



Plasterer claimed he was unfairly denied overtime, assistance

Type: Settlement

Amount: \$310,000

State: New York

Venue: Federal

Court: U.S. District Court, Southern District, NY

Injury Type(s): • *mental/psychological* - anxiety; insomnia; depression; emotional distress

Case Type: • *Civil Rights* - Title VII; 42 USC 1981; 42 USC 1983; Civil Rights Act of 1964
• *Employment* - Retaliation; Hostile Work Environment; National Origin Discrimination

Case Name: Johnny Figueroa v. The City of New York, Giovanni Caggia, David Dimitri, Mary Padovano and John and Jane Doe (said names being fictitious, the persons intended being those who aided and abetted the unlawful conduct of the named Defendants), No. 1:19-cv-11178-KPF

Date: October 04, 2021

Plaintiff(s): • Johnny Figueroa, (Male, 50 Years)

Plaintiff Attorney(s): • Samuel O. Maduegbuna; Maduegbuna Cooper LLP; New York NY for Johnny Figueroa
• William W. Cowles; Maduegbuna Cooper LLP; New York NY for Johnny Figueroa

Plaintiff Expert(s): • Steven J. Shapiro Ph.D.; Economics; Orange, CT called by: Samuel O. Maduegbuna, William W. Cowles

Defendant(s):

- David Dimitri
- Mary Padovano
- Giovanni Caggia
- The City of New York
- New York City Department of Citywide Administrative Services

Defense Attorney(s):

- Michael Kupferberg; The Siegel Law Firm, P.C.; Garden City, NY for Mary Padovano
- Jack Russo; Barnes Iaccarino & Shepherd LLC; Elmsford, NY for Giovanni Caggia
- Alan H. Scheiner; Assistant Corporation Counsel, Georgia Pestana, Corporation Counsel; New York, NY for The City of New York, David Dimitri, New York City Department of Citywide Administrative Services

Facts:

On May 30, 2017, plaintiff Johnny Figueroa, a plasterer in his 50s, was transferred to a new agency. Figueroa, a Hispanic man of Puerto Rican descent, had been working for the New York City Housing Authority. He was transferred to the New York City Department of Citywide Administrative Services, and he was assigned to a Brooklyn warehouse that stored equipment and material. He was also assigned three supervisors: Giovanni Caggia, David Dimitri and Mary Padovano.

Figueroa claimed that he was immediately subjected to a pattern of discriminatory, hostile behavior that was based on his national origin.

On June 11, 2018, Figueroa submitted a formal complaint that alleged discrimination. The New York City Department of Citywide Administrative Services concluded that Figueroa's complaint was unsubstantiated. It did not perform an investigation. Figueroa claimed that his overtime opportunities were subsequently reduced. He contended that the reduction was an act of retaliation.

Figueroa sued the New York City Department of Citywide Administrative Services; its parent, the city of New York; and Caggia, Dimitri and Padovano. The lawsuit alleged that Figueroa was subjected to discriminatory and retaliatory acts that created a hostile environment. The lawsuit further alleged that the discriminatory and retaliatory acts violated the New York City Human Rights Law, the New York State Human Rights Law, the civil rights guaranteed by 42 U.S.C. § 1981, the civil rights guaranteed by 42 U.S.C. § 1983, and Title VII of the Civil Rights Act of 1964.

Figueroa claimed that he was denied privileges that were provided to two non-Hispanic colleagues, Myron Baptiste and Pasquale Caldarelli, who were plasterers. He claimed that they were regularly provided assistants and vehicles, but that he was not, and he also claimed that he was assigned the least desirable and most labor-intensive jobs. He claimed that his overtime assignments were strategically issued to coincide with instances in which he was vacationing or would not have an assistant. Figueroa further claimed that he was regularly subjected to abusive, derogatory and intimidating comments.

Figueroa also claimed that Padovano, who was of Italian descent, provided preferential treatment to Italian friends that she had hired. One of Figueroa's co-workers, a Black tradesman, agreed. Figueroa further claimed that Padovano stated that she was displeased by Figueroa having been assigned to her. Figueroa's counsel produced an email message in which Padovano discussed one of her workers. Padovano wrote that the worker was "another piece of [sh-t] that should be fired." Figueroa's counsel claimed that the message referenced Figueroa. Padovano claimed otherwise, though Dimitri, who was the message's recipient, claimed that Padovano was referencing Figueroa.

Padovano also claimed that she did not mistreat Figueroa. She further claimed that her heritage includes a great grandmother who was 25 percent Puerto Rican.

The defense claimed that Figueroa declined opportunities to work overtime.

Injury:

Figueroa claimed that he was subjected to abusive, discriminatory treatment. He claimed that he experienced residual emotional distress that included anxiety, depression and insomnia. In January 2020, he began undergoing weekly sessions that involved counseling and therapy. The therapist opined that Figueroa suffers moderate major depressive disorder.

Figueroa remains employed by the New York City Department of Citywide Administration Services, but Caggia and Padovano have left the department.

Figueroa also claimed that he was denied opportunities for lucrative overtime work. Figueroa's expert economist submitted a report in which he opined that Figueroa resultantly lost income in the amount of \$318,645. The expert also estimated that \$598,546 would constitute equivalent lump-sum present-day-valuation reimbursement. Figueroa sought recovery of that amount, and he sought recovery of damages for past and future emotional suffering.

Result:

The parties negotiated a pretrial settlement. The city of New York agreed to pay \$165,000; the New York City Department of Citywide Administration Services agreed to pay \$125,000; Caggia agreed to pay \$10,000; and Padovano agreed to pay \$10,000. Dimitri did not contribute. Thus, the settlement totaled \$310,000. The New York City Department of Citywide Administration Services' contribution was declared pensionable loss of earnings. Figueroa's counsel estimates that the pension will exceed \$90,000.

Johnny Figueroa

Trial Information:

Trial Length: 0

**Trial
Deliberations:** 0

**Editor's
Comment:** This report is based on information that was provided by plaintiff's counsel. Additional information was gleaned from court documents. Defense counsel did not respond to the reporter's phone calls.

Writer Priya Idiculla