

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF New York

Peter Zucker

Plaintiff(s),

*-against-*

City of New York, New York City Department of Education,  
et al.

Defendant(s).

Index No.

*Summons*

Date Index No. Purchased: August 1, 2014

To the above named Defendant(s)

City of New York and/or New York City Department of Education  
c/o Corporation Counsel of City of New York  
100 Church Street  
New York, NY 10007

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue is Defendants' headquarters  
which is [52 Chambers Street, New York, NY 10007

Dated: New York, New York

August 1, 2014

Glass Krakower LLP

by 

Bryan D. Glass, Esq.,

Attorneys for Plaintiff

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SUPREME COURT OF STATE OF NEW YORK  
COUNTY OF NEW YORK

PETER ZUCKER,

Plaintiff,

-against-

CITY OF NEW YORK; NEW YORK CITY  
DEPARTMENT OF EDUCATION; DR. ALISON  
COVIELLO, PRINCIPAL OF P.S. 154, IN HER  
OFFICIAL AND INDIVIDUAL CAPACITY;  
YOLANDA TORRES, SUPERINTENDENT OF  
DISTRICT 7; JESSICA CRUZ, ASSISTANT  
PRINCIPAL OF P.S. 154; RAJENDRA JIMENEZ-  
JALLAL, ASSISTANT PRINCIPAL OF P.S. 154;  
JENNIFER BAUM, SPECIAL EDUCATION  
TEACHER OF P.S. 154; MARY LOU GORMAN,  
ASSISTANT PRINCIPAL OF P.S./M.S. 83;  
MICHAEL AGONA, CONSULTANT TO NEW  
YORK CITY DEPARTMENT OF EDUCATION,

Defendants.

**VERIFIED COMPLAINT**

Index No.

**JURY TRIAL DEMANDED**

Plaintiff PETER ZUCKER, by his attorneys, GLASS KRAKOWER LLP, as and for his Verified Complaint against Defendants, respectfully alleges as follows:

**PRELIMINARY STATEMENT**

**PARTIES**

1. Plaintiff is a resident of the State of New York, County of Westchester, and a tenured teacher presently employed by the New York City Department of Education.
2. At all times relevant herein, Defendant Dr. Alison Coviello was the principal of P.S 154, a school in the Bronx, New York, within the New York City Department of Education.

3. At all times relevant herein, Defendant Yolanda Torres was the Superintendent of Community School District No. 7, a school in the Bronx, New York within the New York City Department of Education.

4. At all times relevant herein, Defendant Jessica Cruz was an assistant principal of P.S 154, a school in the Bronx, New York within the New York City Department of Education.

5. At all times relevant herein, Defendant Rajendra Jimenez-Jallal was an assistant principal of P.S 154, a school in the Bronx, New York within the New York City Department of Education.

6. At all times relevant herein, Defendant Jennifer Baum was a teacher of special education at P.S. 154, a school in the Bronx, New York within the New York City Department of Education.

7. At all times relevant herein, Defendant Mary Lou Gorman was the assistant principal of P.S./M.S. 83, a school in the Bronx, New York within the New York City Department of Education.

8. At all times relevant herein, Defendant Michael Agona was a consultant to the New York City Department of Education, charged with, upon information and belief, training principals to write up teachers with Unsatisfactory ratings in order to build documentation to be later used for disciplinary/incompetency Section 3020-a charges against a teacher.

## **VENUE AND JURISDICTION**

9. Venue is placed in New York County pursuant to CPLR Section 503 and 506(b) because it is the location of headquarters of Defendant NYCDOE, for which Plaintiff and Defendants are employed.

10. Plaintiff previously served a Written Verified Notice of Claim on Defendant New York City Department of Education on or about November 26, 2013, which has not yet been adjusted to date. Plaintiff served a supplemental Verified Notice of Claim on or about July 17, 2014, which has not been adjusted to date.

## **STATEMENT OF FACTS**

11. Up until the 2012-13 school year, Plaintiff had a documented satisfactory performance record since he commenced employment as a teacher with the NYCDOE in October 1995, in a variety of different positions, including elementary school teacher, math cluster teacher, technology staff developer, computer coordinator, dean, SAVE room teacher, and character education teacher.

12. Plaintiff's teaching license is in common branches with the City of New York and his certification is in elementary education preK-6<sup>th</sup> grade with the State of New York.

13. Plaintiff has worked at P.S. 154 since the 2004-05 school year in a variety of positions.

14. Dr. Alison Coviello became principal of P.S. 154 on or about April 29, 2012. Upon information and belief, Dr. Coviello is less than 40 years old.

15. Before Principal Coviello became principal of P.S. 154, Plaintiff never had an Unsatisfactory observation in his career.

16. Immediately after she became principal at P.S. 154, Principal Coviello began to threaten Plaintiff as the SAVE room teacher when he exercised his union contractual rights to not have to cover a 3<sup>rd</sup> grade class in May 2012. Principal Coviello responded to Plaintiff, in sum and substance, that he should “stop waving his rights” under the contract in her face.

17. In June 2012, Principal Coviello told Plaintiff that he would not be assigned a computer technology position in her school for the 2012-13 school year. Plaintiff wrote on his preference sheet that he wanted to teach character education for 2012-13, which she initially agreed to at that time.

18. On or about July 16, 2012, Plaintiff called District 7 Superintendent Yolanda Torres to complain that Principal Coviello did not give him the technology position she had agreed to, and asked to have the issue mediated by the Superintendent. Superintendent Torres refused to get involved in mediating the issue.

19. On or about September 7, 2012, Plaintiff filed a grievance through his union against Principal Coviello for changing his program to character education through literacy, which he understood was an orchestrated setup to rate him as Unsatisfactory for the 2012-13 school year.

20. Within three (3) days of filing the grievance against her, on September 10, 2012, Principal Coviello observed Plaintiff and she gave him his first Unsatisfactory observation for his “learning environment,” with nothing said about the quality of his teaching.

21. On or about September 25, 2012, Principal Coviello sent an email to the staff at the school extending the time for other teachers to prepare their “learning environments” and not disciplining them for incomplete learning environments, thereby treating Plaintiff disparately than the other teachers.

22. On or about October 10, 2012, Plaintiff received an Unsatisfactory observation from Assistant Principal Jimenez based on his classroom environment for an observation done by him on or about October 1, 2012. Plaintiff also was told he would get notebooks for his class, but did not receive them from the school administration until December 2012.

23. On or about November 8, 2012, Plaintiff again received an Unsatisfactory observation from Assistant Principal Jessica Cruz.

24. Clearly realizing that he was being set up for incompetency charges, in December 2012 Plaintiff filed a charge with the New York State Division of Human Rights (“SDHR”) claiming age discrimination for the school administration’s discriminatory and retaliatory behavior towards him.

25. After filing the SDHR charge in December 2012, Defendants immediately retaliated against Plaintiff by giving him a barrage of disciplinary false insubordination write-ups and negative observations. Among those allegations was one by Jennifer Baum, a fellow teacher at the school who was encouraged by Principal Coviello to make false allegations against Plaintiff so that Principal Coviello could bolster her disciplinary case against Plaintiff.

26. Principal Coviello thereafter gave Plaintiff the first Unsatisfactory annual evaluation (“U rating”) of his career for the 2012-13 school year after 16 years of satisfactory teaching.

27. Shortly after giving him the first U rating of his career for the 2012-13 school year, Defendants preferred false Section 3020-a disciplinary charges against Plaintiff on or about September 3, 2013, alleging 19 different specifications of incompetence, misconduct,

and insubordination. These Section 3020-a disciplinary charges are still pending against him to date.

28. These disciplinary charges are clearly false and an orchestrated conspiracy between administrators, especially given that before the 2012-13 school year began, on or about August 24, 2012, Principal Coviello orchestrated and conspired the false disciplinary write-ups and observations before the school year began, in conjunction and coordination with NYCDOE consultant Michael Agona and Assistant Principal Jessica Cruz. In an email dated August 24, 2012, Principal Coviello stated: **“Hey, I revised Zucker’s job description (per the advice of Mike Agona) so that it is focused more on literacy. This way, Agona explained, we’ll have a surer chance of winning a case *when* our observations detail incompetence.”** Based on this email, it is apparent that Principal Coviello was predetermined to rate Plaintiff unsatisfactory and remove him from her school regardless of the merits of his performance for the 2012-13 school year.

29. Plaintiff’s Section 3020-a disciplinary charges are still pending to date and have not yet been scheduled for a hearing.

#### NOTICE OF CLAIM

30. Plaintiff has filed a Notice of Claim in this matter in November 2013, and a supplemental Notice of Claim on July 17, 2014.

31. To date, Defendants have neither acknowledged nor adjusted either claim.

**FIRST CAUSE OF ACTION  
(Prima Facie Tort)**

32. Plaintiff repeats and realleges each and every allegation contained above, inclusive, with the same force and effect as if more fully set forth herein.

33. Each and every defendant did, without justification, intentionally harm the Plaintiff by playing a part in seeking to wrongfully terminate him from his employment, and some did harm Plaintiff by damaging his ability to subsequently be hired in any and all districts within the NYCDOE.

34. As a result of the foregoing, Plaintiff did suffer damages in an amount to be determined at trial.

**SECOND CAUSE OF ACTION  
(Breach of Contract)**

35. Plaintiff repeats and realleges each and every allegation contained above, inclusive, with the same force and effect as if more fully set forth herein.

36. Each and every defendant did, without justification, intentionally harm the Plaintiff by playing a part in seeking to wrongfully terminate him from his tenured employment governed by state law and the UFT-DOE contract, and some did harm the Plaintiff by damaging his ability to subsequently be hired in any and all districts within the NYCDOE.

37. As a result of the foregoing, Plaintiff did suffer damages in an amount to be determined at trial.

**THIRD CAUSE OF ACTION  
(Tortious Interference)**

38. Plaintiff repeats and realleges each and every allegation contained above,



inclusive, with the same force and effect as if more fully set forth herein.

39. Each and every defendant did, without justification, intentionally harm the Plaintiff by playing a part in seeking to wrongfully terminate him and tortuously interfere with his employment, and some did harm the Plaintiff by damaging his ability to subsequently be hired in any and all districts within the NYCDOE.

40. Defendant NYCDOE did so by interfering with his ability to obtain subsequent employment within the NYCDOE, making unlikely his employment by any school district in the tri-state area, and damaging his professional reputation and thus his likelihood of future hirings both within and outside the NYCDOE.

41. As a result of the foregoing, Plaintiff did suffer damages in an amount to be determined at trial.

**FOURTH CAUSE OF ACTION  
(Conspiracy)**

42. Plaintiff repeats and realleges each and every allegation contained above, inclusive, with the same force and effect as if more fully set forth herein.

43. Each and every defendant did, without justification, intentionally harm the Plaintiff by playing a part in conspiring to wrongfully terminate him from his employment, and some did harm the Plaintiff by damaging his ability to subsequently be hired in any and all districts within the NYCDOE to the shadows cast on his professional reputation, permanently damaged.

44. As a result of the foregoing, Plaintiff did suffer damages in an amount to be determined at trial.

**FIFTH CAUSE OF ACTION**  
**(Intentional and/or Negligent Infliction of Emotional Distress)**

45. Plaintiff repeats and realleges each and every allegation contained above, inclusive, with the same force and effect as if more fully set forth herein.

46. Each and every defendant did, without justification, intentionally harm the Plaintiff by playing a part in seeking to wrongfully terminate him from his employment, and some did harm the Plaintiff by damaging his ability to subsequently be hired in any and all districts within the NYCDOE, thereby causing him intentional and/or negligent infliction of emotional distress.

47. As a result of the foregoing, Plaintiff did suffer damages in an amount to be determined at trial.

**SIXTH CAUSE OF ACTION**  
**(Defamation and Libel)**

48. While and after Plaintiff was employed by Defendant NYCDOE, Defendants, did, in statements and in writing, with malice aforethought, disseminate about the Plaintiff false personal and professional information, with knowledge of its falsity or with reckless disregard of its falsity.

49. These statements and writings have, in a variety of ways both professional and personal, damaged Plaintiff in the past, the present, and in perpetuity.

50. As a result of the foregoing, Plaintiff has suffered and continues to suffer damages in an amount to be determined at trial.

## **SEVENTH CAUSE OF ACTION**

### **(Age discrimination/retaliation)**

51. Since Plaintiff filed his SDHR charge based on age discrimination in December 2012, Defendants have placed unwarranted disciplinary letters and unsatisfactory observations in Plaintiff's personnel file, reassigned him from his teaching duties as of September 3, 2013, subjected him to false Section 3020-a disciplinary charges, and otherwise threatened his livelihood and job security

52. Plaintiff thereby has a claim under the New York State and New York City Human Rights Law for age discrimination and retaliation.

## **EIGHTH CAUSE OF ACTION RETALIATION IN VIOLATION OF NEW YORK STATE CIVIL SERVICE LAW § 75-B**

53. Plaintiff repeats and re-alleges the allegations set forth in the preceding paragraphs, as if fully set forth herein.

54. Through his southbronxschool.com blog, Plaintiff has raised various controversial policy issues within the NYCDOE that administration would often deem antagonistic to its interest.

55. Defendants had notice that Plaintiff participated in such protected activities.

56. Defendants retaliated against Plaintiff by engaging in adverse "personnel actions" as defined by New York Civil Service Law § 75-b(1)(d). Specifically, Defendants subjected Plaintiff to a retaliatory hostile work environment, including but not limited to: placing unwarranted disciplinary letters and unsatisfactory observations in his file, reassigning from his teaching duties as of September 3, 2013, subjecting him to false

Section 3020-a disciplinary charges, and otherwise threatening his livelihood and job security.

57. As a proximate result of Defendants' retaliatory actions against Plaintiff, Plaintiff has suffered and continues to suffer a loss of past and future income, monetary damages, humiliation, severe emotional distress, loss of consortium, lost promotional opportunities, mental and physical anguish and suffering, physical consequences of the severe emotional distress, and damage to his professional reputation, in an amount to be determined at trial.

#### **JURY DEMAND**

58. Plaintiff hereby demands a trial by Jury.

#### **PRAYER/DEMAND FOR RELIEF**

WHEREFORE, Plaintiff demands judgment in its favor against Defendants as follows:

On all Claims for Relief:

- a. Judgment declaring that Defendants acts violated Plaintiff's rights as secured by state and city law prohibiting retaliation in employment;
- b. Enjoining defendants from any further acts adversely affecting the terms and conditions of Plaintiff's employment including his compensation and privileges;
- c. Compensatory damages to compensate Plaintiff for breach of contract, economic loss, damage to name, profession, career and reputation, pain and suffering, emotional distress and mental anguish,

embarrassment, indignity, and dislocation, in an amount to be determined at trial;

- d. Punitive damages against one or all of the Defendants;
- e. Statutory attorneys' fees, interest, costs, and disbursements, and
- f. For such other and further legal, equitable or other relief as the Court deems just and proper.

**WHEREFORE**, Plaintiff seeks compensatory damages, damages for emotional distress, and any other available damages in an amount to be determined at trial.

DATED: New York, New York  
July 31, 2014

GLASS KRAKOWER LLP  
100 Church Street, 8<sup>th</sup> Floor  
New York, NY 10007  
(212) 537-6859

By:


  
\_\_\_\_\_  
BRYAN D. GLASS, Esq.

**VERIFICATION**

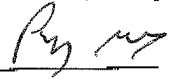
STATE OF NEW YORK            )  
  )  
COUNTY OF NEW YORK        )

ss:

Peter Zucker, being duly sworn, deposes and states that he is the Plaintiff herein, that he has read the foregoing verified complaint, and knows the contents thereof, and states that the verified petition is true to his own knowledge.

  
\_\_\_\_\_  
PETER ZUCKER

Subscribed and sworn to before  
me this 21 day of July, 2014

  
\_\_\_\_\_  
Notary Public

**BRYAN GLASS**  
Notary Public, State of New York  
No. 02GL6068978  
Qualified in Rockland County  
Commission Expires 1/22/2018

Index No.

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

PETER ZUCKER,

Plaintiff,

- against -

CITY OF NEW YORK; NEW YORK CITY DEPARTMENT OF EDUCATION; ET AL.,

Defendants.

**VERIFIED COMPLAINT**

GLASS KRAKOWER LLP  
Attorney for Plaintiff  
100 Church Street, 8<sup>th</sup> Floor  
New York, NY 10007  
(212) 537-6859

*Due and timely service is hereby admitted*

New York, N.Y. ...., 200 . . .

..... Esq.

Attorney for .....