

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

Agatha Funes,

Plaintiff,

-against-

Berkeley Educational Services of New York, Inc.  
and Edward J. Dennis,

Defendants.

**SUMMONS**

**JURY TRIAL DEMANDED**

Index No. \_\_\_\_\_

Date Index Purchased:

March \_\_\_\_\_, 2021

**TO THE ABOVE NAMED DEFENDANT:** Berkeley Educational Services of New York, Inc.

**YOU ARE HEREBY SUMMONED** to answer the complaint in this action and to serve a copy of your answer on Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the state of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint. The action will be heard in the Supreme Court of the State of New York in the County of New York. Venue is proper under CPLR 503(a) and (c) because a substantial part of the events or omissions giving rise to the claims occurred in Manhattan, New York County.

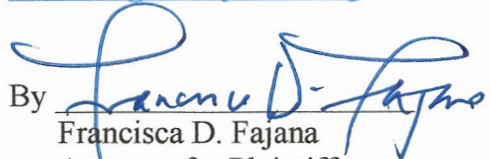
Dated: March 10, 2021

LATINOJUSTICE PRLDEF  
Francisca D. Fajana  
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NYSCEF DOC. NO. 1

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RECEIVED NYSCEF: 03/10/2021

By   
Francisca D. Fajana  
Attorney for Plaintiff

TO: Berkeley Educational Services of New York, Inc.  
99 Church Street  
White Plains, NY 10601

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**TO THE ABOVE NAMED DEFENDANT:** Edward J. Dennis

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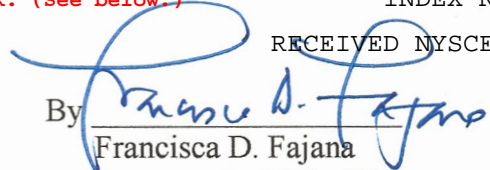
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NYSCEF DOC. NO. 1

RECEIVED NYSCEF: 03/10/2021

By

  
Francisca D. Fajana  
Attorney for Plaintiff

TO: Edward J. Dennis  
Berkeley Educational Services of New York, Inc.  
12 East 41 Street  
New York, NY 10017

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

Agatha Funes,

Plaintiff,

-against-

Berkeley Educational Services of New York, Inc.  
and Edward J. Dennis,

Defendants.

**COMPLAINT**

**JURY TRIAL DEMANDED**

Index No. \_\_\_\_\_

Date Index Purchased:

Plaintiff, Agatha Funes, brings this gender-biased and sexually hostile work environment action against Defendants Berkeley Educational Services of New York, Inc., and Edward J. Dennis, and alleges as follows:

**INTRODUCTION**

1. Agatha Funes, a 49-year-old, accomplished United States Army Veteran with 18 years of leadership experience, was employed by Defendant Berkeley Educational Services of New York, Inc. (hereinafter “Berkeley College”), a for-profit institution of higher learning, for eighteen months in a gender-biased and hostile work environment that subjected her to vulgar and sexually suggestive language, harassment and intimidation, sexually graphic pictures, and objectified young female students, as well as shamed, degraded and belittled female employees.

2. Ms. Funes’ male supervisor, Defendant Dennis, who perpetrated the hostile work environment, showed Ms. Funes lewd pictures of male and female students’ body parts and made sexually offensive remarks about the images; pestered her frequently to translate vulgar Spanish

words, such as “huevos” (men’s genitals); chided her for being nosy like his ex-wife; and shamed her about her body type, which he said was unpleasant and unmarketable, and deterred her from participating in job related exercise sessions.

3. Defendant Dennis also subjected at least two of his former supervisees to similar sexually abusive work environment. For example, unsolicited and unwanted, he recounted a sexually graphic incident to his former supervisee, in which he told her about his “hard on that wouldn’t go down” after he had been out drinking with a female date he met on the Tinder dating app during a work related conference.

4. Further, when Ms. Funes interceded, as her job responsibility required, on behalf of veteran students, who complained that Defendant Berkeley College had unfairly denied them use of college facilities, and engaged in unfair and deceptive business practices, Mr. Dennis berated her, called her a “shit starter,” trapped her in her office and would not let her leave. Mr. Dennis told Ms. Funes that her loyalty lies with the college and not the students. Ms. Funes emailed Berkeley College management about this incident.

5. Berkeley College failed to take corrective action to remedy the workplace intimidation and harassment incident and other instances of Mr. Dennis’ discriminatory and sexually harassing conduct toward Ms. Funes. Instead, Berkeley College retaliated against Ms. Funes by placing her on furlough and subsequently terminating her employment.

6. Berkeley College’s actions and failure to act violate New York State Human Rights Law (“NYSHRL”), Exec. Law § 290, et seq; New York City Admin. Code, (“NYCHRL”), § 8-101, et seq; and Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq. Defendant Dennis aided and abetted Berkeley College’s condonation of a hostile work

environment in violation of NYSHRL § 296(6) and NYCHRL § 8-107(6). For these violations, Ms. Funes seeks compensatory damages, punitive damages, and reasonable attorney's fees.

### **JURISDICTION AND VENUE**

7. Pursuant to CPLR § 301, this court has personal jurisdiction over Defendants.

8. Pursuant to CPLR § 503(a) and (c), venue is proper because a substantial part of the events or omissions giving rise to the claims occurred in Manhattan, New York County.

### **STATEMENT OF PARTICULARITY AS TO SPECIFIC MATTERS & CONDITION PRECEDENT**

9. Pursuant to CPLR § 3015(b), Berkeley Educational Services of New York, Inc., is a domestic business corporation with a principal executive office at 99 Church Street, White Plains, NY 10601. It operates online degree programs and has campuses at multiple locations, including in Manhattan, New York.

10. As required under Title VII of the Civil Rights Act of 1964, on June 29, 2020, Ms. Funes filed a complaint with the Equal Employment Opportunity Commission ("EEOC"), charging Berkeley College with discriminatory actions, including a claim for failing to remediate a sexually hostile work environment. By letter dated December 23, 2020, Ms. Funes requested Notice of a Right to Sue from the EEOC. By correspondence dated January 13, 2021, the EEOC issued Notice of a Right to Sue to Ms. Funes.

### **PARTIES**

11. Plaintiff, Agatha Funes, was employed by Berkeley Educational Services of New York, Inc. in or around December 2018 to June 2020, at its offices in Manhattan and Brooklyn, New York. Ms. Funes resides in Queens, New York.

12. Defendant Berkeley Educational Services of New York, Inc., ("Berkeley College"), is a domestic business corporation with a principal executive office at 99 Church

Street, White Plains, NY 10601. It operates online degree programs with campuses at multiple locations, including Manhattan, New York. It employs over 800 people.

13. Defendant, Edward J. Dennis, is employed by Berkeley College, principally, at its Manhattan campus. Defendant Dennis, upon information and belief, resides in New Jersey.

### STATEMENT OF FACTS

14. Plaintiff, Agatha Funes, is a 49-year-old United States Army Veteran with 18 years of leadership experience. She served three tours of duty abroad and domestically. When she served in the United States Army, her responsibilities included training soldiers to follow military law and rules, and providing employment counseling. Ms. Funes holds a Bachelor's degree in Sociology, has earned numerous certifications, and is also a chaplain.

15. In or around December 2018, Ms. Funes was hired by Berkeley College as a Coordinator in the Office of Military and Veteran Affairs ("OMVA"), at an annual salary of \$52,500. She worked four days a week in the Manhattan campus and one day a week in the Brooklyn office.

16. Ms. Funes performed her job responsibilities, which included advocating on behalf of veteran students, exceptionally earning a promotion to Associate Director of the OMVA, at an annual salary of \$60,000.

17. In spite of Ms. Funes stellar job performance and commitment to fostering a collegial work culture, she was subjected to a work environment that was toxic, abusive, demeaning and hostile to female employees. The hostile work environment, perpetrated by Defendant Dennis, and condoned by Defendant Berkeley College, began long before Ms. Funes was hired.



**A) Before Ms. Funes Was Hired, Berkeley College Condoned A Gender-Biased and Sexually Hostile Work Environment**

18. By October 2017 when Defendant Dennis, who is also a U.S. Army Veteran, was hired as Assistant Vice President of the OMVA, Lisa Mulligan had served as Associate Director in the OMVA for more than four years.

19. Mr. Dennis was Ms. Mulligan's supervisor in the Manhattan office where they both worked.

20. In or about November 2017, shortly after Mr. Dennis began working at Berkeley College, he barged into Ms. Mulligan's office to retrieve documents. As he reached over her head, his arm grazed her head. Rather than offer an apology, Mr. Dennis told Ms. Mulligan "don't worry, I'm not flirting. You're too old for me."

21. On another occasion, Mr. Dennis, again, went into Ms. Mulligan's office. This time a conversation about dogs ensued. Defendant Dennis asked Ms. Mulligan if he could show her a picture. Shockingly, he produced a picture of himself in his boxers. When she, immediately, told him his conduct was inappropriate, he said he wanted to show her a "bruise [down] there."

22. On many occasions, Mr. Dennis asked Ms. Mulligan to wear dresses. Indeed, after the two of them had concluded a meeting with a female Dean who wore a skirt, Defendant Dennis remarked to Ms. Mulligan that she should dress like the Dean.

23. Defendant Dennis demeaned and denigrated women. For example, when Mr. Dennis learned that Ms. Mulligan had been approved for a course toward earning her Ed.D., he told her "it must be nice to have a rich husband to pay for your doctoral program." Ms. Mulligan informed him that she had earned approval for the course from Berkeley College.

24. On another occasion, Mr. Dennis referred to a transgender student as “queer” and asked Ms. Mulligan why the student was allowed into the veteran students resource center.

25. Defendant Dennis objectified young women, particularly Latinx women. He often told Ms. Mulligan that he wanted to retire to a Spanish-speaking country with a Spanish woman, and that he was learning Spanish to facilitate his retirement.

26. Further, Mr. Dennis told Ms. Mulligan that he only dated “beautiful women,” boasted about his “hot dates” and told her about a “swinger’s club” in midtown Manhattan that he frequently visited. Defendant Dennis also told Ms. Mulligan about his ex-girlfriend, who spoke Spanish, and with whom he still had really hot sex.

27. In or about 2018, while Mr. Dennis, Ms. Mulligan and another female employee, Ms. Mendez, were at a work-related conference, Defendant Dennis invited both of his supervisees to his hotel room for a meeting. They declined. Instead, they met in the hotel lobby where Mr. Dennis described dates and conquests that he said he had found on a dating app.

28. Less than a year after Mr. Dennis was hired, Ms. Mulligan resigned her position at Berkeley College. She could no longer endure Defendant Dennis’ sexual innuendos, harassment, and demeaning behavior. Before he was hired, for more than four years, Ms. Mulligan relished providing assistance to veteran students. Defendant Dennis rendered her work environment unwelcoming, toxic and sexually hostile. Ms. Mulligan apprised Berkeley College of Mr. Dennis’ harassing conduct.

29. Like Ms. Mulligan, Maja Mendez was also subjected to Defendant Dennis’ unwanted, demeaning and sexually offensive conduct. She, too, endured a gender-biased and sexually hostile work environment.

30. Ms. Mendez is also a U.S. Army Veteran. She earned a degree at Berkeley College, was hired as a Coordinator in the OMVA, and was later promoted to Assistant Director. She, too, had worked for four years in the OMVA before Mr. Dennis was hired as her supervisor.

31. In or about November 2017, shortly after Mr. Dennis was hired, he relayed a sexually graphic incident to Ms. Mendez.

32. Defendant Dennis told Ms. Mendez that when he was on a work related conference, he went out drinking with a date he met on the Tinder dating app. He said when he returned to his hotel room he had “a hard on that wouldn’t go down.” He told her that he went into the bathroom, but “couldn’t get it down.” He told her he called the front desk and an ambulance was requested for him.

33. He told Ms. Mendez that a “faggot nurse” attended to him when he got to the hospital. Ms. Mendez was distraught. She became very concerned that this sexually offensive incident occurring so early in Mr. Dennis’ tenure would mar their working relationship.

34. As with Ms. Mulligan, Defendant Dennis frequently told Ms. Mendez that he only dated models. He also told her that she was not his type.

35. Also, as with Ms. Mulligan, Mr. Dennis told Ms. Mendez that he was learning to speak Spanish from “young attractive Spanish women” because he planned to retire to a Caribbean Island with a Spanish woman. Defendant Dennis routinely fraternized with female students. On several occasions, he told Ms. Mendez that he had “hot yoga” and drinks with students.

36. In or around July 2018, Mr. Dennis told Ms. Mendez that another female employee, Tami Pichardo, was “a gold digger like [his] ex-wife.”

37. Defendant Dennis repeatedly disparaged and mocked Ms. Mendez for taking a “vacation” when, in actuality, she had been on maternity leave. Mr. Dennis expressed that he had no sympathy for her needing to take a leave of absence to care for her newborn because he had never raised children.

38. On January 3, 2019, a former employee’s media post warned of “Berkeley’s [u]professional work environment where VPs at the NYC Campus walk around cursing, ranting and raving in front of students...[creating a] hostile work environment.”

39. On or about June 3, 2019, nearly eighteen months after Defendant Dennis was hired, Ms. Mendez’s employment was terminated. Berkeley College informed her that she had complained, through an anonymous social media posting which they purportedly discovered, about sexual harassment. To cover its tracks for engaging in retaliatory conduct, Berkeley College claimed that her position had been eliminated because of business necessity.

**B) During Ms. Funes’ Employment, Berkeley College Continued to Condone A Gender-biased and Sexually Hostile Work Environment**

40. Ms. Funes and Ms. Mendez overlapped as colleagues at Berkeley College. They both endured Defendant Dennis’ incendiary and sexually offensive comments, and demeaning conduct. And like Ms. Mulligan and Ms. Mendez before her, Mr. Dennis’ harassing and degrading conduct toward Ms. Funes began early in their interaction.

41. For example, in or about December 2018, Defendant Dennis barged into Ms. Funes’ office, opened Facebook on his phone and, unsolicited and unwanted, began showing her nearly nude pictures of I.C., a Berkeley College female student.<sup>1</sup> Mr. Dennis showed pictures of

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<sup>1</sup> Unless otherwise explicitly stated, Plaintiff refers to students using initials to protect their identity and privacy.

the student's breasts and buttocks. He was amused that the student had gone to the Dominican Republic to undergo plastic surgery on her body parts.

42. In or around fall 2019, Defendant Dennis, again, unsolicited and unwanted, showed Ms. Funes pictures of yet another student, D.M. This time, he revealed pictures of the male student's private parts; a Facebook picture of the student with a skimpily clad female holding a sign stating: "Be A Hoe Today;" and another of the same male student drunk at a concert with a half-naked girl.

43. Mr. Dennis kept scrolling through his phone, laughing out loud, and describing the male student in compromising positions. On another occasion, in regard to the same student, Mr. Dennis informed Ms. Funes that he and the student had discussed his "porn addiction." Although Mr. Dennis knew that Ms. Funes is not a sex counselor, he directed her, for his amusement, to counsel the student.

44. On yet another occasion, at a meeting to discuss an upcoming student graduation gala, Defendant Dennis showed Ms. Funes a picture of a woman clad in a bra and panty whom he said he met on the "Plenty of Fish" sex dating site. He said the woman was Asian. He then told Ms. Funes that Latinx women, unlike Asian women, were "submissive."

45. Soon after Ms. Funes began working at Berkeley College, Mr. Dennis told her that Senior Director, Tami Pichardo, was "caught sleeping with a former OMVA Assistant Vice President," which explained why she has her job, that Ms. Mendez was an "urban lower class type, who has 5 children," and that he did not know why she had her job. He instructed Ms. Funes to demonstrate her loyalty to him by recording her communications with both women.

46. In or around April 2019, Mr. Dennis told Ms. Funes that Ms. Mendez was a "slut" whose husband was unsure whether he is the father of her youngest child. During meetings, Mr.

Dennis would disparage, demean, and belittle Ms. Mendez. He, often, ridiculed her “urban-ness.” Defendant Dennis dismissed Ms. Funes’ objections to his mistreatment of Ms. Mendez, in the same manner that he disregarded her complaints about his sexually offensive conduct. Indeed, Mr. Dennis besmirched a former employee whom he claimed had been fired for accusing him of sexual harassment. Defendant Dennis acted with impunity believing that Berkeley College would not credit any allegations of sexual harassment against him.

47. In or about September 2019, Mr. Dennis berated Ms. Funes and called her a “busybody [who] reminded [him] of [his] ex-wife.” Mr. Dennis’ outburst resulted from Ms. Funes’ inquiring about his wellbeing after he had been out of the office nearly an entire day without disclosing his whereabouts, contrary to office protocol.

48. In or about April 2020, Defendant Dennis told Ms. Funes that her body type was unpleasant and unmarketable and asked her to cease conducting exercise classes for veteran students. Ms. Funes, a certified exercise instructor, had taken on the responsibility of leading online exercise classes for veteran students to assist them with stress reduction and anxiety occasioned by the COVID-19 pandemic. Mr. Dennis told Ms. Funes that Ms. Pichardo “had a better body image” and should lead the exercise classes.

49. Relatedly, Mr. Dennis also remarked that Ms. Funes’ “disabilities hindered” her from conducting the online exercise classes. During her military service, Ms. Funes sustained injuries resulting in disabilities, including PTSD.

50. During Ms. Funes’ employment, up to and including several months in 2020, Defendant Dennis persistently asked her to translate sexually graphic and offensive Spanish words. Claiming that he was learning Spanish, Mr. Dennis fraternized with students in the

Veterans Resource Center and asked them to teach him how to say various Spanish vulgar words.

51. Mr. Dennis would, frequently, barge into Ms. Funes' office and pester her, supposedly because of her gender, social class, and maturity, to translate the same vulgar words whose meaning he already knew. The words include, but are not limited to, the following:

<b>Spanish</b>	<b>English</b>
Mama guevo	Cock Sucker
Le queries hadar un cantaso	Do you want to bang her?
Tiene grande Tete	Big breast
Totito	Tight Vagina
Nalga	Butt
Huevos	Men's genitals

52. Ms. Funes declined each time she was asked to translate these vulgar words for Defendant Dennis. Mr. Dennis found these sexual innuendos, which demeaned Ms. Funes, amusing. On diverse occasions, Ms. Funes informed Mr. Dennis, her supervisor, that his demeaning, discriminatory and harassing conduct were debilitating.

53. Over the course of her employment, including by email dated March 5, 2020, to Berkeley College management, Ms. Funes complained of an "unwelcoming and hostile" work environment. Berkeley College took no corrective action. Instead, it retaliated against Ms. Funes.

**C) Berkeley College Retaliated Against Ms. Funes for Engaging in Protected Activity**

54. On March 5, 2020, Cody Gilbert, a Berkeley College student, posted a tweet assailing Berkeley College for charging "vets more for tuition" than non-veteran students.

55. On the same day, another student, William Porter, sent a letter to the OMVA expressing a litany of concerns, including failing to provide "veterans [with] the same

scholarship opportunities [afforded] to non-veterans,” harassing “students regarding non-existence debts,” and denying students use of college facilities.<sup>2</sup>

56. Given Ms. Funes’ responsibility to advocate for veteran students, Mr. Porter apprised her of the letter. Ms. Funes went into Mr. Dennis’s office to discuss ameliorative solutions. Defendant Dennis was livid. He became belligerent and accusatory. He sternly rebuked Ms. Funes, called her a “shit starter,” accused her of “fanning the flames” and instigating students, particularly students of color, to feel entitled to assert their rights, and berated her for having misplaced loyalty.

57. Ms. Funes was stunned. She felt as though she was having a panic attack. She tried to collect herself. She left Mr. Dennis’ office and called her fiancé to pick her up. Before she left, she saw Senior Vice President, Diane Recinos, enter the Veterans Resource Center lounge, and she heard Mr. Dennis tell Ms. Recinos that she was distraught. Ms. Recinos and Mr. Dennis retreated to his office. Soon after Ms. Funes exited the building, she called Senior Director, Tami Pichardo.

58. Ms. Funes realized that she had left her wallet in her office and went back to retrieve it. Defendant Dennis appeared at her office door and would not let her leave. He kept berating her and asked her to promise that she would not report him to Human Resources. Ms. Funes sank into her chair sobbing. Mr. Dennis refused to let her out until he extracted his promise.

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<sup>2</sup> The U.S. Department of Veteran Affairs posted a warning on its website informing the public that a state agency has filed charges against Berkeley College for deceptive and predatory practices. See <https://www.va.gov/gi-bill-comparison-tool/profile/21903132> (last visited March 10, 2021); see also, *The City of New York, et al. v. Berkeley Educational Services of New York, Inc.*, Sup. Ct. of N.Y. Cty., Index No. 452025/2018 (detailing unfair and deceptive practices by Berkeley College).



59. On March 12, 2020, Berkeley College instructed its staff and students to leave campus because of the COVID-19 pandemic. On the same day, a meeting Berkeley College management had scheduled to address Ms. Funes' complaints of workplace intimidation, harassment, "unwelcoming and hostile" work environment conveyed in her March 5 email, referenced at paragraph 53, was canceled, but never rescheduled.

60. Instead, three months later, on June 8, 2020, Ms. Funes was furloughed. She was subsequently terminated on June 30, 2020. Berkeley College claimed, as it did with Ms. Mendez, that her position was eliminated, purportedly, because of funding.

61. Berkeley College retaliated against Ms. Funes for complaining about workplace intimidation, harassment, discriminatory and sexually offensive conduct toward her. Berkeley College also retaliated against Ms. Funes for assisting veteran students assert their right to be free from harassment, unfair and deceptive practices, and discriminatory denial of use of college facilities.

62. Ms. Funes was devastated by the loss of her job. She felt humiliated. She was traumatized, sad and depressed by the way Berkeley College treated her. Berkeley College's actions triggered her anxiety and PTSD. Ms. Funes shared her distress with a Department of Veteran Affairs social worker.

## CAUSES OF ACTION

### FIRST CAUSE OF ACTION

#### **Unlawful Harassment and/or Hostile Work Environment Because of Sex In Violation of NYSHRL, § 290 et seq. (Defendant Berkeley College)**

63. Plaintiff hereby repeats and realleges each allegation contained in paragraphs 1-62, as if fully set forth herein.

64. Specifically, under N.Y. Exec. Law, § 296(1)(h), it “shall be unlawful discriminatory practice for an employer ... to subject any individual to harassment because of [such] individual’s sex ... regardless of whether such harassment would be considered severe or pervasive under precedent applied to harassment claims.” Also, § 296(1)(a), prohibits discrimination in the terms, conditions, or privileges of employment.

65. As fully set forth above, Ms. Funes was subjected to sexually graphic and offensive remarks, denigrating comments that objectified women, asked repeatedly to translate vulgar Spanish words, showed lewd Facebook pictures and degraded because of her body type.

66. By condoning, permitting and/or failing to remediate workplace harassment, intimidation, unwelcomed sexually explicit remarks, and sexually offensive conduct directed to Ms. Funes, Defendant Berkeley College subjected Plaintiff to inferior terms, conditions or privileges of employment, to harassment, and to a gender-biased and/or hostile work environment because of sex in violation of NYSHRL, § 296(1)(h). In addition to, or, in the alternative, the totality of the circumstances demonstrate that the hostile work environment was pervasive or severe and, thus, Defendant Berkeley College’s actions and failure to act also constitute discriminatory provision of terms, conditions, or privileges of employment because of sex in violation of § 296(1)(a).

67. As a result of Defendant Berkeley College’s unlawful conduct, Ms. Funes suffered and continues to suffer harm, including but not limited to, emotional distress and other damages.

68. Ms. Funes is entitled to all remedies available for violations of NYSHRL, including but not limited to, compensatory damages, punitive damages, attorney’s fees, costs, injunctive relief and any other appropriate relief.

**SECOND CAUSE OF ACTION**  
**Unlawful Retaliation**  
**In Violation of NYSHRL, § 290 et seq.**  
**(Defendant Berkeley College)**

69. Plaintiff hereby repeats and realleges each allegation contained in paragraphs 1-62, as if fully set forth herein.

70. Under N.Y. Exec. Law, § 296(1)(h), it shall be unlawful for an employer to subject an individual to harassment “because the individual has opposed any practices forbidden under this article.” Similarly, § 296(1)(e), prohibits an employer from “otherwise discriminat[ing] against any person because she has opposed any practices forbidden under this article.” And § 296(7) makes it “an unlawful discriminatory practice for any person engaged in any activity to which this section applies to retaliate ... against any person” because she has, similarly, opposed practices forbidden by the NYSHRL.

71. In addition to forbidding workplace harassment, discrimination, intimidation, gender-biased and sexually hostile work environment, the NYSHRL at § 296(4), makes it “an unlawful discriminatory practice for an educational institution to deny the use of its facilities to any person otherwise qualified, or to permit the harassment of any student, by reason of his military status, disability or race...”

72. As fully set forth above, Ms. Funes complained about harassment, workplace intimidation, and sexually offensive remarks and conduct directed at her. She also assisted veteran students denied their right to use Berkeley College’s facilities and who opposed unfair and deceptive practices directed at them because of their veteran status, disability and/or race.

73. By terminating Ms. Funes' employment because she engaged in activities protected under the NYSHRL, Defendant Berkeley College violated the anti-retaliation provisions of § 296(1)(h); § 296(1)(e) and § 296(7).

74. As a result of Defendant Berkeley College's unlawful conduct, Ms. Funes suffered and continues to suffer harm, including but not limited to, emotional distress and other damages.

75. Ms. Funes is entitled to all remedies available for violations of NYSHRL, including but not limited to, compensatory damages, punitive damages, attorney's fees, costs, injunctive relief and any other appropriate relief.

**THIRD CAUSE OF ACTION**  
**Unlawful Aiding & Abetting A Sexually Hostile Work Environment**  
**In Violation of NYSHRL, § 290 et seq.**  
**(Defendant Dennis)**

76. Plaintiff hereby repeats and realleges each allegation contained in paragraphs 1-62, as if fully set forth herein.

77. Under N.Y. Exec. Law, § 296(6), it "shall be an unlawful discriminatory practice for any person to aid, abet, incite...the doing of any of the acts forbidden under this article, or to attempt to do so."

78. As fully set forth above, as Ms. Funes' supervisor, Defendant Dennis, had the power to alter the terms, conditions or privileges of her employment. Defendant Dennis did so by perpetrating and/or participating in much of the conduct giving rise to the harassment, workplace intimidation and sexually hostile work environment that Ms. Funes endured because of her sex.

79. By perpetrating the acts complained of, and/or participating in Defendant Berkeley College's condonation of a harassing, discriminatory, gender-biased and/or sexually

hostile work environment, Defendant Dennis aided, abetted and/or incited unlawful discriminatory conduct in violation of NYSHRL, § 296(6).

80. As a result of Defendant Dennis' unlawful conduct, Ms. Funes suffered and continues to suffer harm, including but not limited to, emotional distress and other damages.

81. Ms. Funes is entitled to all remedies available for violations of NYSHRL, including but not limited to, compensatory damages, punitive damages, attorney's fees, costs, injunctive relief and any other appropriate relief.

**FOURTH CAUSE OF ACTION**  
**Unlawful Retaliation**  
**In Violation of N.Y. Labor Law, § 215**  
**(Defendant Berkeley College)**

82. Plaintiff hereby repeats and realleges each allegation contained in paragraphs 1-62, as if fully set forth herein.

83. Under N.Y. Labor Law § 215(1)(a) "[n]o employer ... shall ... retaliate against any employee (1) because such employee has made a complaint to her employer ... or any other person, that the employer has engaged in conduct that the employee, reasonably and in good faith, believes violates any provision of this chapter..." N.Y. Labor Law § 201-g evinces public policy against sexual harassment in the workplace which an employer must follow.

84. As fully set forth above, Ms. Funes complained to her employer about harassment, workplace intimidation, and sexually offensive remarks and conduct directed at her. Ms. Funes, reasonably and in good faith, believes Defendant Berkeley College violated N.Y. Labor Law.

85. By terminating Ms. Funes' employment because she engaged in activities protected under the N.Y. Labor Law, Defendant Berkeley College violated the retaliation provisions of § 215.

86. As a result of Defendant Berkeley College's unlawful conduct, Ms. Funes suffered and continues to suffer harm, including but not limited to, emotional distress and other damages.

87. Ms. Funes is entitled to all remedies available for violations of N.Y. Labor Law, including but not limited to, compensatory damages, attorney's fees, costs, injunctive relief and any other appropriate relief.

**FIFTH CAUSE OF ACTION**  
**Unlawful Discrimination and/or Hostile Work Environment Because of Gender**  
**In Violation of NYCHRL, § 8-101 et seq.**  
**(Defendant Berkeley College)**

88. Plaintiff hereby repeats and realleges each allegation contained in paragraphs 1-62, as if fully set forth herein.

89. Under Title 8 of the New York City Administrative Code ("NYCHRL"), § 8-107(1)(a)(3), it shall be an unlawful discriminatory practice for an employer to discriminate against a person in the terms, conditions or privileges of employment because of such person's gender.

90. As fully set forth above, Ms. Funes was subjected to sexually explicit and offensive remarks, denigrating comments that objectified women, asked repeatedly to translate vulgar Spanish words, showed lewd Facebook pictures and degraded because of her body type.

91. By condoning, permitting and/or failing to remediate workplace harassment, intimidation, unwelcomed sexually explicit remarks and sexually offensive conduct directed to Ms. Funes, Defendant Berkeley College subjected Plaintiff to discriminatory terms, conditions or privileges of employment and to a gender biased and/or hostile work environment because of gender in violation of NYCHRL, § 8-107(1)(a)(3).

92. As a result of Defendant Berkeley College's unlawful conduct, Ms. Funes suffered and continues to suffer harm, including but not limited to, emotional distress and other damages.

93. Ms. Funes is entitled to all remedies available for violations of NYCHRL, including but not limited to, compensatory damages, punitive damages, attorney's fees, costs, injunctive relief and any other appropriate relief.

**SIXTH CAUSE OF ACTION**  
**Unlawful Retaliation**  
**In Violation of NYCHRL, § 8-101 et seq.**  
**(Defendant Berkeley College)**

94. Plaintiff hereby repeats and realleges each allegation contained in paragraphs 1-62, as if fully set forth herein.

95. Under NYCHRL, § 8-107(7), "it shall be 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 opposed any practice forbidden under this chapter."

96. As fully set forth above, Ms. Funes complained about harassment, workplace intimidation, and sexually offensive remarks and conduct directed at her. She also assisted veteran students denied their right to use Berkeley College's facilities and who opposed unfair and deceptive practices directed at them.

97. By terminating Ms. Funes' employment because she engaged in activities protected under the NYCHRL, Defendant Berkeley College violated the retaliation provision of § 8-107(7).

98. As a result of Defendant Berkeley College's unlawful conduct, Ms. Funes suffered and continues to suffer harm, including but not limited to, emotional distress and other damages.

99. Ms. Funes is entitled to all remedies available for violations of NYCHRL, including but not limited to, compensatory damages, punitive damages, attorney's fees, costs, injunctive relief and any other appropriate relief.

**SEVENTH CAUSE OF ACTION**  
**Unlawful Aiding & Abetting A Sexually Hostile Work Environment**  
**In Violation of NYCHRL, § 8-101 et seq.**  
**(Defendant Dennis)**

100. Plaintiff hereby repeats and realleges each allegation contained in paragraphs 1-62, as if fully set forth herein.

101. Under NYCHRL, § 8-107(6), it "shall be an unlawful discriminatory practice for any person to aid, abet, incite...the doing of any of the acts forbidden under this chapter, or to attempt to do so."

102. As fully set forth above, as Ms. Funes' supervisor, Defendant Dennis, had the power to alter the terms, conditions or privileges of her employment. Defendant Dennis did so by perpetrating and/or participating in much of the conduct giving rise to the harassment, workplace intimidation and sexually hostile work environment that Ms. Funes endured because of her gender.

103. By perpetrating the acts complained of, and/or participating in Defendant Berkeley College's condonation of a harassing, discriminatory, gender-biased and/or sexually hostile work environment, Defendant Dennis aided, abetted and/or incited unlawful discriminatory conduct in violation of NYCHRL, § 8-107(6).



104. As a result of Defendant Dennis' unlawful conduct, Ms. Funes suffered and continues to suffer harm, including but not limited to, emotional distress and other damages.

105. Ms. Funes is entitled to all remedies available for violations of NYCHRL, including but not limited to, compensatory damages, punitive damages, attorney's fees, costs, injunctive relief and any other appropriate relief.

**EIGHTH CAUSE OF ACTION**  
**Unlawful Discrimination and Hostile Work Environment Because of Sex**  
**In Violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq.**  
**(Defendant Berkeley College)**

106. Plaintiff hereby repeats and realleges each allegation contained in paragraphs 1-62, as if fully set forth herein.

107. Under 42 U.S.C. § 2000e-2(a)(1), it "shall be an unlawful employment practice for an employer ... to discriminate against any individual with respect to [her] terms, conditions or privileges of employment because of such individual's sex."

108. As fully set forth above, Ms. Funes was subjected to sexually explicit and offensive remarks, denigrating comments that objectified women, asked repeatedly to translate vulgar Spanish words, showed lewd Facebook pictures and degraded because of her body type. The totality of the circumstances demonstrate that the discriminatory conduct was severe or pervasive creating a hostile work environment. Defendant Berkeley College knew or should have known about the hostile work environment but failed to take corrective action.

109. By condoning, permitting and failing to remediate workplace harassment, intimidation, unwelcomed sexually explicit remarks and sexually offensive conduct directed to Ms. Funes because of her sex, Defendant Berkeley College subjected Plaintiff to discriminatory terms, conditions or privileges of employment and to a gender-biased and/or hostile work environment because of sex in violation of § 2000e-2(a)(1).

110. As a result of Defendant Berkeley College's unlawful conduct, Ms. Funes suffered and continues to suffer harm, including but not limited to, emotional distress and other damages.

111. Ms. Funes is entitled to all remedies available for violations of Title VII, including but not limited to, compensatory damages, punitive damages, attorney's fees, costs, injunctive relief and any other appropriate relief.

**NINTH CAUSE OF ACTION**  
**Unlawful Retaliation**  
**In Violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq.**  
**(Defendant Berkeley College)**

112. Plaintiff hereby repeats and realleges each allegation contained in paragraphs 1-62, as if fully set forth herein.

113. Under 42 U.S.C. § 2000e-3(a), it "shall be an unlawful employment practice for an employer to discriminate against [an] employee... because [she] has opposed any practice made an unlawful employment practice by this subchapter."

114. As fully set forth above, Ms. Funes complained about harassment, workplace intimidation, and sexually offensive remarks and conduct directed at her.

115. By terminating Ms. Funes' employment because she engaged in activities protected under Title VII, Defendant Berkeley College violated the retaliation provision of § 2000e-3(a).

116. As a result of Defendant Berkeley College's unlawful conduct, Ms. Funes suffered and continues to suffer harm, including but not limited to, emotional distress and other damages.

including but not limited to, compensatory damages, punitive damages, attorney's fees, costs, injunctive relief and any other appropriate relief.

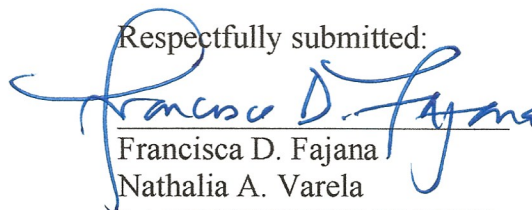
### PRAYER FOR RELIEF

**WHEREFORE**, Plaintiff, respectfully requests that this Court grant the following relief:

- A. A declaratory judgment that the practices complained of herein are unlawful under the NYSHRL, N.Y. Labor Law, NYCHRL and Title VII of the Civil Rights Act of 1964;
- B. An award of monetary damages to be determined at trial, plus prejudgment interest, to compensate Plaintiff for all monetary and/or economic damages, including but not limited to, compensation for her economic losses, pain and suffering, mental anguish and emotional distress, humiliation and loss of self-esteem;
- C. An award of punitive damages;
- D. An award of attorneys' fees and costs incurred in this action; and
- E. Such other and further relief as this Court deems just and proper.

Dated: New York, New York  
March 10, 2021

Respectfully submitted:



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