

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 49

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ALAN LEVY,

Plaintiff,

-against-

SEDGWICK DETERT MORAN & ARNOLD,
LLP, and SCOTT HAWORTH,

Decision and Order
Index No. 603300-2009
Motion Seq. 001

Defendants.

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This matter is before the Court for decision on the motion filed by Defendants Sedgwick Detert Moran & Arnold, LLP, and Scott Haworth for an order pursuant to CPLR § 3024 (b) striking certain allegedly scandalous or prejudicial material from the Complaint. For the reasons set forth below, the Court grants Defendant's motion.

1. BACKGROUND

Alan Levy was employed at the law firm Sedgwick Detert Moran & Arnold, LLP (Sedgwick), from September 2005 through December 2008. Mr. Levy worked closely with Scott Haworth, a litigation partner at the firm, who brought Levy with him when he joined Sedgwick. Mr. Levy has worked with Haworth at their prior place of employment for two years. Mr. Levy alleges he was the highest billing associate in the firm's thirteen offices across the country, billing approximately 3,000 hours per year.

Citing stress and mental health issues, Mr. Levy and took medical leave under the federal Family Medical Leave Act in April 2008, and when that expired, he went on unpaid disability leave. In November 2008, Mr. Levy alleges that he informed the firm that he was improving and that he felt ready to return to work. However, he did not wish to work with Mr. Haworth. On December 12, 2008, however, Levy was terminated after Michael Bernstein, a firm partner, informed him that "the firm simply does not have work available to support your return."

His complaint was filed on October 29, 2009, and contains only one cause of action, Disability Discrimination in violation of the New York City Human Rights Law (NYC Adm Code § 8-107 et seq.). Plaintiff wishes to amend his Complaint to add a claim of hostile work environment gender discrimination.

Paragraph thirteen and fourteen of the original Complaint state a series of allegations concerning conversations between Mr. Haworth and plaintiff during unspecified times while they worked together at Sedgwick. Defendant moves to strike the alleged conversations.

2. DISCUSSION

CPLR § 3024, titled "Motion to correct pleadings," provides as follows:

"(a) Vague or ambiguous pleadings. If a pleading is so vague or ambiguous that a party cannot reasonably be required to frame a response he may move for a more definite statement.

(b) Scandalous or prejudicial matter. A party may move to strike any scandalous or prejudicial matter unnecessarily inserted in a pleading."

Generally, relevancy is the key to determining whether material is admissible at trial. See *Soumayah v Minnelli*, 41 AD3d 390 (1st Dept 2007); *Della Villa v Constantino*, 246 AD2d 867 (3d Dept 1998); *Charney v Sullivan & Cromwell, LLP*, 17 Misc 3d 1105(A) (Sup Ct, NY County 2007).

After reviewing the Complaint and hearing oral argument, the Court concludes that paragraph 13 and 14 of the Complaint contains "scandalous or prejudicial matter" which are irrelevant to plaintiff's disability discrimination cause of action (CPLR § 3024 [b]). The conversations, while possibly demonstrating that the two men worked in a close environment where a certain level of trust developed, are not in any way demonstrative, years later, of a motive to discriminate against plaintiff on the basis of his mental disability. Therefore, the Court grants defendant's motion to strike those two specific paragraphs from the Complaint.

3. COURT'S RULING

For the reasons stated, it is hereby:

ORDERED that the motion to strike certain paragraphs of the Complaint is granted, and paragraphs 13 and 14 of the Complaint will be stricken, with leave for plaintiff to amend the Complaint; and it is further

ORDERED that the Clerk of the Court is directed to enter

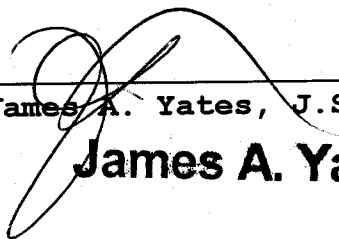
judgment accordingly.

This constitutes the Decision and Order of the Court.

Dated: March 3, 2010

MAR 03 2010

ENTER:



James A. Yates, J.S.C.

James A. Yates