

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

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MARGOT LOTH,

Case No.:

Plaintiff,

VERIFIED COMPLAINT

-against-

**PLAINTIFF DEMANDS
A TRIAL BY JURY**

THE CITY OF NEW YORK,

Defendants.
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Plaintiff Margot Loth (“Ms. Loth”), by and through her attorneys, White, Hilferty & Albanese, hereby complains of Defendant, upon information and belief as follows:

NATURE OF THE CASE

1. Plaintiff brings this action alleging that Defendant has violated Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000 *et seq.*, the New York State Human Rights Law, N.Y. Exec. Law 290. *et seq.*, and the New York City Human Rights Law, N.Y. Admin Code 8-107, *et seq.* and seeks damages to redress the injuries she has suffered as a result of being Discriminated Against on the Basis of her Gender and Retaliated Against for her Engagement in Protected Activity.

JURISDICTION & VENUE

2. Jurisdiction of this Court is proper under 42 U.S.C. § 2000, *et seq.*, and 28 U.S.C. §§ 1331 and 1343.
3. The Court has supplemental jurisdiction over Plaintiff’s claims brought under state law pursuant to 28 U.S.C. § 1367.
4. Venue is proper in this district pursuant to 28 U.S.C. §1391(b) as it is a judicial district in which a substantial part of the events or omissions giving rise to the claims occurred.

PROCEDURAL REQUIREMENTS

5. In December 2019, Ms. Loth filed a Notice of Claim with the New York City Comptroller against Defendant.
6. On December 10, 2019, Ms. Loth filed a complaint with The Equal Employment Opportunity Commission.
7. On July 28, 2020, The EEOC forwarded Ms. Loth's complaint to the U.S. Department of Justice for action.
8. On August 27, 2020, the Department of Justice issued a notice of right to sue to Ms. Loth.
9. Ms. Loth has filed this action within 90 days of receipt of the notice of right to sue.

THE PARTIES

10. Plaintiff MARGOT LOTH was and is a resident of Nassau County, New York. Ms. Loth is a female Emergency Medical Technician. Ms. Loth engaged in protected activity in or around November 2018 and December 19, 2018.
11. Defendant THE CITY OF NEW YORK ("Defendant"), specifically the New York City Fire Department, is a department of the government of New York City that provides fire protection, technical rescue services, and emergency medical services responses to the five boroughs of New York City. At all times relevant, Defendant owned, operated, and/or maintained its place of business in New York County, New York.

MATERIAL FACTS

12. On February 14, 2011, Ms. Loth began working for Defendant as a FDNY Haz-Tac Emergency Medical Technician ("EMT").

13. On April 16, 2011, Ms. Loth began working as an EMT at Station 16 in Harlem. She received a very positive evaluation in her first year, which enabled her to apply for the hazardous materials program in May 2012.
14. In May 2012, Ms. Loth completed this hazardous materials program and began working at Station 4 in the Lower East Side. Ms. Loth worked there for a year before applying to be a Hazardous Materials (Haz Mat) instructor in October 2013. Defendant interviewed Ms. Loth and accepted her as an instructor. She continued instructing through May 2014. Ms. Loth taught fellow EMTs about the duties of Haz Mat EMTs, paramedics and technicians.
15. Ms. Loth also travelled as part of this Haz Mat role to other schools representing the FDNY. Ms. Loth attended a teaching course in Anniston Alabama in December 2013. Ms. Loth went to Nevada in March 2014 to receive certifications to teach counter terrorism CTOs. Ms. Loth attended a class in Socorro, New Mexico regarding bomb making and explosions.
16. Beginning in February 2014, Ms. Loth began accepting overtime assignments to drive various Chiefs upon request. Over the years she has accepted assignments from numerous Chiefs, including Chief Ian Swords, Chief James Foley, Chief Louis Basso, and Chief Rick Chatterton.
17. In May 2014, Ms. Loth returned to a regular tour on a truck but attended one last class in June 2014 as part of her instructor training.
18. In or around March 2018, for example, Tiberi issued a Warned and Admonished notice to Loth and EMT Evan Perlzweig for an incident that had taken place the night before. As both employees left the office, Tiberi followed Ms. Loth out of her office, screaming that Ms. Loth was “disrespectful” and a “terrible person.” Ms. Loth told Tiberi that she (Plaintiff) simply chose not to speak with Tiberi outside of the workplace. Tiberi

responded by stomping her feet, clenching her fists, screaming “this is bullshit,” and storming away. Tiberi launched no such attack on Perlzweig. Upon information and belief, Tiberi did not subject similarly-situated male employees under her command to such treatment.

19. In July 2018, Ms. Loth was featured in the FDNY’s 2019 Calendar of Heroes for the month of March 2019. After this occurrence, Tiberi on numerous occasions referred to Ms. Loth as a “calendar girl” to other FDNY members in a disparaging manner.
20. In or around November 2018, FDNY Paramedic Carin Rosado (“Rosado”) approached Ms. Loth about acting as a witness in her (Rosado’s) FDNY Equal Employment Opportunity (“EEO”) case against Captain Donna Lynn Hannon Tiberi (“Tiberi”). Rosado experienced poor treatment by Tiberi which, upon information and belief, she believed was due to her gender (female). Ms. Loth agreed to act as a witness in Rosado’s EEO case, as she (Ms. Loth) both observed and experienced Tiberi’s poor treatment of female employees, particularly female employees who were career oriented and assertive.
21. In another instance, on November 4, 2018, Tiberi prevented Ms. Loth from receiving pay after Ms. Loth worked overtime for the New York City Marathon. Lieutenant Yonatan Klein had requested Ms. Loth complete a driving assignment for her during the Marathon. Klein believed Ms. Loth would be available for her 11pm shift with no problem that night; however, by the afternoon it became clear Ms. Loth might have to complete this assignment later than originally planned. At approximately 2pm, Klein called Ms. Loth’s station and attempted to recover a tour change for Ms. Loth. The desk lieutenant at Ms. Loth’s station refused to change her tour. Klein continued to use Ms. Loth until 8pm and again called to request a tour change for Ms. Loth. The desk lieutenant, at Tiberi’s direction, removed Ms.

Loth from the schedule for 11pm and issued a without pay notice for that shift. This charge was eventually dismissed.

22. The next night when Ms. Loth appeared for her tour, Ms. Loth was directed to appear the following morning with her union representative for a command discipline (“CD”) session. Ms. Loth and union representative Ryan Murphy discussed the issue with Tiberi and explained what had happened with her Marathon assignment. Tiberi indicated she wants four annual days as a punishment from Ms. Loth, which was egregious considering she had already issued no pay to Ms. Loth. Tiberi’s justification for disciplining Ms. Loth in this instance was that Ms. Loth received a tour change after working overtime at the New York City Marathon, despite the fact that Ms. Loth’s tour change was approved and arranged by FDNY Lieutenant Klien. As Ms. Loth refused to consent to the deduction, she and Tiberi agreed that the matter would progress to FDNY’s Bureau of Investigations and Trials (“BITS”) for a hearing.
23. Very shortly after the above meeting, Ms. Loth went to the women’s locker room to change. She discovered that her gym sneakers, which she kept outside her locker, were vandalized. Ms. Loth kept her gym sneakers outside of her locker and had done so without issue since joining the Far Rockaway FDNY Station in or around October 2015. Ms. Loth subsequently learned that, when Tiberi was a Lieutenant at FDNY Station 50, Tiberi argued with Lieutenant Renee Masco. Masco returned to work the next day to find her belongings vandalized. Upon checking the Far Rockaway Station schedule on the day that her gym sneakers were vandalized, Ms. Loth discovered that Tiberi was the only other woman on duty. Upon information and belief, Tiberi vandalized Ms. Loth’s sneakers and exhibited a pattern of vandalizing colleagues’ shoes/belongings.

24. Tiberi further attempted to refuse Ms. Loth's request for annual leave, falsely claiming that Ms. Loth did not take enough days off and that employees with less seniority and who took more days off received priority. Tiberi's actions forced Ms. Loth to involve her union in order to receive her desired annual leave.
25. On or about November 15, 2018, Ms. Loth requested her annual leave for January 10 through January 20, 2019. In the comments section of her request, Ms. Loth wrote that she would accrue the necessary number of work hours required to take such leave by the time of the leave's start date. Ms. Loth's annual leave request was well within the protocol of Respondent FDNY's 'Time and Leave' manual. At this time Ms. Loth also requested New Year's Eve off.
26. In or around early-December 2018, while working with Restricted Medic Deborah Blake ("Blake"), Ms. Loth began feeling ill during an eight-hour nighttime shift. Ms. Loth notified Lieutenant Susan Mueller ("Mueller") that she felt unwell. Mueller instructed Ms. Loth to leave work if she felt sick at any point. Ms. Loth nevertheless worked through the night with Blake.
27. Following her nighttime shift, Ms. Loth was scheduled to report to the Respondent FDNY's Far Rockaway Station at 7:00 a.m. Due to the increasing severity of her symptoms and the amount of work completed throughout the night, however, Ms. Loth returned late to Respondent FDNY's Far Rockaway Station. Ms. Loth subsequently received notification that any future infractions would immediately proceed to Respondent FDNY's BITS. Upon information and belief, Blake, who was also late, did not receive a similar notification.

28. On or about December 19, 2018, Ms. Loth reported for her interview as a witness in Rosado's EEO Complaint against Tiberi. Per FDNY policy, employees are entitled to four hours of overtime for EEO interviews. Ms. Loth submitted her overtime request; Tiberi had the authority to review, accept, and decline Ms. Loth's timesheet and overtime requests, providing her knowledge of Ms. Loth's engagement in protected activity. In addition, upon information and belief, Rescue Paramedic Diana Dosantos, EMT Lizeth Brooks, Paramedic Marylin Arroyo, and Lieutenant Patricia Tanis also participated as witnesses in this EEO investigation. Upon information and belief, Tiberi targeted all witnesses with retaliatory action after their engagement in protected activity. The majority of these employees transferred from this station in order to avoid Tiberi's discriminatory and retaliatory behavior.
29. On or about December 22, 2018, Tiberi denied Ms. Loth's request for time off on New Year's Eve, as well as Ms. Loth's request for her annual leave of January 10 through January 20, 2019 on the basis that Ms. Loth did not possess the required number of hours necessary for the leave. As herein stated, however, Ms. Loth's leave request specifically stated that she would accrue the necessary number of hours for the leave by its start date. Furthermore, per Respondent FDNY's Time and Leave manual, if an employee does not possess the number of hours required for their requested leave, said employee may request up to ten leave days, which would be 'paid back' within the year. When Ms. Loth brought this rule to Tiberi's attention, however, Tiberi persisted in her denial of Ms. Loth's requested leave and stated that the aforementioned rule was "not a thing."
30. Tiberi's baseless refusal to grant Ms. Loth her requested annual leave time forced Ms. Loth to involve her union in the matter. Despite the union's involvement and support of Ms.

Loth's position, however, Tiberi continued in her refusal to grant Ms. Loth's requested annual leave.

31. The issue of Tiberi's refusal to grant Ms. Loth's requested annual leave eventually escalated to the point that FDNY Chief Colon ("Colon") was made aware of the matter and sided with Ms. Loth. Colon delegated the authority to approve Ms. Loth's annual leave request to FDNY Division Chief Christine Mazzola ("Mazzola") and directed Mazzola to do so.
32. On or about January 4, 2019, Ms. Loth spoke with FDNY Lieutenant McGee ("McGee") to cancel an overtime shift. McGee approved the cancellation.
33. On or about January 6, 2019, FDNY Lieutenant Latoya Darden ("Darden") called and instructed Ms. Loth to report to the overtime shift that she previously cancelled with McGee. Ms. Loth informed Darden that McGee previously cancelled the overtime shift. Darden informed Ms. Loth that the shift had not been cancelled. Tiberi raised an AWOL charge against Ms. Loth with BITS for this misunderstanding.
34. Between January 6, 2019 and January 9, 2019, Ms. Loth learned that, after Colon directed Mazzola to grant Ms. Loth's annual leave, Mazzola in turn directed Tiberi to do so. Tiberi, however, refused and voluntarily accepted a disciplinary charge against her for said refusal, rather than relent and grant Ms. Loth her requested annual leave.
35. Tiberi's insubordinate refusal to grant Ms. Loth's requested annual leave forced Ms. Loth to drive to FDNY Division 4 in Queens, New York for Mazzola to personally grant Ms. Loth her requested annual leave.
36. On her way to meet with Mazzola, Ms. Loth received a message from FDNY Chief James Foley ("Foley") stating that he ran into Mazzola that morning, who sternly asked Foley to

avoid using Ms. Loth for future assignments. Foley would utilize Ms. Loth as an Aide for driving assignments, which was a discretionary role for which Chiefs could select employees. Foley avoided using Ms. Loth for future assignments for approximately three to four months. Ms. Loth similarly did not receive any Aide assignments from Chief Basso for three to four months. As a result, Ms. Loth lost approximately 60 hours of overtime opportunities.

37. During their meeting, Mazzola asked about Ms. Loth's relationship with Tiberi. Ms. Loth told Mazzola that her relationship with Tiberi had become "very retaliatory" (i.e., that Tiberi had become extremely retaliatory toward Ms. Loth).
38. Ms. Loth subsequently went on her annual leave from January 10 through January 20, 2019.
39. Upon Ms. Loth's return, she discussed her 2018 evaluation with FDNY Lieutenant Sean Josten ("Josten"), who authored it. Josten told Ms. Loth that he rated her 'Good' and borderline 'Very Good.' Upon providing his draft of Ms. Loth's evaluation to Tiberi for her review, however, Tiberi stated that she possessed several statements against Ms. Loth regarding Ms. Loth's job performance and behavior. Tiberi never shared the alleged statements with Josten. Ms. Loth further asked multiple FDNY Lieutenants whether they knew of any statements against her. None did.
40. Ms. Loth subsequently involved her union to correct her evaluation. FDNY Resource Chief Sanders, however, told Ms. Loth that "nothing could be done." Per FDNY regulations, Ms. Loth was entitled to a new evaluation within 90 days of her previous evaluation. Ms. Loth did not receive her new 2018 evaluation until January 2020. Tiberi

delayed issuance of this evaluation to frustrate Ms. Loth's admittance to her medic program based upon a discriminatory and retaliatory animus towards Ms. Loth.

41. In or around Spring 2019, Union Vice President Mike Greco ("Greco") informed Ms. Loth that her BITS hearing over Tiberi's November 2018 desire to remove four of Ms. Loth's annual leave days was pushed back due to an 'AWOL' charge that Tiberi filed against Ms. Loth. Tiberi's AWOL charge stemmed from Ms. Loth's overtime cancellation in early-January 2019.
42. In or around June 2019, Ms. Loth passed her 'Medic Screening,' which allowed her the opportunity to earn a higher salary, receive additional training, and potentially become a FDNY Lieutenant. In order to achieve a higher salary or title change, Ms. Loth needed to take specific medic classes that were available in September 2019 and February 2020.
43. On or about August 28, 2019, a colleague notified Ms. Loth that Tiberi opened a second investigation/BITS case against her, claiming that Ms. Loth broke into Tiberi's office in late-March 2019. Per FDNY procedure, Ms. Loth was ineligible to take any medic classes so long as these BITS case remained open. Ms. Loth's inability to take the medic classes inhibited her ability to receive a promotion or title change. Both Defendant's (continued) failure to issue Ms. Loth a 2018 performance evaluation and outstanding BITS cases hindered Ms. Loth's ability to enroll in medic classes or engage in any lateral transfers within the department.
44. On August 30, 2019, Ms. Loth filed an internal EEO complaint against Tiberi. During this investigation, Lieutenant Mueller was required to provide a witness statement by Defendant's EEO office.

45. On August 31, 2019, Ms. Loth was injured on the job. She was injured by a patient's needle and had to undergo medical leave for a month until October 1, 2019 to avoid contracting an infectious disease.
46. On September 19, 2019, Ms. Loth engaged in a meeting regarding her BITS case but could not reach an agreement due to the steep nature of Tiberi's requested punishments.
47. On September 30, 2019, Ms. Loth spoke to Lieutenant McGee requesting clarification regarding her shift. Because her shift encompassed midnight, she wanted clarity regarding whether her return to work meant she should appear the night of September 30 or October 1. McGee specified she should return to her shift at 11pm on October 1, 2019. Ms. Loth requested confirmation twice to ensure they were communicating clearly. Later that night, Ms. Loth received a text from another person on her truck requesting information about equipment. Ms. Loth indicated she would not be in that night; her coworker commented she was on the schedule. Ms. Loth arrived and clocked in at 11.30pm on September 30, 2019. Tiberi docked 51 minutes from Ms. Loth's pay for lateness.
48. In November 2019, Respondent posted an available hazardous materials instructor position, full time and part time. Ms. Loth previously held this position in 2013-2014 and was otherwise entirely qualified and able to hold this position. Ms. Loth was unable to apply for this position due to the absence of her 2018 evaluation.
49. On November 29, 2019, McGee called Ms. Loth informing her she was meant to appear for an overtime shift that morning. Ms. Loth indicated she had never signed up for that shift and confirmed that she had not verified her availability by listing her shield number underneath the schedule.

50. On December 4, 2019, the next day Ms. Loth was scheduled to work, Tiberi informed Ms. Loth she was meant to cover three overtime shifts during her absence. Ms. Loth indicated that Lieutenant Mueller would assign names to overtime slots as a matter of course to determine who was mandatable. Tiberi incorrectly understood this as Mueller logging Ms. Loth's shield number to inappropriately assign Ms. Loth to shifts. Tiberi requested that Ms. Loth write a statement against Mueller and offered to rescind Ms. Loth's command discipline if she wrote that statement. Ms. Loth wrote a full statement with an accounting of Tiberi's offer; Tiberi was not pleased and indicated the command discipline was "back on the table." Another CD would harm Ms. Loth's chances of enrolling in medic school in February 2020. Ms. Loth sought union involvement to resolve the matter.
51. On December 12, 2019, Tiberi indicated she would not issue a CD to Ms. Loth.
52. Almost immediately, later that day, Tiberi ordered Mueller to draft a workplace violence complaint against Ms. Loth by alleging Ms. Loth threatened Mueller to write an evaluation she needed for acceptance into medical school. Mueller discussed this issue with Ms. Loth; Ms. Loth asked if Mueller felt unsafe or threatened by Ms. Loth's demeanor, Mueller indicated she did not. Mueller also indicated she would state that she was being ordered to file the complaint but did not feel threatened. Mueller and Ms. Loth discussed the problems they had both encountered with Tiberi.
53. On December 19, 2019, Ms. Loth attended another BITS investigation meeting. Upon arrival, Greco asked if there were any social media policies that Ms. Loth had potentially violated. Ms. Loth indicated she had not, the only incident she could remember was the sneaker posting incident which had been handled previously. Ms. Loth immediately removed her posting, which had not mentioned any specific names, upon request from

Rugen in order to avoid a BITS case. Greco informed her that a BITS case had been filed anyway which had been apparently open without her knowledge for approximately 17 months. The BITS case in question was a text message exchange between Lieutenant Latoya Darden and Ms. Loth; Darden had inquired if Ms. Loth knew who had cut her shoe laces, Ms. Loth responded she didn't know. These messages were a private exchange and in no way a social media posting; Ms. Loth successfully had the BITS case thrown out. Ms. Loth acknowledged these claims only under the duress of the new program enrollment period approaching in February 2020. The additional BITS break-in charge was also discussed. This charge was dismissed considering there was no proof of Tiberi's allegations that Ms. Loth had broken into her office. These charges accumulated over the course of 2019, preventing Ms. Loth from transferring away from Tiberi's control and from enrolling in her medic school program for career advancement. At this time, Ms. Loth signed a stipulation to have two days of annual leave removed to have her AWOL charge from January 6, 2019 dropped and proceed with her progression to medic school.

54. By early January 2020, Ms. Loth was scheduled to begin her medic school program on February 3, 2020.
55. Ms. Loth underwent her physical examination on January 6, 2020 and received enrollment in the Medic Basic 29 program on January 7, 2020.
56. However, Tiberi was still refusing to issue Ms. Loth's 2018 evaluation. Chief Gilligan ordered Ms. Loth's evaluation to be issued; it was issued on or around January 9, 2020. Ms. Loth also required a recommendation from her commanding officer, which was Tiberi. Tiberi was again refusing to write the recommendation. Chief Gilligan wrote Ms. Loth a

recommendation letter and submitted it to the Bureau of Training before the submission deadline.

57. On February 3, 2020, Ms. Loth began her medic training program.
58. Based on the foregoing, Respondents discriminated against Ms. Loth based on gender and retaliation. Tiberi subjected Ms. Loth to discrimination by levying harsher punishments against Ms. Loth as compared to similarly-situated male colleagues, commencing arbitrary BITS cases against Ms. Loth, harassing Ms. Loth in the workplace, and interfering with Ms. Loth's employee evaluation. Despite possessing knowledge of Tiberi's treatment of Ms. Loth as well as Ms. Loth's complaints of the same, Respondent FDNY failed to address Tiberi's behavior. Furthermore, Tiberi subjected Ms. Loth to unlawful retaliation following Ms. Loth's engagement in protected activities by levying additional BITS charges against Ms. Loth, interfering with Ms. Loth's employee evaluation, interfering with Ms. Loth's annual leave, and inhibiting Ms. Loth's career advancement by withholding her 2018 evaluation through January 2020.
59. Moreover, Ms. Loth and Rosado were not the only women to complaint about Tiberi's treatment of them. Upon information and belief, several female FDNY employees in total submitted complaints to the FDNY EEO that alleged discrimination by Tiberi.
60. Ms. Loth also was subjected to discipline for actions that her male comparators were not, for example:
 - a. In July 2019, Ms. Loth and her partner Robert Vitale were out all day with no calls coming in for assignments. They returned to the station on available status with an hour and a half left on their tour. When they logged off, they were required to write statements about why they were "97," the code for available status, for such a long

time. Both complied and wrote statements. Tiberi issued Vitale a Warned and Admonished notice; Tiberi issued Ms. Loth a CD based on her report which was escalated to BITS, which prolonged her charges and case, delaying her enrollment in the September 2019 medic program.

- b. Tiberi levied an AWOL charge against Ms. Loth on January 6, 2019 due to Ms. Loth's lieutenant's failure to remove Ms. Loth from an overtime shift. On that date, Ms. Loth notified her lieutenant she was cancelling an overtime shift in order to fulfill a mutual shift. The overtime shift was never cancelled even though the mutual shift was approved by a lieutenant. Tiberi pressed for AWOL charges against Ms. Loth. Conversely, on October 20, 2019, Lieutenant Chris Orlik was a no call, no show for his tour 2 regular shift. Defendant attempted to call Orlik multiple times and Tiberi was notified. Orlik called four to five hours later to check in, his tour was changed to accommodate him. He was never reprimanded or given any formal charges for being absent without leave. As a result, two tour bosses were mandated to cover his shift, leaving the Rockaways without a lieutenant patrolling the streets helping crews.
- c. On December 2, 2018, Ms. Loth returned to the station approximately fifteen minutes late. In the interim, Tiberi sent out two other EMS members to search for Loth's truck and issued a CD to both Ms. Loth and her partner. On December 3, 2019, unit 47E1 returned to the station twenty minutes late, delaying a tour change and running a unit down for an hour. Two gentlemen were assigned to that truck, no supervisors went looking for them, nor did they receive any reprimands or CDs for their actions.

61. Tiberi exhibited a pattern of discrimination against female employees as follows:
- a. Tiberi approved Rescue Paramedic Diane Dosantos to complete Haz-Tac basic training; upon realizing Dosantos would also be afforded Rescue Medic training, Tiberi attempted to have Dosantos removed from the program. Tiberi approved another male colleague and did not attempt to remove him from his schooling program. Dosantos also experienced shoe vandalism similar to Ms. Loth and the lieutenant in Station 50 after experiencing problems with Tiberi.
 - b. Lieutenant Patricia Tanis was performing an assignment driving a Chief one night and the assignment was going to be performed later than anticipated. Tanis asked Tiberi to change her tour to enable Tanis to remain on assignment. Tiberi could not refuse a request from those who outranked her, namely the Chief. Later, Tiberi falsely alleged that Tanis broke-in to her office.
 - c. Tiberi similarly refused to provide a positive evaluation or recommendation for EMT Lizeth Brooks to proceed to medic school, mirroring her refusals for Ms. Loth. Brooks had to transfer to another station. Upon transfer, Brooks received a positive evaluation, recommendation, and approval for enrollment in medic school from her subsequent male chief.
 - d. Paramedic Marylin Arroyo had to transfer out of Tiberi's station almost immediately due to harassment and targeting by Tiberi. For example, during a snowstorm within the past few years, Defendant instructed all personnel to report to the station closest to their home to avoid any undue hardship to its employees. Tiberi, however, required Arroyo to report to Station 47 in the midst of this storm.

FIRST CAUSE OF ACTION AGAINST DEFENDANT
(DISCRIMINATION IN VIOLATION OF 42 U.S.C. 2000e-2)

62. Ms. Loth repeats and realleges each and every paragraph above as if said paragraphs were more fully set forth herein at length.
63. Defendant's discrimination concerned one of the activities protected by Title VII of the Civil Rights Act of 1964, Section 2000e-2.
64. Title VII of the Civil Rights Act of 1964, Section 2000e-2, Section 703 "Employer Practices" states: "It shall be an unlawful employment practice for an employer – (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin."
65. Defendant engaged in an unlawful practice by discriminating against Plaintiff because of her sex.
66. Ms. Loth is a member of a protected class pursuant to Title VII of the Civil Rights Act of 1964, Section 2000e-2, namely Ms. Loth is female.
67. Ms. Loth possessed proper qualifications for Defendant to continue her employment.
68. Defendant and/or its agents subjected Ms. Loth to adverse action, including levying harsher punishments against Ms. Loth as compared to similarly-situated male colleagues, commencing arbitrary BITS cases against Ms. Loth, harassing Ms. Loth in the workplace, and delaying Ms. Loth's 2018 employee evaluation for one year to inhibit her career growth. Despite possessing knowledge of Tiberi's treatment of Ms. Loth in the aforementioned manner, Respondent FDNY failed to address Tiberi's behavior.
69. Defendant and/or its agents subjected Ms. Loth to this adverse action due to a discriminatory animus towards her gender because (1) Tiberi exhibited a pattern of discrimination against female subordinates, including Ms. Loth, (2) Ms. Loth was targeted

for reprimand in a way her male comparators were not, and (3) Tiberi referred to Ms. Loth as a “calendar girl” in a degrading manner on the basis of her gender.

70. As a direct and proximate result of Defendant’s unlawful and discriminatory conduct in violation of Title VII of the Civil Rights Act of 1964, Section 2000e-2, Ms. Loth suffered and continues to suffer mental anguish and emotional distress, including but not limited to humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-confidence, emotional pain and suffering, for which she is entitled to an award of monetary damages and other relief.

SECOND CAUSE AGAINST DEFENDANT
(DISCRIMINATION IN VIOLATION OF N.Y. EXEC. LAW § 296)

71. Ms. Loth repeats and realleges each and every paragraph above as if said paragraphs were more fully set forth herein at length.
72. Defendant’s discrimination concerned activities protected by New York Executive Law § 296.
73. The New York State Human Rights Law, N.Y. Exec. Law § 296 provides, in pertinent part: “It shall be an unlawful discriminatory practice: (a) For an employer or licensing agency, because of an individual's age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status, to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment.”
74. Ms. Loth is a member of a protected class pursuant to N.Y. Exec. Law § 296, namely Ms. Loth is female.
75. Ms. Loth possessed proper qualifications for Defendant to continue her employment.

76. Defendant and/or its agents subjected Ms. Loth to adverse action, including levying harsher punishments against Ms. Loth as compared to similarly-situated male colleagues, commencing arbitrary BITS cases against Ms. Loth, harassing Ms. Loth in the workplace, and delaying Ms. Loth's 2018 employee evaluation for one year to inhibit her career growth. Despite possessing knowledge of Tiberi's treatment of Ms. Loth in the aforementioned manner, Respondent FDNY failed to address Tiberi's behavior.
77. Defendant and/or its agents subjected Ms. Loth to this adverse action due to a discriminatory animus towards her gender because (1) Tiberi exhibited a pattern of discrimination against female subordinates, including Ms. Loth, (2) Ms. Loth was targeted for reprimand in a way her male comparators were not, and (3) Tiberi referred to Ms. Loth as a "calendar girl" in a degrading manner on the basis of her gender.
78. As a direct and proximate result of Defendant's unlawful and discriminatory conduct in violation of N.Y. Exec. Law §296, Ms. Loth suffered and continues to suffer mental anguish and emotional distress, including but not limited to humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-confidence, emotional pain and suffering, for which she is entitled to an award of monetary damages and other relief.

THIRD CAUSE OF ACTION AGAINST DEFENDANT
(DISCRIMINATION IN VIOLATION OF N.Y. ADMIN. CODE § 8-107)

79. Ms. Loth repeats, reiterates, and realleges each and every allegation made in the above paragraphs of this Complaint as if more fully set forth herein at length.
80. Defendant's discrimination concerned activities protected by New York City Administrative Code § 8-107.
81. The New York City Human Rights Law, N.Y. Admin Code 8-107 provides, in pertinent part: "It shall be an unlawful discriminatory practice: (a) For an employer or agent thereof,

because of the actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, caregiver status, sexual orientation, uniformed service or alienage or citizenship status of any person: (i) To represent that any employment or position is not available when in fact it is available; (ii) To refuse to hire or employ or to bar or to discharge from employment such person; or (iii) To discriminate against such person in compensation or in terms, conditions, or privileges of employment.”

82. Ms. Loth is a member of a protected class pursuant to N.Y. Exec. Law § 296, namely Ms. Loth is female.
83. Ms. Loth possessed proper qualifications for Defendant to continue her employment.
84. Defendant and/or its agents subjected Ms. Loth to adverse action, including levying harsher punishments against Ms. Loth as compared to similarly-situated male colleagues, commencing arbitrary BITS cases against Ms. Loth, harassing Ms. Loth in the workplace, and delaying Ms. Loth’s 2018 employee evaluation for one year to inhibit her career growth. Despite possessing knowledge of Tiberi’s treatment of Ms. Loth in the aforementioned manner, Respondent FDNY failed to address Tiberi’s behavior.
85. Defendant and/or its agents subjected Ms. Loth to this adverse action due to a discriminatory animus towards her gender because (1) Tiberi exhibited a pattern of discrimination against female subordinates, including Ms. Loth, (2) Ms. Loth was targeted for reprimand in a way her male comparators were not, and (3) Tiberi referred to Ms. Loth as a “calendar girl” in a degrading manner on the basis of her gender.
86. As a direct and proximate result of Defendant’s unlawful and discriminatory conduct in violation of N.Y. Admin Code 8-107, Ms. Loth suffered and continues to suffer mental anguish and emotional distress, including but not limited to humiliation, embarrassment,

stress and anxiety, loss of self-esteem and self-confidence, emotional pain and suffering, for which she is entitled to an award of monetary damages and other relief.

FOURTH CAUSE OF ACTION AGAINST DEFENDANT
(RETALIATION IN VIOLATION OF 42 U.S.C. 2000e-3)

87. Ms. Loth repeats, reiterates, and realleges each and every allegation made in the above paragraphs of this Complaint as if more fully set forth herein at length.
88. Defendant's discrimination concerned activities protected by Title VII of the Civil Rights Act of 1964, Section 2000e-3.
89. Title VII of the Civil Rights Act of 1964, Section 2000e-3 provides, in pertinent part: "It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed any practice made an unlawful employment practice by this subchapter, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter."
90. Ms. Loth engaged in a protected activity by participating as a witness in Rosado's EEOC Complaint investigation in December 2018 and issuing an internal EEO complaint against Tiberi on August 30, 2019.
91. Defendant was aware of both activities as both were internal EEO complaints and investigations. Tiberi had access to review, approve, and/or deny Ms. Loth's timesheet listing her EEO interview in December 2018.

92. Defendant and/or its agents subjected Ms. Loth to adverse action, including levying harsher punishments against Ms. Loth as compared to similarly-situated colleagues who had not engaged in protected activity, commencing arbitrary BITS cases against Ms. Loth, harassing Ms. Loth in the workplace, and delaying Ms. Loth's 2018 employee evaluation for one year to inhibit her career growth. Despite possessing knowledge of Tiberi's treatment of Ms. Loth in the aforementioned manner, Respondent FDNY failed to address Tiberi's behavior.
93. Defendant took these adverse actions against Ms. Loth in temporal proximity to her engagement in protected activity. Within weeks of Ms. Loth's witness interview, Tiberi refused to grant Ms. Loth her yearly leave; Tiberi willingly accepted a command discipline for this refusal. Various Chiefs received instruction from Tiberi and Mazzola not to provide Ms. Loth with discretionary overtime assignments within months of her interview. Within two months of Ms. Loth's witness interview, Tiberi refused to issue Ms. Loth's 2018 performance evaluation, inhibiting Ms. Loth's career growth for a full year. Tiberi also lodged various BITS charges against Ms. Loth throughout 2018. Tiberi continued to refuse to issue Ms. Loth's 2018 performance evaluation after Ms. Loth's August 30, 2019 complaint.
94. Defendant also exhibited a pattern of retaliatory behavior against various female employees who engaged in protected activity, namely those employees who participated in Loth and Rosado's EEO complaints.
95. As a direct and proximate result of Defendant's unlawful and discriminatory conduct in violation of Title VII of the Civil Rights Act of 1964, Section 2000e-3, Ms. Loth suffered and continues to suffer mental anguish and emotional distress, including but not limited to

humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-confidence, emotional pain and suffering, for which she is entitled to an award of monetary damages and other relief.

FIFTH CAUSE OF ACTION AGAINST DEFENDANT
(RETALIATION IN VIOLATION OF N.Y. EXEC. LAW § 296)

96. Ms. Loth repeats, reiterates, and realleges each and every allegation made in the above paragraphs of this Complaint as if more fully set forth herein at length.
97. Defendant's discrimination concerned activities protected by the New York Executive Law § 296(7).
98. The New York State Human Rights Law, N.Y. Exec. Law § 296(7) provides in pertinent part that, "It shall be an unlawful discriminatory practice for any person engaged in any activity to which this section applies to retaliate or discriminate against any person because he or she has opposed any practices forbidden under this article or because he or she has filed a complaint, testified or assisted in any proceeding under this article."
99. Ms. Loth engaged in a protected activity by participating as a witness in Rosado's EEOC Complaint investigation in December 2018 and issuing an internal EEO complaint against Tiberi on August 30, 2019.
100. Defendant was aware of both activities as both were internal EEO complaints and investigations. Tiberi had access to review, approve, and/or deny Ms. Loth's timesheet listing her EEO interview in December 2018.
101. Defendant and/or its agents subjected Ms. Loth to adverse action, including levying harsher punishments against Ms. Loth as compared to similarly-situated colleagues who had not engaged in protected activity, commencing arbitrary BITS cases against Ms. Loth, harassing Ms. Loth in the workplace, and delaying Ms. Loth's 2018 employee evaluation

for one year to inhibit her career growth. Despite possessing knowledge of Tiberi's treatment of Ms. Loth in the aforementioned manner, Respondent FDNY failed to address Tiberi's behavior.

102. Defendant took these adverse actions against Ms. Loth in temporal proximity to her engagement in protected activity. Within weeks of Ms. Loth's witness interview, Tiberi refused to grant Ms. Loth her yearly leave; Tiberi willingly accepted a command discipline for this refusal. Various Chiefs received instruction from Tiberi and Mazzola not to provide Ms. Loth with discretionary overtime assignments within months of her interview. Within two months of Ms. Loth's witness interview, Tiberi refused to issue Ms. Loth's 2018 performance evaluation, inhibiting Ms. Loth's career growth for a full year. Tiberi also lodged various BITS charges against Ms. Loth throughout 2018. Tiberi continued to refuse to issue Ms. Loth's 2018 performance evaluation after Ms. Loth's August 30, 2019 complaint.
103. Defendant also exhibited a pattern of retaliatory behavior against various female employees who engaged in protected activity, namely those employees who participated in Loth and Rosado's EEO complaints.
104. As a direct and proximate result of Defendant's unlawful and discriminatory conduct in violation of New York Executive Law § 296(7), Ms. Loth suffered and continues to suffer mental anguish and emotional distress, including but not limited to humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-confidence, emotional pain and suffering, for which she is entitled to an award of monetary damages and other relief.

SIXTH CAUSE OF ACTION AGAINST DEFENDANT
(RETALIATION IN VIOLATION OF N.Y. ADMIN. CODE § 8-107(7))

105. Ms. Loth repeats, reiterates, and realleges each and every allegation made in the above paragraphs of this Complaint as if more fully set forth herein at length.
106. Defendant's discrimination concerned activities protected by N.Y. Admin Code § 8-107(7).
107. N.Y. Admin Code § 8-107(7) provides in pertinent part that, "It shall be an unlawful discriminatory practice for any person engaged in any activity to which this chapter applies to retaliate or discriminate in any manner against any person because such person has (i) opposed any practice forbidden under this chapter, (ii) filed a complaint, testified or assisted in any proceeding under this chapter, (iii) commenced a civil action alleging the commission of an act which would be an unlawful discriminatory practice under this chapter . . . The retaliation or discrimination complained of under this subdivision need not result in an ultimate action with respect to employment... in a materially adverse change in the terms and conditions of employment...provided, however, that the retaliatory or discriminatory act or acts complained of must be reasonably likely to deter a person from engaging in protected activity."
108. Ms. Loth engaged in a protected activity by participating as a witness in Rosado's EEOC Complaint investigation in December 2018 and issuing an internal EEO complaint against Tiberi on August 30, 2019.
109. Defendant was aware of both activities as both were internal EEO complaints and investigations. Tiberi had access to review, approve, and/or deny Ms. Loth's timesheet listing her EEO interview in December 2018.
110. Defendant and/or its agents subjected Ms. Loth to adverse action, including levying harsher punishments against Ms. Loth as compared to similarly-situated colleagues who had not

engaged in protected activity, commencing arbitrary BITS cases against Ms. Loth, harassing Ms. Loth in the workplace, and delaying Ms. Loth's 2018 employee evaluation for one year to inhibit her career growth. Despite possessing knowledge of Tiberi's treatment of Ms. Loth in the aforementioned manner, Respondent FDNY failed to address Tiberi's behavior.

111. Defendant took these adverse actions against Ms. Loth in temporal proximity to her engagement in protected activity. Within weeks of Ms. Loth's witness interview, Tiberi refused to grant Ms. Loth her yearly leave; Tiberi willingly accepted a command discipline for this refusal. Various Chiefs received instruction from Tiberi and Mazzola not to provide Ms. Loth with discretionary overtime assignments within months of her interview. Within two months of Ms. Loth's witness interview, Tiberi refused to issue Ms. Loth's 2018 performance evaluation, inhibiting Ms. Loth's career growth for a full year. Tiberi also lodged various BITS charges against Ms. Loth throughout 2018. Tiberi continued to refuse to issue Ms. Loth's 2018 performance evaluation after Ms. Loth's August 30, 2019 complaint.
112. Defendant also exhibited a pattern of retaliatory behavior against various female employees who engaged in protected activity, namely those employees who participated in Loth and Rosado's EEO complaints.
113. As a direct and proximate result of Defendant's unlawful and discriminatory conduct in violation of the New York Admin, Code § 8-107, Ms. Loth suffered and continues to suffer mental anguish and emotional distress, including but not limited to humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-confidence, emotional pain and suffering, for which he is entitled to an award of monetary damages and other relief.

WHEREFORE, Plaintiff respectfully requests a judgment against Defendant:

- A. Declaring that Defendant engaged in unlawful employment practices prohibited by Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000, *et seq.*, the New York State Human Rights Law, N.Y. Exec. Law 290. *et seq.*, and the New York City Human Rights Law, N.Y. Admin Code 8-107, *et seq.* by discriminating against Plaintiff on the basis of her gender, as well as retaliated against her for engagement in protected activity;
- B. Awarding damages to the Plaintiff, resulting from Defendant's hostile work environment and to otherwise make her whole for any losses suffered as a result of such unlawful employment practice;
- C. Awarding Plaintiff compensatory damages for mental, emotional and physical injury, distress, pain and suffering and injury to her reputation in an amount to be proven;
- D. Awarding Plaintiff punitive damages;
- E. Awarding Plaintiff attorneys' fees, costs, and expenses incurred in the prosecution of the action;
- F. Awarding Plaintiff such other and further relief as the Court may deem equitable, just and proper to remedy the Defendant's unlawful employment practices.

Dated: New York, New York
November 6, 2020

WHITE, HILFERTY & ALBANESE

A handwritten signature in black ink, appearing to read "M. Dinora Smith", followed by a horizontal line.

By: _____
J. Christopher Albanese (3986163)
M. Dinora Smith (MS2096)
Attorneys for Margot Loth
800 Third Avenue, Suite 2800
New York, New York 10022
(646) 690 - 8881

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Case No.:

MARGOT LOTH,

VERIFICATION

Plaintiff,

-against-

THE CITY OF NEW YORK,

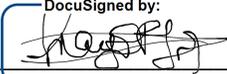
Defendant.

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MARGOT LOTH, pursuant to the provisions of 28 U.S.C. § 1746, declares the following under penalty of perjury that the foregoing is true and correct:

1. I am the Plaintiff herein.
2. I have read the foregoing Complaint and know the content thereof, that the same is of my own knowledge except as to the matters therein stated upon information and belief; and that as to those matters, I believe the same to be true.

Executed : New York, New York
 November 6, 2020

DocuSigned by:


 Margot Loth
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