Defendant City's argument that Plaintiff had not administratively exhausted her remedies under 42 U.S.C. § 2000e-5. However, giving Plaintiff the benefit of the doubt, had Plaintiff filed a complaint of harassment and retaliation she would have done so at the time she filed her other claims. Under said scenario, these claims would also be time-barred.

Notwithstanding, the time limits set forth in Title VII are analogous to statutes of limitations and are subject to equitable modifications. *Seitzinger v. Reading Hosp. and Medical Center*, 165 F.3d 236, 240 (3d Cir. 1999) (citing *Oshiver v. Levin, Fishbein, Sedran & Berman*, 38 F.3d 1380, 1387 (3d Cir. 1994)); *see also Baker v. Office Depot, Inc.*, 115 F. App'x 574, 577 (3d Cir. 2004) (the 300-day time period is analogous to a statute of limitations and is, thus, subject to equitable tolling) (citing *Oshiver*, 38 F.3d at 1387). In order for the equitable tolling doctrine to apply, Plaintiff must show that "[she was] prevented from filing in a timely manner due to sufficiently inequitable circumstances." *Baker*, 115 F. App'x at 577 (citing *Seitzinger*, 165 F.3d at 240).

With regard to the timeliness of Plaintiff's complaint, Plaintiff asserts that she "got the information [of the purported unlawful employment action], by accident" and filed her complaint "as soon as [she] found out," (Compl. ¶ II. E.), but that "([i]t was too late,i been told,time frame allows,only:300 days) . . . Not too long,that i was hired as Seasonal [Municipal Guard],were hired two male full time MG'S, . . . I gave enough information,how,when i found out. Claim was denied:6-13." (August 7, 2014 Letter). Considering these facts, this Court finds that Plaintiff has not adequately shown how or if she was prevented from filing her claim in a timely manner due to inequitable circumstances, only that she accidentally found out about the hiring and then filed her charges. Despite this argument, Plaintiff does concede that she discovered the unlawful practice in October 2011 yet did not file her complaint until December 2012. Under these

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circumstances, equitable tolling cannot apply to overcome the untimely manner in which Plaintiff filed her charges/claims. Therefore, Plaintiff having filed her Title VII claims beyond the established statutory deadlines, and this Court finding that the equitable tolling doctrine does not apply, Plaintiff's Title VII claims are dismissed as time-barred.

Finally, were this Court to disregard the procedural deficiencies and applicable statute of limitations, Plaintiff's complaint still does not set forth, with the requisite sufficiency, allegations to support plausible claims of gender discrimination and discriminatory conduct consisting of a failure to promote, failure to stop harassment, unequal terms and conditions of employment, and retaliation under Title VII. To state a claim pursuant to Title VII, a plaintiff must allege at least some facts supporting her allegations of employment discrimination. *See Pulukchu v. Hadco Metall Trading Co.*, 2013 WL 4532740, at *1 (E.D. Pa. Aug. 26, 2013) (citing *Fowler,* 578 F.3d 203, 211 (3d Cir. 2009) ("[T]he plausibility paradigm announced in *Twombly* applies with equal force to analyzing the adequacy of claims of employment discrimination.") (quotations omitted)).

To assert a *prima facie* case of gender discrimination, a plaintiff must allege facts to show that plaintiff: (1) belongs to a protected class; (2) was qualified for the position; (3) was subject to an adverse employment action despite being qualified; and (4) under circumstances that raise an inference of discriminatory action, the employer continued to seek out individuals with qualifications similar to hers to fill the position. *Bartos*, 454 F. App'x at 77 (citing *Sarullo v. USPS*, 352 F.3d 789, 797 (3d Cir. 2003) (quotation marks, brackets omitted)).

A failure-to-promote claim requires a Title VII plaintiff to allege facts that show: (1) that she belongs to a protected category; (2) that she applied and was qualified for a job for which the employer was seeking applicants; (3) that, despite her qualifications, she was rejected; and (4)

that, after her rejection, the position remained open and the employer continued to seek applicants from persons of complainant's qualifications. *Noel*, 622 F.3d at 274 (citing *Fuentes v. Perskie,* 32 F.3d 759, 763 (3d Cir.1994) (quotation marks omitted)).

Here, in her complaint, Plaintiff avers that Defendants' discriminatory conduct was their "failure to stop harassment." (*See* Compl. ¶ II. A.). Based on this bare allegation, this Court construes this contention as a hostile work environment claim. Hence, to establish a *prima facie* case for hostile work environment under Title VII, Plaintiff must allege facts that show: (1) that she suffered intentional discrimination because of her sex; (2) that the discrimination was pervasive and regular; (3) that the discrimination detrimentally affected her; (4) the discrimination would detrimentally affect a reasonable person of the same sex in that position; and (5) the existence of *respondeat superior* liability. *Huston v. Procter & Gamble Paper Products Corp.*, 568 F.3d 100, 104 (3d Cir. 2009); *Weston v. Pennsylvania,* 251 F.3d 420, 426 (3d Cir.2001) (citing *Andrews v. City of Phila.,* 895 F.2d 1469, 1482 (3d Cir.1990)).

Plaintiff also alleges that Defendants subjected her to "unequal terms and conditions of employment." (*See* Compl. ¶ II. A.). This Court's research has not found a Third Circuit Court of Appeals or district court case herein that has defined this type of claim. However, this claim was considered by the United State District Court for the Southern District of New York, which held that to maintain a Title VII unequal terms and conditions claim, a plaintiff must allege facts to show that: (1) she belongs to a protected class of persons; (2) her job performance was satisfactory; (3) she suffered some adverse employment action; and (4) the adverse employment action occurred under conditions giving rise to an inference of discrimination." *Smith v. St. Luke's Roosevelt Hosp.*, 2009 WL 2447754, at *22 (S.D.N.Y. Aug. 11, 2009), *report and recommendation adopted*, 2009 WL 2878093 (S.D.N.Y. Sept. 2, 2009); *Holder v. City of*

Yonkers, 2006 WL 1582081, at *8 (S.D.N.Y. June 7, 2006) (citing *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802 (1973)); *Vanhorne v. N.Y.C. Transit Auth.,* 273 F. Supp. 2d 209, 216 (E.D.N.Y. 2003) ("To establish this [unequal terms and conditions] claim, plaintiff must show that there were other similarly situated employees, outside of the protected class, who engaged in conduct substantially similar to that of plaintiff but received preferential treatment.").

Finally, to establish a *prima facie* case for retaliation, a plaintiff must show: (1) protected employee activity; (2) adverse action by the employer either after or contemporaneous with the employee's protected activity; and (3) a causal connection between the employee's protected activity and the employer's adverse action. *Bartos*, 454 F. App'x at 78 (citing *Shellenberger v. Summit Bancorp, Inc.*, 318 F.3d 183, 187 (3d Cir. 2003) (citations, quotation marks omitted)).

With these principles in mind, following a careful review of Plaintiff's complaint and the exhibits attached thereto, this Court concludes that the scant allegations therein do not support any of her claims of discrimination. In the fact section of the form complaint, Plaintiff merely offers that:

> I was hired as Seasonal Municipal Guard/Free Library of Phila : 4-8-2010 (from Correctional Officer [Trainee] active's list). I was hired Seasonal while full time positions were available. As soon as I found out (Around October, 2011 while I was going flexable in all branches : Free Library of Phila , I found out that : Bustleton & Law Crest branches did not have full time Municipal Guards

(Compl. ¶ II. E.).

Further, attached as an exhibit to the complaint, Plaintiff included a letter dated August 7, 2014, from Plaintiff to "Congressman's office" which indicates:

> 2.July 2 nd,2013:Denise Benrahou was assigned as Investigator on the Complaint made by me: Discrimination as Female,(I explained,very simple and clear on the Complaint).I was trying than,to become full time;MG. "The only way,I been told,from;Robert Bradley:Free Library,HR'S Supervisor,then prior to the second Complaint,was,to retake the same exam:Correctional Officer Trainne" / I took the exam:COT:2-12,passed the exam,did let;Robert Bradley know about it.Time went

by: "As soon,as I learned that one vacancy:Full time MG was coming up:NE-Holmesburg branch,"Based on:Tracey Bryant's email,(City/HR'S

(Compl.).

While these allegations, at best, describe the circumstances of Plaintiff's employment at the Free Library, they do not support any specific claim of discrimination; *to wit*, Plaintiff does not allege: that she was qualified for a full-time guard position (just that she passed an examination); whether her performance as a seasonal guard was satisfactory; whether she actually applied for the full-time position; that she engaged in protected employee activity; or any connection between protected employee activity and the Free Library's decision not to promote her to a full-time guard position. In sum, even a liberal interpretation of the complaint, along with the accompanying exhibits, does not support any of Plaintiff's discrimination claims.

Leave to Amend

The Third Circuit Court of Appeals has directed that district courts must ordinarily provide a civil rights plaintiff an opportunity to file an amended complaint where the original complaint is subject to dismissal under Rule 12(b)(6). *See Phillips*, 515 F.3d at 245 (reiterating rule that leave to amend must be granted *sua sponte* in civil rights actions, "unless such an amendment would be inequitable or futile"). Here, this Court recognizes Plaintiff's resolute efforts to assert and protect her rights. However, Plaintiff's initial steps were untimely, and thus, her claims are precluded. Consequently, any attempt to amend the complaint a second time, in this Court's opinion, would be legally futile.

CONCLUSION

For the reasons stated herein, Defendant City's motion to dismiss is granted, and Plaintiff's complaint is dismissed with prejudice. An appropriate Order, consistent with this Memorandum Opinion, follows.

NITZA I. QUIÑONES ALEJANDRO, U.S.D.C. J.