

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

**USDC-SDNY  
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DATE FILED: 10/29/2021**

JUDITH SANDRINE DIKAMBI,

Plaintiff,

v.

CITY UNIVERSITY OF NEW YORK, DR.  
CARLTON J. ADAMS,

Defendants.

No. 19-CV-9937 (RA)

ORDER

RONNIE ABRAMS, United States District Judge:

Earlier today, the Court held a telephone conference to discuss Defendant City University of New York's motion for reconsideration of the Court's September 14 Opinion and Order. *See* Dkt. 82. As agreed at that conference, the parties may file supplemental briefs by no later than November 5, 2021, addressing the following issues raised during the parties' arguments:

1. Whether the no-contact order against Adams dated February 23, 2021, which CUNY submitted in support of its reconsideration motion, *see* Dkt. 90-1, renders implausible Plaintiff's claim that a no-contact order against Adams was in place on February 8, 2021, *see* Dkt. 43 ¶ 23, and/or whether this document can be considered on a motion to dismiss given that it disputes a fact pleaded in Plaintiff's Second Amended Complaint.
2. Whether—in a hostile work environment claim that is timely under the continuing-violation doctrine, *see Nat'l R.R. Passenger Corp. v. Morgan*, 536 U.S. 101 (2002)—the alleged harasser should be treated as a coworker or as a supervisor for vicarious liability purposes when the alleged harasser was a supervisor during the incidents that themselves fell outside the limitations period but was a coworker during the incident that fell within

the limitations period. As the parties are aware, whether an alleged harasser is a coworker or a supervisor affects the question of the employer's vicarious liability. The parties should address the significance of the following language in *Morgan* to this question: “[C]onsideration of the entire scope of a hostile work environment claim, including behavior alleged outside the statutory time period, is permissible for the purposes of assessing liability, so long as an act contributing to that hostile environment takes place within the statutory time period.” 536 U.S. at 105. The parties are welcome to cite any additional relevant caselaw as well.

SO ORDERED.

Dated: October 29, 2021  
New York, New York



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Ronnie Abrams  
United States District Judge