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For Settlement Purposes Only

By E-mail

Vito Lopez
Assemblyman
434 South 5th Street
Brooklyn, New York 11211

Carolyn Kearns, Esq.
Deputy Counsel to the Majority
448M Capitol
Albany, New York 12248

Re: [REDACTED]

Dear Assemblyman Lopez and Ms. Kearns:

This firm, together with Gloria Allred and Nathan Goldberg of Allred Maroko Goldberg in California, represents [REDACTED] and [REDACTED] who have served respectively as Assemblyman Lopez's Chief of Staff and Deputy Chief of Staff. Both women have suffered discriminatory treatment, harassment and retaliation in violation of federal, New York State and New York City laws. Both women have complained about and protested their treatment directly with Assemblyman Lopez and the Assembly's human resources department, but the result has only been further retaliation. Because of the extent of the offensive behavior, this letter is necessarily a summary and not a listing of every instance of discrimination, harassment and retaliation. As an initial matter, we direct you to refrain from discussing these allegations any further with our clients directly.

CHW000003

Background: An Office of Young, Attractive Women Required to Wear Short Skirts and High Heels

The discrimination is rampant within Lopez's Brooklyn office and comes in all guises. It is evident that Lopez undertakes to ensure that he is surrounded by staff comprised predominantly of attractive, young women, and that he rewards those who are willing to play his sexual games, and punishes those who do not.

Although applications for staff positions are received from many qualified men and women, [REDACTED] frequently observed that Lopez would choose to interview almost entirely female candidates. The more attractive they were, the more likely that they would receive an offer. On one occasion, when Lopez was in a diner being served by a young waitress who was scheduled to come in the following day for an interview, he made a point of scanning his eyes fully up and down her body in a lustful way, and then said that he definitely wanted to hire her because he had heard she was "crazy" and "drinks a lot." During interviews with women, Lopez would ask if they had children since in his view that would hinder them from being able to commit to the job fully.

Once hired, all of the women – and none of the men – are repeatedly instructed by Lopez that they must attend social functions. In at least one staff meeting, Lopez shouted that his staff needed to do "whatever it takes" to get things done, and that "if you need to flirt with the men, then flirt." Both [REDACTED] and [REDACTED] directly observed Lopez retaliate against them if they either indicated for legitimate reasons that they could not attend a social function, or if they dared to either bring a male friend or even mention a male friend at a social function. In short, if females did not make themselves available to socialize in a manner that made them appear single, Lopez would scream and shout at them or make sarcastic remarks about men and state that they were not good at their jobs.

Women working for Lopez are also told that they should be wearing short skirts or dresses and high heels – professional suits and flats were not sufficient. Lopez has actually given cash to several female staff for the express purpose of purchasing dresses or skirts. Lopez has said that he does not want his female staff wearing pants, even in normal office settings. He has insisted that women wear earrings, that one woman get her eyebrows done, and that another woman wear low cut shirts because "her breasts are small." On one occasion, when [REDACTED] wore a dress that Lopez liked, he emphasized that the dress was very "provocative," and that that was precisely the style he wanted her to always wear. He insisted that she should go out and

buy "five dresses just like this one." Lopez frequently tells his staff the story of a woman who was successful at her job because she is flirtatious.

In short, Lopez plainly makes it a requirement of the job for certain – if not all – of the younger female staff to use their bodies and have a "flirtatious" manner. If these women refuse to do so, or attempt to push back in even the most respectful, professional ways, they are punished and held back, and told that they are not "enthusiastic" or "do not fit in."

Sexual Harassment, Including Both *Quid Pro Quo* and Hostile Work Environment

The treatment of women as sexualized objects goes beyond insisting that they dress in a "provocative" manner, wear high heels and "flirt" or attend social gatherings as single, available females. It is clear that the younger women whom Lopez targets as sexual objects will succeed and be promoted only if they engage with him and accede to his behavior.

In particular, Lopez has made sexual advances to several of his female underlings, and punished them when they refuse his advances. ██████████ ██████████ has suffered this on repeated occasions. In particular, Lopez has gradually ramped up his advances, from first insisting that she "meet" with him to discuss work after hours at bars, to indicating that he would only take her on trips if she were more positive towards him, to insisting that she share a hotel room with him, stating that they should "cuddle" and directly telling her repeatedly that he is attracted to her and that the only way she could succeed at her job is if she "leaves a window of opportunity" open for the two of them to be romantically involved. While ██████████ undertook every effort to keep the relationship professional, Lopez repeatedly attempted to turn it into a sexual one, saying frequently that his relationship with his girlfriend is not working out and "needs someone in the worst way." Each time that ██████████ rebuffed Lopez's advances, the retaliation was as swift as it was certain: she would be taken off projects, told that she would be demoted, or yelled and screamed at and told for hours that she did "not have the right attitude."

Retaliation for Reporting the Discriminatory Conduct

Both ██████████ and ██████████ have complained directly to Lopez about his behavior: ██████████ both repeatedly refused Lopez's direct advances and stated expressly that his behavior and comments made her uncomfortable, and that he had to stop talking to his staff the way he did; Ms. ██████████ indicated that she would attend events and work professionally, but is not interested in dressing only in high heels or being flirtatious to achieve her

goals. As you are well aware, they also have reported the unlawful behavior to human resources. The effect of their complaints and reports has been immediate: Lopez retaliated each time each of them rejected him and terminated them or immediately scaled back their duties and responsibilities after they reported his conduct to others, indicating that they are being demoted or fired. In particular, [REDACTED] was terminated three times by Lopez, most recently on December 11, 2011, just three days after she had called Yolande Page in tears over Lopez's behavior. [REDACTED] spoke extensively with Yolande Page, as well as with Bill Collins and Carolyn Kearns on December 28, 2011, and provided an extensive memo about the unlawful behavior on January 3, 2012. Within a day of that report, [REDACTED] was told that she was being taken off two projects, and she learned yesterday that Lopez stated that she is "no good" and "is on her way out." Late yesterday, Lopez told [REDACTED] directly that it is "time for [her] to move on," and that he would give her a good recommendation if she left.

All of this behavior is not only in direct violation of federal, state and City laws, but has an enormously detrimental impact on the women who have suffered through this outrageous behavior. Rather than being evaluated for their merits or professional contributions, both women have come to realize that they could only succeed in Lopez's office if they acceded to his discriminatory requirements and offered their bodies and appearances rather than their brains or hard work. Lopez's behavior has not only made it impossible for them to do their jobs while they were present in his office, but he has quite literally forced them out of their jobs.

We have advised [REDACTED] and [REDACTED] with respect to the range of rights and remedies they have against Lopez and other individuals for failing to take action and endorsing Lopez's behavior, as well as against their employer, which include claims for economic, emotional, and punitive damages under Title VII of the Civil Rights Act of 1964, New York Executive Law § 296, and the New York City Human Rights Law. As you are no doubt aware, under New York City law, an employer is strictly liable for the discriminatory or retaliatory behavior of a supervisor. See *Zakrzewska v. New School*, 14 N.Y.3d 469, 479-80 (N.Y. 2010) (CHRL "simply does not match up with the *Faragher-Elterth* defense" and "imposes liability on the employer in three instances[, including]: where the offending employee 'exercised managerial or supervisory responsibility'")

[REDACTED] and [REDACTED] nonetheless remain willing to explore whether this matter can be resolved prior to the initiation of legal proceedings. Specifically, if you have any interest in resolving this matter through a confidential mediation process, we and our co-counsel are available

on February 1, 2012 for such mediation through JAMS in New York City. It is our understanding from JAMS' case managers that the mediator and former judge, [REDACTED] available on that date. If you wish to engage in mediation on that date, please be in touch with us immediately. You may call either Gloria Allred or Nathan Goldberg at (323) 653-6530 or Mariann Wang at (212) 620-2603.

Please note that you are officially on notice of our investigation into this case. You should preserve any and all documents, including emails, voicemails, phone records, texts and/or any other documents concerning [REDACTED] employment and interactions with Lopez. Any alteration, loss, spoliation, or destruction of any such documents, whether in electronic, digital, or hard copy form, will constitute an obstruction of this investigation, and may subject Lopez or the Assembly to sanctions in a later legal proceeding.

Nothing in this letter is intended to waive any of [REDACTED] or [REDACTED] rights to seek monetary and equitable relief. All such rights are hereby expressly reserved.

Very truly yours,



Mariann Wang

cc: Gloria Allred, Esq.
Nathan Goldberg, Esq.