

2007 DEC 20 P 12:47

NORMAN DAVID SCHOENFELD,

Plaintiff,

- against -

ALLEN & OVERY, L.L.P.,

Defendant.

07 ⁰⁷ **CV 11431**
JUDGE BAER

ECF CASE
COMPLAINT

PLAINTIFF DEMANDS A
TRIAL BY JURY

Plaintiff Norman David Schoenfeld ("plaintiff" or "Schoenfeld"), through his attorneys Vladeck, Waldman, Elias & Engelhard, P.C., complains of defendant Allen & Overy L.L.P. ("Allen & Overy," the "Firm," or "defendant"), as follows:

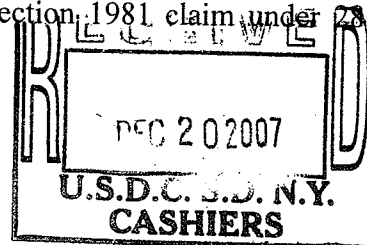
NATURE OF THE ACTION

1. Plaintiff brings this action to remedy race discrimination in employment and to remedy retaliation for his opposition to such unlawful employment actions, in violation of Section 1981 of the Civil Rights Act of 1866, 42 U.S.C. § 1981 ("Section 1981"); the New York State Human Rights Law, Executive Law § 296 et seq. (the "Human Rights Law"); and the Administrative Code of the City of New York § 8-101 et seq. (the "City Law").

2. Plaintiff seeks injunctive and declaratory relief, damages, and other legal and equitable relief pursuant to Section 1981, the Human Rights Law, the City Law and the Labor Law.

JURISDICTION AND VENUE

3. The Court has jurisdiction over plaintiff's Section 1981 claim under 28 U.S.C. §§ 1331 and 1343(a)(3) and (4).



4. The Court has supplemental jurisdiction over plaintiff's Human Rights Law, City Law and Labor Law claims pursuant to 28 U.S.C. § 1367.

5. This Court also has jurisdiction over plaintiff's claims pursuant to 28 U.S.C. § 1332(a)(1) because plaintiff and defendant are citizens of different states and the matter in controversy exceeds the sum of \$75,000.

6. Venue is proper in this District pursuant to 29 U.S.C. § 626(c) and 28 U.S.C. § 1391 because the unlawful practices complained of herein occurred within the Southern District of New York.

7. Pursuant to § 8-502(c) of the City Law, prior to filing this Complaint, plaintiff served a copy of the Complaint on the City of New York Commission on Human Rights and the Corporation Counsel of the City of New York.

PARTIES

8. Plaintiff is an observant Jewish man who was employed by defendant from on or about August 20, 2007 until his employment was terminated on October 29, 2007.

9. On information and belief, defendant is a British limited liability partnership with its principal place of business in London, England. Defendant regularly does business in New York and is registered to do business in New York.

FACTUAL ALLEGATIONS

Background

10. Schoenfeld graduated from Brooklyn Law School in 1999.

11. Following several years of practice, in January 2005, Schoenfeld went to work at Andrews Kurth L.L.P. ("Andrews Kurth"), an international law firm with approximately

400 lawyers. He was successful in the thriving distressed bank debt trading practice at Andrews Kurth.

12. In March 2006, Schoenfeld left Andrews Kurth briefly to pursue an opportunity at another New York law firm ("NYC Firm"). After approximately a month, Andrews Kurth successfully recruited Schoenfeld to return to his work at Andrews Kurth.

13. In the second quarter of 2007, Schoenfeld began seeking other positions. On the advice of a legal recruiter, the resume that he circulated at that time did not include the one-month period that he had worked at the NYC Firm, because he had worked there so briefly and left voluntarily to return to his prior firm.

14. In June 2007, Schoenfeld interviewed for a position at Mayer Brown L.L.P. ("Mayer Brown"), working in corporate finance with partner Mark Wojeiechowski ("Wojeiechowski"). The following week, Wojeiechowski offered Schoenfeld the position at Mayer Brown, but subsequently, when plaintiff called to accept the offer, said that it was a "bad time" and withdrew the offer.

15. In July 2007, Wojeiechowski informed plaintiff he was planning to move from Mayer Brown to Allen & Overy in August 2007 and recruited Schoenfeld to work at Allen & Overy.

16. On July 25, 2007, plaintiff met with two Allen & Overy partners in an interview the partners described as intended only to see if plaintiff had "three heads" before approving Wojeiechowski's hiring plaintiff. At the request of these two partners, he sent them his resume and transcript that evening; within about 90 minutes, the Firm sent plaintiff an offer letter.

17. The offer letter, which plaintiff accepted, stated: "the first three months of your employment is considered to be an orientation period. Your performance during this period will be evaluated to ensure that you are meeting initial performance expectations" (the "Orientation Provision").

18. Plaintiff's performance at Allen & Overy was good. On information and belief, his billable hours were comparable to or higher than those of his peers.

19. Plaintiff's religious observance of the Sabbath required him to refrain from work each week from sundown Friday evening through sundown Saturday. Although Wojeiechowski was aware of and purported to agree to an accommodation for this religious observance, plaintiff encountered resistance and discrimination from the beginning of his employment at the Firm because of his religion.

20. Indeed on the first Saturday morning plaintiff worked at the Firm, and subsequently on other occasions, Wojeiechowski wrote electronic mail on Saturday morning demanding plaintiff respond immediately.

21. On one Friday afternoon, when plaintiff reminded Wojeiechowski that he needed to leave early, Wojeiechowski responded by swearing at plaintiff by angrily screaming "fuck" at plaintiff.

22. On one occasion, on the weekend of October 20-21, 2007, when plaintiff was unable to perform certain work tasks on Friday night, yet tended to the matter satisfactorily on Saturday night and Sunday, Wojeiechowski questioned plaintiff's work commitment and complained that plaintiff did not take adequate responsibility.

23. Plaintiff also needed to be absent for several Jewish holidays during September 2007. Despite making certain Wojeiechowski was aware of these required absences

well in advance, on the eve of one such holiday Wojeiechowski requested plaintiff assist him on a matter over the holiday.

24. Neither plaintiff's Sabbath observance nor his absences for religious holidays substantially interfered with his ability to perform his job, and his performance was as good as or better than that of peers who did not observe the Jewish Sabbath.

25. Nevertheless, Wojeiechowski began to reduce the responsibility given to plaintiff and to assign professional tasks instead to an associate who began working at Allen & Overy at the same time as plaintiff but who was not Jewish.

26. Following the weekend when Wojeiechowski made repeated unjustified criticisms of plaintiff's commitment and responsibility following plaintiff's Sabbath observance, plaintiff consulted Allen & Overy's employee manual and learned that an appropriate person to whom he could complain about such discrimination was managing partner Ian Shrank ("Shrank").

27. On or about Wednesday, October 24, 2007, Shrank met with plaintiff and stated that Wojeiechowski had questioned plaintiff's commitment and responsibility at the Firm. Plaintiff stated that he believed Wojeiechowski was discriminating against him because of his religious observance.

28. Though Shrank attempted to raise performance criticisms from another partner, he admitted that these criticisms would not have been raised before plaintiff's regular performance review were it not for Wojeiechowski's statements.

29. At the end of the meeting, after plaintiff had explained his complaint, Shrank asked if plaintiff was ever at the NYC Firm, and stated "you should have put it on your resume."

30. Later that same day another Allen & Overy partner expressed interest in retaining plaintiff at the Firm and stated that he discussed the NYC Firm omission from plaintiff's resume with Shrank and that both he and Shrank did not believe the omission was material.

31. On Monday, October 29, 2007 – three business days after plaintiff's complaint – Shrank terminated plaintiff's employment. Shrank stated that the basis for the termination was performance. This firing was a month prior to the end of the three month orientation period during which, according to the terms of the Orientation Provision in plaintiff's offer letter, his performance was to be evaluated.

FIRST CAUSE OF ACTION

Discrimination Under Section 1981

32. Plaintiff repeats and realleges paragraphs 1-31 above.

33. By the acts and practices described above, defendant discriminated against plaintiff in the terms and conditions of his employment on the basis of his race in violation of Section 1981.

34. Defendant acted intentionally and with malice and/or reckless indifference to plaintiff's protected rights.

35. Plaintiff has suffered, is now suffering and will continue to suffer irreparable injury, monetary damages, mental anguish and humiliation and damage to his reputation as a result of defendant's discriminatory practices unless and until this Court grants relief.

SECOND CAUSE OF ACTION

Retaliation Under Section 1981

36. Plaintiff repeats and realleges paragraphs 1-35 above.

37. By the acts and practices described above, defendant retaliated against plaintiff for the exercise of his rights under Section 1981.

38. Defendant acted intentionally and with malice and/or reckless indifference to plaintiff's protected rights.

39. Plaintiff has suffered, is now suffering and will continue to suffer irreparable injury, monetary damages, mental anguish and humiliation and damage to his reputation as a result of defendant's retaliatory practices unless and until this Court grants relief.

THIRD CAUSE OF ACTION

Discrimination Under the Human Rights Law

40. Plaintiff repeats and realleges paragraph 1-39 above.

41. By the acts and practices described above, defendant discriminated against plaintiff in the terms and conditions of his employment on the basis of his religion, in violation of the Human Rights Law.

42. Plaintiff has suffered, is now suffering and will continue to suffer irreparable injury, monetary damages, mental anguish and humiliation and damage to his reputation as a result of defendant's discriminatory practices unless and until this Court grants relief.

FOURTH CAUSE OF ACTION

Retaliation Under the Human Rights Law

43. Plaintiff repeats and realleges paragraphs 1-42 above.

44. By the acts and practices described above, defendant retaliated against plaintiff for the exercise of his rights under the Human Rights Law.

45. Plaintiff has suffered, is now suffering and will continue to suffer irreparable injury, monetary damages, mental anguish and humiliation and damage to his reputation as a result of defendant's retaliatory practices unless and until this Court grants relief.

FIFTH CAUSE OF ACTION

Discrimination Under City Law

46. Plaintiff repeats and realleges paragraphs 1-45 above.

47. By the acts and practices described above, defendant discriminated against plaintiff in the terms and conditions of his employment on the basis of his religion, in violation of City Law.

48. Defendant acted intentionally and with malice and/or reckless indifference to plaintiff's protected rights.

49. Plaintiff has suffered, is now suffering and will continue to suffer irreparable injury, monetary damages, mental anguish and humiliation and damage to his reputation as a result of defendant's discriminatory practices unless and until this Court grants relief.

SIXTH CAUSE OF ACTION

Retaliation Under City Law

50. Plaintiff repeats and realleges paragraphs 1-49 above.

51. By the acts and practices described above, defendant retaliated against plaintiff for the exercise of his rights under the City Law.

52. Defendant acted intentionally and with malice and/or reckless indifference to plaintiff's protected rights.

53. Plaintiff has suffered, is now suffering and will continue to suffer irreparable injury, monetary damages, mental anguish and humiliation and damage to his reputation as a result of defendant's retaliatory practices unless and until this Court grants relief.

PRAYER FOR RELIEF

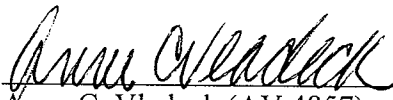
WHEREFORE, plaintiff respectfully requests that the Court enter an award:

- a. declaring that the acts and practices complained of herein are in violation of Section 1981, the Human Rights Law, the City Law and the Labor Law;
- b. enjoining and permanently restraining these violations of Section 1981, the Human Rights Law, the City Law and the Labor Law;
- c. directing defendant to take such affirmative steps as are necessary to ensure that the effects of these unlawful practices are eliminated and do not continue to affect plaintiff's employment opportunities;
- d. directing defendant to place plaintiff in the position he would have occupied but for defendant's discriminatory and unlawful conduct and making him whole for all earnings and other benefits he would have received but for defendant's discriminatory treatment, including, but not limited to, wages and other lost benefits;
- e. directing defendant to pay plaintiff compensatory damages for his mental anguish and humiliation;
- f. directing defendant to pay plaintiff punitive damages for their intentional disregard of and/or reckless indifference to plaintiff's statutory rights;

- h. directing defendant to pay plaintiff's attorneys' fees, costs and disbursements pursuant to Section 1981, the Human Rights Law, and the City Law;
- i. directing defendant to compensate plaintiff for any adverse tax consequences;
- j. directing defendant to pay prejudgment interest; and
- k. granting such other and further relief as this Court deems necessary and proper.

Dated: New York, New York
December 20, 2007

VLADECK, WALDMAN, ELIAS &
ENGELHARD, P.C.

By: 
Anne C. Vladeck (AV 4857)
Maia Goodell (MG 8905)
Attorneys for Plaintiff
1501 Broadway, Suite 800
New York, New York 10036
(212) 403-7300