

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MELISSA GENERAL,

Plaintiff,

-vs-

CENTER FOR DISABILITY RIGHTS,

Defendant.

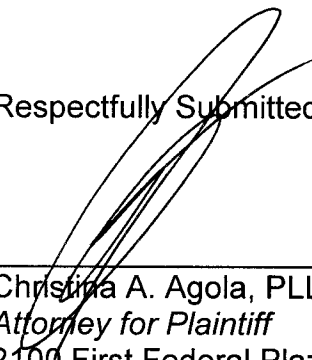
NOTICE OF APPEAL

Civil No.:07-CV-6159 MAT

NOTICE IS HEREBY GIVEN that Plaintiff, Melissa General, hereby appeals to the United States Court of Appeals for the Second Circuit from the Decision and Order signed by the Honorable Michael A. Telesca, United States District Judge, Western District of New York, on April 8, 2011 dismissing Plaintiff's Complaint.

Dated: April 15, 2011
Rochester, New York

Respectfully Submitted:



Christina A. Agola, PLLC
Attorney for Plaintiff
2100 First Federal Plaza
28 East Main Street
Rochester, New York 14614
(585) 262-3320
cagola@wnycivilrights.com

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MELISSA GENERAL,

Plaintiff,

CERTIFICATE OF SERVICE

Civ. No.: 07-CV-6159 MAT

-vs-

CENTER FOR DISABILITY RIGHTS,

Defendants.

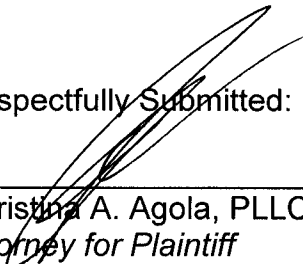
PLEASE TAKE NOTICE, that on April 15, 2011, the undersigned submitted by filing with the Office of the Clerk for the United States District Court for the Western District of New York and delivery upon opposing counsel:

Matthew J. Fusco, Esq.
Chamberlain, D'Amanda, Oppenheimer
& Greenfield, LLP
1600 Crossroads Building
Two State Street
Rochester, New York 14614

the Notice of Appeal from the Decision and Order signed October 1, 2010 in the above-referenced matter:

Dated: April 15, 2011
Rochester, New York

Respectfully Submitted:



Christina A. Agola, PLLC
Attorney for Plaintiff
2100 First Federal Plaza
28 East Main Street
Rochester, New York 14614
(585) 262-3320
cagola@wnycivilrights.com

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MELISSA GENERAL,

Plaintiff,

07-CV-6159

v.

**DECISION
and ORDER**

CENTER FOR DISABILITY RIGHTS,

Defendant.

INTRODUCTION

Plaintiff, Melissa General ("Plaintiff"), brings this action pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq., alleging sexual discrimination. Specifically, Plaintiff alleges that she was subjected to a hostile work environment during her employment by Defendant, the Center for Disability Rights ("Defendant" or "CDR").

Defendant now moves for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure ("Rule 56") arguing that the Plaintiff has not produced sufficient evidence to support her discrimination claim. Plaintiff opposes Defendant's motion and argues that there are genuine issues of material fact. For the reasons set forth below this Court grants Defendant's Motion for Summary Judgment. Accordingly, Plaintiff's Complaint is hereby dismissed with prejudice.

BACKGROUND¹

CDR is a New York, not-for-profit corporation that provides various services to disabled individuals. CDR has contracted with the Monroe County Department of Social Services to assist individuals with disabilities through the Consumer Directed Personal Assistance Service Program ("CDPAS"). Through this program, qualified disabled persons are able to receive home care services and oversee their own care.

As part of this program, the disabled person, known as a "consumer," may select an in-home attendant. The consumer makes nearly all of the employment decisions with respect to the attendant, including, *inter alia*, recruiting, hiring, training, scheduling, supervising, and firing; while CDR acts as an official "employer of record" for tax, insurance and worker's compensation purposes. The attendant may leave a particular consumer at any time. If an attendant leaves a consumer, the attendant will be

¹This Court notes that Plaintiff has submitted her "Responses to Defendant's Local Rule 56.1 Statement" and an additional "Local Rule 56.1 Counter Statement." As this Court has instructed Plaintiff's Counsel on the purpose and requirements of Local Rule 56.1 on numerous occasions, this Court will not consider Plaintiff's "Local Rule 56.1 Counter Statement" which does not comport to this rule. Further, this Court notes that Plaintiff's "Responses to Defendant's Local Rule 56.1 Statement" often states facts that are either not material or not contested. See Ikejiaku v. Rochester City School Dist., 2011 WL 1099131 (W.D.N.Y. 2011); Ikewood v. Xerox, 2011 WL 147896 (W.D.N.Y. 2011); Duckett v. Wal-Mart Stores, Inc., 2009 WL 995614 (W.D.N.Y. 2009); Szarzynski v. Roche Laboratories, Inc., 2010 WL 811445 (W.D.N.Y. 2010); Barkley v. Pennyan School Dist., 2009 WL 2762272 (W.D.N.Y. 2009); Kuchar v. Kenmore Mercy Hosp., 2000 WL 210199 (W.D.N.Y. 2000); see also Holtz v. Rockefeller & Co., Inc., 258 F.3d 62, 74 (2d Cir. 2001) (discussing Local Rule 56.1 in the Southern and Eastern Districts of New York which is essentially the same as this District).

placed on a list of available attendants, which is maintained by CDR. The attendant's list is often used by consumers and SDO's to select an attendant.

The consumer also selects a "self-directed other" ("SDO"), at their sole discretion, to oversee the consumer's care in the event that they are incapable. The relationship between the consumer and the SDO is not governed by CDR (although CDR requires that a consumer select an SDO) or the CDPAS program, rather the SDO serves as a personal representative for the consumer, and the consumer has the power to select and remove the SDO at will.

During the relevant time period, Plaintiff was an attendant for CDPAS consumer, Virginia Keuntz ("Keuntz"). Keuntz and her SDO, Raymond Oliver Taylor ("Taylor"), hired the Plaintiff in late 2003. While Plaintiff worked for Keuntz, Taylor, who lived with Keuntz, made sexually explicit comments to Plaintiff on approximately six or seven occasions. Further, Plaintiff states that Keuntz and a friend of Keuntz, David Raufeisen, informed the Plaintiff that Taylor made sexually explicit comments about her on other occasions.

Plaintiff states that she called CDR regarding Taylor's behavior once prior to September 2004. She did not speak with anyone, but she claims that she left a message, although she does not state with whom she left the message. CDR claims that it did not receive the message, and, for this reason, it did not follow up

with the Plaintiff regarding her alleged complaint. In her deposition, Plaintiff testified that she did not follow up with the complaint because Taylor later apologized to her. She further testified that she did not attempt to find work with another consumer at the time because, she stated, "Why? I had a great job. I loved my job. Why would I do that?"

On September 26, 2004, an altercation between Keuntz and Taylor occurred at Keuntz's home during Plaintiff's shift. The police were called to the residence, and Plaintiff gave a statement to the police about the altercation. Later that day, Plaintiff was terminated from her position as an attendant for Keuntz by Taylor.

Plaintiff then called CDR and left a message for Mary Willoughby, the Human Resource Director at CDR. Plaintiff also sent an email to Willoughby on September 28, 2004, detailing the verbal abuse by Taylor towards Keuntz, and complaining of the sexually explicit comments he had made to her and about her. CDR asserts that the only complaint that it received from the Plaintiff was the September 28 email. CDR claims that they did not receive either of the two phone calls that Plaintiff allegedly made to CDR regarding Taylor's behavior.

Following the incident, and their receipt of Plaintiff's e-mail, CDR launched an investigation into the incident and attempted to persuade Keuntz to remove Taylor as her SDO. Keuntz, however, refused to do so. CDR informed Plaintiff that they would not

return her to work for Keuntz and they immediately placed Plaintiff on the available attendant's list. In early October, Plaintiff began to work for another consumer, Shelly Perrin, however, the hours required were less than those required for Keuntz. Plaintiff, therefore, remained on the available attendant's list because she was no longer working full-time.

CDR contacted Plaintiff for at least seven possible attendant positions, but Plaintiff either did not return CDR's calls, refused to attend the interviews, or missed the interviews entirely. Plaintiff claims that she refused to work for several of these potential consumers because they were male, however, some of the potential consumers were female.

Later, in February 2005, Plaintiff was hired to work additional hours for another consumer, Christine Wilson, and in August 2005 she also began to work for Joe and Debbie Bonomo and Marjorie Walsh. Plaintiff worked for Joe and Debbie Bonomo and Marjorie Walsh until she left her positions in late 2006 to move to Turkey.

DISCUSSION

Pursuant to Rule 56, a court may grant a motion for summary judgment if the moving party demonstrates "that there is no genuine issue as to any material fact." See Fed.R.Civ.P. 56(c). Once the movant has met this burden, the burden shifts to the nonmovant who must "come forward with evidence to allow a reasonable jury to find

in his favor" on each of the elements of his prima facie case. See Lizardo v. Denny's, Inc., 270 F.3d 94, 101 (2d Cir.2001); Celotex Corp. v. Catrett, 477 U.S. 317, 325-27 (1986). The court must draw all factual inferences, and view the factual assertions in materials such as affidavits, exhibits, and depositions in the light most favorable to the nonmoving party. See Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 255 (1986); Celotex Corp., 477 U.S. at 322. However, a nonmovant benefits from such factual inferences "only if there is a 'genuine' dispute as to those facts." See Scott v. Harris, 550 U.S. 372, 127 S.Ct. 1769, 1776 (2007).

The law is well established that "conclusory statements, conjecture, or speculation" are insufficient to defeat a motion for summary judgment. See Kulak v. City of New York, 88 F.3d 63, 71 (2d Cir. 1996). The nonmovant cannot survive summary judgment simply by proffering "some metaphysical doubt as to the material facts," Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586 (1986), or presenting evidence that "is merely colorable, or is not significantly probative." See Savino v. City of New York, 331 F.3d 63, 71 (2d Cir.2003) (quoting Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249-50 (1986) (citation omitted)). Rather, he must "set out specific facts showing a genuine issue for trial." See Fed.R.Civ.P. 56(e)(2); See also D'Amico v. City of New York, 132 F.3d 145, 149 (2d Cir.1998) ("non-moving party may not rely on mere

conclusory allegations nor speculation, but instead must offer some hard evidence showing that its version of...events is not wholly fanciful.").

Title VII forbids an employer to "discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin...." 42 U.S.C. §2000e-2(a). The Supreme Court has determined that Title VII is violated "[w]hen the workplace is permeated with discriminatory intimidation, ridicule, and insult...that is sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment." Harris v. Forklift Systems, Inc., 510 U.S. 17, 21 (1993) (internal quotation marks and citations omitted); see also Mack v. Otis Elevator Co., 326 F.3d 116, 123 (2d. Cir. 2003). A plaintiff alleging that his employer violated Title VII by creating such a hostile work environment must show "[1] that the harassment was sufficiently severe or pervasive to alter the conditions of [his] employment and create an abusive working environment, and [2] that a specific basis exists for imputing the objectionable conduct to the employer." Alfano v. Costello, 294 F.3d 365, 373 (2d Cir. 2002); see also Quinn v. Green Tree Credit Corp., 159 F.3d 759, 766-7 (2d Cir. 1998) (holding that an employer can be held liable for the conduct of a co-worker or non-employee if there was no

reasonable avenue for complaint or the employer knew of the conduct and did nothing about it).

The test to determine whether plaintiff was the victim of a hostile work environment "has objective and subjective elements: the misconduct shown must be 'severe or pervasive enough to create an objectively hostile or abusive work environment,' and the victim must also subjectively perceive that environment to be abusive." Alfano, 294 F.3d at 374 (quoting Harris, 510 U.S. at 21). The incidents of which a plaintiff complains "must be more than episodic; they must be sufficiently continuous and concerted in order to be deemed pervasive." Carrero v. New York City Housing Auth., 890 F.2d 569, 578 (2d Cir. 1989). The Court must look at the totality of the circumstances, including the frequency and severity of the discriminatory conduct, whether such conduct is physically threatening or humiliating, and whether such conduct unreasonably interferes with the plaintiff's work performance. See Harris 510 U.S. at 23.

Here, Plaintiff alleges that she complained to CDR on more than one occasion about Taylor's conduct and that CDR did not respond in a reasonable remedial manner to her complaints. Defendant contends that Plaintiff has not shown that someone at CDR knew of the alleged sexually explicit comments until at least September 26, 2004. Defendant further contends that, as soon as CDR had knowledge of the alleged wrongdoing, CDR responded

reasonably by launching an investigation, removing Plaintiff from the abusive environment and attempting to place her with several new consumers, so that she could work hours comparable to the hours she worked for Keuntz. Defendant further argues that Plaintiff has not shown that the environment in which she worked was either objectively or subjectively hostile. Taking into consideration the totality of the circumstances, this Court finds that there is no genuine issue of material fact with respect to Plaintiff's claim for discrimination.

Initially, this Court notes that, even considering the facts in the light most favorable to the Plaintiff, Plaintiff has not established that she subjectively perceived the working environment to be hostile. Plaintiff testified that she did not follow up with her first complaint and she did not attempt to find a different consumer because Taylor apologized and because, she stated, "Why? I had a great job. I loved my job. Why would I do that?". While not entirely dispositive of Plaintiff's claim, this testimony does not indicate a working environment that plaintiff subjectively feels is "permeated with discriminatory intimidation, ridicule and insult that is sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment." Harris v. Forklift Systems, Inc., 510 U.S. 17, 21 (1993).

This Court also finds that Plaintiff has not shown that CDR knew of the situation and failed to reasonably respond. To establish a claim for a hostile work environment based on the conduct of a non-employee, Plaintiff must establish that someone at CDR knew of the situation, and that CDR failed to take reasonable remedial action in response. See Duch v. Jakubek, 588 F.3d 757, 763 (2d Cir. 2009); see also Torres v. Pisano, 116 F3d 625, 634 (2d Cir. 1997). Based on the record, it appears that Plaintiff attempted to call CDR prior to September 2004, but she did not speak with anyone. She states that she left a message, but she does not state with whom she left the message or what was the contents of the message. Because the record does not indicate that someone at CDR knew of the alleged harassment prior to September 2004, or that this knowledge could be imputed to CDR, this Court does not find that a reasonable jury could conclude that CDR had knowledge of harassment and failed to reasonably respond prior to September 2004. See Duch 588 F.3d at 763.

Lastly, this Court does not find that the Plaintiff has shown that the remedial actions taken by CDR following the September 2004 incident were unreasonable under the circumstances. The reasonableness of the employer's response is determined by examining the particular facts of the case including, *inter alia*, the "gravity of the harm, the nature of the work environment and the resources available to the employer." See Snell v. Suffolk

County, 782 F.2d 1094 (2d Cir. 1986). In this case, the record reveals that Plaintiff was removed from her position with Keuntz, and she was not obligated to return following the September 26, 2004 incident. CDR did not have the ability to remove Plaintiff, as this is in the sole discretion of the consumer and the SDO, but they informed Plaintiff that they would not attempt to return her to the allegedly abusive environment and that they would attempt to find her another consumer. Additionally, when CDR became aware of the Plaintiff's situation, they investigated the complaint and attempted to convince Keuntz to select a new SDO. However, the hiring and firing of the SDO is also within the sole discretion of the consumer. Accordingly, this Court finds that CDR took all reasonable steps to ensure that the Plaintiff was no longer subject to the allegedly hostile environment.

With respect to Plaintiff's continued employment with other consumers in the CDPAS program, the record reveals that CDR attempted to place the Plaintiff with several (not less than seven) other consumers. However, Plaintiff was unwilling to attend the interviews set up by CDR. Accordingly, as CDR is not in control of the hours required for each individual consumer or their selection of an attendant, Plaintiff's weekly hours were limited by the hours needed by the consumers with whom she chose to interview and who ultimately selected her as their attendant. Plaintiff contends that she was unwilling to work for male consumers, and this was the

reason she refused to attend the interviews. However, the record indicates that not all of the available consumers were male and that Plaintiff later worked for a male consumer, Joe Bonomo. Accordingly, this Court finds that CDR acted reasonably, with the resources that were available to it, to place the Plaintiff with a consumer following the September 2004 incident.

Plaintiff also argues that CDR failed to reasonably respond to the situation (by finding her a new consumer) until she filed her complaint with the EEOC. However, the record reveals that Plaintiff was placed with her first consumer in early October, prior to filing her EEOC Charge. Further, CDR immediately placed Plaintiff on the available attendants list and did not remove her from the list, even while she was working part-time in October, because she was not working the same number of hours she had previously worked. CDR also attempted to find other consumers with whom the Plaintiff could make up the hours she had lost, however, Plaintiff did not wish to attend the interviews because the potential consumers were male. This Court does not find that there is evidence to support Plaintiff's argument that CDR's response was in any way connected to her filing a complaint with the EEOC, as CDR had already begun to respond to the situation by attempting to find Plaintiff a new placement and placing her on the available attendant's list.

Therefore, because the record reveals that CDR took reasonable remedial actions when they became aware of the allegedly abusive environment, this Court finds that Plaintiff has established that there is a material issue of fact with respect to her claim for a hostile work environment.

CONCLUSION

For the reasons set forth above, Plaintiff has not established that she subjectively perceived her working environment to be hostile or that there is a legal basis to impute Taylor's conduct to CDR. Therefore, this Court finds that Plaintiff has not established a claim for a hostile work environment under Title VII. Accordingly, this Court grants Defendant's Motion for Summary Judgment and Plaintiff's Complaint is hereby dismissed with prejudice.

ALL OF THE ABOVE IS SO ORDERED.

s/ Michael A. Telesca
MICHAEL A. TELESKA
United States District Judge

Dated: Rochester, New York
April 8, 2011

UNITED STATES DISTRICT COURT

for the

Western District of New York

MELISSA GENERAL,

Plaintiff

v.

CENTER FOR DISABILITY RIGHTS,

Defendant

Civil Action No. 6:07-CV-6159

JUDGMENT IN A CIVIL ACTION

The court has ordered that (check one):

[] the plaintiff (name) recover from the defendant (name) the amount of dollars (\$) , which includes prejudgment interest at the rate of % , plus postjudgment interest at the rate of % , along with costs.

[] the plaintiff recover nothing, the action be dismissed on the merits, and the defendant (name) recover costs from the plaintiff (name)

X other: The Plaintiff's Complaint is dismissed with prejudice.

This action was (check one):

[] tried by a jury with Judge presiding, and the jury has rendered a verdict.

[] tried by Judge without a jury and the above decision was reached.

X decided by Judge Michael A. Telesca on a motion for summary judgment.

Date: Apr 12, 2011

CLERK OF COURT

s/Michael J. Roemer

Signature of Clerk or Deputy Clerk

CASREF, CLOSED_2011, JWF

U.S. DISTRICT COURT
U.S. District Court, Western District of New York (Rochester)
CIVIL DOCKET FOR CASE #: 6:07-cv-06159-MAT-JWF

General v. Center For Disability Rights
Assigned to: Hon. Michael A. Telesca
Referred to: Hon. Jonathan W. Feldman
Demand: \$50,000
Cause: 42:2000 Job Discrimination (Sex)

Date Filed: 03/21/2007
Date Terminated: 04/12/2011
Jury Demand: Plaintiff
Nature of Suit: 442 Civil Rights: Jobs
Jurisdiction: Federal Question

Plaintiff

Melissa General

represented by **Christina A. Agola**
2100 First Federal Plaza
28 East Main Street
Rochester, NY 14614
585-262-3320
Fax: 585-262-3325
Email: cagola@wnycivilrights.com
ATTORNEY TO BE NOTICED

V.

Defendant

Center For Disability Rights

represented by **Matthew J. Fusco**
Chamberlain, D'Amanda, Oppenheimer
& Greenfield, LLP
1600 Crossroads Building
Two State Street
Rochester, NY 14614
585-232-3730
Fax: 585-232-3882
Email: mjf@cdlawyers.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Robert G. McCarthy
Chamberlain D'Amanda Oppenheimer
& Greenfield LLP
1600 Crossroads Building
Two State Street
Rochester, NY 14614
585-232-3730
Fax: 585-232-3882
Email: rgm@cdlawyers.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Erin M. Sobkowski
 Chamberlain D'Amanda Oppenheimer
 & Greenfield LLP
 1600 Crossroads Building
 Two State Street
 Rochester, NY 14614
 585-232-3730
 Fax: 585-232-3882
 Email: ems@cdlawyers.com
 TERMINATED: 12/16/2009

Date Filed	#	Docket Text
03/21/2007	<u>1</u>	COMPLAINT against Center For Disability Rights , filed by Melissa General. (BJB,) (Entered: 03/26/2007)
03/21/2007	<u>2</u>	MOTION for Leave to Proceed in forma pauperis by Melissa General.(BJB,) (Entered: 03/26/2007)
06/26/2007	<u>3</u>	ORDER granting <u>2</u> Motion for Leave to Proceed in forma pauperis. The Clerk of Court is directed to file plaintiff's papers and to cause the U.S. Marshal to serve copies of the Summons, Complaint and this Order upon the named defendant without plaintiff's payment therefor, unpaid fees to be recoverable if this action terminates by monetary award in plaintiff's favor. Signed by Judge John T. Elfvin on 6/22/07. (DZ) (Entered: 06/28/2007)
06/28/2007		Summons Issued as to Center For Disability Rights. (DZ) (Entered: 06/28/2007)
06/28/2007		Remark - Copy of Order item #3, marshal form and issued summons forwarded to U.S. Marshal for service. (DZ) (Entered: 06/28/2007)
07/16/2007	<u>4</u>	ANSWER to Complaint by Center For Disability Rights.(Fusco, Matthew) (Entered: 07/16/2007)
07/17/2007	<u>5</u>	ORDER REFERRING CASE to Magistrate Judge Jonathan W. Feldman. Signed by Hon. Michael A. Telesca on July 17, 2007. (MS) (Entered: 07/17/2007)
07/18/2007		NOTICE OF RULE 16 CONFERENCE: Notice with attachments mailed to parties via US Mail. Scheduling Conference set for 8/23/2007 at 04:00 PM before Hon. Jonathan W. Feldman. (RJO) (Entered: 07/18/2007)
07/19/2007	<u>6</u>	SUMMONS Returned Executed by Melissa General. Center For Disability Rights served on 7/16/2007, answer due 8/6/2007. (RE) (Entered: 07/24/2007)
08/23/2007		NOTICE: Scheduling Conference set for 8/23/2007 is RESET for 10/10/2007 at 03:30 PM before Hon. Jonathan W. Feldman. (RJO) (Entered: 08/23/2007)
10/10/2007	<u>8</u>	Minute Entry for proceedings held before Judge Jonathan W. Feldman : Scheduling Conference held on 10/10/2007. Order issued. (RJO) (Entered: 10/12/2007)

10/11/2007	<u>7</u>	SCHEDULING ORDER: Mandatory Disclosure due by 11/9/2007. Discovery due by 3/7/2008. Join Parties/Amend Pleadings due by 12/7/2007. Motions due by 4/30/2008. Signed by Hon. Jonathan W. Feldman on 10/11/2007. (RJO) (Entered: 10/11/2007)
03/10/2008	<u>9</u>	NOTICE of Appearance by Christina A. Agola on behalf of Melissa General (Attachments: # <u>1</u> Certificate of Service Certificate of Service)(Agola, Christina) (Entered: 03/10/2008)
04/02/2008	<u>10</u>	AMENDED SCHEDULING ORDER: Mandatory disclosure due by 4/9/2008. Join Parties/Amend Pleadings due by 5/7/2008. Discovery completed by 8/7/2008. Motions due by 9/30/2008. Signed by Hon. Jonathan W. Feldman on 4/2/2008. (RJO) (Entered: 04/02/2008)
10/03/2008	<u>11</u>	SECOND AMENDED SCHEDULING ORDER: Discovery completed by 11/7/2008. Motions due by 12/30/2008. Signed by Hon. Jonathan W. Feldman on 10/3/2008. (RJO) (Entered: 10/03/2008)
07/20/2009	<u>12</u>	Minute Entry for proceedings held before Hon. Jonathan W. Feldman: Telephone Conference held on 7/20/2009. (RJO) (Entered: 07/20/2009)
07/24/2009	<u>13</u>	MOTION for Extension of Time to Complete Discovery by Center For Disability Rights.(Fusco, Matthew) (Entered: 07/24/2009)
07/24/2009	<u>14</u>	MEMORANDUM in Support re <u>13</u> MOTION for Extension of Time to Complete Discovery filed by Center For Disability Rights. (Fusco, Matthew) (Entered: 07/24/2009)
08/13/2009		NOTICE: Motion Hearing set for 9/17/2009 is RESET for 9/22/2009 at 10:30 AM in Courtroom 3 before Hon. Jonathan W. Feldman. (RJO) (Entered: 08/13/2009)
08/13/2009	<u>15</u>	ORDER Setting Hearing on Motion <u>13</u> MOTION for Extension of Time to Complete Discovery. Motion Hearing set for 10/21/2009 at 10:00 AM in Courtroom 3 before Hon. Jonathan W. Feldman. Signed by Hon. Jonathan W. Feldman on 8/13/2009. (RJO) (Entered: 08/13/2009)
08/14/2009		E-Filing Notification: Please disregard the following entry: NOTICE: Motion Hearing set for 9/17/2009 is RESET for 9/22/2009 at 10:30 AM in Courtroom 3 before Hon. Jonathan W. Feldman. (RJO). The motion hearing for <u>13</u> Motion is set for 10/21/2009 10:00 AM pursuant to order <u>15</u> signed by Judge Feldman. (LMD) (Entered: 08/14/2009)
08/19/2009		Set/Reset Deadlines as to <u>13</u> MOTION for Extension of Time to Complete Discovery. Responses due by 9/3/2009. Replies due by 9/10/2009. (RJO) (Entered: 08/19/2009)
09/03/2009	<u>16</u>	RESPONSE to Motion re <u>13</u> MOTION for Extension of Time to Complete Discovery filed by Melissa General. (Attachments: # <u>1</u> Memorandum of Law) (Agola, Christina) (Entered: 09/03/2009)
09/10/2009	<u>17</u>	AFFIRMATION filed by Center For Disability Rights filed by Center For Disability Rights. (Fusco, Matthew) (Entered: 09/10/2009)

09/10/2009	<u>18</u>	MEMORANDUM in Support re <u>13</u> MOTION for Extension of Time to Complete Discovery filed by Center For Disability Rights. (Fusco, Matthew) (Entered: 09/10/2009)
10/21/2009	19	Minute Entry for proceedings held before Hon. Jonathan W. Feldman: Motion Hearing held on 10/21/2009 re <u>13</u> MOTION for Extension of Time to Complete Discovery filed by Center For Disability Rights. No objection by plaintiff as to the 60-day extension for discovery only. Plaintiffs counsel objects to extension of dispositive motion deadline. Court directs the defendant to file a separate motion returnable before Judge Telesca if defendant will be requesting an extension to the dispositive motion deadline. (digital recording.) (LMD) (Entered: 10/21/2009)
10/22/2009	<u>20</u>	ORDER granting <u>13</u> Motion for Extension of Time to Complete Discovery. Discovery deadline extended to 12/21/2009. If defendant intends on seeking an extension of the dispositive motion deadline, such motion should be returnable before Judge Michael A. Telesca. Signed by Hon. Jonathan W. Feldman on 10/22/2009. (LMD) (Entered: 10/22/2009)
10/22/2009		Set/Reset Deadlines: Discovery completed by 12/21/2009. (LMD) (Entered: 10/22/2009)
12/17/2009	<u>21</u>	LETTER ORDER AMENDING SCHEDULING ORDER (Please Note: This docket text may <u>not</u> contain the entire contents of the attached Order. It is your responsibility to read the attached Order and download it for future reference. Direct any questions to the Chambers of the Judge who entered this Order.) Discovery to be completed by 2/22/2010. Signed by Hon. Jonathan W. Feldman on 12/17/2009. (RJO) (Entered: 12/17/2009)
05/19/2010	<u>22</u>	NOTICE of Appearance by Robert G. McCarthy on behalf of Center For Disability Rights (McCarthy, Robert) (Entered: 05/19/2010)
05/19/2010	<u>23</u>	MOTION for Summary Judgment by Center For Disability Rights.(McCarthy, Robert) (Entered: 05/19/2010)
05/19/2010	<u>24</u>	AFFIDAVIT in Support re <u>23</u> MOTION for Summary Judgment filed by Center For Disability Rights. (McCarthy, Robert) (Entered: 05/19/2010)
05/19/2010	<u>25</u>	MEMORANDUM in Support re <u>23</u> MOTION for Summary Judgment filed by Center For Disability Rights. (McCarthy, Robert) (Entered: 05/19/2010)
05/19/2010	<u>26</u>	STATEMENT OF FACTS <i>NOT IN DISPUTE PURSUANT TO LOCAL RULE 56.1</i> by Center For Disability Rights Related document: <u>23</u> Motion for Summary Judgment. (McCarthy, Robert) (Entered: 05/19/2010)
05/19/2010	<u>27</u>	CERTIFICATE OF SERVICE by Center For Disability Rights re <u>25</u> Memorandum in Support of Motion, <u>23</u> MOTION for Summary Judgment, <u>24</u> Affidavit in Support of Motion, <u>22</u> Notice of Appearance, <u>26</u> Statement of Facts (McCarthy, Robert) (Entered: 05/19/2010)
05/19/2010		NOTICE: Set/Reset Deadlines as to <u>23</u> MOTION for Summary Judgment. Motion will be submitted without oral argument on 7/8/2010 before Hon. Michael A. Telesca. No court appearances are required. Response and reply papers shall be filed in accordance with FRCP 56(c). (MS) (Entered: 05/19/2010)

		05/19/2010)
06/08/2010	<u>28</u>	ORDER re <u>23</u> MOTION for Summary Judgment filed by Center For Disability Rights, (Plaintiff's Responses due by 7/8/2010.). Signed by Hon. Michael A. Telesca on June 8, 2010. (MS) (Entered: 06/08/2010)
06/08/2010		NOTICE: Set/Reset Deadlines as to <u>23</u> MOTION for Summary Judgment. Motion will be submitted without oral argument on 7/22/2010 before Hon. Michael A. Telesca. No court appearances are required. (MS) (Entered: 06/08/2010)
07/02/2010	<u>29</u>	RESPONSE in Opposition re <u>23</u> MOTION for Summary Judgment filed by Melissa General. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Certificate of Service)(Agola, Christina) (Entered: 07/02/2010)
07/16/2010	<u>30</u>	REPLY/RESPONSE to re <u>29</u> Response in Opposition to Motion <i>Reply Memorandum of Law</i> filed by Center For Disability Rights. (McCarthy, Robert) (Entered: 07/16/2010)
07/22/2010	31	Minute Entry for proceedings held before Hon. Michael A. Telesca: Motion submitted without oral argument on 7/22/2010 re <u>23</u> MOTION for Summary Judgment filed by Center For Disability Rights. (MS) (Entered: 07/22/2010)
09/17/2010	<u>32</u>	ORDER granting defendant's motion to extend dispositive motion deadline. Plaintiff shall have 30 days from the date of this order to file her opposition. Defendant shall file its reply within 10 days of the filing of the opposition papers. Motion will be submitted on November 3, 2010. Signed by Hon. Michael A. Telesca on September 17, 2010. (MS) (Entered: 09/17/2010)
09/17/2010		NOTICE: Set/Reset Deadlines as to <u>23</u> MOTION for Summary Judgment. Motion will be submitted without oral argument on 11/3/2010 before Hon. Michael A. Telesca. No court appearances are required. (MS) (Entered: 09/17/2010)
10/15/2010	<u>33</u>	LETTER ORDER granting plaintiff's request for extension of time to file response. Responses due by 11/17/2010. Signed by Hon. Michael A. Telesca on 10/15/10. (RE) (Entered: 10/15/2010)
10/18/2010	34	TEXT ORDER re <u>23</u> MOTION for Summary Judgment filed by Center For Disability Rights, (Defendant's Replies due by 12/1/2010., Motion will be submitted without oral argument on 12/8/2010 before Hon. Michael A. Telesca.). Signed by Hon. Michael A. Telesca on October 18, 2010. (MS) (Entered: 10/18/2010)
11/16/2010	<u>35</u>	ORDER re <u>23</u> MOTION for Summary Judgment filed by Center For Disability Rights, (Plaintiff's Responses due by 11/22/2010., Defendant;s Replies due by 12/6/2010., Motion will be submitted without oral argument on 12/8/2010 10:00 AM before Hon. Michael A. Telesca.). Signed by Hon. Michael A. Telesca on November 16, 2010. (MS) (Entered: 11/16/2010)
11/22/2010	<u>36</u>	RESPONSE in Opposition re <u>23</u> MOTION for Summary Judgment filed by Melissa General. (Attachments: # <u>1</u> Plaintiff's Responses to Defendant's 56.1 Statement, # <u>2</u> Plaintiff's Local Rule 56.1 Statement of Facts, # <u>3</u> Memorandum in Support, # <u>4</u> Exhibit Volume I, # <u>5</u> Exhibit Volume II, Ex. A

		to F, # <u>6</u> Exhibit Volume II, Ex. G to N, # <u>7</u> Exhibit Volume III, # <u>8</u> Certificate of Service)(Agola, Christina) (Entered: 11/22/2010)
12/06/2010	<u>37</u>	REPLY to Response to Motion re <u>23</u> MOTION for Summary Judgment filed by Center For Disability Rights. (McCarthy, Robert) (Entered: 12/06/2010)
12/08/2010	<u>38</u>	Minute Entry for proceedings held before Hon. Michael A. Telesca: Motion submitted without oral argument on 12/8/2010 re <u>23</u> MOTION for Summary Judgment filed by Center For Disability Rights. (MS) (Entered: 12/08/2010)
04/08/2011	<u>39</u>	ORDER granting <u>23</u> Motion for Summary Judgment. Clerk to close case. Signed by Hon. Michael A. Telesca on April 8, 2011. (MK) (Entered: 04/08/2011)
04/12/2011	<u>40</u>	JUDGMENT dismissing the complaint with prejudice. Signed by Micheal J. Roemer, Clerk of Court, on 4/12/11. (RE) (Entered: 04/12/2011)

PACER Service Center			
Transaction Receipt			
04/13/2011 11:21:07			
PACER Login:	ca1559	Client Code:	
Description:	Docket Report	Search Criteria:	6:07-cv-06159-MAT-JWF
Billable Pages:	4	Cost:	0.32