situated" positions are those that are "substantially equal").

Pratt also argues that Morse has not presented evidence that any alleged underpayment occurred under circumstances giving rise to an inference of discrimination. See Def.'s Mem. in Supp. Mot. for Summ. J. at 12. Morse argues that her 20 percent salary adjustment, which was the highest adjustment of any TSS employee and given a little over a month after she first complained that she was undercompensated because of her gender, suggests that Pratt agreed "she was due an extraordinary adjustment to her compensation." Plaintiff's Mem. in Opp'n. Mot. for Summ. J. at 8. She also claims that her salary adjustment raises an inference of discrimination because, of the three highest increases given to employees within TSS, two of those went to women. Id. Pratt contends that the adjustment does not suggest an inference of discrimination because "three additional TSS employees received increases of more than 15%, and two of those employees . . . were men." Def.'s Mem. in Supp. Mot. for Summ. J. at 13. The adjustment alone does not present a genuine issue of material fact as to whether Morse was underpaid under circumstances giving rise to an inference of discrimination as it only suggests Morse was previously underpaid, not that she was underpaid because of her gender.

However, Morse also claims that her supervisors, Mr. Bianchi and Mr. Lemire, told her that "'girls' who had husbands with jobs did not need to make as much money as men since men were the primary earners in the family." L.R. 56(a)(2) at 8. In addition, Morse alleges that Pratt had a practice of denying female employees, including herself, continuing education opportunities, while granting such benefits to male employees. See Pl.'s Mem. in Opp'n Mot. for Summ. J. at 4; see also Pl. Aff. at ¶ 14.

Taking Morse's version of events as true, a reasonable jury could find that the circumstances surrounding Morse's underpayment give rise to an inference of gender discrimination.[6]

Pratt claims that, "even if Plaintiff could establish a prima facie case of gender discrimination," it has "identified a legitimate business reason for its decision to raise Plaintiff's pay by more than 20% in April 2008," namely that it raised many employees' salaries based on an internal study. See Def.'s Mem. in Supp. Mot. for Summ. J. at 14. However, once Morse established a prima facie case, the burden shifted to Pratt to present a legitimate business reason for why Morse was paid less than similarly situated male employees, not for why she received a pay increase in 2008. See e.g., Fayson v. Kaleida Health, Inc., 2002 WL 31194559, at *6 (W.D.N.Y. Sept. 18, 2002) (unpublished opinion) (finding that the defendant "articulated a legitimate nondiscriminatory reason for Fayson's wage disparity"). Because Pratt failed to meet this burden, and a reasonable jury could find that Morse introduced evidence sufficient to establish her prima facie case, Pratt's Motion for Summary Judgment on Morse's Title VII unequal pay claim is denied.

2. Failure to Promote

Morse also claims Pratt discriminated against her based on her gender by failing to promote her to the same job grades as similarly situated male employees. In failure-

[6] Pratt makes much of the "fact" that Morse admitted in her deposition that she felt Mr. Bianchi treated her differently because he was her uncle. See Mem. in Supp. Mot. for Summ. J. at 14; Pl. Dep. at 46. However, Morse only stated that she thought her uncle did not want people to think he was giving her favors, "so he was harder on me than anyone else." Pl. Dep. at 46. Making all inferences in Morse's favor, the evidence only shows that Mr. Bianchi held Morse to a higher performance standard. There are no facts to support the notion that Mr. Bianchi paid Morse less than similarly situated men because she was his niece. Therefore, to the extent that Pratt is arguing Morse cannot show gender discrimination because any mistreatment was due to "reverse nepotism," the record before the court does not support its argument.

to-promote cases brought under Title VII, courts follow the burden-shifting Title VII analysis first announced in McDonnell Douglas Corp. v. Green, 411 U.S. 792, 802, 93 S.Ct. 1817, 36 L.Ed.2d 668 (1973). See Reeves v. Sanderson Plumbing Prods., Inc., 530 U.S. 133, 146-149, 120 S.Ct. 2097, 147 L.Ed.2d 105 (2000); St. Mary's Honor Center v. Hicks, 509 U.S. 502, 506-511, 113 S.Ct. 2742, 125 L.Ed.2d 407 (1993); Texas Dep't of Cmty. Affairs v. Burdine, 450 U.S. 248, 253-256, 101 S.Ct. 1089, 67 L.Ed.2d 207 (1981). To establish a prima facie case, the plaintiff must show (1) that she was in a protected group, (2) she applied for a position for which she was qualified, (3) she was subject to an adverse employment decision, and (4) that the decision occurred under circumstances giving rise to an inference of discrimination. See e.g., Byrnie v. Town of Cromwell, Bd. of Educ., 243 F.3d 93, 101 (2d Cir.2001).

Pratt argues that Morse cannot make out a prima facie case because there is no evidence that she ever applied for a promotion. See Def.'s Mem. in Supp. Mot. for Summ. J. at 11-12 n.5; see also Brown v. Coach Stores, Inc., 163 F.3d 706, 710 (2d Cir. 1998). In Brown, the Second Circuit set forth the standard for promotion cases, requiring a plaintiff to "allege that she or he applied for a specific position or positions and was rejected therefrom, rather than merely asserting that on several occasions she or he generally requested promotion." Id. at 710. The only evidence Morse has put forth concerning a request for a promotion is her request in 2007 to Mr. Muldoon to either promote her to a higher pay grade and salary given her duties as the Account Manager for Pratt Canada, or to compensate her for overtime, L.R. 56(a)(2) at 7, and her requests to Mr. Bianchi that he increase her pay and job grade. Morse Aff. at ¶ 12. These conversations do not meet the requirements of Brown. Therefore, Pratt's Motion

for Summary Judgment on Morse's Title VII failure to promote claim is granted.

B. Unlawful Retaliation in Violation of Title VII of the Civil Rights Act of 1964

Morse claims Pratt retaliated against her for instigating an internal complaint for gender discrimination as well as for filing a complaint with the Connecticut Commission on Human Rights and Opportunities ("CHRO"). The same McDonnell Douglas burden-shifting analysis applies to Morse's claim for retaliation. Joiner v. Chartwells and Compass Group North America, 500 F.Supp.2d 75, 82 (D. Conn. 2007). "A plaintiff makes a prima facie showing of retaliation by establishing 'participation in a protected activity known to the defendant; an employment action disadvantaging the plaintiff; and a causal connection between the protected activity and the adverse employment action.'" Id. (quoting Quinn v. Green Tree Credit Corp., 159 F.3d 759, 769 (2d Cir. 1998). A protected activity "refers to action taken to protest or oppose statutorily prohibited discrimination." Id. (quoting Cruz v. Coach Stores, Inc., 202 F.3d 560, 566 (2d Cir. 2000).

Morse engaged in protected activity when she filed an internal complaint with the Human Resources Department at Pratt and when she filed her complaint with the CHRO. See e.g., Wilburn v. Fleet Financial Group, 170 F.Supp.2d 219, 236 (D. Conn. 2001) (stating that protected activity refers to "action taken to protest or oppose statutorily prohibited discrimination, such as filing a sexual harassment complaint with a government agency"); Barlow v. Connecticut, 319 F.Supp.2d 250, 263 (D. Conn. 2004) (considering internal complaints as protected activity).

However, with regard to the second element of a prima facie case, Pratt contests Morse's allegations of disadvantageous employment actions. According to Pratt, Morse

testified at her deposition that the basis of her retaliation claim was:

> "(1) a third party, Bob Moraniec, who worked for a shipping company with which Pratt & Whitney did business, told her that Bianchi 'was going around telling people keep an eye on me, wanted to trip me up so he could terminate me;' (2) she overheard coworkers in the lavatory saying that Bianchi was allegedly 'telling people in other departments that I had to work with that the only reason I filed a complaint was because I was having an affair with my attorney and sleeping around on my husband and trying to make big money off of Pratt so I could retire, divorce my husband, take my husband for everything he was worth, and run off with my attorney;' and (3) after allowing Plaintiff to attend her first trade show in September 2007, Bianchi later allowed Plaintiff's female coworker, Kim Hiller, to attend a 2008 trade show in Texas, rather than allowing Plaintiff to attend."

Def.'s Reply at 4. First, Pratt argues that Morse's first two complaints cannot be considered on a motion for summary judgment because they constitute hearsay and are inadmissible. See Def.'s Mem. in Supp. Mot. for Summ. J. at 16. The court agrees. See Rizzo-Puccio v. College Auxiliary Services, Inc., 71 F.Supp.2d 47, 57 (N.D.N.Y. 1999) (disregarding statements made by co-workers to plaintiff because the statements constituted hearsay that would be inadmissible at trial). Second, Pratt argues in its Reply that additional claims of retaliatory conduct presented in Morse's opposition to its Motion for Summary Judgment may not be considered by the court because the allegations contradict prior deposition testimony, specifically Morse's testimony that the three reasons above were the basis of her retaliation claim. Def.'s Reply at 5.

Morse claims in her opposition papers, with support from her own attached affidavit, that "after her complaint . . . [she] was stripped of many of her duties as manager of Pratt Canada." Pl. Mem. in Opp'n Mot. for Summ. J. at 7. In addition, she claims that "she was denied future continued employment with Pratt as a result of her refusal to withdraw her pending CHRO complaint." Id.

"It is well settled in this circuit that a party's affidavit which contradicts his own

prior deposition testimony should be disregarded on a motion for summary judgment." Mack v. United States, 814 F.2d 120, 124 (2d Cir. 1987). However, "when only a limited quantity of deposition testimony is available and other material submitted to oppose summary judgment was only arguably contradictory, the other material could be examined for summary judgment purposes." Susko v. Romano's Macaroni Grill, 142 F.Supp.2d 333, 337 (E.D.N.Y. 2001); see also Hayes v. New York City Dept. of Corrections, 84 F.3d 614, 619 (2d Cir. 1996) (allowing consideration of "only arguably contradictory" testimony when "defense counsel did not ask questions at the first deposition sufficient to elicit the specific content" at issue in the subsequent testimony).

Although a close call, Morse's claim that she was stripped of many of her duties as a result of her internal complaint is only "arguably contradictory" to her deposition testimony. She asserted in her deposition that a basis of her retaliation claim is that Mr. Bianchi prevented her from attending a 2008 trade show, which she considered to be one of her duties. Pl. Dep. at 111-112. Furthermore, because Pratt attached excerpts from Morse's deposition testimony, the court cannot determine that counsel confirmed that Morse presented all of the reasons for which she was bringing a suit for retaliation. See Hayes, 84 F.3d at 619.

Pratt further argues that, even if the court considers Morse's Affidavit, she has not presented sufficient evidence to allow a reasonable jury to find she was "stripped of her duties." Def.'s Reply at 5. Morse cites to an email sent from Mr. Muldoon after she lodged her internal complaint, stating what is "[s]pecifically NOT included in . . . [her] responsibilities," including new business development, customer visits, trade show and conference attendance, accountability for specific sales and EBIT targets, supplier

management, coordination of purchase order issuance, customer price or warranty negotiation, and approval of customer credit. Pl. Mem. in Opp'n Mot. for Summ. J., Ex. 5. Morse admits that those duties were "beyond her job description," and that she performed them at the direction of Mr. Bianchi, who was ultimately fired by Pratt for "requiring subordinates to perform duties and task[s] that were not part of their job description[s]." L.R. 56(a)(2) at p. 5, 9. However, she also claimed that she performed these duties at the instruction of both Mr. Bianchi and Mr. Muldoon. Id. Because the record is unclear, there is an issue of material fact as to whether Mr. Muldoon knew of and condoned Morse's greater responsibilities, and later took those responsibilities away after she submitted her complaint.

As additional evidence of Pratt's stripping of her duties, Morse claims that she was supposed to attend a 2008 trade show, but that Mr. Bianchi sent Kim Hiller instead once Morse submitted her complaint. See Pl. Dep. at 112. According to Morse, she was given the title of Regional Manager of Pratt Canada, which would have entitled her to perform such duties as attending trade shows. L.R. 56(a)(2) at p.6; see also Pl. Dep. at 112.. Pratt states that Morse was not a manager, but a sales representative, as she admitted in her deposition. Def.'s Reply at 5; see also Pl. Dep. at 86. However, Morse cites to a 2008 TSS brochure which lists her and Ms. Hiller as Regional Managers of Pratt Canada. See L.R. 56(a)(2) at p. 6. According to Morse, Ms. Hiller was listed beneath her on the TSS brochure as her "sales representative." See Pl. Dep. at 112.

According to Morse, the Regional Manager is the person who attends the trade show. Id. Although a close call—Morse admits that, as of June 2008, she was training Ms. Hiller in anticipation of her leaving Pratt, Pl. Mem. in Opp'n Mot. for Summ. J., Ex.

4; see also Pl. Aff. at ¶ 24—a reasonable jury could find, taking as true Morse's assertion that she was the Regional Manager and Ms. Hiller was a sales representative, that Mr. Bianchi stripped Morse of her responsibility of attending the trade show after she submitted her internal complaint.

Coupled together, the alleged elimination of Morse's various duties may constitute an adverse employment action under the second prong of Morse's prima facie case.

> "An adverse employment action is a materially adverse change in the terms and conditions of employment .... To be 'materially adverse,' a change in working conditions must be more disruptive than a mere inconvenience or an alteration of job responsibilities ... Such a change 'might be indicated by a termination of employment, a demotion evidenced by a decrease in wage or salary, a less distinguished title, a material loss of benefits, significantly diminished material responsibilities, or other indices ... unique to a particular situation.'"

Weeks v. New York State (Div. of Parole), 273 F.3d 76, 85 (2d Cir.2001), abrogated on other grounds by Nat'l R.R. Passenger **340* Corp. v. Morgan, 536 U.S. 101, 108-114, 122 S.Ct. 2061, 153 L.Ed.2d 106(2002) (quoting Galabya v. New York City Bd. of Educ., 202 F.3d 636, 640 (2d Cir.2000)). A change in job responsibilities can constitute an adverse employment action where it substantially diminishes an employee's material responsibilities. See Treglia v. Town of Manlius, 313 F.3d 713, 717-18, 720 (holding that a police officer who was removed from enforcement duties and confined to desk duty, among other actions, had established an adverse employment action); see also Burlington Northern and Santa Fe Ry. Co. v. White, 548 U.S. 53, 70 (2006) ("Common sense suggests that one good way to discourage an employee . . . from bringing discrimination charges would be to insist that she spend more time performing the more