

CIVIL ACTION COVER SHEET	TRIAL COURT OF MASSACHUSETTS SUPERIOR COURT DEPARTMENT	DOCKET NO. <u>09-2612-5</u>
	COUNTY <u>SUFFOLK</u>	
	OF	
PLAINTIFF(S) Michelle Moor		DEFENDANT(S) Bingham McCutchen LLP

2

Type Plaintiff's Attorney name, Address, City/State/Zip
Phone Number and BBO#

Type Defendant's Attorney Name, Address, City/State/Zip
Phone Number (If Known)

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TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)			
CODE NO.	TYPE OF ACTION (specify)	TRACK	IS THIS A JURY CASE?
	B22 Employment Discrimination - Fast Track		<input checked="" type="radio"/> Yes <input type="radio"/> No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

TORT CLAIMS
(Attach additional sheets as necessary)

A. Documented medical expenses to date:	
1. Total hospital expenses	\$ _____
2. Total doctor expenses	\$ _____
3. Total chiropractic expenses	\$ _____
4. Total physical therapy expenses	\$ _____
5. Total other expenses (describe)	\$ _____
Subtotal	\$ _____
B. Documented lost wages and compensation to date	\$ _____
C. Documented property damages to date	\$ _____
D. Reasonably anticipated future medical expenses	\$ _____
E. Reasonably anticipated lost wages and compensation to date	\$ at least \$155,500
F. Other documented items of damages (describe) (Emotional distress and future earnings)	\$ TBD
G. Brief description of plaintiff's injury, including nature and extent of injury (describe)	
Discrimination in employment on the basis of gender and retaliation by an employer in violation of MGL c. 151B causing lost wages and benefits, damage to reputation and future earning capacity, and emotional distress.	
Total \$	<u>155,500 + TBD*</u>

*Full damages to be determined by the Court, plus interest, costs and attorneys' fees.

CONTRACT CLAIMS
(Attach additional sheets as necessary)

Provide a detailed description of claim(s):

TOTAL \$

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record [Signature] Date: 6-23-2009

A.O.S.C. 3-2007

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT

)
 MICHELLE MOOR,)
)
 Plaintiff,)
)
 v.)
)
 BINGHAM MCCUTCHEN, LLP,)
)
 Defendant.)

Docket No. 09-2612 - B

2009 JUN 23 PM 3:40
 MICHAEL JOSEPH DONOVAN
 CLERK/MAGISTRATE
 SUFFOLK SUPERIOR COURT
 CIVIL DEPARTMENT

COMPLAINT AND JURY DEMAND

INTRODUCTION

1. This suit in law and equity seeks redress for gender-based employment discrimination, hostile work environment, constructive discharge and retaliation to which the plaintiff, Michelle Moor, was subjected by her former employer, Bingham McCutchen, LLP.

JURISDICTION

2. This action arises under M.G.L. c. 151B, as hereinafter more fully appears. All conditions to jurisdiction under M.G.L. c. 151B have been met.

PARTIES

3. Michelle Moor ("plaintiff" or "Ms. Moor") is a resident of Cambridge, Massachusetts, County of Middlesex. Ms. Moor, an attorney, was employed as a litigation associate at Bingham McCutchen LLP from September 17, 2007 until March 7, 2008.
4. Bingham McCutchen LLP ("defendant," "Bingham" or "the firm") is a law firm that has its main office at 1 Federal Street, Boston, Massachusetts, County of Suffolk.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

5. On May 7, 2008, Plaintiff filed a Charge of Discrimination with the Massachusetts Commission Against Discrimination (“MCAD”), a copy of which is attached as **Exhibit A** and is incorporated herein by reference. The MCAD, in turn, filed the complaint with the Equal Employment Opportunity Commission (hereinafter EEOC).
6. On March 12, 2009, Plaintiff filed a motion with the MCAD to amend her Charge of Discrimination. Plaintiff’s motion to amend was granted on March 24, 2009. A copy of Plaintiff’s amended charge is attached hereto as **Exhibit B** and is incorporated herein by reference.
7. On April 13, 2009, the plaintiff received a Dismissal and Notification of Rights letter from the MCAD, a copy of which is attached as **Exhibit C** and is incorporated herein by reference.
8. All of the conditions precedent to the institution of this action have been fulfilled.

STATEMENT OF FACTS

9. Michelle Moor is a thirty-one year old attorney who graduated from Northeastern University School of Law in May 2007.
10. After working very successfully as a Summer Associate for Bingham between her second and third years of law school during the summer of 2006, Ms. Moor was offered, and accepted, the highly sought-after position of litigation associate at Bingham.
11. Ms. Moor began working as an associate for Bingham on September 17, 2007.
12. By all accounts, Ms. Moor performed exceedingly well during her time at Bingham, both

as a summer associate and as an associate. She worked hard, was a team player, and received consistently positive feedback in response to her work.

13. On December 14, 2007, Ms. Moor attended Bingham's annual holiday party for associates.
14. The holiday party included a lunch held at Lucia Ristorante & Bar in the North End of Boston.
15. On information and belief, the lunch was attended by approximately 100 Bingham employees.
16. The firm paid for the meal, which included wine.
17. On information and belief, the lunch was not open to the public and the only people present at the restaurant during this event were Bingham employees and Lucia staff.
18. After lunch, the party moved upstairs to the bar area on the second floor of Lucia.
19. The party in the bar area was a private party for Bingham employees.
20. On information and belief, the only people present in the bar during this event were Bingham employees, their friends and family, and the staff of Lucia.
21. On information and belief, to the extent that members of the public may have been present in the bar, they would have been sitting in an area that was separated from the area where the Bingham party was held.
22. The firm paid for drinks from the bar.
23. Many party attendees had a substantial amount to drink.
24. Ms. Moor, who drinks socially and with moderation, remembers little of the afternoon beyond receiving a second glass of wine. She later learned that she had been

involuntarily drugged at the holiday party.

25. On information and belief, Ms. Moor was given a “date rape” drug at the holiday party without her knowledge.
26. On information and belief, “date rape” drugs are used in sexual assaults to reduce a woman’s ability to resist an assault and impair her ability to remember the assault.
27. On information and belief, date rape drugs are not used recreationally and are nearly always given as a precursor to an attempted sexual assault.
28. Dazed and extremely disoriented, Ms. Moor made it to an emergency room the evening of December 14, 2007, where a blood test revealed that she had ingested Tegretol, an anti-seizure medication that, mixed with alcohol, causes memory loss and other symptoms. Ms. Moor does not take Tegretol and did not knowingly take it, or any other potentially mind altering drug or medication, on the day of the firm party.
29. On information and belief, more common date rape drugs are generally undetectable after a number of hours which is part of their appeal.
30. Although the hospital lab initially told Ms. Moor that she had a “weak positive” for a “date rape” drug, subsequent testing for these drugs was negative.
31. Ms. Moor first reported the drugging incident to Bingham on the Monday following the holiday party, December 17, 2007, when she reported the incident to a more senior associate at the firm.
32. Upon hearing Ms. Moor’s story, this senior associate informed Ms. Moor that she had been drugged and raped by a Bingham employee the year before and that, while she had reported the incident to police, she had decided not to report the incident to Bingham for

fear that to do so would jeopardize her prospects of promotion at the firm.

33. Ms. Moor reported the incident to Bingham a second time on Monday, December 17, 2007, this time to a partner at the firm, who, without warmth or a spirit of support, said something to the effect that “now that you’ve told me, knowledge is imputed to the partnership.”
34. This partner also suggested that Ms. Moor wait until further drug test results were received before reporting the incident to police.
35. On Thursday, December 20, 2007, after re-run drug tests confirmed the presence of drugs in her blood on December 14, 2007, Ms. Moor again reported the incident to Bingham, this time to Lou Rodriques, her partner-mentor at the firm and the head of the firm’s labor and employment group. Mr. Rodriques went with Ms. Moor to Human Resources, where they reported the incident to Lynn Carroll, the firm’s Chief Human Resources Officer.
36. During the meeting on December 20, 2007, Ms. Moor told Ms. Carroll and Mr. Rodriques that, since her attack, she had learned from another female Bingham associate that that associate had been drugged and raped a year earlier by a Bingham employee when she was socializing with fellow Bingham employees.
37. In speaking with Ms. Carroll and Mr. Rodriques, Ms. Moor expressed her concern that she had been the victim of an attempted sexual assault.
38. Ms. Moor expressed to Ms. Carroll and Mr. Rodriques her strong concern for the safety and well being of female employees at the firm and asked that a warning go out to all of them.
39. At the end of their meeting, Ms. Carroll indicated that the firm would investigate the

attempted sexual assault and get back to Ms. Moor.

40. Over the next several weeks Ms. Moor spoke on several occasions with Mr. Rodriques, who asked how she was doing.
41. During this time Ms. Moor also spoke with Ms. Carroll, who said something to the effect that the firm was “still figuring out” how to handle the situation.
42. On information and belief, Bingham conducted no investigation in the month following the drugging incident to try to determine who had drugged her.
43. Four and a half weeks after Ms. Moor reported the drugging incident, on January 17, 2008, a dinner was held at Grill 23 to celebrate the firm’s successful litigation of a motion to dismiss.
44. As a top performer on the project, Ms. Moor was invited to attend the dinner.
45. At the dinner were three other Bingham attorneys, Brandon Bigelow, David Magee, and Josephine Deang, a male Bingham litigation technology support person, “J.B.,” and members of DTI, the company that helped to manage the electronic discovery in the case.
46. Throughout the dinner, J.B. made a series of alarming and sexually inappropriate comments, including making comments about “pussy,” making reference to the married men at the table as “whipped,” and discussing “vasectomies” and “balls.”
47. Among the inappropriate comments made by J.B. was one to the effect that he enjoyed having sex with women who were unconscious, and that he knew how to get “roofies” (the colloquial term for the date rape drug Rohypnol).
48. Ms. Moor was stunned and overwhelmed following J.B.’s comment about “roofies.” She shut down and said almost nothing for the remainder of the meal.

49. After the dinner ended, Ms. Moor asked Messrs. Bigelow and Magee whether J.B. had attended the December associates party; they reported that J.B. had and that they had seen Ms. Moor speaking with him there.
50. Ms. Moor, who felt incredibly upset, scared and violated, cried during the cab ride home (she shared a cab with Ms. Deang), and continued crying for several hours upon returning home.
51. Ms. Moor's office was just three doors down from J.B. and she was actively working with him on a project.
52. Ms. Moor struggled with coming to terms with the fact that J.B. may have been the person who drugged her and may have intended to rape her while she was unconscious. Ms. Moor was unable to go to work the following day because she was so upset.
53. The following Monday, January 21, 2008 was the MLK Jr. Holiday. That day, Ms. Moor sent an email to Ms. Carroll, reporting what had happened at the dinner.
54. Ms. Carroll replied, saying she would follow up with her the next day.
55. On January 22, 2008, Ms. Moor and Ms. Carroll met and Ms. Moor described more fully what had occurred at the dinner.
56. During the January 22, 2008 meeting with Ms. Carroll, Ms. Moor raised the fact that Bingham still had not warned female employees about the drugging incidents, and again asked that it do so.
57. Ms. Moor also expressed her discomfort with working in such close proximity to J.B., in light of his comments and the fact that she herself had been drugged at the holiday party.
58. Ms. Carroll said she would investigate and keep Ms. Moor updated as the investigation

progressed.

59. On information and belief, Bingham believed that J.B. might have drugged Ms. Moor at the holiday party.
60. According to handwritten notes contained in Ms. Moor's personnel file at Bingham, Ms. Carroll spoke with Mr. Magee the following day, on January 23, 2008, at which time Mr. Magee largely corroborated Ms. Moor's account of the evening.
61. The handwritten notes contained in Ms. Moor's personnel file indicate that, during his meeting with Ms. Carroll, Mr. Magee informed Ms. Carroll that he had observed J.B. "pushing drinks" at the holiday party.
62. On information and belief, Mr. Magee also informed Ms. Carroll that at the firm's 2006 holiday party for associates J.B. had solicited money to buy "an eight-ball" (the street name for a certain quantity of cocaine or methamphetamine), left the party to purchase drugs, returned to the party, and consumed the drugs.
63. On information and belief, over the next several days, Ms. Carroll spoke with Mr. Bigelow and Ms. Deang, both of whom, in substance, confirmed the events of the Grill 23 dinner as Ms. Moor had reported them.
64. Despite the fact that Bingham rapidly corroborated most, if not all, of Ms. Moor's description of the incident at Grill 23, Bingham's investigation languished.
65. Bingham failed to take steps to ensure Ms. Moor's safety and left her to work three doors away from the co-worker that she and Bingham believed might have been the person who had drugged and meant to attack her.
66. When at work, Ms. Moor was constantly on guard. Ms. Moor found herself going out of

her way to take precautions so that she would not encounter J.B., but remained afraid each time she left her office that she might run into him. In order to avoid communicating directly with J.B. regarding a project on which she still worked with him, Ms. Moor used a fellow associate as an intermediary. In addition, while she made great efforts to avoid walking past J.B.'s office, seeing him on a daily basis was unavoidable, given that they shared a common kitchen area, and given that J.B. worked next door to Ms. Moor's senior associate mentor. Despite her efforts to avoid J.B., Ms. Moor felt unsafe in her workplace.

67. After an unsettling experience of riding alone in a firm elevator with J.B., Ms. Moor contacted Ms. Carroll on Monday February 4, 2008 to ask about the status of Bingham's investigation.
68. In their February 4th meeting, Ms. Carroll reported that she had not yet spoken to J.B.
69. Ms. Moor again informed Ms. Carroll that she did not feel safe working in such close proximity to J.B.
70. Ms. Carroll responded that Ms. Moor could move her office from the 19th floor to the 17th floor so that she would not have to work as close to J.B.
71. Ms. Moor told Ms. Carroll that she did not understand why she was being moved when she had done nothing wrong and that it seemed strange that the firm had not yet spoken to J.B.
72. Ms. Moor also expressed her concern that she was being punished for reporting J.B.'s inappropriate behavior, and indicated that she did not want to move offices.
73. Ms. Carroll responded that if Ms. Moor changed her mind about moving offices, she

should leave her a voicemail.

74. Ms. Carroll also said that because she would be in Bingham's San Francisco office for the remainder of the week, she would not be able to do anything further on the investigation until the following week.
75. On information and belief, Bingham did not want to move J.B. to a different office while the investigation was pending because it viewed moving an employee's work location as punishment and Bingham did not want to punish J.B. until it had completed its investigation.
76. Moving from the 19th floor, which was known as the general litigation floor, to the 17th floor, which was known as the broker-dealer floor, would have materially altered Ms. Moor's working conditions, as the work assigned to associates at the firm is strongly correlated with their location in the offices.
77. Ms. Moor was the only first year associate on Team Three, the general litigation team. Ms. Moor very much wanted to remain on the general litigation team because she viewed it as the best place for her to develop her skills and gain experience. A move to the 17th floor would have made it more likely that Ms. Moor would have been pulled off of general litigation projects, because it would have made it far more likely that a partner in the broker-dealer group would pull her into a big project.
78. By presenting Ms. Moor with the choice between moving her office to get away from J.B. and remaining on the general litigation floor, Bingham placed Ms. Moor in the position of having to choose between pursuing her career in the general litigation group and her safety.

79. Ms. Moor made the difficult decision to remain on the 19th floor because she did not want to lose out on the benefits and opportunities afforded her by her placement in the general litigation group. However, she remained frightened to work three doors down from J.B.
80. On February 5, 2008, Ms. Moor spoke with Peter Pound, her senior associate mentor, telling him that she felt unsafe and that she was frustrated by Bingham's apparent inaction. She noted that the firm was able to move quickly on things when it was so inclined and that the pace of the investigations and lack of action vis-a-vis a warning to other employees indicated a lack of concern on Bingham's part.
81. Ms. Moor's conversation with Mr. Pound apparently triggered a contact by Daniel Jackson, Director of Attorney Development, who informed Ms. Moor that the firm was still considering how to send the appropriate warning about the holiday party incident to the firm's associates.
82. Mr. Jackson expressed the firm's view that it could not put anything in writing about the incident as a warning to female employees, for fear that doing so would result in word of the incidents leaking outside the firm.
83. In her conversation with Mr. Jackson, Ms. Moor reiterated that she was afraid to be working so close to J.B. and that, while she did not care what form a warning was in, she believed that it was critical that a warning go out to associates at the firm.
84. On information and belief, no progress was made on the firm's investigation from February 5, 2008 through February 20, 2008.
85. During this time, J.B. continued to work three doors down from Ms. Moor.

86. Ms. Moor remained extremely uncomfortable working in close proximity with the man she believed may have drugged her and meant to sexually assault her. Ms. Moor continued to try to avoid J.B. during the day, and tried to avoid being at the office late at night and on weekends. However, as a first-year associate, that was not always possible. When she was at work, particularly in the evenings and on weekends, Ms. Moor remained on high alert, afraid of being attacked again.
87. Despite the fact that Bingham had information that at least two of its employees had been involuntarily drugged while socializing with work colleagues and it still had not provided notice to Bingham employees about appropriate safety precautions to avoid the inadvertent ingesting of drugs, the firm sponsored at least four events where alcohol was served between December 17, 2007 and February 21, 2008. At all four, there was an open bar.
88. In mid-January, 2008, Bingham held an open bar “happy hour” on the 19th floor, the same floor where Ms. Moor and J.B. worked, to celebrate the naming of a new partner of the firm.
89. On January 30, 2008, the firm held its annual mentor awards in the firm’s Multi-Purpose Room (“MPR”). There was an open bar and approximately 40 people attended.
90. In early February, 2008, the firm held an open bar event in the MPR to celebrate Bingham’s ascension to Fortune’s Top 100 Best Places to Work.
91. On February 21, 2008, the firm held a three-hour open bar event entitled “Fortune February at Bingham,” again to celebrate Bingham’s ranking on Fortune’s Best Places to Work list.

92. Ms. Moor attended one of the four open bar events, the annual mentor awards, and drank only bottled water. She did not feel safe attending any of the other events. Having to avoid firm events because she did not feel safe made Ms. Moor feel increasingly isolated and lacking necessary support at the firm.
93. By late January 2008, Ms. Moor no longer felt safe at Bingham. Therefore, when, during this period, Ms. Moor received an unsolicited phone call from a prior employer asking if she might be interested in an associate position opening up in his firm, she found herself considering the possibility, despite the significant difference in salaries between the two jobs.
94. During this period, Ms. Moor felt as if Bingham was managing her instead of responding to and addressing her complaints of sexual harassment, and she felt enormously uncomfortable working in this environment.
95. In February 2008, Ms. Moor received an offer of employment from her prior employer. Because she had no sense that Bingham was actively responding to her concerns about her safety or advancing the investigation of her complaints, she accepted the job.
96. After accepting a position with another firm, Ms. Moor received a phone message on Thursday, February 21, 2008 from Ms. Carroll, in which she was informed that J.B. no longer worked for Bingham.
97. Given the circumstances, the length of time it took for Bingham to take action against J.B. was unreasonable and wholly inadequate.
98. For more than a month after Bingham was made aware of the incident at Grill 23, Ms. Moor had to go to work every day aware that she was working three doors down from

- J.B., and she had to continue to work with him.
99. This made Ms. Moor's work environment intolerable. It was a completely untenable situation for Ms. Moor, and she repeatedly made members of the Human Resources department, and others, aware of that fact.
 100. As of December 13, 2007, Ms. Moor had no intention of leaving the firm. Indeed, Ms. Moor was successful in her work at the firm, and she and her long-term boyfriend were making plans for the future based upon her continued employment with Bingham and the salary she earned from that work.
 101. Ms. Moor's decision to leave Bingham was difficult and disillusioning and carried with it substantial economic consequences.
 102. Between the drugging incident and Ms. Moor's departure from the firm at the end of February 2008, nothing was done to notify female employees at Bingham about the potential risk they faced at firm-sponsored events.
 103. Indeed, despite Ms. Moor's repeated requests that Bingham issue a warning to female employees at the firm about the incident at the holiday party, it was only after Ms. Moor resigned, and again reiterated her concerns about the firm's failure to issue a warning, that Bingham issued a notice to employees about the incident.
 104. The firm's failure to warn other employees about the risks they faced at firm-sponsored events demonstrated a lack of concern for Ms. Moor's safety.
 105. As a result of Bingham's actions and inactions, Ms. Moor suffered substantial emotional distress.
 106. Ms. Moor filed a Charge of Discrimination with the MCAD on May 7, 2008.

107. After Ms. Moor engaged in protected activity by filing internal and external complaints of discrimination and retaliation, she found herself the target of ongoing retaliation by Bingham. This retaliation includes but is not necessarily limited to the following: on information and belief, after Ms. Moor filed her Charge of Discrimination with the MCAD, Bingham and its agents disseminated oral and written statements to its employees to the effect that Ms. Moor was not to be believed. By, in essence, calling Ms. Moor a liar, the firm did substantial harm to Ms. Moor's reputation with her former colleagues and, because Bingham's statements were disseminated outside of Bingham, in the legal community more generally.
108. Also on information and belief, after Ms. Moor left Bingham in February, 2008, the firm instructed its employees not to talk with Ms. Moor.

COUNT ONE
Discrimination, Sexual Harassment and Constructive Discharge
M.G.L. c. 151B, § 4

109. Plaintiff realleges, reasserts and incorporates by reference the facts and allegations stated in the previous paragraphs.
110. Defendant Bingham's actions as set forth above constitute discrimination against Ms. Moor based on her gender in violation of M.G.L. c. 151B, § 4(1).
111. Defendant Bingham's actions and inactions violated M.G.L. c. 151B, § 4(16A) in that Bingham knew that Ms. Moor was subjected to sexual harassment but failed to investigate or take other prompt or adequate remedial action in response.
112. Defendant Bingham's actions and inactions created a work environment so intolerable

that a reasonable person in Ms. Moor's position would have felt compelled to resign; as such, Bingham's actions and inactions constitute constructive discharge in violation of M.G.L. c. 151B.

113. As a result of Defendant's actions and inactions, Ms. Moor suffered substantial emotional and economic harm, including loss of wages and benefits.

COUNT TWO
Retaliation
M.G.L. c. 151B, § 4(4)

114. Plaintiff realleges, reasserts and incorporates by reference the facts and allegations stated in the previous paragraphs.

115. The actions of the defendants as set forth above constitute unlawful retaliation in violation of G.L. c. 151B, § 4(4) in that the defendants took adverse employment action against Ms. Moor because she engaged in activity protected by c. 151B by reporting the sexual harassment to her employer and filing external discrimination complaints.

116. As a result of Defendants' actions, Ms. Moor suffered substantial emotional and economic harm, including loss of wages, damage to reputation and future earning capacity.

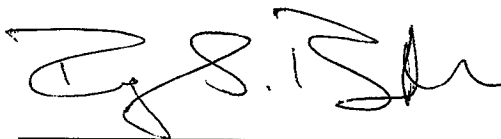
WHEREFORE PLAINTIFF REQUESTS THAT THE COURT ORDER:

- a. That judgment be entered for her and against Defendant;
- b. That Plaintiff be compensated for any loss of wages and/or benefits incurred as a result of Defendant's unlawful acts;
- c. That Plaintiff be awarded an amount of money that will fairly compensate her for the

- emotional harm caused by Defendant's unlawful acts;
- d. That Defendant pay Plaintiff's costs and attorney's fees resulting from this action;
 - e. That Defendant pay Plaintiff interest on any judgment entered from the time of the filing of this suit at the MCAD;
 - f. That Defendant be ordered to pay the plaintiff punitive damages; and
 - 7. Other such relief as may be just and proper and to make Plaintiff whole.

PLAINTIFF DEMANDS A TRIAL BY JURY

Respectfully Submitted,
Michelle Moor,
By her attorneys,



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June 23, 2009