

STATE DIVISION OF HUMAN RIGHTS
STATE OF NEW YORK EXECUTIVE DEPARTMENT

KATIE CHAPUT,

Complainant,

-against-

DR. HENRY BALBOA

Respondent.

VERIFIED COMPLAINT

RECEIVED

JUN 28 2013

O.S.H.I.

Katie Chaput (“Complainant” or “Ms. Chaput”), by and through her attorneys, Leeds Brown Law, P.C., One Old Country Road, Suite 347, Carle Place, NY 11514, alleges the following unlawful discriminatory practices relating to employment in violation of Article 15 of the Executive Law of the State of New York (The New York Human Rights Law) because of gender, sexual harassment and retaliation, against the Dr. Henry Balboa (“Respondent” or “Dr. Balboa”). At all relevant times herein, Dr. Balboa’s medical office is located at 100 Manetto Hill Road Suite 103, Plainview, New York 11803.

I. BRIEF HISTORY

1. Ms. Chaput commenced employment with Respondent at his aforementioned medical office on or around September 6, 2011 as a part time Medical Assistant earning \$12.00 per hour and working approximately 35 hours a week.
2. Commencing employment at the tender age of 20, she was a young and impressionable woman; and this was her first job in the medical field.
3. At all relevant times herein, she was an exemplary employee who was well liked by her fellow colleagues and, more importantly, Dr. Balboa’s patients.

COPY

4. Due to sheer hard work and dedication to the job, Ms. Chaput was promoted to full time Medical Assistant and three pay grade increases. Notwithstanding her positive contributions to your practice, Ms. Chaput was sexually harassed and retaliated against on account of her engaging in the protected activity of objecting to Dr. Balboa's sexual advances.

II. DISCRIMINATION, RETALIATION, AND HOSTILE WORK ENVIRONMENT CLAIMS

5. Beginning in or around November 2011, she began working in excess of 40 hours per week and yet she was not compensated at the legally required rate of time and a half for all hours worked in excess of 40 per week. More so, she complained to Dr. Balboa about not being compensated for overtime and his response was, in sum and substance, "I'm only paying you for exactly 40 hours."
6. During her employment, Dr. Balboa instructed Ms. Chaput to do "odd jobs" for him that was in no way related to her regular course of duties such as babysitting his grandchildren.
7. Also, Dr. Balboa frequently drank alcohol while at work and was often inebriated while seeing patients and interacting with staff members including Ms. Chaput.
8. On or around March 1, 2013, Dr. Balboa informed Ms. Chaput that she would be getting a raise and invited her out for dinner at The Palace Restaurant located at 1600 Round Swamp Road, Plainview, NY, 11803, with Dr. Strummer, to discuss how much she would be receiving.

9. When she arrived at The Palace, still in her scrubs from work, Dr. Strummer was nowhere to be found; Dr. Balboa informed her that he was not coming, and Dr. Balboa began his thinly veiled attempt to garner sexual favors from Ms. Chaput in exchange for receiving a pay raise.
10. While at The Palace, Dr. Balboa placed his hand on Ms. Chaput's inner thigh; and manipulated your fingers around her upper leg and towards her genitalia for his own sexual gratification.
11. Ms. Chaput objected to the unwanted touching as she was not attracted to Dr. Balboa and particularly given his status as a married father and grandfather.
12. After the unwanted touch, Ms. Chaput physically removed Dr. Balboa's hand from her inner thigh and pleaded with him to stop. Dr. Balboa became was turned on by her objections and proceeded to inundate Ms. Chaput with inappropriate sexually charged comments about her body. Specifically, Dr. Balboa told Ms. Chaput that she was "beautiful", that he loved staring at her body while at work, and lamented that he was "in love" with her.
13. After objecting to the sexual advances, Dr. Balboa then propositioned her for sex and asked how much it would cost. As Ms. Chaput began to further object to the sexual harassment and turn down his offer, Dr. Balboa grabbed the back of her head; pushed her towards his exposed and extended tongue; and shoved the same into her open mouth making contact with her tongue. Horrified, scared, and repulsed by the unwanted contact, she pulled her mouth away and immediately walked out of the restaurant, and has been subjected to a hostile work environment ever since.

14. After the sexual harassment at the Palace, Dr. Balboa further subjected Ms. Chaput to a hostile work environment and seemed to be even more inebriated than usual at the office which caused her to panic for the patients you were treating. He subjected Ms. Chaput to unnecessary strict scrutiny; harsh criticism; and often screamed and cursed at her while in the presence of other employees and patients. More so, and perhaps most shockingly, Dr. Balboa threatened Ms. Chaput with physical violence specifically telling her that he intended on raping her.
15. In retaliation for complaining about the aforementioned incidents of sexual harassment, Ms. Chaput was fired.
16. Ms. Chaput then notified the office manager, Erica Malat, of the sexual harassment and retaliation for objecting to the same. Ms. Malat told her not to come to work and to seek out an attorney. After being terminated, Ms. Chaput began actively seeking employment elsewhere in the same field. Specifically, she applied for a position at Garden OBGYN located at 100 Garden City Plaza, Garden City, NY 11530, and was called in for an interview. After doing well at the interview, Jenna from Garden OBGYN informed Ms. Chaput via telephone that her resume "looked great" and offered Ms. Chaput two different positions. Jenna informed Ms. Chaput that she was qualified for both of these two positions, that the company was very interested in having her join Garden OBGYN, and that the only thing in the way was a standard reference check with her previous employer. After calling Dr. Balboa's office, Garden OBGYN informed Ms. Chaput that they were no longer interested.

17. Ms. Chaput has experienced, for the first time ever, an inability to obtain employment.

More so, she has applied to several different places for employment and, after reference checks, has been denied the opportunity to work. Clearly, the retaliation is continuing and Dr. Balboa, or someone from his office, is giving false, negative references to prospective employers which has only served to amplify the amount of damages she has sustained. Ms. Chaput requests an order refraining Dr. Balboa, and his office, from giving false, negative references to prospective employers.

18. As a result of the discrimination and termination, she suffers and continues to suffer damages that include without limitation lost wages, benefits, front pay, back pay, emotional damages, personal humiliation, embarrassment, and other such special damages in an amount to be determined at a later date.

Based on the foregoing, I charge respondent with an unlawful discriminatory practice relating to employment because of gender, sexual harassment and retaliation in violation of the New York State Human Rights Law (Executive Law, Article 15), Section 296. I have not commenced any other civil action, nor do I have an action pending before any administrative agency, under any state or local law, based upon this same unlawful discriminatory practice.

Katie Chaput, being duly sworn, deposes and says: that she is the complainant herein; that she has read (or had read to her) the foregoing complaint and knows the content thereof; that the same is true of her own knowledge except as to the matters therein stated on information and belief; and that as to those matters, she believes the same to be true.

Katie Chaput
Katie Chaput

Subscribed and sworn to before me
this 26th day of June, 2013



Signature of Notary Public

DAVID H. ROSENBERG
Notary Public, State of New York
No. 02RO6133117
Qualified in Nassau County
Commission Expires Sept. 12, 2013