

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

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BRITTANY COMMISSO,

Index No. 911286/2023

Plaintiff,

VERIFIED COMPLAINT

-against-

ANDREW CUOMO and
THE STATE OF NEW YORK,

Defendants.

_____ X

Plaintiff Brittany Commisso, by and through her attorneys, Cuti Hecker Wang LLP and the Law Office of Kevin Mintzer, P.C., for her Verified Complaint alleges as follows:

NATURE OF THE ACTION

1. Plaintiff Brittany Commisso has worked for the State of New York since 2017. She has excelled throughout that time, and has found the substance of the work fulfilling, appreciating the opportunity to contribute to the functioning of the State government, including during tumultuous times such as the response to the Covid-19 pandemic.

2. Commisso’s dedication to her work has been overshadowed, however, by outrageous sex discrimination and retaliation by the Defendants – former Governor Andrew Cuomo (“Cuomo”) and the State of New York.

3. During his tenure as Governor and the leader of New York State, Cuomo subjected Commisso to a pattern of brazenly inappropriate sexual comments, which escalated over time into non-consensual sexual touching. Rather than treat her professionally and as a hard-working member of his team, the then-Governor reduced and objectified her, frequently leering at Commisso and commenting on her appearance and the clothes she was wearing in a

sexualized manner. He asked about her sex life in ways that made her extremely uncomfortable. He subjected her to unwanted sexual touching, including hugging and kissing her, pressing his body up against hers, and rubbing her backside with his hands.

4. Cuomo's pattern of objectification and sexual harassment of Commisso culminated in December 2020, when he preyed upon her in his own Executive Mansion, grabbing her forcefully and fondling her breast with his hand.

5. Cuomo's offensive and unlawful treatment of Commisso was part of a broad pattern of sexual harassment and abuse by the Governor that has been thoroughly documented, including following investigations by the Office of Attorney General, the Assembly Judiciary Committee, and the U.S. Department of Justice. Not only did Cuomo hold the highest office within the State, but senior employees of the State were on notice of Cuomo's discriminatory conduct and the likelihood that he would sexually harass and abuse Commisso.

6. When Commisso broke down and reported the abuse that Cuomo had inflicted on her to co-workers who then formally reported it, Cuomo and senior State employees swiftly punished her for the report, taking away the opportunity to continue her work or accrue overtime. Even after he resigned and as a former Governor, Cuomo has continued to use his power and enormous financial resources to attack Commisso for reporting his unlawful behavior, including by spreading and encouraging falsehoods about Commisso directly and through his agents in demeaning and harmful ways.

7. This action seeks redress for Defendants' profoundly harmful, and ongoing, misconduct.

PARTIES

8. Plaintiff Brittany Commisso is an individual who resides in New York.

Commisso is a woman.

9. Defendant Andrew Cuomo is an individual who resides in New York. Cuomo is a man. He was employed by the State of New York as Governor from January 1, 2011 until he resigned effective August 24, 2021. While Governor, all executive power was vested in Cuomo, N.Y. Const. Art. IV, and he commanded all aspects of the State’s executive functioning, including, without limitation, how and when employment and anti-discrimination policies would be implemented and followed.

10. Defendant the State of New York (the “State”) was at all relevant times the employer of Plaintiff as well as Defendant Cuomo and multiple other senior officials and staff who aided and abetted Cuomo in his discrimination and retaliation of Plaintiff.

JURISDICTION AND VENUE

11. This Court has personal jurisdiction over Defendants pursuant to CPLR 301 *et seq.* because the wrongful conduct alleged in this Complaint took place in the State of New York.

12. Venue is proper under CPLR 503(a) because Plaintiff resides in Albany County and a substantial portion of the events or omissions took place in Albany County.

JURY DEMAND

13. Plaintiff hereby demands a trial by jury on all of her claims in this action.

FACTUAL ALLEGATIONS

Commisso Begins to Work for the State of New York and Cuomo

14. Commisso received her bachelor’s degree in political science from SUNY Albany in 2011. After graduating, she worked for the County of Albany until 2017.

15. In 2017, New York State hired Commisso to work in the Executive

Chamber, also known as the Office of the Governor. Commisso believed that this was the opportunity of a lifetime. She had grown up in the Albany area, and since she was a young girl had looked at the State Capitol and hoped one day to work there. She was thrilled to have the chance to work in the Governor's office.

16. From approximately late 2017 to early 2019, Commisso worked in the State Operations division of the Executive Chamber, in a non-secure area of the Capitol.

17. Cuomo's inappropriate treatment of women in his office was widely known among the Executive Chamber staff, even when Commisso first began working in the Executive Chamber.

18. On Commisso's very first day in the Executive Chamber, in or around late 2017, she met a woman who was one of the executive assistants for Cuomo and Melissa DeRosa, one of Cuomo's top aides and closest advisors. When that executive assistant was showing Commisso around, she looked Commisso up and down and said, in substance, "The Governor will be stealing you. Don't worry, it will just be a matter of time, the Governor will definitely be stealing you."

19. Commisso understood this to be mean that the executive assistant thought Commisso was attractive and that when the Governor saw her, he would think she was attractive and want to pull her in to work directly with him.

20. Commisso nonetheless thrived in her role in the State Operations division of the Executive Chamber and was soon offered an opportunity to advance.

21. She took the Professional Career Opportunities exam – a civil service test the State uses – and got a perfect score, which enabled her to rise to Civil Service status and take a new, higher-paying job with the State Department of Transportation.

22. Commisso continued to excel in her role at the Department of Transportation, but she missed the hustle and bustle of working in the Executive Chamber.

23. During her work in the State Operations division of the Executive Chamber, Commisso was sometimes assigned to work on Saturdays assisting the Governor in the Capitol.

24. It was on one of those Saturdays that Commisso first met Defendant Cuomo.

25. On one of the first occasions that Commisso provided weekend coverage for Cuomo, Commisso introduced herself to him.

26. When she did so, Cuomo looked her body up and down and said it was nice to meet her.

27. They spoke for a few minutes, then as Cuomo was leaving he turned around, again looked Commisso up and down, smiled, and again said it was nice to meet her.

28. In or around June 2019, Commisso learned that John Maggiore, a senior advisor to the Governor, would be seeking to replace his executive assistant.

29. Commisso was hired as the new Executive Assistant to Maggiore.

30. In that role, Commisso worked on the secure side of the second floor of the Capitol, across the hall from the Governor's personal office. Commisso took on extensive responsibilities in assisting Maggiore and continued to perform excellent work.

31. While she was working for Maggiore, Commisso continued to periodically be assigned to work on Saturdays assisting the Governor in the Capitol.

32. In or around November 2019, Commisso was asked to begin directly assisting the Governor as part of her work in the Executive Chamber, while continuing to work

for Maggiore.

33. At that point, Commisso began working for the Governor in his office in the Capitol and in the Executive Mansion.

Commisso is Subjected to the Governor's Harassment and Abuse

34. Once she was working in close proximity to the Governor, Commisso observed that Cuomo's demeanor toward his executive assistants was very different from his demeanor toward his senior staff. Whereas he was sometimes harsh and angry with his senior staff, Cuomo acted in a much more casual and lighthearted manner with his executive assistants, sometimes joking and making small talk with them.

35. At the same time, it quickly became clear to Commisso that the executive assistants very much wanted to avoid making Cuomo unhappy.

36. Cuomo sometimes publicly announced to all of the executive assistants when one of them had made a mistake.

37. The other executive assistants were careful to be only positive with and around Cuomo out of fear of being targeted by him or getting on his "bad" side.

38. Cuomo's staff members would typically email Commisso to ask if she could come to the Executive Mansion to assist with tasks.

39. On one of those occasions, Cuomo's director of scheduling asked Commisso to go to the Executive Mansion to help with some work one Saturday. After Commisso did so, the scheduler thanked her and said, in substance, that Cuomo "was in a bad mood and that she and Cuomo's senior staff knew that if you went over, you would make his mood better."

40. Soon after Commisso began working for Cuomo, he began subjecting her

to extremely inappropriate, sexualized comments, behavior, and unwanted touching.

41. Cuomo frequently leered at Commisso in the workplace.

42. He often looked her entire body up and down.

43. His behavior toward Commisso made her feel like he was checking her out sexually.

44. Cuomo frequently addressed Commisso in the office as “honey” or “sweetie.”

45. Commisso never heard Cuomo refer to anyone else by those types of pet names.

46. Cuomo made frequent comments in the office about Commisso’s appearance.

47. For example, Cuomo once commented on how thin Commisso looked when she wore a particular outfit.

48. Cuomo told Commisso that she looked good for her age (she was in her early 30s).

49. Cuomo commented that Commisso looked good for being a mother.

50. Cuomo told Commisso when she wore a particular dress, in words or substance, “it’s about time you showed some leg.”

51. When Commisso wore her hair in a bun, Cuomo made a face and said he did not like her hair that way, that he liked her hair better when it was down.

52. On one occasion, when Commisso was working at the Executive Mansion, Commisso was wearing a zip-up sweatshirt with just a light tank top underneath.

53. Commisso mentioned that it was warm in the room, and Cuomo told her

she could take off her sweatshirt.

54. Commisso responded that that would be inappropriate.

55. Cuomo responded by again saying that she could take it off.

56. Cuomo's tone suggested that he was encouraging Commisso to take off her sweatshirt.

57. Cuomo asked about Commisso's social life.

58. Cuomo talked about his own dating life with Commisso.

59. Cuomo told Commisso on more than one occasion that he wanted to find himself a girlfriend.

60. Cuomo asked Commisso if she knew anyone who would want to date him.

61. Cuomo explained that he was looking to date a woman in her late 30s or early 40s because he thought dating someone even younger than that might look bad to the public.

62. At the time, Cuomo was in his 60s.

63. Cuomo knew that Commisso was married.

64. On one occasion when Cuomo and Commisso were in the Executive Mansion, he said to her, in words or in substance, "if you were single, the things that I would do to you."

65. While in both the Capitol and the Executive Mansion, Cuomo asked Commisso whether she had been involved with men other than her husband.

66. Cuomo asked whether Commisso had a boyfriend while she was married.

67. Cuomo asked whether Commisso had flirted with other men while she was married.

68. Cuomo asked whether Commisso had kissed other men while she was married.

69. Cuomo asked whether Commisso had had sex with anyone other than her husband during her marriage.

70. Cuomo asked whether Commisso had ever had sex with anyone other than her husband.

71. Cuomo brought this up so often that it seemed to Commisso that he was obsessed with whether she had strayed from her marriage or had previous sexual partners.

72. The first time Commisso worked alone in the Executive Mansion, Cuomo offered to give her a tour of his home.

73. Commisso loved her work for the State, and it was a rare opportunity for anyone to be given a personal tour of the Executive Mansion by the Governor himself.

74. At one point in the tour, in an area where framed photos were on display, Cuomo drew Commisso's attention to a group photo in which a young woman was wearing a tight red dress.

75. In reference to the woman in the photo, Cuomo told Commisso something along the lines of, "she was a real firecracker."

76. Cuomo asked Commisso what she thought.

77. Commisso immediately thought that it was an odd and inappropriate comment.

78. While they were looking at the photos, Cuomo pushed his hand along Commisso's backside.

79. In the following months, Cuomo continued to subject Commisso to

unwanted touching, which escalated over time to more and more intrusive touching.

80. Cuomo was adept at normalizing his unlawful behavior by acting nonchalant about what he was doing, making it feel like one would offend *him* if one were to say something; by making it apparent through his selections that he preferred attractive women to work as his assistants; and by manipulating those who worked for him into wanting to be on his “good side,” rewarding staff for not objecting or for making waves and brutally criticizing or punishing them if they did so.

81. The overall result of the Governor’s toxic behavior had its desired effect: Commisso tried to convince herself that maybe he was just being friendly. She loved the substance of her work for the Office of the Governor, and she tried to tell herself that even in the face of Cuomo’s behavior, she could do her work, even as she would simultaneously feel anxious or ashamed while performing that work because of Cuomo’s sexual harassment.

82. The pattern of Cuomo’s normalization and escalation of his sexual harassment and unwanted touching of Commisso, in retrospect, is a textbook example of how a powerful sexual harasser operates.

83. Beginning in her early days working in the Executive Mansion, Cuomo often said goodbye to Commisso by giving her a hug.

84. Cuomo sometimes kissed Commisso on the cheek.

85. As time went on, often Cuomo made it a point to hug Commisso as she left the mansion.

86. Cuomo did not do this in the Capitol, or when other staff members were around, but only when no one was around or likely to walk in as he was touching Commisso.

87. Cuomo’s hugs became more intrusive and inappropriate over time.

88. Cuomo would hold Commisso tightly.

89. Cuomo would push his body against Commisso's as he hugged her.

90. Cuomo would run his hands up and down Commisso's back as he hugged her.

91. Cuomo's behavior made Commisso feel very uncomfortable, and she sensed that he was making sure he could feel her breasts press against his body as he hugged her.

92. Commisso felt that Cuomo was taking advantage of her.

93. Indeed, when Cuomo hugged her, Commisso would make a point of leaning her lower back away from him to ensure that his pelvic area did not touch hers as he tried to pull her close to him, against her wishes.

94. On one or two such occasions when Cuomo hugged and kissed Commisso when she was leaving the Executive Mansion, Cuomo kissed Commisso on the lips.

95. Commisso was startled, and immediately pulled away and left.

96. The unwanted physical contact that Cuomo subjected her to made Commisso feel extremely nervous, to the point that she broke out into hives on multiple occasions.

97. On December 31, 2019, while Commisso was working at the Executive Mansion, Cuomo asked her to take a selfie photo with him.

98. As Commisso pointed her phone towards them, Cuomo put his hand on her butt.

99. Cuomo rubbed and/or grabbed her butt for at least a few seconds.

100. Commisso was shaking so much that the photo turned out blurry.

101. They had to sit down to take a non-blurry photo.

102. Cuomo instructed Commisso to send the selfie photo to Alyssa McGrath, another executive assistant.

103. Cuomo then told Commisso that she could not show the photo to anyone else.

104. While all of Cuomo's sexualized comments and behavior were unwanted and unacceptable, it was after this incident that Commisso began to feel particularly anxious even to go to work, in fear that she would be alone with Cuomo and he would try to touch her that way again. At the same time, she felt terrified of speaking up about it out of fear of losing her job. Even when she spoke with her colleague and close friend McGrath, she felt that she could not say anything about how Cuomo had touched her.

105. In approximately January 2020, Commisso and McGrath were working in the Capitol.

106. One day, Cuomo began talking to them about how Commisso and McGrath were planning a trip to Florida together.

107. Cuomo referred to Commisso and McGrath as the "mingle mamas."

108. Cuomo asked Commisso and McGrath if they planned to mingle with men in Florida.

109. Cuomo asked whether McGrath would say anything if Commisso got involved with a man while in Florida.

110. Commisso was married at the time.

111. Cuomo knew that Commisso was married at the time.

112. In March 2020, Covid-19 became the full-time focus of everyone's work. The work at this point was all-consuming and extraordinarily challenging, but Commisso also

found it enormously rewarding and believed that by supporting the Executive Chamber to the best of her abilities she was making a difference for the health and lives of New Yorkers.

113. Yet, contemporaneous to this profound work, as 2020 progressed, Cuomo's inappropriate conduct toward Commisso became increasingly brazen.

114. Cuomo often commented on Commisso's height.

115. Cuomo would note how short Commisso is.

116. On one occasion in the office in or around late 2020, Cuomo directed her to stand in front of him so he could face forward with her backside against the front of his body.

117. Cuomo compared their heights.

118. Cuomo observed out loud that he was a whole head taller than Commisso.

119. This made Commisso uncomfortable.

120. Cuomo placed his chin on Commisso's head.

121. Cuomo's stomach was touching Commisso's back.

122. Commisso was careful to maneuver to avoid contact between Cuomo's pelvic region and her own body.

The December 2020 Assault

123. On or about December 7, 2020, Cuomo's inappropriate behavior toward Commisso descended to a new low.

124. That day, the office director asked Commisso to go to the Executive Mansion to send her notes that were stored on Cuomo's phone. Commisso went to the upstairs office in the mansion, where Cuomo was working.

125. Cuomo handed Commisso his phone.

126. Commisso sent the notes the office director had requested. She asked

Cuomo whether he needed her to do anything else.

127. Cuomo told her he did not.

128. Cuomo stood up and walked around his desk toward Commisso.

129. Cuomo put his arms around Commisso.

130. Cuomo pulled Commisso towards him.

131. Commisso immediately stepped back away from him and made clear he must stop.

132. Commisso had no idea how to process what the Governor was doing, and just tried to convince him on his terms that this was not something he should be doing, so she gestured to the open door of his office, hoping it would deter him.

133. Cuomo said, in words or substance, “I don’t care.”

134. Cuomo shut the door.

135. Based on how Cuomo was speaking and acting it was clear to Commisso that he was acting based on his sexual desires.

136. Cuomo walked back over to Commisso.

137. Cuomo pulled Commisso towards his body.

138. Cuomo put his hand inside Commisso’s blouse.

139. Cuomo touched Commisso’s breast over her bra.

140. Commisso looked down and saw his large hand cupping her breast.

141. Commisso was shocked and terrified. She wanted to push Cuomo away or slap him, but knew that he was the Governor and she feared losing her job or even being arrested. Commisso simply tried to pull herself away, and said something like, “you’re crazy.”

142. Cuomo then released her, and she was able to walk away and leave the

mansion.

143. Commisso was deeply upset by the assault. She felt like her chest was burning, and she broke out into hives.

144. But she feared that if she reported Cuomo's conduct, no one would believe her and that she would lose her job or otherwise be punished.

Cuomo's Retaliatory Approach is Evident

145. Even before she reported the misconduct, Cuomo retaliated against Commisso for rejecting his advances, including by immediately removing her from the overtime work assignments she had been placed in.

146. Commisso witnessed firsthand the response among Cuomo's senior staff of attacking and actively trying to discredit Lindsay Boylan after she spoke out publicly in December 2020 about Cuomo's inappropriate conduct toward her.

147. Cuomo's senior staff attempted to portray Boylan as crazy or having a political agenda, and they had confidential documents from her personnel file made public.

148. Following Boylan's public report of Cuomo's abusive behavior, Commisso felt that Cuomo was trying to suss out whether Commisso might disclose his inappropriate behavior towards her.

149. On one occasion in the Capitol shortly after he touched Commisso's breast in the mansion, Cuomo said to Commisso, in words or substance, "you don't talk about anything with anyone else, right?"

150. Cuomo told Commisso, in words or substance, that "people talk around here."

151. Cuomo told Commisso that she could never share with anyone the things

that have gone on, because he “could get in a lot of trouble.”

152. Commisso understood this as a threat from her powerful boss, the Governor of New York.

Commisso Is Compelled to Report Cuomo’s Unlawful Behavior

153. On March 3, 2021, after three separate women had accused Cuomo of sexual harassment, Cuomo held a press conference in which he stated, “I never touched anyone inappropriately.”

154. Commisso had told herself that she would never tell anyone about Cuomo’s abusive behavior toward her, but watching Cuomo go on television and openly state falsehoods was too much for her. Commisso became very emotional and could not help but think as he was speaking, “those things did actually happen to me.” Cuomo’s harassment and abuse had been weighing on her since the conduct had begun, and Commisso felt unable to sit quietly and listen to Cuomo deny the truth. She became upset, and others with her at the time observed as much.

155. Shortly thereafter, Commisso first reported to two of her co-workers about some of what Cuomo had done to her.

156. By that point, the Attorney General had already publicly announced the commencement of an investigation, and everyone understood that a legal process was underway.

157. At the suggestion of her co-workers, Commisso then contacted an attorney, and her co-workers reported to the internal Executive Chamber counsel that Cuomo had subjected Commisso to inappropriate sexual touching and harassment.

158. Defendants soon began to retaliate against Commisso, subjecting her to adverse employment actions for having rejected Cuomo’s advances, for having spoken to others

about the sexual harassment and assault that he subjected her to, and for testifying pursuant to the subpoena she received from the Office of the Attorney General.

159. In particular, Commisso was assigned far fewer duties and was no longer given opportunities to earn overtime, including the day after she reported Cuomo's harassment to her colleagues.

160. Commisso had been assigned to work that day, a Saturday, and the offer for overtime work was subsequently revoked.

161. On March 11, 2021, the Albany Times-Union published an article reporting, without naming her, that Commisso had alleged that Cuomo groped her in a sexually charged manner in the Executive Mansion in late 2020.

162. While he was still Governor, Cuomo and/or his agents publicly attacked and disparaged multiple women, including Commisso, for the testimony they provided pursuant to subpoenas they had received in the Attorney General's investigation.

163. The Office of the Attorney General issued its findings that Cuomo had engaged in sex discrimination and retaliation, including of Commisso on August 3, 2021.

164. Cuomo announced his resignation on August 10, 2021.

Commisso Suffers Further Retaliation at Work

165. Commisso faced an increased level of retaliation by employees of the State. Commisso was demoted and removed from the Executive Chamber front office. She has also been repeatedly transferred to lesser appointments and bounced around between at least six other positions in three years. These adverse actions occurred because Commisso rejected Cuomo's advances and spoke out about the sexual harassment that he had subjected her to over the course of many months of her tenure as an Executive Chamber employee.

166. Commisso was marginalized at work and her work assignments were diminished as a direct result of her having come forward to report Cuomo's unlawful discriminatory behavior. On information and belief, other staff members with similar clerical and executive assistant roles who had not reported sexual harassment by the Governor retained their positions or were promoted.

167. At each subsequent post, Commisso did as she had always done – she embraced the work, took her job seriously, and did a good job. But she was transferred so frequently, it was difficult for her to establish herself in each new role.

168. Commisso complained to numerous senior State employees about her frustration with the way she had been treated after reporting Cuomo's unlawful behavior, including to the Governor's general counsel and the Governor's Executive Deputy Secretary, but nothing came of her efforts to improve her situation.

169. In fall 2022, after Commisso sought help from the Secretary to Governor, she obtained a permanent job with the Office of General Services fellows program, where she had previously worked temporarily.

Multiple Government Agencies Find Commisso Credible and that Cuomo Engaged in Widespread Gender Discrimination, including Sexual Harassment and Retaliation

170. As set forth above, on August 3, 2021, the State Office of the Attorney General, following an extensive investigation, issued a Report of Investigation into Allegations of Sexual Harassment by Governor Andrew M. Cuomo ("Attorney General's Report").

171. That report concluded that Commisso (referred to in the report as "Executive Assistant #1") was "credible both in demeanor and in the substance of her allegations."

172. The Attorney General's Report also found that Commisso's reports were

corroborated by documentary evidence as well as witness testimony.

173. On November 22, 2021, the law firm Davis Polk & Wardwell LLP, following an extensive investigation, issued a report to the New York State Assembly Judiciary Committee (“Assembly Judiciary Committee Report”).

174. That report also concluded that Commisso’s reports of sexual harassment and abuse by Cuomo were credible, and that they were corroborated by substantial evidence, both in the form of witness testimony and contemporaneous documentary evidence.

175. State employees, including those in senior positions in the Executive Chamber, were on notice of Cuomo’s sexual harassment and/or sexual touching of female employees prior to the misconduct that Cuomo directed at Commisso.

176. The Attorney General’s Report and the Assembly Judiciary Committee Report both concluded that Defendant Cuomo engaged in offensive sexual touching and sexual harassment of numerous State Employees as well as other women.

177. Many of those instances of sexual harassment and abuse that the Attorney General’s Report concluded occurred took place prior to all or some of the misconduct that Cuomo directed at Commisso.

178. The Attorney General’s Report specifically concluded that at least one State employee reported Cuomo’s sexual harassment of her directly to senior employees of the State in the summer of 2020.

179. The Attorney General’s Report concluded that a “culture of fear, intimidation, and retribution co-existed in the Executive Chamber with one that accepted and normalized everyday flirtations and gender-based comments by the Governor.”

180. The report concluded that these factors “contributed to an environment

where the Governor’s sexually harassing conduct was allowed to flourish and persist” and “interfered with the Executive Chamber’s ability—and responsibility—to respond to allegations of sexual harassment in a proper way by taking them serious, reporting them, and having [the Governor’s Office of Employee Relations] investigate them.”

181. On January 26, 2024, the United States Department of Justice and the State of New York Executive Chamber executed an Agreement (the “DOJ Agreement”), following an investigation by the Department of Justice into Cuomo’s misconduct that began in August 2021.

182. The DOJ Agreement states that, “At the conclusion of the investigation, the United States found that former Governor Cuomo subjected at least thirteen female employees of New York State, including Executive Chamber employees, to a sexually hostile work environment. Governor Cuomo repeatedly subjected these female employees to unwelcome, non-consensual sexual contact; ogling; unwelcome sexual comments; gender-based nicknames; comments on their physical appearances; and/or preferential treatment based on their physical appearances.”

183. The DOJ Agreement further states that, “during the Cuomo administration, the Executive Chamber was aware of Cuomo’s conduct but failed to effectively remediate the harassment on a systemic level,” and that when employees attempted to raise concerns about Cuomo’s conduct to senior staff, “the Executive Chamber’s response was designed only to protect Cuomo from further accusations, rather than to protect employees from sexual harassment.”

184. The DOJ Agreement further states that, “The United States also found that Cuomo’s senior staff were aware of his conduct and retaliated against four of the women he

harassed.”

Cuomo and His Agents Further Retaliate Against Commisso in the Media

185. That Commisso bravely came forward to report what Cuomo had done to her and testified truthfully pursuant to a subpoena served on her by the Attorney General did not sit well with Cuomo and his advisors, who took it upon themselves to disparage Commisso in the media.

186. Cuomo’s lawyer, Rita Glavin, has steadfastly maintained that Commisso’s reports of and testimony about the abuse are “false” and suggested she had ulterior “motives” for making that claim. In her lengthy press conference responding to the Attorney General’s report, as well as numerous other television appearances, Glavin has asserted, in words and in substance, that “zero women were sexually harassed.”

187. Many of these statements were made before Cuomo announced his resignation, and thus carried the full force of being made by the counsel to the sitting Governor of New York when they were made.

188. Following the initiation of this lawsuit in November 2023, Cuomo and his agents again went on the attack, choosing a scorched earth defense strategy.

189. For example, Glavin smeared Commisso once again by disparagingly accusing her of a “transparent attempt at a cash grab” in an article in the *New York Post*.

The Harm

190. Commisso has suffered profoundly as a result of Cuomo’s abusive and unlawful behavior towards her. In the moments that Cuomo engaged in his unwanted touching of her and the immediate aftermath, among other things, she physically shook, broke out in hives, and felt nauseous and as if she could not breathe. In the hours, days, months, and years

since Cuomo's sexual harassment and retaliation, she has continued to process his diminishment and objectification of her because of her sex, and his ongoing attacks on her for reporting his conduct and testifying truthfully about it, recognizing over time how Defendants' cumulative actions derailed her sense of safety, of happiness, of satisfaction from work, basic pride in her achievements, and ability to be promoted and excel in her career.

FIRST CAUSE OF ACTION
Sexual Harassment in Violation of NYSHRL
(Against All Defendants)

191. Plaintiff hereby incorporates each of the foregoing paragraphs as if fully set forth herein.

192. At all relevant times, Plaintiff was an employee and the State was an employer within the meaning of the New York State Human Rights Law (NYSHRL), N.Y. Exec. L. §§ 292(5).

193. Defendants subjected Plaintiff to unlawful sexual harassment in violation of the NYSHRL. N.Y. Exec. L. § 296(1)(h). Based on the conduct described above, Plaintiff was subjected to inferior terms, conditions or privileges of employment because of her sex. *Id.*

194. Defendant Cuomo is liable because he personally committed acts of sexual harassment and because he aided and abetted the creation of a sexually hostile work environment within the meaning of N.Y. Exec. Law § 296(6).

195. Other employees of the State, including senior employees, aided and abetted the sexual harassment of Plaintiff because they were aware that Cuomo was committing acts of sexual harassment against Commisso and other women but failed to take reasonable actions to stop Cuomo from engaging in sexual harassment.

196. At all relevant times, Defendant Cuomo was the Governor of the State of

New York and held all executive authority for Defendant State, including the ultimate supervisory and hiring and firing authority over Commisso and all other executive branch employees. As such, Cuomo was Defendant State's alter ego or proxy and Cuomo's conduct is automatically attributable to the State. Alternatively, Defendant State was on notice of Defendant Cuomo's sexually harassing conduct and is liable for encouraging, condoning, or approving that unlawful conduct.

197. Defendants' discriminatory actions were willfully negligent, reckless, or committed with a conscious or reckless disregard of Plaintiff's rights.

198. As a result of Defendants' actions, Plaintiff suffered damages in an amount to be determined at trial.

SECOND CAUSE OF ACTION
Retaliation in Violation of NYSHRL
(Against All Defendants)

199. Plaintiff hereby incorporates each of the foregoing paragraphs as if fully set forth herein.

200. Defendants retaliated against Plaintiff for opposing unlawful discriminatory practices, including by subjecting Plaintiff to adverse employment actions as well as public and private attacks on her reputation because she rejected Defendant Cuomo's sexual advances, reported Defendant Cuomo's sexual harassment and abuse of her, and testified in response to a lawful subpoena issued by the Office of the Attorney General.

201. Plaintiff engaged in protected conduct and Defendants were aware that Plaintiff engaged in protected conduct.

202. Defendants retaliated against Plaintiff as a result of that protected conduct.

203. Defendants' conduct constituted unlawful retaliation in violation of the

NYSHRL, N.Y. Exec. Law § 296(1)(e) & (7).

204. At all relevant times, Defendant Cuomo was an employee and agent of the State acting within the scope of his employment.

205. Defendant State was on notice that retaliation against Plaintiff by its employees and agents was reasonably likely.

206. Other senior employees of the State and agents of Cuomo aided and abetted Defendant Cuomo's retaliatory conduct.

207. Defendants' retaliatory actions were willfully negligent, reckless, or committed with a conscious or reckless disregard of Plaintiff's rights.

208. As a result of Defendants' actions, Plaintiff suffered damages in an amount to be determined at trial.

THIRD CAUSE OF ACTION

Discrimination - Equal Protection Clause of Fourteenth Amendment / 42 U.S.C. § 1983 (Against Defendant Cuomo)

209. Plaintiff hereby incorporates each of the foregoing paragraphs as if fully set forth herein.

210. At all relevant times, Defendant Cuomo was acting under color of state law.

211. In committing the acts and omissions described above, including sexually harassing and abusing Plaintiff on the basis of her sex, Defendant Cuomo violated Plaintiff's right to equal protection under the Fourteenth Amendment to the U.S. Constitution.

212. Defendant Cuomo's discriminatory actions were willfully negligent, reckless, or committed with a conscious or reckless disregard of Plaintiff's rights.

213. As a result of Defendant Cuomo's actions, Plaintiff suffered damages in

an amount to be determined at trial.

FOURTH CAUSE OF ACTION
Retaliation - Equal Protection Clause of Fourteenth Amendment / 42 U.S.C. § 1983
(Against Defendant Cuomo)

214. Plaintiff hereby incorporates each of the foregoing paragraphs as if fully set forth herein.

215. At all relevant times, Defendant Cuomo was acting under color of state law.

216. In committing the acts and omissions described above, including retaliating against Plaintiff for rejecting his sexual advances and reporting his sexual harassment and abuse, Defendant Cuomo violated Plaintiff's right to equal protection under the Fourteenth Amendment to the U.S. Constitution.

217. Defendant Cuomo's retaliatory actions were willfully negligent, reckless or committed with a conscious or reckless disregard of Plaintiff's rights.

218. As a result of Defendant Cuomo's actions, Plaintiff suffered damages in an amount to be determined at trial.

WHEREFORE, Plaintiff respectfully requests that judgment be entered against Defendants as follows:

- a. Declaring that Defendants violated state and federal law;
- b. Enjoining Defendants from further retaliatory acts against Plaintiff;

- c. Awarding compensatory damages for all physical injuries, emotional distress, psychological harm, anxiety, humiliation, physical pain and suffering, family and social disruption, lost compensation, lost employment opportunities, and other harm, in an amount to be determined at trial;
- d. Awarding punitive damages in an amount to be determined at trial;
- e. Awarding attorneys' fees and costs pursuant to any applicable statute or law;
- f. Awarding pre- and post-judgment interest on all such damages, fees and/or costs; and
- g. Awarding such other and further relief as this Court may deem just and proper.

Dated: New York, New York
June 17, 2024

CUTI HECKER WANG LLP



By: _____

Mariann Meier Wang
Eric Hecker
Alice Reiter
Daniel Mullkoff

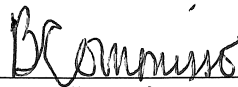
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Attorneys for Plaintiff Brittany Commisso

VERIFICATION

I affirm this 17 day of June, 2024, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that I have read the foregoing VERIFIED COMPLAINT and know the contents thereof to be true, except as to the matters therein stated to be alleged on information and belief, and as to those matters, I believe them to be true. I understand that this document may be filed in an action or proceeding in a court of law.



Brittany Commisso