

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

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BRENDA JOYNER,

Index No.:

Plaintiff,

- against -

PLANNED PARENTHOOD FEDERATION OF
AMERICA, INC.,

Defendant.

FILED SUMMONS

MAY 24 2006 Date of Purchase of 06107154
Index Number:

NEW YORK
COUNTY CLERK'S OFFICE

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YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer within twenty [20] days after the service (or within thirty [30] days after the service is complete if this summons inot personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgement will be taken against you by default for the relief demanded in the complaint.

The Plaintiff designates **New York County** as the place of trial which is the county in which **the acts and omissions giving rise to the allegations made in the complaint occurred.**

Dated: New York, New York
May 23, 2006

KAISER SAURBORN & MAIR, P.C.
Attorneys for Plaintiff

By: 

William H. Kaiser, Esq.
20 Exchange Place, 43rd Floor
New York, New York 10005
(212) 338-9100

**NEW YORK STATE SUPREME COURT
NEW YORK COUNTY**

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BRENDA JOYNER,

Index No.:

Plaintiff,

-against-

COMPLAINT

PLANNED PARENTHOOD FEDERATION
OF AMERICA, INC.,

Defendant.

-----X

Plaintiff, Brenda Joyner, by her attorneys, Kaiser Saurborn & Mair, P.C., as and for her complaint against defendant, alleges as follows:

PARTIES, JURISDICTION, AND NATURE OF ACTION

1. Plaintiff, Brenda Joyner ("Joyner" or "plaintiff"), is a citizen of the State of Ohio, residing in Cleveland Heights, Ohio.
2. Defendant, Planned Parenthood Federation of America, Inc. ("PPFA" or "defendant"), is a corporation duly authorized to conduct business in New York State, whose principal place of business is at 434 W. 33rd Street, New York, New York 10001.
3. Defendant encouraged, fostered and maintained a work environment of race and national origin discrimination, of which plaintiff and other senior staff of PPFA complained repeatedly. Plaintiff, along with other senior staff, was terminated in retaliation for her complaints of discriminatory disparities in pay among PPFA employees. Defendant's conduct constitutes a pattern and practice of retaliation.
4. Defendant retaliated against plaintiff in violation of New York State and New York City civil rights laws. This is an action to recover compensatory and punitive damages for

defendant's violations of New York State and New York City anti-discrimination statutes.

5. Venue is properly laid in this Court in that the unlawful conduct giving rise to this complaint occurred within New York County.

BACKGROUND

I.

BRENDA JOYNER'S EMPLOYMENT

6. Prior to working for PPFA, Ms. Joyner had enjoyed a distinguished 30 year career in the non-profit sector.
7. Between December 2003 and May 2004, Ms. Joyner represented the Black Women's Health Imperative on the Steering Committee that planned the historic March for Women's Lives mobilization in Washington D.C. that year.
8. The March was a huge success, and shortly thereafter Ms. Joyner received a phone call from a national staff member of PPFA, on behalf of Gloria Feldt, President and Chief Executive Officer of PPFA, strongly urging Ms. Joyner to apply for the position of Vice President of Diversity for the national organization.
9. After a series of conversations and interviews with George Stokes, the Chief Operating Officer; Desiree Bunch, the Vice President of Human Resources; a panel of five Federation-wide stakeholders and Gloria Feldt, Ms. Joyner was hired as Vice President of Diversity in June 2004.
10. As Vice President of Diversity for PPFA, Ms. Joyner was responsible for providing national leadership in Planned Parenthood's Federation-wide diversity initiative to support the organization's need to respond to an increasingly diverse client base, employee workforce,

volunteer pool and organizational network.

11. Ms. Joyner was also responsible for managing systematic change processes to facilitate the institutionalization of diversity concepts and practices throughout the organization, and to build and nurture relationships with distinct external diverse coalition partners.
12. During the entire tenure of her employment, plaintiff performed her job duties in a superior fashion.
13. At all relevant times herein, Beth Otten, General Counsel for PPFA, Karen Pearl, Interim President of PPFA, and Doug Jackson, Interim Chief Operating Officer, controlled and/or substantially influenced the terms and conditions of plaintiff's employment, including but not limited to termination.
14. Ms. Otten, Ms. Pearl, Mr. Jackson and Ms. Joyner were all responsible for maintaining a work environment free of unlawful discrimination and retaliation.

II.

THE VICKBERG REPORT

15. On August 2, 2004, Ms. Joyner's official start date with PPFA, she joined the fourteen member senior Strategic Management Team ("SMT"), bringing to four the number of African American Vice Presidents and Senior Managers in the National Headquarters of PPFA.
16. Mr. Stokes, the Chief Operating Officer and Ms. Joyner's superior, publicly announced on several occasions that, "Brenda Joyner is the one who will take diversity to its next level."
17. In the fall of 2004, the Diversity Department worked in collaboration with the Human Resources Department to address alarming findings on the Great Places to Work ("GPTW")

Trust Index Survey.

18. The survey revealed that Black and Hispanic staff gave substantially lower ratings than white staff on the survey item, *"People here are treated fairly regardless of their race."* In a confidential report, Desiree Bunch, Vice President of the Human Resources Department, and Suzanne Vickberg, PhD, Director of Change Initiatives in the Human Resources Department, noted that these findings were, "similar to the pattern of results in the 2002 GPTW survey."
19. In October of 2004, the HR Department conducted a, "comprehensive statistical analysis to further explore these issues and determine whether there are any significant trends in salaries of PPFA staff based on demographic variables" ("Vickberg Report"). [A copy of the Vickberg Report is attached hereto as Exhibit "A"]
20. In late November 2004, the written results of the "Vickberg Report" were given to the Chief Operating Officer, Mr. Stokes, and to Ms. Joyner by Ms. Vickberg and Ms. Bunch. The study found that there are, "disparities in pay," related to race and ethnicity. The report stated that Staff of Color are paid an average of \$7,000 less than White staff, even when controlling for other factors such as age, tenure, gender and job category or salary grade.
21. In particular, Hispanic staff, and to a lesser degree, Black staff, appear to be underpaid. After controlling for all other factors, Hispanic Staff are paid an average of \$9,000-\$12,000 less than White Staff.
22. Salaries of members of the Strategic Management Team (SMT) were not included in the Vickberg analysis.
23. In the last week of November 2004, Mr. Stokes' office scheduled a meeting to discuss the report with Ms. Bunch, Ms. Vickberg, and Ms. Joyner, though when the meeting began Ms.

Vickberg, the principal author of the report, was asked to wait outside. Ms. Bunch, Ms. Vickberg's boss, then reported that Beth Otten, General Counsel for PPFA, had asked her to inform the group that the study done by Vickberg was, "not commissioned," that the findings were, "questionable," and that all copies of the report that had been prepared and distributed by Vickberg and Bunch should be taken back and given to Otten.

24. Ms. Bunch also stated that Ms. Otten had consulted PPFA outside counsel on the matter.
25. Mr. Stokes and Ms. Joyner took exception to the Otten plan and voiced their opposition at this meeting.
26. Mr. Stokes and Ms. Joyner agreed that the President/CEO Gloria Feldt should be informed of the Vickberg findings and brought into consultation and problem-solving concerning them.
27. Ms. Joyner, Mr. Stokes and Ms. Bunch discussed their uneasiness about the way this matter was being handled.
28. Ms. Joyner and Mr. Stokes stated that an important potential problem existed and it looked as if the results of the report were being swept under the rug.
29. Ms. Joyner and Mr. Stokes maintained possession of the report.
30. Approximately a month later, the African American Senior Vice Presidents and George Stokes, the Chief Operating Officer, who reviewed and possessed the Vickberg Report received a letter from PPFA's agents which admonished all persons with knowledge of the study from speaking about it in any context, thereby imposing a "gag" on Joyner and the other senior team members.
31. The letter also demanded that the Vickberg Report be returned or otherwise, "destroyed."

32. Less than one month after receipt of the "gag" letter, George Stokes was relieved of his duties at PPFA and was replaced by Doug Jackson, a white man.
33. Gloria Feldt was replaced by Interim President and CEO Karen Pearl.
34. Immediately upon taking interim office in early February 2005, Karen Pearl demanded that Brenda Joyner give up possession of her copy of the Vickberg Report.
35. In the first meeting between interim President/CEO Karen Pearl and VP of Diversity, Brenda Joyner, Pearl threatened to relocate Diversity into Human Resources and out of the Diversity Department; criticized the wisdom of a recent Board decision to move forward to include diversity indicators in the affiliate accreditation process; admonished Joyner for publicly asking a reasonable question during an open forum concerning the new interim President/CEO's philosophy on protecting the dignity of individuals working in the national office; and directly threatened Joyner's employment if she was unwilling to do as she was told.
36. Over the course of the next year, Ms. Joyner complained routinely and consistently about PPFA's failure to follow up on evidence of race and ethnic discrimination in pay, as outlined in the Vickberg Report.
37. Consequently, she was subjected to a campaign of harassment, isolation and stereotyping by interim senior staff and subjected to hostile opposition to her fulfilling her role as Vice President of Diversity.
38. Despite the hostile environment to which she was subjected, Ms. Joyner's accomplishments for PPFA in 2005 were substantial and duly noted by her superiors.
39. About a week prior to the January 26-29, 2006 PPFA Board Meeting in San Francisco, Ms.

Joyner received a call from Interim President and CEO Karen Pearl's office requesting that she attend a special meeting on "Pay Equity" scheduled for January 27, 2006.

40. Also present at the meeting were Sally Kagerer, Current Chair of the Finance Committee of the Board and the immediate past Chair of the Cultural Diversity Steering Committee during the period that the Vickberg Report had been conducted; Ladon Love, the immediate past Chair of the national board during the time in question; Jennifer Barefoot, current Chair of the Cultural Diversity Steering Committee; Esperanza Garcia Walters, current Chair of the PPFA National Board, and the newly hired national President and CEO of PPFA, Cecile Richards.
41. At the meeting, Ms. Joyner learned that the meeting had been called by Beth Otten and Karen Pearl to advise the group that a new compensation study had been done because the earlier study done by Suzanne Vickberg was allegedly, "unscientific and inappropriate."
42. Ms. Otten stated that the new study found no inequity in pay at Planned Parenthood.
43. In that meeting, Ms. Otten handed out a letter from Welch Consulting firm that gave no particular data or information on the salary structure at PPFA, other than that the study had used, "the methodologies appropriate in the industry," and no disparities existed.
44. Ms. Joyner objected to publicizing the conclusion from this meeting that there is, "no problem," regarding pay inequity at PPFA, because she found the letter provided by Otten to be nonspecific, unconvincing and otherwise not particularly reassuring in clarifying whether or not a problem existed.
45. The Welch letter contained no information regarding which variables had been examined in the analysis, what techniques had been employed, what specific results were found or what

- the statistical significance was of any identified trends.
46. The letter provided at this meeting did not discuss whether any variance at all was found, or how such variance, if found, might be explained.
 47. Ms. Joyner also stated to the group and Ms. Otten that she had been waiting for some organizational response to the Vickberg findings for more than a year and noted that it was odd that she, the head of the Diversity Department, had only then learned of the study for the first time.
 48. In or about the first week of February 2006, Ms. Joyner asked Beth Otten if she could read a copy of the new study report. Ms. Otten sent an email rejecting this request, citing confidentiality concerns.
 49. Within one week, Ms. Joyner was called into a meeting with Doug Jackson and Karen Pearl and was given a choice of either resigning or being discharged.
 50. Indeed, at the time of Ms. Joyner's termination, all senior managers and mid-level professional staff who had proprietary information about the findings of salary disparities impacting racial and ethnic minorities in the national organization had lost their positions through terminations and/or forced resignations.
 51. In particular, George Stokes, Suzanne Vickberg, and Desiree Bunch were all similarly terminated and/or forced to resign.
 52. Ms. Joyner was terminated for her objections to the race and national origin discrimination she knew was occurring in the organization as well as for her efforts to correct the problem.
 53. The termination of Ms. Joyner and others in PFFA management constitutes a pattern and practice of retaliation in violation of New York City and New York State anti-retaliation

laws.

54. Upon information and belief, defendant knew that its actions concerning plaintiff violated New York State and City civil rights laws.
55. Upon information and belief, defendant acted maliciously and/or in reckless disregard of plaintiff's civil rights.

FIRST CAUSE OF ACTION

56. Plaintiff repeats and realleges each and every allegation contained in paragraphs "1" through "55" of the complaint with the same force and effect as if separately alleged and reiterated herein.
57. Defendant retaliated against plaintiff because of her complaints of, opposition to and refusal to participate in race and national origin discrimination in violation of New York State Executive Law § 296.
58. As a result, plaintiff suffered damages for lost past and future earnings, other employment benefits, and emotional injuries, in an amount to be determined at trial.

SECOND CAUSE OF ACTION

59. Plaintiff repeats and realleges each and every allegation contained in paragraphs "1" through "55", and "57" of the complaint with the same force and effect as if separately alleged and reiterated herein.
60. Defendant retaliated against plaintiff because of her complaints of, opposition to and refusal to participate in race and national origin discrimination in violation of the New York City Administrative Code §§ 8-107 and 8-502, *et. seq.*
61. As a result, defendant has caused plaintiff to suffer damages, including lost past and future

earnings, other employment benefits, and emotional injuries in an amount to be determined at trial.

WHEREFORE, plaintiff demands judgment against defendant as follows:

- (i) On the First Cause of Action, actual damages against defendant in an amount to be determined at trial;
- (ii) On the Second Cause of Action, actual and punitive damages against defendant in an amount to be determined at trial;
- (iii) statutory attorney's fees pursuant to §8-502 of the New York City Administrative Code;
- (iv) disbursements and other costs; and
- (v) for such other relief which the Court deems just and proper.

Dated: New York, New York
May 23, 2006

KAISER SAURBORN & MAIR, P.C.

By:



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Index No.

Year 20 06

SUPREME COURT OF THE STATE OF NEW YORK
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BRENDA JOYNER,

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- against -

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.,

Defendant.

06107154

SUMMONS AND COMPLAINT

KAISER SAURBORN & MAIR, P.C.

COUNSELORS AT LAW

Plaintiff

Attorneys for

20 EXCHANGE PLACE
NEW YORK, NEW YORK 10005
(212) 338-9100

Pursuant to 22 NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, the contentions contained in the annexed document are not frivolous.

Dated:.....

Signature.....

Print Signer's Name.....

Service of a copy of the within

is hereby admitted.

Dated:

Attorney(s) for

PLEASE TAKE NOTICE

Check Applicable Box

NOTICE OF ENTRY

that the within is a (certified) true copy of a entered in the office of the clerk of the within named Court on

20

NOTICE OF SETTLEMENT

that an Order of which the within is a true copy will be presented for settlement to the Hon. one of the judges of the within named Court, at on 20, at M.

Dated:

KAISER SAURBORN & MAIR, P.C.
COUNSELORS AT LAW