

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

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ALLISON EDWARDS,

Plaintiff,

-against-

FOUNDERS TABLE RESTAURANT GROUP, LLC,
and DOS TOROS HOLDINGS, LLC,

Defendants.
-----X

Index No:

COMPLAINT

JURY TRIAL DEMANDED

ALLISON EDWARDS (“Plaintiff” or “Ms. Edwards”), by her attorneys, JOSEPH & NORINSBERG, LLC, complaining of the FOUNDERS TABLE RESTAURANT GROUP, LLC, and DOS TOROS HOLDINGS, LLC (collectively “Defendants”), alleges upon knowledge as to her own actions, and upon information and belief as to all other matters, as follows:

NATURE OF CASE

1. This is a civil action based upon violations by the Defendants of one or more of Plaintiff’s rights under federal and state law, including but not limited to, the following unlawful acts: (i) violation of the Equal Benefit Clause of 42 U.S.C. § 1981 (“Section 1981”); (ii) illegal racial discrimination and unlawful retaliation in violation of the New York State Human Rights Law (“NYSHRL”) and Exec. L. § 296 et seq., and Title 8 of the Administrative Code of the City of New York, also known as the New York City Human Rights Law (“NYCHRL”); and (iii) any other cause(s) of action that can be inferred from the facts set forth herein.

2. This is an action for declaratory, injunctive, and equitable relief, as well as for monetary damages, brought by Plaintiff seeking vindication for Defendants’ blatant violations of

Plaintiff's civil rights pursuant to federal, state, and municipal law protecting the rights of employees in the workplace.

PRELIMINARY STATEMENT

3. Ms. Edwards is a black female who worked for Defendants and subjected to pervasive racial discrimination and a hostile work environment. Ms. Edwards was called a “nigger” (“n-word”) on multiple occasion by co-workers. Despite lodging a formal complaint, Defendant *did nothing* to stop it, and even *defended* one of the employees, who called Ms. Edwards this appalling racial epithet.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this action pursuant to CPLR §§ 301 and 302, and venue is proper pursuant to CPLR § 503. The Court also has jurisdiction under the New York Constitution, Art. VI, § 7, and New York Judiciary Law § 140-b.

COVID-19 Tolling Provisions Under New York Law

5. In an effort to stem the spread of COVID-19, Governor Cuomo issued Executive Order 202.8, which tolled for thirty (30) days “any specific time limit[s] for the commencement, filing, or service of any legal action, notice, motion or other process or proceeding” under any New York State laws or court procedural rules. The thirty (30)-day tolling period began on March 20, 2020 and continued until April 19, 2020. Thereafter, on April 7, 2020, Governor Cuomo signed Executive Order 202.14, which extended the tolling period to May 7, 2020. Subsequently, on May 7, 2020, Governor Cuomo issued Executive Order 202.28, tolling all statutes of limitations for an additional thirty (30) days through June 6, 2020. On June 6, 2020, Governor Cuomo issued Executive Order 202.38, tolling all statutes of limitations until July 6, 2020. On July 7, 2020, Governor Cuomo issued Executive Order 202.48 tolling all statutes of limitations until August 5, 2020. On August 5, 2020, Governor Cuomo issued Executive Order 202.55, which tolled all statutes of limitations until September 4, 2020. On September 4, 2020, Governor Cuomo signed

Executive Order 202.60, which extended the tolling period an additional thirty (30) days to October 4, 2020. On October 4, 2020, Governor Cuomo issued Executive Order 202.67, which extended the tolling period to November 3, 2020. In total, the Executive Orders set forth herein provided for a toll of two hundred and twenty-eight (228) days.

6. This action is timely filed against all Defendants pursuant to the applicable Executive Orders signed by Governor Cuomo that tolled the statute of limitations due to the COVID-19 pandemic.

7. This action falls within one or more of the exceptions as outlined in C.P.L.R. § 1602.

JURY DEMAND

8. Plaintiff respectfully demands a trial by jury of all issues in this matter.

PARTIES

9. At all relevant times hereinafter mentioned, Plaintiff Allision Edwards, is a black female, residing in the County of Rockland, in the State of New York.

10. At all relevant times herein, Defendant FOUNDERS TABLE RESTAURANT GROUP is a domestic business corporation, organized and existing under the laws of the State of New York, with a principal place of business located at 853 Broadway Suite 606, New York, New York 10003, in the County, City and State of New York. At all times relevant herein, Plaintiff worked for Defendant at its restaurant located in 2911 Broadway New York, New York 10025.

11. At all relevant times herein, Defendant DOS TOROS is a domestic business corporation, organized and existing under the laws of the State of New York, with a principal place of business located at 853 Broadway Suite 606, New York, New York 10003, in the County, City and State of New York.

12. DOS TOROS is a fast casual taqueria, much like its larger competitor, Chipotle.¹ At all times relevant herein, Plaintiff worked at the DOS TOROS located in 2911 Broadway New York, New York 10025.

13. At all times relevant herein, Plaintiff was and is a “person” and an “employee” within the meaning of the NYSHRL and NYCHRL.

14. At all times relevant herein, Defendants was and are an “employer” within the meaning of the NYSHRL and NYCHRL and employed four or more “employees” within the meaning of the NYCHRL.

BACKGROUND FACTS

Assistant Manager Uses “N-Word” and Fails to Discipline a subordinate For Same

15. In January 2020, Plaintiff was hired as an employee for Dos Toros’ 2911 Broadway restaurant.

16. At the start of her employment Plaintiff noticed that her similarly situated non-black co-workers would frequently use the “n-word” without consequence. Even more shocking, it was *supervisors* who also were using this type of language.

17. Assistant manager Stephanie Batista (“Ms. Batista”), non-black employee, would frequently use the “n-word” when speaking to her subordinates, including Plaintiff.

18. Justin Lebron (“Mr. Lebron”), a co-worker of Ms. Edwards, would also frequently use the word during conversation.

19. On or about February 15, 2020, while closing the store with Mr. Lebron, Plaintiff specifically asked him to stop using the racial slur.

¹ <https://www.dostoros.com/> last accessed March 10, 2023

20. Ms. Batista, who was the store supervisor at the time, laughed at Plaintiff's complaint, and sarcastically told Mr. Lebron "yeah, that's racist!" before they both started laughing. Ms. Batista made *zero* attempt to discipline Mr. Lebron or even discourage him from using the n-word.

Co-Workers Continue to Make Racist Jokes to Plaintiff.

21. In late February 2020, Aries Rodriguez ("Mr. Rodriguez") a non-black colleague of Plaintiff, told racist jokes to crew members. Plaintiff overheard Mr. Rodriguez tell Luis Nery the following racist joke: "***How do Chinese people pick their child's name? They throw pots and pans down the stairs and whatever sound it makes is the name of the child. Ching Chong. Ding Dong.***"

22. Plaintiff complained to Mr. Rodriguez that racist jokes were not funny. In response, Mr. Rodriguez spewed another racist joke to Plaintiff about black people: "***When you see a black guy riding a bike, what kind of bike is it? A dirt bike because black skin is like dirt.***" Plaintiff was disgusted and brought to tears.

23. A few days later, Lisbett Calderon ("Ms. Calderon"), another co-worker of Plaintiff, was washing dishes when some black soot got on her arm. Ms. Calderon showed Plaintiff her arm, and said to her "[I]ook, I am morenita² now." Plaintiff said nothing at this shocking display of racism.

24. In response, Ms. Calderon *again* made the same racist joke, and this time began to laugh. Plaintiff was horrified and attempted to continue working.

25. As a result of the aforementioned incidents, Plaintiff complained to her manager, Sun Youn ("Youn"), about pervasive racism and hostile work environment she was experiencing.

² Morenita is slang for dark-skinned Latino. <https://www.spanishdict.com/translate/la%20morenita>, last accessed December 16, 2022.

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