. They can be reached at call 917-960-7531 or <https://www.nycbar.org/get-legal-help/>.

As you can see, our Firm did a substantial amount of work. We also diligently provided hundreds of hours of legal services to protect your legal interests because we believed in your case. While it is unfortunate that we were not successful in achieving your goals, and we were likewise disappointed in the result, we cannot and did not guarantee a result in your matter. Nor can we do so in any Workers Compensation representation. Last, as set forth above, we do not receive a fee because our fee is only awarded by the Court after the Court awards you Worker Compensation benefits. Thus, we note that your claims to the effect that we had some motive to engage or did engage in actions which negatively affected the outcome, are untrue not only because lawyers are officers of the court but also it was against our own financial interests to do so.

Simply stated, the work and legal services we did on your behalf was based on the circumstances of your case as any reasonably prudent attorneys and ethically responsible attorneys would provide based on the facts, the evidence and the law.

If you have any questions or would like to discuss this in greater detail, please contact me at (347) 952-4228.

Very truly yours,


PASTERNAK TILKER ZIEGLER
WALSH STANTON & ROMANO LLP

MATTHEW FUNK

/



Workers'
Compensation
Board

APPLICATION FOR RECONSIDERATION / FULL BOARD REVIEW

PO Box 5205
Binghamton, NY 13902-5205

www.wcb.ny.gov

1. WCB Case Number(s)	2. Carrier Case Number(s)	3. Carrier Code	4. Carrier's Name	5. Date of Injury/Leave
G-2584330	18P05J084317		CCMSI	10/23/2018
6. Claimant's Name			7. Claimant's Address	
Lidia M. Orrego			95-08 Queens Blvd. Apt. 3E Rego Park, NY 11374	

8. This Application is made on behalf of: Lidia M. Orrego

9. This Application for Reconsideration/Full Board Review under WCL Sections 32 and 142(2) is:

☒ Mandatory (there was a dissent other than the sole basis of which is referral to an impartial specialist)
☐ Discretionary

10. Filing date of the Memorandum of Board Panel Decision (mm/dd/yyyy): June 16, 2021

11. The remedy sought is:

☐ Administrative Correction of the Memorandum of Decision
☒ Reversal of the Memorandum of Decision
☐ Modification of the Memorandum of Decision
☐ Rescission of the Memorandum of Decision

12. The case is presently (check one): ☒ Disallowed ☐ Established

13. State the specific issue(s) for review.
 Judge Barry Greenberg, Commissioners Steven A. Crain, Freida Foster and Mark R. Stasko have ignored the legal basis for Claimant's benefits and treatment of her injuries/illness, physical and emotional. Violation N.Y. Worker's Compens. Claim Handling Guidelines and NYS Statute of Limitations in an Occupational Disease (2 years from knowledge). IGNORE "Medical Evidence". Judge Barry Greenberg violated Claimant's CIVIL RIGHTS to a fair trial all of this is RECORDED at each of the Hearings without Interpreter and Violation Due Process of Law with Claimants' lawyer complicity. Grievance Committee, NYS Div. of HR, NY Attorney General, NYS Commission on Jud. Conduct.

14. Basis of Appeal. This application for review is based on the following grounds (additional sheets may be attached, up to a maximum of 8 pages):
 A legal or factual mistake was made. The involved insurance company, judge, Commissioners, claimant's lawyers committed fraud, employers, witnesses' perjury. New York WCL § 28.
 ALL the evidence about Claimant INJURIES or Treatment, Medical Records was hidden legal malpractice from Pasternack et al.
 Attached hereto 8 Pages and Evidence that the Claimant's "lawyers" hid, "Legal Argument" "Table of authorities". The Claimant sent all the evidence in more than 50 emails medical records, facts, recordings, transcriptions, documents challenging the witnesses' statements, Ime doctor transcription who committed perjury in his report now under investigation NYS. The decision was in "NON-Medical" basis under New York WCL § 28 is inadmissible.

15. Hearing Dates, Transcripts, Documents, Exhibits, and other Evidence. (see instructions for details):
 Hearing recordings: 10/31/2019 at 3:30PM -01/09/2020 at 9:30PM -03/19/2020 at 2:30PM-06/23/2020 at 2:00PM-10/28/2020 at 10:30AM-01/28/2021 at 2:30PM-03/05/2021 at 11:00AM.
 Medical Evidence: ID # 4000321029, ID # 4000321045, #ID 4000321041, ID # 4000321040, ID # 4000321032, ID # 342891480 (PTSD); Claimant's Doctor and WCB Providers Deposition ID# 351405768; 351403673; 351243590. Basis Decision : NON-medical evidence: witness' "HEARSAY" who lives in California NOT in New York, witnesses' perjury Teresa A. Zantua and Skylar Testa, as well as IME doctor's perjury who was recorded and reported to the NYS Department of Health. See ID# 4000321050; ID# 4000321048; ID# 4000321030; ID # 4000321056. IME Deposition ID# 351098253.
 Evidence Inadmissible Violation Due Process of Law Hearing March 5, 2021 Evidence: ID # 4000320229, ID# 3377338970, ID# 4000402337, ID #4000437536.
 Attached to this form is Medical Evidence - Factual that Pasternack et al hid from September 2019 to July 2021. " Documentary Evidence 381-Page"

16. Has or will an appeal of the Memorandum of Decision be taken to the Appellate Division of the Supreme Court, Third Department?
☒ Yes ☐ No

17. Will you be requesting an increase in attorney's fees?: ☐ Yes ☒ No If "Yes," Form OC-400.1 must be attached and served on the parties.

EXHIBIT 47

Doc.[27]



18. Certification: By signing this document in the space provided below, I certify that this Application has a good faith basis in law and fact, has been instituted with reasonable grounds, and has been served upon all necessary parties of interest using the method of service, including the actual address, email address or fax number where service was transmitted listed in the Affirmation or Affidavit of service below. I understand that the Workers' Compensation Law provides for substantial penalties for instituting or continuing proceedings without reasonable grounds and/or for the purpose of delay. I understand that if this Application is withdrawn for any reason or if any of the issues raised are resolved by the parties, I must immediately notify the Board and the necessary parties of interest served in writing.

Preparer's Signature: _____ Date Prepared (mm/dd/yyyy): 07/08/2021

Print Name: Lidia M. Orrego

Official Title: Claimant - Unrepresented Daytime Phone #: 347-4532234

Address: 95-08 Queens Blvd. Apart 3E, Rego Park, NY 11374 Email address: liorrego@gmail.com

PROOF OF SERVICE

SECTION 1

AFFIRMATION

STATE OF NEW YORK, COUNTY OF _____ ss: I, _____, am an attorney duly admitted to practice law in the courts of the State of New York. I hereby affirm under penalty of perjury that I have complied with the filing and service requirements as set forth in 12 NYCRR 300.13(b)(2)(iv) and (3) for this Application for Reconsideration/Full Board Review in the manner described in Section 2 below.

I certify that service of this Application for Reconsideration/Full Board Review, as set forth below, was completed within 30 calendar days from the filing of the decision that is the subject of this Application.

Date (mm/dd/yyyy): _____ Signature: _____

Print Name: _____

AFFIDAVIT

STATE OF NEW YORK, COUNTY OF _____ ss: I, _____, being duly sworn, deposes and says: I am not a party of interest to the claim(s) listed on the Application for Reconsideration/Full Board Review and am over 18 years of age. I hereby certify that I have complied with the filing and service requirements as set forth in 12 NYCRR 300.13(b)(2)(iv) and (3) for this Application for Reconsideration/Full Board Review in the manner described in Section 2 below.

I certify that the service of this Application for Reconsideration/Full Board Review, as set forth below, was completed within 30 calendar days from the filing of the decision that is the subject of this Application.

Sworn to before me this _____ Day of _____

Signature: _____

Print Name: _____

Notary Public

SECTION 2

A. I filed the Application for Reconsideration/Full Board Review with the Board on (date - mm/dd/yyyy) 07/08/2021 by (pick one method):

- ☐ Mail to PO Box 5205, Binghamton, NY 13902
☐ Fax to 1-877-533-0337
☒ Email at wcbclaimsfilings@wcb.ny.gov
☐ WCB Web Upload link (https://wcbdoc.services.conduent.com)
☐ **Worker' Compensation Discrimination Claim:** Mail to Discrimination Unit, Riverview Center - 150 Broadway, Menands, NY 12204
☐ **Disability Benefits:** Mail to Disability Benefits Bureau, PO Box 9029, Endicott, NY 13761-9029

B. I served the Application for Board Review on (date - mm/dd/yyyy) 07/08/2021 upon (attach additional sheets if necessary):

Name: Kevin & Stephanieanna Knipfing by (method): Mail at (address): 2 Spring Hill Lane, Old Westbury, NY 11568

Name: New York Marine & General Insurance Company by (method): Mail at (address): 412 Mount Kemble, Ste 300C, Morristown, NJ 07960

Name: Cannon Cochran Mgt. Svcs. Inc. by (method): Mail at (address): PO Box 1127, Neptune, NJ 07754

Name: See Attached by (method): See Attached at (address): See Attached

NOTE: Mail Sent by Certificate of Mailing.-

ADDITIONAL PARTIES SERVED

18. Certification: By signing this document in the space provided below, I certify that this Application has a good faith basis in law and fact, has been instituted with reasonable grounds, and has been served upon all necessary parties of interest using the method of service, including the actual address, email address or fax number where service was transmitted listed in the Affirmation or Affidavit of service below. I understand that the Workers' Compensation Law provides for substantial penalties for instituting or continuing proceedings without reasonable grounds and/or for the purpose of delay. I understand that if this Application is withdrawn for any reason or if any of the issues raised are resolved by the parties, I must immediately notify the Board and the necessary parties of interest served in writing.

Preparer's Signature: _____

Date Prepared (mm/dd/yyyy): **07/08/2021**Print Name: **Lidia M. Orrego**Official Title: **Claimant - Unrepresented**Daytime Phone #: **347-4532234**Address: **95-08 Queens Blvd. Apart 3E, Rego Park, NY 11374**Email address: **liorrego@gmail.com****PROOF OF SERVICE****SECTION 1****AFFIRMATION**

STATE OF NEW YORK, COUNTY OF _____ ss: I, _____, am an attorney duly admitted to practice law in the courts of the State of New York. I hereby affirm under penalty of perjury that I have complied with the filing and service requirements as set forth in 12 NYCRR 300.13(b)(2)(iv) and (3) for this Application for Reconsideration/Full Board Review in the manner described in Section 2 below.

I certify that service of this Application for Reconsideration/Full Board Review, as set forth below, was completed within 30 calendar days from the filing of the decision that is the subject of this Application.

Date (mm/dd/yyyy): _____ Signature: _____

Print Name: _____

AFFIDAVIT

STATE OF NEW YORK, COUNTY OF _____ ss: I, _____, being duly sworn, deposes and says: I am not a party of interest to the claim(s) listed on the Application for Reconsideration/Full Board Review and am over 18 years of age. I hereby certify that I have complied with the filing and service requirements as set forth in 12 NYCRR 300.13(b)(2)(iv) and (3) for this Application for Reconsideration/Full Board Review in the manner described in Section 2 below.

I certify that the service of this Application for Reconsideration/Full Board Review, as set forth below, was completed within 30 calendar days from the filing of the decision that is the subject of this Application.

Sworn to before me this _____ Day of _____

Signature: _____

Print Name: _____

Notary Public**SECTION 2**

A. I filed the Application for Reconsideration/Full Board Review with the Board on (date - mm/dd/yyyy) **07/08/2021** by (pick one method):

☐ Mail to PO Box 5205, Binghamton, NY 13902☐ Fax to 1-877-533-0337☒ Email at wcbclaimsfilling@wcb.ny.gov☐ WCB Web Upload link (https://wcbdoc.services.conduent.com)☐ **Worker' Compensation Discrimination Claim:** Mail to Discrimination Unit, Riverview Center - 150 Broadway, Menands, NY 12204☐ **Disability Benefits:** Mail to Disability Benefits Bureau, PO Box 9029, Endicott, NY 13761-9029

B. I served the Application for Board Review on (date - mm/dd/yyyy) _____ upon (attach additional sheets if necessary):

Name: **Old Westbury Eddie LLC** by (method): **Mail** at (address): **2049 Century Park East Suite 1400, Los Angeles, CA 90067**
 Name: **c/o Savitsky Satin Bacon-Bucci** by (method): **Mail** at (address): **485 (E) Route 1 South Suite 120 Iselin, NJ 08830**
 Name: **Pasternack et al** by (method): **Mail** at (address): **180 Livingston St. 2nd Floor, Brooklyn, NY 11201**
 Name: _____ by (method): _____ at (address): _____

NOTE: Mail Sent by Certificate of Mailing.-

EXHIBIT 49 Doc.[27]

New York, September 7, 2021

AFFIDAVIT NEW EVIDENCE

Newly Evidence and Facts: Supporting to RB89.2 Application for Reconsideration Full Board Review based on upon matters reported included but no limited to fraud, legal malpractice, Violation Rules of Professional Conduct, Code of Judicial Conduct, Public Corruption.

Re: **WCB: G2584330 Lidia Orrego**
Carrier: CCMSI
CC No.: 18P05J084317

Workers' Compensation Board:

I, Lidia M. Orrego, declare through this affidavit the "Summary of Findings" newly evidence was delivered to the Plaintiff on September 2, 2021, via email at 11:07 am from Nassau County Department of Social Services – Plaintiff's Freedom of Information Laws (FOIL) request Case ID27536970, Intake received May 28, 2020, Case Closed dated July 3, 2020, as "UNFOUNDED".

Although the Nassau County Department of Social Services' office unsuccessfully tried to conceal " the statements" that Mr. Kevin Knipfing and Mrs. Stephanieanna Knipfing made to the Social Workers Mr. Stuart Schwartz and Ms. Debra Karpf on the following dates according to the report: May 28, 2020, at 7:40 pm; June 24, 2020; May June 30, 2020.

Dated September 3, 2021, at 9:10am: Claimant requested to Nassau County Department of Social Services the "Summary of Findings" unredacted because this Agency redacted the defamation, even the Judge B. Greenberg's corruption and judicial bias among others. **Mrs. Knipfing stated on June 26, 2021 "MO said she had to testify in court and the Judge sided with them"** surprisingly 9 (nine) months before to know the Judge's decision in the Knipfings' favor. Everyone at the Court were conspiring and performing in front of the Claimant from the beginning to deceived her.

Dated September 3, 2021, at 2:25 pm the Plaintiff sent this discovery to the Honorable Senator Toby Ann Stavisky the report of the irrefutable evidence of the WC Judge with a copy to all the agencies that work for Human Rights as well as the District Attorney ("DA") of Queens County - Public Corruption Unit since it is evidence of ex-parte communication in violation of

Rule 2.9: Ex Parte Communications - Code of Judicial Conduct in addition to other gross violations, both State and Federal Laws.

All evidence filed in the RB89.2 Application for Reconsideration Full Board Review under WCL Sections 32&142-2 dated July 8, 2021, which was deliberately concealed by the attorneys for Pasternack et al who did not even cross-examine when the carrier's witnesses lied under penalty of perjury in this Court, the recordings of the Hearings, all the medical evidence, etc. prove that the Claimant has a legitimate Claim and that if it had not been for the Conspiracy between Judge Barry Greenberg, the Claimant lawyers, the carrier's lawyer Mr. Marc Neuman and their former employers Kevin and Stephanieanna Knipfing, the Claimant case should have been established as of September 5, 2019.

The Plaintiff hopes that the Commissioners understands, her name is all she has, NO ONE has the power to dirty it, the Knipfings will not be able to buy her conscience because she has morals and values, something that they totally lack, because the evidence speaks for itself.

In the recording dated November 6, 2021, ID 4000402542 Dated January 25, 2021, presented in this Court the Claimant never asked for money: ***"Lidia Orrego (05:47): Yes. I, I only want to work in a safe environment, and I don't want the people tell me sometimes bad things because I don't speak good English. " "I don't want anything, only work and you pay me for work is only that I don't want anything. If you can fix this, it's better for the kids for, for all, no? 'Claimant always showed "Good Faith", advocated repeatedly for work, a free and safe environment for the Children and her to Mr. Knipfing. There was never any extortion. This accusation is because the Claimant is Hispanic.***

This transcription also shows that Mr. Knipfings with his accomplices also lied in the EDNY 20CV3361 (GRB) (AKT) in their Motion to Dismiss dated October 22, 2020, where they stated the Claimant retracted the abuse of the other nanny Rebeca Uzcategui that she witnessed for months against his younger daughter. The Claimant according to this transcription never retracted and gave the Knipfings all the evidence of the abuses that she had in her possession.

The Knipfings, upon learning that there was a recording, changed their version in the Reply dated December 11, 2020, when they said that the reason for the investigation was to "protect" the Claimant from all verbal and physical abuse for being Hispanic, harassment, among other abuses.

Despite all this evidence, the corrupt Judge Barry Greenberg ruling against the Claimant based on non-medical evidence with the support of Commissioners Steven A. Crain, Freida Foster

and Mark R. Stasko in violation of State and Federal Laws, included but not limited, Code of Judicial Conduct, Judicial Bias, Civil Violation Rights, Violation Procedural Due Process - Recusal and Disqualification - Violation New York Workers Compensation Law ("WCL") § 28 who must be removed from their positions by the Public Corruption DA Queens County.

Claimant filed criminal complaint with Melinda Katz - District Attorney Queens County and Madeline Singas - District Attorney Nassau County against Mr. Steve Savistky, Ms. Teresa A. Zantua, Mr. Skylar Testa and Jason Hochfelder MD, Ms. Rebeca Uzcategui, Ms. Debra Karpf (SW) and her former lawyers in the civil case.

New York Marine & General Insurance Company and Mr. Marc Neuman, Esq. have not filed a Policy's copy until today that enables them to appear on behalf of the Knipfings in this Court. Request dated August 13, 2021.

All the evidence also confirms the legal actions entitled to the Claimant against her lawyers Pasternack Tilker Ziegler Walsh Stanton & Romano LLP included but no limited legal malpractice, fraud, corruption, breach of contract, breach of fiduciary duty, negligence, Violation Rules of Professional Conduct who failed to exercise the care, skill, and diligence commonly possessed and exercised by a member of the legal profession. WCB must revoke the license.

Claimant's name is worth more than all the gold in the world, Kevin and Stephanieanna Knipfing can never pay for everything they have done to her and her family with all these accomplices including Judge Barry Greenberg who must be remove from his chair and DA Queens County must investigate how many injured and their families have harmed especially if they are groups protected by State and Federal Laws such as Hispanics.

Attached hereto exhibits that supports this affidavit and the RB89.2 Application for Reconsideration Full Board Review submitted July 8, 2021:

1- New facts and Evidence Email dated September 2, 2021, to September 3, 2021, from Nassau County Department of Social Services.

2- Nassau County Department of Social Services: Summary of Findings dated MAY 28, 2020, to JULY 3, 2020

3- Email to H. Senator Toby Ann Stavisky dated September 3, 2021: Reporting Public Corruption. CC: NYS Human Rights, NYC Human Rights, DA Queens, DA Nassau, Attorney General Letitia James among others.

4- September 1, 2021: Medical Director's Office, NYS Workers' Compensation Board confirmation by that they reviewed the case, who took action against Jason Hochfelder MD's perjury. Claimant requested a copy of the actions they took to deliver it to Public Corruption DA Queens County. They also directed Claimant to follow up the case with the NYS Department of Health.

5- Transcription of the Hearing dated March 5, 2021, where the carrier's attorney, Mr. Marc Neuman, who made fraudulent misrepresentations stated that the children were separated from their parents, a fact that never happened according to the Nassau County Department of Social Services report. In this transcription, Judge Barry Greenberg allowed this lawyer to indiscriminately accuse Claimant without giving her the opportunity to defend herself with tampered evidence after closed the Discovery process on January 28, 2021, Violation Due Process of Law. WCB must revoke the lawyer's license.

Respectfully submitted,

Date: September 7, 2021
Rego Park, New York



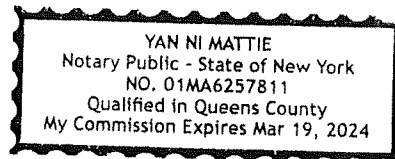
Lidia M. Orrego
Claimant – Unrepresented
95-08 Queens Blvd. 3E
Rego Park NY 11374
Phone 347-4532234

Sworn to before me this

7 day of sept 2021



NOTARY PUBLIC



CC:

The Honorable Senator Toby Ann Stavisky
Sent by email: stavisky@nysenate.gov; tallen@nysenate.gov

Melinda Katz – District Attorney Queens County
Sent by email: info@queensda.org; malbanesi@queensda.org; ksjarrett@queensda.org;
publiccorruption@queensda.org

Attorney General Letitia James
Sent by email: civil.rights@ag.ny.gov

Madeline Singas - District Attorney Nassau County
Sen by email: INFO@nassauda.org

WCB Inspector General Office
Sent by email: inspector.general@ig.ny.gov

NYSHR – Mr. David Powell
Send by email: InfoUpperManhattan@dhr.ny.gov

CCHR
Sent by email: info@cchr.nyc.gov

11/8/21, 12:32 PM

Gmail - COMPLAINT CRIMINAL WCB G2584330 -Complainant LIDIA ORREGO



Exhibit 61

Lidia Orrego <liorrego@gmail.com>

COMPLAINT CRIMINAL WCB G2584330 -Complainant LIDIA ORREGO

Lidia Orrego <liorrego@gmail.com>

Mon, Nov 8, 2021 at 12:23 PM

To: PublicCorruption <PublicCorruption@queensda.org>, OfficeofSecretary@wcb.ny.gov
 Cc: officeofgeneralcounsel@wcb.ny.gov, inspector.general@ig.ny.gov, advinjkwr@wcb.ny.gov,
 WCBMedicalDirectorsOffice@wcb.ny.gov, Victor Pasternack <vpasternack@workerslaw.com>, Andrew Ziemianski
 <aziemianski@workerslaw.com>, Matt Funk <mfunk@workerslaw.com>, Edgar Romano <eromano@workerslaw.com>,
 Cathy Stanton <cstanton@workerslaw.com>, Kevin Walsh <kwash@workerslaw.com>, Jordan Ziegler
 <jziegler@workerslaw.com>, ksjarrett@queensda.org, malbanesi@queensda.org, Lidia Orrego <liorrego@gmail.com>

November 8th, 2021

Public Corruption Bureau Queens District Attorney
 Attn: Mr. James M. Liander – Bureau Chief
 Via email: PublicCorruption@queensda.org

Secretary of the Workers' Compensation Board
 WC Board
 P.O. Box 5205
 Binghamton, NY 13902
 Via email: OfficeofSecretary@wcb.ny.gov

Workers Compensation Board
 P.O. Box 5205
 Binghamton, NY 13902
 Via WCB Web Upload link (<https://wcbdoc.services.conduent.com>)

**Re: WCB Case# G2584330 – Perjury under Penal Law §210,
 Obstruction of Justice Carrier's Witnesses and Independent
 Medical Exam ("IME") Doctor – Fraud – Conspiracy- Public
 Corruption.**

I, Lidia Orrego, submit the criminal complaint included but not limited under Penal Law §210 (Perjury), Obstruction of Justice, Fraud, Conspiracy- Public Corruption against Carrier's Witnesses Steve Savitsky, Teresa A. Zantua, Skylar Testa and Jason Hochfelder MD ('Independent Medical Exam ("IME") Doctor'), Judge Barry Greenberg, Commissioners Steven A. Crain, Freida Foster and Mark R. Stasko.

Attached hereto:

- 1- Affirmation of Service
- 2- Letter Criminal Complaint + 398-Page Documentary Evidence

Claimant request the Queens District Attorney send the indictment and formal notice against the defendants.

Respectfully submitted,

11/8/21, 12:32 PM

Gmail - COMPLAINT CRIMINAL WCB G2584330 -Complainant LIDIA ORREGO

Lidia M. Orrego
Complainant
Rego Park, NY 11374
Phone: 347-4532234
Email: liorrego@gmail.com

CC:

Honorable Judge Gary R. Brown
United States District Court
Eastern District of New York
Central Islip, NY 11722

Attn: Pro Se Office

Re: Orrego v. Knipping, et al, 20-CV-03361-GRB-AKT

 WCB G2584330 CRIMINAL COMPLAINT FILED BY LIDIA ...

 10-08-2021 WBC G25884330 SERVICE.pdf
159K

11/5/21, 7:14 PM

Gmail - Index # 719137/2021 Orrego vs. Ley et al. - Service of Process



Exhibit 62

Lidia Orrego <liorrego@gmail.com>

Index # 719137/2021 Orrego vs. Ley et al. - Service of Process

Lidia Orrego <liorrego@gmail.com>

Thu, Nov 4, 2021 at 11:31 AM

To: Dianne Gonzalez <dianne@ppservers.com>

Cc: QSCPART36@nycourts.gov, sarkozi@thsh.com, yacyshyn@thsh.com, Lidia Orrego <liorrego@gmail.com>

Good morning, Ms. Dianne Gonzalez-Luyanda,

Regarding the service of legal papers to defendants Kendall E. Ley and Gregory D. Ley, Index # 719137/2021 Orrego vs. Ley et al.

According to the law, the substitute service on 09/17/2021 at 4:04 pm to Constatino Alexandru - Superintendent was successful because the legal documents were served efficiently and accurately at 888 Park Avenue, 12B, NY 10075, Defendants' address. See NYSCEF Docs.# [5] [6]. (First process server)

The time to file the Answer is run-out, but as a demonstration of Good Faith, please, continue to insist that their attorneys (Tannenbaum Helpen Syracuse & Hirschtritt LLP) receive the second process server to give the Leys the opportunity to answer the complaint.

Attached below is the New York State Human Rights' letter which states the lawyers must receive any document on behalf of their clients included but not limited: 1- Summons + Complaint + 22 Exhibits. 2- Notice of Electronic Filing. 3- Documentary Evidence.

Please contact the following lawyers to coordinate the date and time they can be serve the legal papers on behalf of their clients, for second time, since Preferred Process Server Inc. has already tried to serve several times and the Law Firm who has not returned the calls or messages:

Paul D. Sarkozi	email: sarkozi@thsh.com	Phone 212-508-7524
Elizabeth E. Schlissel	email: schlissel@thsh.com	Phone 212-508-6714
Andrew P. Yacyshyn	email: yacyshyn@thsh.com	Phone 212-508-6792

Note: Please send me a copy of the additional costs to file the reimbursement.

Best regards,

Lidia Orrego
 Plaintiff Pro Se
 95-08 Queens Blvd. 3E
 Rego Park, NY 11374
 Phone: 347-4532234

11/5/21, 7:14 PM

Gmail - Index # 719137/2021 Orrego vs. Ley et al. - Service of Process

Email: liorrego@gmail.com

CC: According to Individual's Rules

1- HONORABLE JUSTICE ROBERT I. CALORAS

Queens Supreme Court

25-10 Court Square, Long Island City, New York 11101

Via email: QSCPART36@nycourts.gov

2- All Recording PARTIES

Via email: sarkozi@thsh.com ; yacyshyn@thsh.com

Division of
Human RightsANDREW M. CUOMO
GovernorJOHNATHAN J. SMITH
Interim Commissioner

March 5, 2021

Re: Lidia M. Orrego v. Gregory Ley, Kendall Ley
Case No. 10210614

To the Parties Listed Below:

PLEASE BE ADVISED that the Division of Human Rights is contemplating dismissing the above-referenced complaint for administrative convenience for the following reason:

The Division has been advised that Complainant intends to pursue remedies in court, in which forum all issues concerning the question of the discrimination charged can be resolved.

Objections to such action may be submitted by any party within fifteen (15) days of the date of this letter, and will be considered prior to the Division determining whether to dismiss the matter. Please note: Requests for reasonable extensions of time that are shown to be necessary due to circumstances resulting from the COVID-19 pandemic will be granted.

Any response should be addressed to the undersigned.

Very truly yours,

A handwritten signature in cursive script that reads "David E. Powell".

David E. Powell
Regional Director

TO:

Complainant
Lidia M. Orrego
95-08 Queens Blvd.
Rego Park, NY 11374
liorrego@gmail.com
RespondentGregory Ley
888 Park Ave. #12B
New York, NY 10075
gdley2@gmail.com

Adam Clayton Powell State Office Building, 165 West 125th Street, Room 401, New York, New York 10027
(212) 961-8880 | Facsimile (212) 961-4312 | WWW.DOH.NY.GOV

11/5/21, 7:14 PM

Gmail - Index # 719137/2021 Orrego vs. Ley et al. - Service of Process

Respondent
Kendall Ley
888 Park Ave. #12B
New York, NY 10075
kendall.ley@gmail.com

Respondent Attorney
Tannenbaum Helpern Syracuse & Hirshtitt LLP
Attn: Elizabeth E. Schlissel
900 Third Avenue
New York, NY 10022
schlissel@thsh.com

On Wed, Nov 3, 2021 at 3:47 PM Dianne Gonzalez <dianne@ppservers.com> wrote:

Dianne Gonzalez-Luyanda,
Office Manager,
Preferred Process Servers Inc
166-06 24th Road, LL
Whitestone, NY 11357
718-362-4890
dianne@ppservers.com



PLEASE REVIEW US USING BELOW LINK

<https://www.ppservers.com/review-us-2/>

TO CHECK STATUS ANYTIME VIA OUR WEBSITE GO TO <http://preferred.lookupstatus.com>

<https://mail.google.com/mail/u/1/?ik=9e8fe57240&view=pt&search=all&permmsgid=msg-a%3Ar-211060985428313149&simpl=msg-a%3Ar-21106098...>

FILED: QUEENS COUNTY CLERK 08/02/2021 12:05 PM

NYSCEF DOC. NO. 32

RECEIVED NYSCEF: 08/02/2021

Short Form Order

**EXHIBIT 49
DOC. [27]**

NEW YORK SUPREME COURT - QUEENS COUNTY

Present: HONORABLE JANICE A. TAYLOR IAS Part 15
Justice-----x
LIDIA M. ORREGO,Plaintiff(s),
Index No.: 706324/21

Motion Date: 7/13/21

- against -

Motion Cal. No.: 23,
24KEVIN KNIPFING a/k/a KEVIN JAMES, REBECCA
UZCATEGUI a/k/a REBECCA LUGO, and
CHRISTINA SELGA a/k/a CRISTINA COIMBRA,
Motion Seq. No.: 01,
02Defendant(s).
-----x

The following papers numbered 1 - 20 read on these motions by defendants, pursuant to CPLR 3211 (a) (4) and (a) (7), to dismiss the complaint, and by plaintiff, pursuant to CPLR 3215 for a default judgment against defendants.

**PAPERS
NUMBERED****Motion Seq. #01**

Notice of Motion-Affirmation-Exhibits-Service.....	1 - 4
Memorandum of Law in Support.....	5
Affirmation in Opposition-Exhibits-Service.....	6 - 8
Memorandum of Law in Opposition.....	9
Reply Affirmation-Service.....	10 - 11

Motion Seq. #02

Notice of Motion-Affirmation-Exhibits-Service.....	12 - 15
Affirmation in Opposition-Service.....	16 - 17
Reply Affirmation-Exhibits-Service.....	18 - 20

Upon the foregoing papers, it is **ORDERED** that the above-referenced motion is decided as follows:

It is undisputed that the *pro se* plaintiff worked as a nanny in the home of defendant Kevin Knipfing, a/k/a/ Kevin James, from on or about January 31, 2018 to November 27, 2018. According to plaintiff, almost immediately after being hired, she and defendant Rebecca Uzcategui, a/k/a Rebecca Lugo, another nanny employed in Knipfing's home, were continuously subjected to racially-charged statements and other harassing and abusive behavior from their supervisor, non-party Teresa A. Zantua, who is also Knipfing's

sister-in-law.¹ Plaintiff further alleges that Uzcategui abused and/or mistreated the children, that plaintiff complained about the alleged child abuse and workplace discrimination, and that she had been cooperating in an investigation conducted by Knipfing, during the course of which, plaintiff made recordings of certain conversations with the various persons involved in these events. According to plaintiff, Knipfing fraudulently induced her to turn over her evidence supporting her allegations and to actively participate in his investigation of same by promising that nothing bad would happen to her. Her employment was terminated 25 days after she submitted her written complaint.

Prior to commencing the instant action, plaintiff commenced an employment discrimination action in the United States District Court for the Eastern District of New York ("EDNY") against defendant Knipfing, as well as non-parties Zantua, Stephanieanna James-Knipfing, a/k/a Steffiana de la Cruz, Old Westbury EDDIE, LLC, Old Westbury, LLC, and Steve Savitsky. Plaintiff acknowledges in the paragraph "54" of the instant complaint that "this [federal] lawsuit includes all the facts that are named in this [the instant, State] lawsuit." Plaintiff alleges that during the course of the proceedings before the EDNY, including recent motion practice in that court, she learned that the instant defendants made certain statements about her, which she finds to be harmful to her personal and professional reputations, and which have caused her to suffer emotional distress. Hence, in her prayer for relief, plaintiff requests that the defendants be made to retract the allegedly injurious statements.

Defendants, now move to dismiss the instant complaint, and plaintiff separately moves for a default judgment on the ground that defendants have failed to timely answer the summons and complaint. Initially, the court denies plaintiff's motion, since defendants' pre-answer motion to dismiss was made within the time to serve the responsive pleading, which automatically extends their time to answer until 10 days after service of notice of entry of the order deciding the motion (see CPLR 3211 [e] and [f]).

The first ground upon which defendants seek dismissal is that there is another, similar action pending between the parties, having appended a copy of plaintiff's amended complaint filed in the EDNY. The Second Department instructs as follows:

"Pursuant to CPLR 3211 (a) (4), a court has broad discretion as to the disposition of an action when another action is pending, and may dismiss one of the actions where there is a substantial identity of the parties and causes of action. To warrant dismissal, the two actions must be sufficiently similar and the relief

¹Plaintiff asserts that she and defendant Uzcategui are, both, Hispanic.

FILED: QUEENS COUNTY CLERK 08/02/2021 12:05 PM

NYSCEF DOC. NO. 32

RECEIVED NYSCEF: 08/02/2021

sought must be the same or substantially the same. It is not necessary that the precise legal theories presented in the first proceeding also be presented in the second proceeding. Rather, it is necessary that both suits arise out of the same subject matter or series of alleged wrongs"

(*Simonetti v Larson*, 44 AD3d 1028, 1028-1029 [2d Dept 2007] [internal quotation marks and citations omitted]). Here, although Mr. Knipfing is the only party named as a defendant in the instant action and the federal action, there is still a substantial identity of parties, since both actions have the same plaintiff, and arise from the same series of events and transactions, namely, plaintiff's employment as a nanny in Mr. Knipfing's home. However, it cannot be said that there is a substantial identity of causes of action, as the federal lawsuit sounds in employment discrimination, whereas, as discussed below, the instant matter appears to assert causes of action for defamation and negligent infliction of emotional distress. The court, thus, declines to dismiss this action pursuant to CPLR 3211 (a) (4).

Defendants also move to dismiss on the ground that the instant complaint fails to state a cause of action (see CPLR 3211 [a][7]). "On a motion pursuant to CPLR 3211 (a) (7) to dismiss a complaint, the allegations in the complaint are accepted as true and accorded the benefit of every possible favorable inference to determine if the facts, as alleged, fit within any cognizable legal theory" (*Datena v JP Morgan Chase Bank*, 73 AD3d 683, 684 [2d Dept 2010], lv denied 17 NY3d 704 [2011]; see also *Leon v Martinez*, 84 NY2d 83, 87-88 [1994] [instructing that the challenged pleading "is to be afforded a liberal construction"])). In addition,

"[w]here evidentiary material is submitted and considered on a motion to dismiss a complaint pursuant to CPLR 3211(a)(7), and the motion is not converted into one for summary judgment, the criterion is whether the plaintiff has a cause of action, not whether the plaintiff has stated one, and, unless it has been shown that a material fact as claimed by the plaintiff to be one is not a fact at all, dismissal should not eventuate"

(*Doe v Ascend Charter Schs.*, 181 AD3d 648, 650 [2d Dept 2020]). Defendants first contend that the *pro se* complaint is rambling and unintelligible, and, thus, that it necessarily fails to state a cause of action to which they can reasonably be expected to respond. The court disagrees, and finds that despite the inartful drafting by a *pro se* litigant who does not appear to have the firmest grasp of English, the complaint sets forth sufficient factual allegations from which causes of action for defamation and negligent infliction of emotional distress may be gleaned.

FILED: QUEENS COUNTY CLERK 08/02/2021 12:05 PM

INDEX NO. 706324/2021

NYSCEF DOC. NO. 32

RECEIVED NYSCEF: 08/02/2021

Nonetheless, defendants argue that the complaint must be dismissed because the statements of which plaintiff complains are not actionable, as a matter of law. It is well-settled that

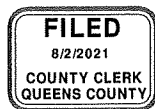
"[s]tatements made by parties, attorneys, and witnesses in the course of a judicial or quasi-judicial proceeding are absolutely privileged, notwithstanding the motive with which they are made, so long as they are material and pertinent to the issue to be resolved in the proceeding"

(*Bisogno v Borsa*, 101 AD3d 780, 781 [2d Dept 2012], quoting *Kilkenny v Law Off. of Cushner & Garvey, LLP*, 76 AD3d 512, 513 [2d Dept 2010]). In the complaint, plaintiff alleges that the instant defendants made the disparaging statements about her during the course of their involvement in the proceedings for her federal employment discrimination action. In particular, she focuses on statements she learned of for the first time when she read the papers submitted on the federal defendants' motion to dismiss that complaint, which is currently *sub judice* in the EDNY. Since these statements were made in the course of the federal action, they are absolutely privileged, and, thus, cannot serve as the basis for plaintiff's causes of action against the instant defendants for defamation or negligent infliction of emotional distress. The court, therefore, finds that, even assuming the truth of all of the factual allegations set forth in the complaint, plaintiff does not have a viable cause of action (see *Doe*, 181 AD3d at 650), and the complaint must be dismissed.

Accordingly, the above-referenced motions are decided to the extent that defendants' motion to dismiss the complaint (motion sequence no. 1) is **GRANTED**, and plaintiff's motion for a default judgment (motion sequence no. 2) is **DENIED**.

The foregoing shall constitute the decision and order of this court.

Dated: July 29, 2021



JANICE A. TAYLOR, J.S.C.

\\Supqns-vmfs1\jamf1\VOL1\DEPT\TAYLOR\Decisions - Part 15\Remote Decisions
2021\Dismissal\706324-21_Orrego_Knipfing_dismissgranted_DJdenied_otheactionpending_dismissal_re
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FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ NOV 09 2021 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

LONG ISLAND OFFICE

Lidia M. Orrego,

Plaintiff,

-against-

Affirmation of Service

____ 20 ____ CV ____ 3361 ____ (GRB) (AKT)

Kevin Knipfing a/k/a Kevin James, Stephanieanna
James-Knipfing a/k/a Steffiana de la Cruz, Old
Westbury EDDIE LLC, Old Westbury, LLC,
Steve Savitsky and Teresa A. Zantua.
Defendants,

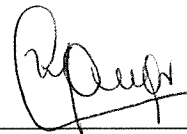
I, Lidia M. Orrego, declare under penalty of perjury that I have served a copy of the attached Reply to Defendants' Opposition to Motion to Withdraw Defendants' Answer to Amended Complaint paragraph 73 (pages 19 & 20) and Answer to Counterclaims [36] dated November 5, 2021, and attached documents upon the defendant(s) or the attorney for defendant(s) Mr. Kuuku Minahh-Donkoh, Esq. and Mr. Alex D. Dumas, Esq., Edward E. Warnke, Esq. via ECF and email, whose physical address:

Gordon Rees Scully Mansukhani, LLP
One Battery Park Plaza, 28th Floor
New York, NY 10004

By email address: kminnahdonkoh@grsm.com; adumas@grsm.com;
kminnahdonkoh@gordonrees.com; ewarnke@grsm.com

Dated: November 9, 2021

Rego Park, New York



Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd. 3E
Rego Park, NY 11374
Phone (347) 4532234



Lidia Orrego <liorrego@gmail.com>

Activity in Case 2:20-cv-03361-GRB-AKT Orrego v. Knipfing et al Letter

1 message

ecf_bounces@nyed.uscourts.gov <ecf_bounces@nyed.uscourts.gov>
To: nobody@nyed.uscourts.gov

Tue, Nov 23, 2021 at 10:23 AM

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court

Eastern District of New York

Notice of Electronic Filing

The following transaction was entered on 11/23/2021 at 10:23 AM EST and filed on 11/22/2021

Case Name: Orrego v. Knipfing et al

Case Number: 2:20-cv-03361-GRB-AKT

Filer:

Document Number: 39

Docket Text:

Letter to Judge Brown from pro se plaintiff Lidia M Orrego submitting "Clarification Letter". (Tirado, Chelsea)

2:20-cv-03361-GRB-AKT Notice has been electronically mailed to:

Kuuku Angate Minnah-Donkoh kminnahdonkoh@grsm.com, jxmartinez@grsm.com, pcella@grsm.com

Alex Dumas adumas@grsm.com, dlivera@grsm.com

Edward E. Warnke ewarnke@grsm.com, tgalarza@grsm.com, vcanarte@grsm.com

Lidia M. Orrego liorrego@gmail.com

2:20-cv-03361-GRB-AKT Notice will not be electronically mailed to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP NYEDStamp_ID=875559751 [Date=11/23/2021] [FileNumber=16376297-0]
] [85532885e22854887d0cccdf5b5fb9ec08a6bf3eadf91fcd536084fd8093071c8ee
f094fd7760eb3c50d73283757a9490f4a542ca8626ea1ba050c7eef7e9382]]