

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

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**SARAH TREMBLAY,**

**Plaintiff,**

Index No.

**- against -**

**COMPLAINT**

**BEST BUY CO. OF MINNESOTA,  
BEST BUY STORES LP,  
NICOLAS VILLANI, individually, and  
BRIAN KRIEGER, individually,**

**Defendants.**

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SARAH TREMBLAY, by her attorneys, Crumiller P.C., as and for her complaint against defendants, alleges as follows:

**NATURE OF THE ACTION**

1. Plaintiff Sarah Tremblay, by her attorneys, Crumiller P.C., brings this action against Best Buy Co. of Minnesota (“Best Buy Co.” or “Best Buy”), Best Buy Stores LP (“Best Buy Stores”) (together, the “corporate defendants”), Nicolas Villani, and Brian Krieger, to remedy claims of gender discrimination pursuant to the New York State Human Rights Law, NY Exec. Law §§ 290 *et seq.* (“NYSHRL”); and the New York City Human Rights Law, NYC Admin Code § 8-101 *et seq.* (“NYCHRL”).

2. As a Best Buy employee, plaintiff was subjected to chronic and un-remediated sexual harassment, including sexual assault, by customers and a male co-worker. Plaintiff complained about this to her supervisor, Villani, numerous times, to no avail; each time, Villani either shrugged, laughed, or otherwise dismissed her complaint. After plaintiff escalated her

complaints to General Manager Brian Krieger, and then to Human Resources, she was promptly fired.

### **VENUE AND JURISDICTION**

3. Jurisdiction is proper pursuant to CPLR § 301 *et seq.*
4. Venue in New York County is appropriate pursuant to CPLR § 503(c), on the basis that the corporate defendants' principal office is located in New York County.

### **THE PARTIES**

1. Plaintiff Sarah Tremblay (hereinafter "plaintiff") is an individual who is domiciled and resides in Nassau County, New York.
2. Defendant Best Buy Co. of Minnesota is a thriving, multinational consumer electronics retailer and a highly ranked Fortune 500 company with a net worth of over \$24 billion. In 2018, Best Buy's revenues were \$42.9 billion, and it posted profits of \$1.5 billion. Defendant Best Buy's Department Of State process address is 111 Eighth Avenue, New York, New York, 10011.
3. Defendant Best Buy Stores LP is a wholly owned subsidiary of defendant Best Buy Co. of Minnesota.
4. Defendant Nicolas Villani is an individual over 18 years of age, domiciled in the state of New York. Villani was plaintiff's direct supervisor at the Bay Shore location of Best Buy from July of 2017 through November 2, 2018.
5. Defendant Brian Krieger is an individual over 18 years of age, domiciled in the state of New York. Krieger was the General Manager at the Bay Shore location of Best Buy during the period of plaintiff's employment, and terminated her employment on November 2, 2018.

## STATEMENT OF FACTS

5. Plaintiff is a 34-year-old woman who studied Graphic Design and holds an Apple certification to service iOS devices.

6. At the age of 28, on or about October 1, 2014, plaintiff was hired by the corporate defendants as a part time Merchandising Specialist at Best Buy's Westbury, New York location.

7. Throughout the period of her employment, she was a hardworking and top-performing employee who excelled at her job duties. Her stellar job performance was repeatedly recognized through glowing performance evaluations as well as numerous promotions and merit-based salary increases.

### Plaintiff's Record of Excellent Performance

8. In plaintiff's September 2015 annual performance evaluation, she was rated between a 4.0 ("Above Expectations") and a 5.0 ("Exceptional") on a five-point ranking system, and therefore received a merit-based salary increase.

9. In October 2015, plaintiff was promoted from part-time Merchandising Specialist to full-time Merchandising Specialist.

10. In May 2016, plaintiff was promoted to the position of Advanced Repair Agent.

11. In this role, plaintiff was part of the Best Buy "Geek Squad,"<sup>1</sup> the team of technical specialists who service and repair devices purchased at Best Buy, and provide technical support for Best Buy customers.

12. In her September 2016 performance review, she was again rated between a 4.0 and 5.0, and therefore received another merit-based salary increase.

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<sup>1</sup> Best Buy Geek Squad Services, <https://www.bestbuy.com/site/services/geeksquad/pcmcat138100050018.c?id=pcmcat138100050018> (last accessed July 27, 2020).

13. In 2016, plaintiff was also selected by management to be part of Best Buy's High Potential Academy, an internal market-based harvest program designed to identify the next generation of Best Buy leaders and groom them for corporate leadership positions at Best Buy.

14. In July 2017, plaintiff graduated from Best Buy's High Potential Academy and was promoted to the position of Counter Intelligence Agent Senior.

15. In late 2017, plaintiff was selected from thousands of Best Buy employees nationwide to serve on Best Buy's Council of the Chief Inspector 12-employee national advisory board for corporate initiatives.

16. Plaintiff never received a negative performance review, and almost without exception, she received every monthly and quarterly bonus available to her.

#### **Westbury Location: Sexual Harassment by Customers**

17. Throughout her entire tenure at Best Buy, plaintiff experienced an ongoing pattern of chronic and un-remediated sexual harassment by male "gamer" customers<sup>2</sup>, starting with uninvited and unwelcome sexual comments at the Westbury location.

18. On one occasion, a male customer approached plaintiff's supervisor, Chris Gordon, and commented that plaintiff "should be one of those stripper-gamer girls." Mr. Gordon then approached plaintiff and relayed this clearly misogynist comment to plaintiff, seemingly under the impression that she would find it amusing. However, plaintiff did not find it amusing.

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<sup>2</sup> In online video-gaming communities, there exists a common and pervasive misogynistic culture which perpetuates and glorifies offensive oversexualization, sexual harassment and sexual assault of women. As part of Best Buy's Geek Squad, working primarily in video games and technology, my work required me to regularly interact with individuals who self-identified as members of this "gamer" culture. Noah Smith, "Racism, Misogyny, Death Threats: Why Can't the Booming Video-Game Industry Curb Toxicity?", Washington Post, <https://www.washingtonpost.com/technology/2019/02/26/racism-misogyny-death-threats-why-cant-booming-video-game-industry-curb-toxicity> (February 29, 2019); "GamerGate: Sexism & Misogyny in Gaming," Huffington Post, [https://www.huffpost.com/entry/gamergate-sexism-misogyny-in-gaming\\_n\\_5b571656e4b0cf38668f9b0c](https://www.huffpost.com/entry/gamergate-sexism-misogyny-in-gaming_n_5b571656e4b0cf38668f9b0c) (last accessed July 22, 2020); James Poniewozik, "Misogynist Online Abuse Is Everybody's Problem – Men Included," TIME, <https://time.com/3512896/gamergate-misogyny-men-anita-sarkeesian/> (Oct. 16, 2014).

She was humiliated and disgusted to think that her boss would be contemplating her in any sort of sexual context.

19. On another occasion, in August 2016, plaintiff was approached in the workplace by a male customer who invaded her personal space and repeatedly made bizarre, sexualized comments about her skirt and socks. The remarks made her feel extremely uncomfortable and unsafe, and made it impossible for her to remain at her work station.

20. Plaintiff was forced to retreat from her work area to avoid the harassing customer, and had to ask her co-worker Jason Gomez to step in and assist this customer on her behalf.

21. Plaintiff informed Mr. Gordon of this incident as well, and emphasized that she did not feel safe at work because of such harassment and the fear that she could be sexually harassed by a customer at any moment.

22. In response, Mr. Gordon simply told plaintiff that it was her “job to deal with customers.”

23. Best Buy did not take any action to prevent further harassment.

24. On multiple occasions, Mr. Gordon observed plaintiff crying in the workplace as a result of customer harassment, as did other managers at the Westbury location. While Mr. Gordon did express some sympathy on these occasions when he saw plaintiff crying, he took no further action.

25. In June 2017, plaintiff was approached by Mr. Gordon and Westbury General Manager Anthony DeMarco, both of whom instructed her to apply for promotion to the position of Counter Intelligence Agent Senior on the Bay Shore location’s Geek Squad. General Manager DeMarco expressed that he wanted to place her in this position in order to help boost revenues at this struggling location.

26. While plaintiff was excited by the opportunity for further advancement at Best Buy, she was hesitant to apply for the position, as it would increase direct contact with customers and thereby expose her to greater risk of sexual harassment by customers. In her then-current role as Advance Repair Agent, she worked mainly in the repairs room, and only interacted with customers when the store was short-staffed.

27. When General Manager DeMarco urged her to apply for this promotion, plaintiff informed him that she would not “feel comfortable” in such a role because it would entail even more face-to-face interaction with customers.

28. General Manager DeMarco did not ask her why she felt uncomfortable about increased face-to-face interaction with customers; rather, he simply said: “You’re on track to be Geek Squad Manager because [current Geek Squad Manager] Nick [Villani] is not long for this world.” This was in reference to the fact that the Bay Shore location was losing revenue under Villani’s leadership.

29. Not wanting to jeopardize her employment by refusing to apply for the Counter Intelligence Agent Senior position, plaintiff reluctantly submitted her application. Shortly thereafter, she was summoned to interview with Bay Shore General Manager Brian Krieger.

30. Plaintiff was selected for the position and warily accepted it, although she was still concerned about the risk of increased sexual harassment by customers in this new position – which is exactly what happened.

#### **Bay Shore Location: Increased Sexual Harassment by Customers**

31. Plaintiff began working in her new role of Counter Intelligence Agent Senior at the Bay Shore location on July 9, 2017. In this new, more customer-facing role, she worked in-store fixing hard drive failures and operating system crashes, performing virus removals,

providing general technical support and consulting with Best Buy customers whose devices needed repair.

32. At this point, she quickly discovered that she was the only woman on the otherwise all-male 10-person Bay Shore Geek Squad team.

33. She also realized that video surveillance and security in the premises was lacking, particularly in the area where she was expected to work. Indeed, there was no security camera directed at plaintiff's work station. Plaintiff voiced these concerns to her new supervisor, Geek Squad Manager Nicolas Villani, and specifically requested that Best Buy install a security camera in that area.

34. Villani did not bother to respond and Best Buy did not take any action to address the lack of surveillance or security on the premises.

35. As the sole woman on the Bay Shore Geek Squad, plaintiff was a novelty to Best Buy "gamer" customers, and received even more unwanted sexual attention from them than she had at the Westbury location.

36. Indeed, plaintiff experienced an onslaught of unwanted sexual touching and commentary, which made her feel even more humiliated, marginalized and fearful than she had at the Westbury location.

### **Sexual Harassment and Assault by a Repeat Customer: October 2017**

37. For example, in or about October 2017, between approximately 3:00 and 4:00 p.m., as plaintiff was working at her station, a customer lunged at her, wrapped his arm around her waist, and began groping her torso. Shocked and startled, she went into fight-or-flight mode; she struggled to break free of his grasp and darted behind the service desk, an employees-only space.

38. However, seeing that nobody was coming to her aid, the assailant customer followed her into the employees-only space behind the service desk and attempted to grab her again. She then fled to the repairs room to escape further assault.

39. This all occurred in full view of other Best Buy employees, but nobody did anything to help her, let alone alert security or eject the perpetrating customer from the store.

40. Indeed, the perpetrating customer remained at the store, at his leisure and undisturbed, until he freely decided to leave.

41. Plaintiff subsequently spoke to her co-worker Marco Zapata about this assault, expressing to him how offensive, demeaning and frightening it was.

42. Understandably, when plaintiff saw this assailant customer enter the store later that same week, her heart dropped in terror.

43. Emboldened by his last visit to the store, the assailant customer lunged at plaintiff and attempted to grab her yet again.

44. Plaintiff again darted behind the service desk to elude the assault. This time, plaintiff's co-worker Marcos Zapata positioned himself between the assailant and plaintiff, but the assailant went around Mr. Zapata to get to plaintiff, who again fled back to the repairs room in fear and humiliation.

45. Distraught, plaintiff immediately told her direct supervisor, Villani, about the assault earlier in the week, and the second attempted assault that had just occurred.

46. In response, Villani simply chuckled.

47. Neither Villani nor any other member of Best Buy management took any measures to identify the assailant, summon security, remove the assailant from the store, prevent

him from returning to the store, advise plaintiff on how to handle future safety breaches, or otherwise protect plaintiff from further harassment and assault in any way.

48. This was a conspicuous omission, as Best Buy did make such efforts regarding customers caught shoplifting and/or creating other disturbances on the premises.

49. For example, on one occasion, another customer had been swiftly removed from the Westbury store for attempting to distribute religious pamphlets on the premises.

50. Similarly, at both the Westbury store and the Bay Shore store, suspected shoplifters were promptly removed by security and/or detained while the police were summoned; known shoplifters were removed from the store and Best Buy management made various efforts to prevent their return.

51. Moreover, defendants could easily have identified the assailant customer, as the Geek Squad maintains a comprehensive database containing the names, addresses, phone numbers, credit card information and purchase history for each customer they service. However, defendants made no attempt to identify the assailant or prevent his return to the store.

52. Sure enough, in late October 2017, while plaintiff was on vacation, the same assailant customer returned to the store *a third time* and demanded to meet with plaintiff. Mr. Zapata truthfully responded that plaintiff was not working at that time, and was therefore not on the premises.

53. The assailant customer doggedly insisted that plaintiff was on the premises and was in fact hiding from him in the repairs room as usual. He continued to demand that plaintiff come out of hiding and meet with him immediately.

54. Finally, the assailant customer left the store, but not before leaving a gift for plaintiff with Mr. Zapata, and requesting that Mr. Zapata give plaintiff this gift on his behalf.

55. Villani was present for this exchange, and witnessed it firsthand.

56. When plaintiff returned from vacation, Mr. Zapata casually handed her the assailant's gift, and relayed to her what had transpired in her absence.

57. At this point, plaintiff reasonably concluded that she was being stalked. She immediately brought the gift to Villani, reiterating the continued harassment and assault by this same assailant customer, and describing the escalation in his behavior: By now, the same assailant had returned to the store three times in obsessive pursuit of her, and could easily return again at any moment.

58. Villani nonchalantly replied that he had actually witnessed the latest encounter firsthand, but that he saw no reason for concern.

59. When plaintiff emphasized how uncomfortable she was with this assailant customer's bizarre fixation on her, and stated that she feared for her safety in the workplace, Villani shrugged, offered no further comment, and took no remedial action.

60. Plaintiff reasonably feared that this assailant customer might return to the store and assault her yet again. She now had confirmation that neither Villani nor anybody else at Best Buy had any intention of trying to mitigate the pattern of harassment and assault to which she was being repeatedly subjected. This made coming to work a terrifying and demoralizing experience for her, and caused her substantial emotional distress and constant anxiety as she was always on edge, bracing herself for the next assault.

61. Plaintiff became depressed and began treatment by a psychotherapist as well as a psychiatrist, who prescribed her anti-depressant and anti-anxiety medications.

62. Plaintiff's therapist also diagnosed her with Post Traumatic Stress Disorder ("PTSD") as a result of the chronic, un-remediated sexual harassment and assault she suffered in the Best Buy workplace.

63. Nonetheless, plaintiff continued to excel in her job performance. Late in 2017, Best Buy Geek Squad Market Manager Sy Paulson nominated plaintiff for a seat on the Council of the Chief Inspector, Best Buy's 12-employee national advisory board for corporate initiatives. She was then selected from a nation-wide pool of thousands of Best Buy employees to serve a 2-year term on the Council.

64. Notwithstanding her success, plaintiff continued to be fearful and uneasy in the workplace. When she worked closing shifts, she had to remain at the store until about 10:30 p.m. Faced with the constant threat of her assailant returning, she did not feel safe waiting outside the store alone after dark, so she began waiting for her ride home inside the store.

65. However, Villani soon prohibited her from waiting inside. He told her that her presence was "inconvenient" and instructed her to stop.

66. From that point forward, at the end of her night shifts, plaintiff began walking to a nearby restaurant, the Cheesecake Factory, which was the closest safe place where she could wait for her ride home at after 10:30 p.m. While the Cheesecake Factory staff was sympathetic and allowed her to wait there with the closing staff even after they had closed the restaurant to customers, having to go there added to her humiliation, as she had to explain to them that she needed a safe place to wait for her ride due to sexual harassment and assault by repeat customers, and that she was not permitted to wait at her own workplace.

67. In February 2018, as a result of the ongoing sexual harassment, assault and stalking, compounded by Best Buy's callous refusal to help her in any way, plaintiff began to

experience persistent suicidal ideation and was placed in an emergency suicide intervention program. As a part of this program, she received ketamine infusions on a regular basis in order to treat her depression.

68. In March 2018, plaintiff applied for the position of Geek Squad Manager at the Best Buy location in Baldwin, New York, hoping that as a manager, she would be more empowered to eject assailant customers from the store. However, plaintiff was not selected for the position. Upon information and belief, District Manager Greg Port instructed Baldwin General Manager Kim Aigbe not to hire plaintiff because Ms. Aigbe had already hired too many female managers, in Mr. Port's opinion.

69. Also in 2018, plaintiff entered an internal training and mentorship program designed to train employees such as plaintiff for roles at Best Buy training other employees. This program was run by head of curriculum Justin Crandall, with whom plaintiff had formed a solid professional rapport. Plaintiff was eager to complete this program in the hopes of obtaining a new role at Best Buy that would limit her interaction with customers.

### **The Nova Customer Survey Portal**

70. During her time at the Bay Shore location, plaintiff also witnessed an increase in sexist comments directed at her via NOVA, Best Buy's email customer survey portal.

71. NOVA's principal purpose was to solicit online feedback from customers regarding their in-store experience.

72. While employees were technically required to enter all customer emails in order to ensure that they all received the survey, this rule was loosely enforced, if at all. On the contrary, it was common practice for Best Buy employees, including managers, to "survey drop," meaning omit to email the online survey to certain difficult or problematic customers.

73. Most managers survey dropped and/or condoned survey dropping. Other managers went so far as to strongly encourage survey dropping, so as to minimize the likelihood of negative survey results. For example, Villani regularly dropped surveys for difficult or ornery customers whom he predicted would leave a negative review, because, as he liked to explain it, “The masses are asses.”

74. As well-known as it was that employees were regularly subjected to difficult customers, Complainant had it significantly worse, as the only woman on otherwise all-male team. The largely male “gamer” customer base dismissively referred to her in their online survey responses as “that girl” or some other belittling gendered identifier.

75. The results of the surveys, including those with sexist comments, were public to every member of Best Buy and could not be removed without corporate authorization.

76. Understandably, plaintiff tended to survey drop customers who had sexually harassed and/or assaulted her in-store, to avoid the additional public humiliation of their sexually demeaning comments on the NOVA system being publicized to the entire Company. She felt especially justified in doing so given the explicit approval of Villani, who engaged in the same practice in cases where customers had complained or been disgruntled in-store.

77. While this attempt at self-preservation shielded plaintiff from online sexual harassment through the NOVA system, it did nothing to abate the sexual harassment she continued to experience in the physical workplace.

78. In July 2018, plaintiff requested yet another meeting with Villani to discuss the ongoing pattern of un-remediated sexual harassment and assault by male customers in-store.

79. In that meeting, she specifically reminded Villani that she been reporting various incidents of sexual harassment and assault ever since she was hired, not only to him, but to

management in Westbury, and that Best Buy had consistently ignored her cries for help, making no effort to prevent further incidents or to protect her in any way.

80. Villani then became visibly irascible. Instead of addressing the issue of sexual harassment, he pointedly asked her: “Do you want to keep this job?”

81. Caught off guard, plaintiff conveyed that she needed the job in order to support herself.

82. Villani then abruptly left the meeting, apparently satisfied. In doing so, he made it clear that by threatening plaintiff with the loss of her job, he trusted she would not complain anymore, and that he considered the matter to be resolved.

83. Best Buy took no action whatsoever in response to the pervasive sexual harassment, assault, and stalking to which plaintiff was subjected. However, Best Buy did find time to launch an investigation into “survey dropping” practices with regard to the NOVA system.

84. On September 13, 2018, plaintiff was approached by a Best Buy internal investigator, who said he had determined that plaintiff had “dropped” certain surveys.

85. The investigator then asked why plaintiff dropped surveys, and she explained that she was facing chronic, un-remediated sexual harassment and assault by customers and, based upon prior survey results, she was fearful that those same customers would use the NOVA system to continue their pattern of harassment online.

86. In response, the investigator confirmed that he had indeed heard similar stories of sexual harassment and assault from other female Best Buy employees, especially those who visited customers’ homes in order to install and service their devices.

87. Plaintiff assured the investigator that she would not drop any more surveys.

88. The investigator stated that plaintiff would be made aware of any consequences for her actions, if there were any, within the next two weeks.

89. Plaintiff then submitted a formal written statement to the investigator regarding the sexual harassment and assault she was made to endure, and how this related to her dropping of surveys, and other safety risks posed to female employees at Best Buy.

90. Throughout the following two weeks, several employees were terminated for survey dropping; upon information and belief, these individuals had each dropped several hundred surveys in a two-month period, i.e., substantially more than plaintiff, who had dropped only a couple dozen surveys in that time frame.

91. Plaintiff was not terminated or notified of any other consequences for her actions during that two-week time frame, and she therefore reasonably believed she has been spared from termination.

#### **Gender Based Hostile Work Environment: Co-Worker Harassment**

92. On approximately five occasions at the Bay Shore location, between December 2017 and plaintiff's termination, auto department employee John Perella walked from his department to plaintiff's department and demanded, in the presence of the otherwise all-male team: "Who wants to fuck me?"

93. These lewd overtures were clearly directed at plaintiff, the only woman in the room, and designed for the entertainment of her male colleagues, at her expense.

94. Villani was present on multiple occasions when Mr. Perella yelled "Who wants to fuck me?" at plaintiff, who was visibly upset and humiliated. Villani just laughed along and did nothing to intervene.

95. Mr. Perella also routinely made other sexually hostile comments. For example, in or about March of 2018, he cornered plaintiff in the workplace and professed his desire for “deep throat blow jobs,” “skull fucking” and “deep throat skull fucking.” Plaintiff found these exceptionally vulgar comments to be deeply mortifying and menacing.

96. Plaintiff asked Mr. Perella to stop making such comments, but he refused.

97. Plaintiff reported these comments directly to Villani and asked him to intervene, but Villani refused. Rather, Villani invoked the boys-will-be-boys trope and dismissed plaintiff’s concerns by saying: “That’s just how it is. [Perella]’s just that kind of guy.”

98. Villani’s condonation of the sexually hostile work environment not only allowed it to continue, but also emboldened Mr. Perella, who continued to humiliate plaintiff by bursting into her work area and shouting: “Who wants to fuck me?”

99. On one occasion, Mr. Perella intentionally touched plaintiff’s thighs with his hands, without her consent. She told him never to do that again, and on this matter alone he acquiesced.

100. In or about May of 2018, plaintiff again complained to Villani that Mr. Perella had continued to direct violent and sexually explicit vulgarity at her, singling her out as the only woman and humiliating her in front of her all-male Geek Squad colleagues. Again, she asked Villani to intervene.

101. Villani reluctantly said he would “talk to” Mr. Perella. However, upon information and belief he never did so, and the harassing conduct continued, unabated.

102. Thus, while defendants’ employee handbook touts the Company’s alleged “zero tolerance” policy regarding sexual harassment, defendants repeatedly tolerated and condoned a

sexually hostile workplace, which Villani had personally witnessed, and in which he had effectively participated by laughing along in encouragement.

103. The sexually hostile workplace behavior that Mr. Perella openly perpetrated, and that Villani callously allowed, compounded the sexually hostile work environment created by the ongoing sexual harassment and assaults by customers and the constant threat of further harassment and assault by customers.

**Sexual Harassment and Assault by a Different Repeat Customer: October 2018**

104. On October 2, 2018, between approximately 2:00-3:00 p.m., plaintiff met with a male customer regarding his laptop computer, which had been serviced and was ready for pickup.

105. While plaintiff was discussing the laptop with him, the customer suddenly wrapped his arm around plaintiff and grabbed her hip, grinding her body into his, and forced his open mouth onto her neck, slobbering on it.

106. Plaintiff was disgusted and terrified by this grotesque assault. She managed to push the assailant customer away, and she fled back to the repairs room, in fear and humiliation.

107. Plaintiff immediately notified Villani of the assault. His response was simply to state that plaintiff could “take a minute” to compose herself before returning to her work station.

108. Villani made no attempt to summon security, confront the perpetrator or have him removed from the store. Instead, plaintiff once again had to hide in the repairs room until the assailant had finished shopping and peacefully left the store of his own accord.

109. Nor did Villani take the simple step of using readily available purchase and service records to identify the assailant so as to prevent him from returning to the store to further harass and assault plaintiff.

110. Emboldened by Best Buy's inaction, the assailant returned just hours later. That same evening, between approximately 7:00-8:00 p.m., he crept up behind plaintiff at her work station and suddenly whispered "I love you" directly into her ear. Plaintiff froze in terror and the assailant casually walked away without another word.

111. Plaintiff was horrified by this second sexual intrusion by the same customer who had assaulted her earlier that day. Moreover, plaintiff was the only Geek Squad member who was still in the store by this time, and she was terrified that the assailant would either wait around or else return to assault her again outside of the store after she closed up and left at approximately 10:30 p.m., on her way to the Cheesecake Factory.

112. On or about the following day, plaintiff told Villani about the repeated incidents by the same assailant customer and specified that she feared for her safety.

113. In response, Villani laughed, ignoring her cry for help, and made light of the situation by stating: "People are always trying to hug you, I didn't think it bothered you so much."

114. As usual, Best Buy took no action whatsoever to investigate or to protect plaintiff from further harassment or assault in the workplace.

115. Eager to limit her interactions with customers in order to avoid future incidents of harassment and assault, plaintiff called Justin Crandall, the head of her mentorship and training program, and begged him to help her find a new role as a trainer as soon as possible, or else some other role for Best Buy that did not require her to work in-store. Mr. Crandall asked her why she was so eager to cease working in-store, and she explained that she was being sexually harassed and assaulted by Best Buy customers, and that management refused to do anything

about it. In response, Mr. Crandall told her there was “nothing [he could] do,” and advised her to speak with the General Manager and Human Resources (“HR”) about it.

**Plaintiff is Swiftly Terminated Following her Complaint to HR**

116. On or about October 8, 2018, plaintiff reported the ongoing sexual harassment and assault to General Manager Brian Krieger, during a meeting she requested for this purpose.

117. Krieger dismissed her concerns, just as Villani had. He said: “That’s a hazard of working with the public.” He then advised plaintiff that two Black managers, Raheim Storr and Sam Ellis, had also complained of regular harassment by customers, due to their race. Krieger proudly reported that the Black employees “[had] learn[ed] to live with it.” Plaintiff was shocked to have it stated to her so clearly that Best Buy’s actual, stated position was that tolerating racist and sexist harassment by customers was considered to be just part of the job for female employees and employees of color.

118. Undeterred, plaintiff told Krieger that his response was insufficient. She then called Best Buy’s HR hotline, purportedly a resource for employees managing discriminatory or other problematic situations, to report the ongoing sexual harassment.

119. Plaintiff then put her sexual harassment complaint in writing, and submitted it to HR Market Manager Juan Vasquez. She attached the official Best Buy service order containing the most recent assailant customer’s information, for identification purposes, in the hopes that HR would take action where Villani and Krieger had failed and refused to do so

120. However, Mr. Vasquez’s response was no different.

121. Instead of making any attempt to investigate or prevent this customer from returning to the store and assaulting plaintiff yet again, Mr. Vasquez simply advised Ms.

Tremblay to “remove herself from the situation” the next time a customer harassed or assaulted her.

122. Of course, plaintiff had already been “remov[ing] [her]self from the situation” by fleeing to the repairs room and hiding there until the perpetrating customers eventually finished shopping and left the store on their own. While these self-defense efforts had continually disrupted her job duties, they had not prevented further harassment or assault.

123. The same month, later in October 2018, plaintiff attended a business trip to Best Buy corporate headquarters in Minnesota as part of her role on the Council for the Chief Inspector.

124. While in Minnesota, on or about October 24, 2018, at her own request, plaintiff met with Employee Relations Manager Tricia Hall at Best Buy’s corporate headquarters; Technical Trainer Tony Kline was also present.

125. During this meeting, plaintiff reported the unabated sexual harassment and assault, and also reported her unavailing efforts to escalate the matter. She explained how Krieger had dismissed her concerns by stating that sexual harassment was simply “a hazard of working with the public” and that he had held out, as a positive example, how Black managers Sam Ellis and Raheim Storr had “learned to live with” racist harassment by customers.

126. Ms. Hall listened and then advised plaintiff that she could file a police report, and authorized her to take an unpaid leave of absence from work.

127. The next day, plaintiff met with HR Business Partner Mike Chuderski. She told him everything she had told Ms. Hall and Mr. Kline the day before. Mr. Chuderski agreed that, per Ms. Hall’s suggestions, plaintiff should file a police report and take an unpaid leave of absence.

128. Plaintiff returned from her business trip on November 2, 2018. That day, she met again with Krieger and told him that she would like the police to come to the store to take her report regarding the assault of October 2, 2018. As Ms. Hall had suggested, plaintiff also stated that she would like to take a brief leave of absence from work, due to acute emotional distress and fear of further harassment and assault in the workplace.

129. Krieger ignored plaintiff's requests to file a police report and take a leave of absence. Instead, he switched topics, and attempted to backpedal regarding the remarks she had reported at headquarters about "learn[ing] to live with" racial and sexual harassment. He added that he hadn't meant to "offend" her.

130. Plaintiff therefore understood that Krieger had been made aware of her complaints about him to HR at the Minnesota headquarters.

131. Krieger then told plaintiff he was "working on" installing video surveillance in her work area.

132. In the same breath, Krieger suddenly terminated plaintiff's employment.

133. Krieger claimed that the termination was due to the "survey dropping" investigation, which had concluded nearly two months before, without so much as a formal reprimand to plaintiff.

134. To reiterate, other employees who had dropped at least as many surveys as plaintiff, and some of whom had dropped many more surveys than plaintiff, were spared from termination. Villani, who himself habitually dropped surveys, was not only spared from termination, but in fact had been promoted to the position of Operations Manager, following the investigation.

135. Further, plaintiff had not been notified of any consequences for her survey dropping within the time frame that other survey droppers were notified of their resulting terminations, i.e., during the month of September, 2018.

136. It was therefore clear that the termination had nothing to do with survey dropping and everything to do with the sexual harassment complaints she had escalated to corporate just days before.

137. Later that day, plaintiff was given an “Involuntary Separation Notice” and instructed to sign it and leave the store.

138. As instructed, plaintiff signed the document, but noted in the comments section her objections to the chronic and un-remediated sexual harassment and assaults.

### **The Effect on Plaintiff**

139. Plaintiff’s termination was devastating to her, both financially and emotionally, as it showed that Best Buy would rather terminate her, a hardworking and top-performing female employee, than take any action to deal with the ongoing problem of sexual harassment by male employees and customers.

140. Prior to her termination, working under these sexually hostile and dangerous conditions, and being repeatedly assaulted in the workplace, caused tremendous strain on plaintiff’s mental and emotional wellbeing. As a result, plaintiff sought treatment by a therapist as well as a psychiatrist, who prescribed her anti-depressant and anti-anxiety medications for her emotional distress. Plaintiff’s therapist also diagnosed her with Post Traumatic Stress Disorder (“PTSD”) as a result of the chronic, un-remediated sexual harassment she suffered in the Best Buy workplace. Plaintiff was then placed in an emergency suicide intervention program, where she received regular ketamine infusions which helped to stabilize her.

141. Plaintiff still suffers from PTSD, depression, anxiety, nightmares and night terrors because of her experiences at Best Buy, where defendants treated her as worthless by allowing customers to repeatedly sexually harass and assault her without doing anything to remediate the problem. Rather, they blamed the victim and ultimately fired her, as though *she* were the problem.

**FIRST CAUSE OF ACTION**  
**Sex Discrimination in Violation of the NYSHRL**  
***Against All Defendants***

142. Plaintiff repeats and realleges each and every allegation set forth above with the same force and effect as if fully set forth herein.

143. By the foregoing act and omissions, defendants unlawfully discriminated against plaintiff in the terms and conditions of her employment by ratifying and condoning the sexual harassment, sexual assault, and sexually hostile work environment to which she was subjected, in violation of NYSHRL.

144. As described herein, defendants Villani and Krieger are personally, directly and individually liable in that they aided and abetted the corporate defendants in their unlawful discriminatory acts against plaintiff, in violation of NYSHRL § 296(6).

145. Alternatively, in terms of the economic realities of the workplace, defendants Villani and Krieger are personally, directly and individually liable as employers for the unlawful discrimination against plaintiff in violation of NYSHRL § 296(1).

146. Defendants' discriminatory acts caused plaintiff to suffer economic damages, including lost wages, commissions, and benefits, as well as substantial emotional distress, resulting in a diagnosis of PTSD.

147. Defendants acted with malice and/or reckless indifference to plaintiff's rights, entitling her to an award of punitive damages.

148. Therefore, defendants are jointly and severally liable to plaintiff for back pay, front pay, emotional distress and other compensatory damages, punitive damages, prejudgment interest, post-judgment interest, attorneys' fees, costs and disbursements.

**SECOND CAUSE OF ACTION**  
**Retaliation in Violation of the NYSHRL**  
***Against All Defendants***

149. Plaintiff repeats and realleges each and every allegation set forth above with the same force and effect as if fully set forth herein.

150. By the foregoing act and omissions, defendants unlawfully retaliated against plaintiff in the terms and conditions of her employment by, *inter alia*, terminating her employment in retaliation for her ongoing protected activities of complaining about sexual harassment to management and then to HR, in violation of NYSHRL.

151. As described herein, defendants Villani and Krieger are personally, directly and individually liable in that they aided and abetted the corporate defendants in their unlawful retaliatory acts against plaintiff, in violation of NYSHRL § 296(6).

152. Alternatively, in terms of the economic realities of the workplace, defendants Villani and Krieger are personally, directly and individually liable as employers for the unlawful retaliation against plaintiff in violation of NYSHRL § 296(1).

153. Defendants' retaliatory acts caused plaintiff to suffer economic damages, including lost wages, commissions, and benefits, as well as substantial emotional distress, resulting in a diagnosis of PTSD.

154. Defendants acted with malice and/or reckless indifference to plaintiff's rights, entitling her to an award of punitive damages.

155. Therefore, defendants are jointly and severally liable to plaintiff for back pay, front pay, emotional distress and other compensatory damages, punitive damages, prejudgment interest, post-judgment interest, attorneys' fees, costs and disbursements.

**THIRD CAUSE OF ACTION**  
**Sex Discrimination in Violation of the NYCHRL**  
***Against All Defendants***

156. Plaintiff repeats and realleges each and every allegation set forth above with the same force and effect as if fully set forth herein.

157. By the foregoing act and omissions, defendants unlawfully discriminated against plaintiff in the terms and conditions of her employment by ratifying and condoning the sexual harassment, sexual assault, and sexually hostile work environment to which she was subjected, in violation of NYCHRL.

158. As described herein, defendants Villani and Krieger are personally, directly and individually liable in that they aided and abetted the corporate defendants in their unlawful discriminatory acts against plaintiff, in violation of NYCHRL.

159. Alternatively, in terms of the economic realities of the workplace, defendants Villani and Krieger are personally, directly and individually liable as employers for the unlawful discrimination against plaintiff in violation of NYCHRL.

160. Defendants' discriminatory acts caused plaintiff to suffer economic damages, including lost wages, commissions, and benefits, as well as substantial emotional distress, resulting in a diagnosis of PTSD.

161. Defendants acted with malice and/or reckless indifference to plaintiff's rights, entitling her to an award of punitive damages.

162. Therefore, defendants are jointly and severally liable to plaintiff for back pay, front pay, emotional distress and other compensatory damages, punitive damages, prejudgment interest, post-judgment interest, attorneys' fees, costs and disbursements.

**FOURTH CAUSE OF ACTION**  
**Retaliation in Violation of the NYCHRL**  
***Against All Defendants***

163. Plaintiff repeats and realleges each and every allegation set forth above with the same force and effect as if fully set forth herein.

164. By the foregoing act and omissions, defendants unlawfully retaliated against plaintiff in the terms and conditions of her employment by, *inter alia*, terminating her employment in retaliation for her ongoing protected activities of complaining about sexual harassment to management and then to HR, in violation of NYCHRL.

165. As described herein, defendants Villani and Krieger are personally, directly and individually liable in that they aided and abetted the corporate defendants in their unlawful retaliatory acts against plaintiff, in violation of NYCHRL.

166. Alternatively, in terms of the economic realities of the workplace, defendants Villani and Krieger are personally, directly and individually liable as employers for the unlawful retaliation against plaintiff in violation of NYCHRL.

167. Defendants' retaliatory acts caused plaintiff to suffer economic damages, including lost wages, commissions, and benefits, as well as substantial emotional distress, resulting in a diagnosis of PTSD.

168. Defendants acted with malice and/or reckless indifference to plaintiff's rights, entitling her to an award of punitive damages.

169. Therefore, defendants are jointly and severally liable to plaintiff for back pay, front pay, emotional distress and other compensatory damages, punitive damages, prejudgment interest, post-judgment interest, attorneys' fees, costs and disbursements.

**WHEREFORE**, in this arbitration plaintiff seeks a well-reasoned decision in her favor, and an award granting her the following relief against defendants:

- a) Declares that the discriminatory and retaliatory actions, practices, and policies of defendants as set forth above violated the NYSHRL and NYCHRL;
- b) awards monetary damages to plaintiff to compensate her for the discrimination and retaliation she experienced, including economic and emotional distress damages;
- c) awards plaintiff punitive damages pursuant to NYSHRL and NYCHRL;
- d) awards plaintiff reasonable attorneys' fees and costs, and
- e) awards plaintiff pre- and post-judgment interest.

Dated: Brooklyn, New York  
July 30, 2020

Respectfully submitted,

CRUMILLER P.C.



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