

Godwin v Young Adult Inst., Inc.

2023 NY Slip Op 33766(U)

October 24, 2023

Supreme Court, New York County

Docket Number: Index No. 154663/2021

Judge: Eric Schumacher

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This opinion is uncorrected and not selected for official publication.

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

PRESENT: HON. ERIC SCHUMACHER

PART 23M

Justice

-----X

INDEX NO. 154663/2021

OCHIENZES GODWIN,

MOTION DATE 10/24/2023

Plaintiff,

MOTION SEQ. NO. 001

- v -

YOUNG ADULT INSTITUTE, INC. d/b/a YAI,
and TRICIA RAMNARINE,

**DECISION + ORDER ON
MOTION**

Defendants.

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NYSCEF doc nos. 12-34 were read on this motion to dismiss.

Motion by defendants pursuant to CPLR 3211(a)(1) and (7) to dismiss the amended complaint is granted.

BACKGROUND

Plaintiff commenced this action by filing a summons and complaint on May 13, 2021, alleging discrimination on the basis of her race in violation of the New York City Human Rights Law, New York City Administrative Code sec. 8-107(1) (hereinafter NYCHRL), which prohibits an employer from refusing to hire someone based on their race, and vicarious liability for discriminatory conduct by an employee pursuant to New York City Administrative Code sec. 8-107(13), based on the alleged actions of individual defendant Tricia Ramnarine (see NYSCEF doc no. 1). Plaintiff then filed a first amended complaint (hereinafter “FAC”) on June 11, 2021 (NYSCEF doc no. 5).

Plaintiff alleges, among other grounds, that she suffered discrimination and a hostile work environment during the hiring process for a position with defendant Young Adult Institute, Inc. d/b/a YAI, on account of her African American race and criminal history, including being repeatedly referred to by Ramnarine as “ratched” and being told that she sounded “like a criminal” and like the rapper Cardi B during a phone interview with plaintiff on May 18, 2020, and further alleges that she was not hired for the position because of this discrimination (*id.*)

Despite plaintiff’s allegations, Ramnarine reported that plaintiff “interviewed well” and recommended that plaintiff move on in the hiring process (see NYSCEF doc nos. 16, 17). Ultimately, plaintiff was hired by YAI for an assistant supervisor position after subsequent interviews and received a letter of conditional employment, dated June 4, 2020, pending all applicable background checks (see NYSCEF doc no. 23). These background checks included a criminal background check conducted by an unnamed third party, the New York State Justice Center for the Protection of People with Special Needs (hereinafter Justice Center).

YAI is a private not-for-profit organization providing services to individuals with intellectual and developmental disabilities, and, as a service provider, is mandated to ensure the health and safety of the people supported in its programs. Therefore, all of YAI's prospective employees who might have direct, unsupervised client contact, as plaintiff would have, must undergo a Justice Center background check (see NYSCEF doc. no. 19).

As a result of the background check, it was discovered that plaintiff had pending misdemeanor criminal charges that precluded her from being hired by YAI (see NYSCEF doc nos. 24, 25). This information is contrary to what plaintiff had indicated in her application forms, as plaintiff did not check off selection "(c)" indicating that she had "pending arrest charges" (see NYSCEF doc no. 19). Plaintiff's conditional letter of employment was then withdrawn. Plaintiff subsequently initiated the instant action and defendants now move for dismissal of the FAC in its entirety pursuant to CPLR 3211(a)(1) and (7).

In response to defendants' motion, plaintiff agrees to stipulate and withdraw those claims alleging discrimination on the basis of plaintiff's criminal history and proceeds only with her claims of discrimination on the basis of race (see NYSCEF doc no. 30 at 1 n 1). Plaintiff contends that she was discriminated against on the basis of her African American race during the initial phone interview with Ramnarine and that the discrimination caused her not to be hired. Plaintiff argues that racist comments made during the phone interview with Ramnarine demonstrate and suggest that plaintiff was treated less well than non-African American applicants, and further argues that she has stated a failure-to-hire claim under the NYCHRL. Plaintiff also contends that defendants' production does not conclusively and definitively dispose of plaintiff's discrimination claims pursuant to CPLR 3211(a)(1) as the emails and notes presented by defendants are not authenticated and are inadmissible at this time. Therefore, plaintiff asserts that her claims for discrimination and vicarious liability should not be dismissed.

Defendants contend that the FAC is nothing more than conclusory assertions, insufficient to state a cause of action, and is devoid of any factual allegations that support such conclusions. Defendants argue that even if the "racist" and "offensive" comments plaintiff alleges occurred, being referred to as "ratched" like "Cardi B" or sounding "like a criminal" is conclusory and devoid of factual support, as plaintiff fails to plead any facts to explain why these comments carry racial animus or how plaintiff was discriminated against based on race when plaintiff's conditional offer was revoked due to her criminal history. Defendants also argue that their submission of documentary evidence entirely disposes of plaintiff's discrimination claims. While defendants acknowledge plaintiff's argument that defendants' email submissions are unauthenticated, defendants submit an affidavit in support (NYSCEF doc. no. 34) and argue that plaintiff fails to assert that the substance of the documents is incomplete or inaccurate.

DISCUSSION

Dismissal pursuant to CPLR 3211(a)(7) requires a reading of the pleadings to determine whether a legally recognizable cause of action can be identified. A cause of action does not have to be skillfully prepared, but it does have to present facts so that it can be identified and establish a potentially meritorious claim (see Leon v Martinez, 84 NY2d 83, 87-88 [1994]). "[A] court must give the complaint a liberal construction, accept the allegations as true and provide

plaintiffs with the benefit of every favorable inference . . . [and] [w]hether a plaintiff can ultimately establish its allegations is not part of the calculus in determining a motion to dismiss” (Cortlandt St. Recovery Corp. v Bonderman, 31 NY3d 30, 38 [2018] [internal quotation marks and citations omitted]). When evidentiary material is provided in support of a motion pursuant to CPLR 3211(a)(7), the court must determine whether the plaintiff has a cause of action, not whether the plaintiff has stated one (see Guggenheimer v Ginzburg, 43 NY2d 268, 275 [1977]). Dismissal is warranted where the allegations in the complaint are merely conclusory (see Commerce Bank v Bank of NY Mellon, 141 AD3d 413, 416 [1st Dept 2016]). “[C]onclusory allegations [and] claims consisting of bare legal conclusions with no factual specificity are insufficient to survive a motion to dismiss” (Barnes v Hodge, 118 AD3d 633, [1st Dept 2014] [internal citations omitted]).

Dismissal pursuant to CPLR 3211(a)(1) is warranted only if the documentary evidence submitted conclusively establishes a defense to the asserted claims as a matter of law (see Kralik v Marai, 216 AD3d 490, 490-491 [1st Dept 2023]). Email correspondence may be considered documentary evidence for the purposes of CPLR 3211(a)(1) “if those papers are ‘essentially undeniable’” (Seaman v Schulte Roth & Zabel LLP, 176 AD3d 538, 539 [2d Dept 2019], quoting Amsterdam Hospitality Group, LLC v Marshall-Alan Assoc., Inc., 120 AD3d 431, 433 [1st Dept 2014]).

As a preliminary matter, the court notes that those claims in the FAC alleging discrimination on the basis of plaintiff’s criminal history have been voluntarily withdrawn and dismissed by plaintiff.

Accepting the allegations in the FAC as true and providing plaintiff with every favorable inference, the court finds that the FAC does not set forth a legally cognizable cause of action, warranting dismissal pursuant to CPLR 3211(a)(7). While plaintiff asserts that she was treated less well than her non-African American applicants during the hiring process because she was subjected to “unacceptable racist comments” during an initial phone interview with Ramnarine, the FAC is devoid of any factual allegations that support such a conclusion.

A claim of racial discrimination made pursuant to NYCHRL sec. 8-107(1) requires a plaintiff to plead facts sufficient to show differential treatment of any degree based on race (see Harrington v City of NY, 157 AD3d 582, 584 [1st Dept 2018]). Here, plaintiff’s allegations of racial discrimination consist of bare legal conclusions with no factual specificity that fail to explain why being referred to as “ratched” like “Cardi B” or sounding “like a criminal” during an initial phone interview are racist comments. Moreover, plaintiff participated in further interviews and was hired by YAI on a conditional basis pending required background checks.

Even if plaintiff had a cause of action such that the FAC could withstand the branch of the motion made pursuant to CPLR 3211(a)(7), the only basis for the withdrawal of the offer of employment was that the Justice Center required YAI to withdraw plaintiff’s conditional letter of employment due to her criminal history, and had absolutely nothing to do with any alleged racist comments, warranting dismissal of the FAC pursuant to CPLR 3211(a)(1).

CONCLUSION

Accordingly, it is

ORDERED that the motion by defendants pursuant to CPLR 3211(a)(1) and (7) to dismiss the amended complaint is granted, and the amended complaint is dismissed in its entirety; and it is further

ORDERED that the November 13, 2023 oral argument is cancelled; and it is further

ORDERED that, within five days of entry, defendants shall serve a copy of this order with notice of entry on plaintiff and on the clerk, who is directed to enter judgment accordingly.

The foregoing constitutes the decision and order of the court.

10/24/2023
DATE


ERIC SCHUMACHER, J.S.C.

CHECK ONE:	<input checked="" type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	NON-FINAL DISPOSITION	<input type="checkbox"/>	OTHER
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED	<input type="checkbox"/>	GRANTED IN PART
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>	FIDUCIARY APPOINTMENT
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	REFERENCE	<input type="checkbox"/>	