

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----	X	
JENNIFER BLAIR,	:	Civil Action No. 17–CV–383
	:	
Plaintiff,	:	COMPLAINT
	:	
v.	:	
	:	
BROOKLYN TRANSPORTATION CORP.,	:	JURY TRIAL DEMANDED
	:	
Defendant.	:	
	:	
-----	X	

Plaintiff Jennifer Blair brings this lawsuit against Defendant Brooklyn Transportation Corporation and alleges as follows:

NATURE OF THE ACTION

1. This action is based on a claim of sex discrimination committed by Defendant (i) in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000 et seq., as amended by, among others, the Civil Rights Act of 1991 (“Title VII”), (ii) in violation of the New York State Human Rights Law, NY Executive Law § 290 et seq., and (iii) in violation of the New York City Human Rights Law, NYC Admin. Code § 8-101 et seq.

2. Ms. Blair seeks declaratory and injunctive relief, compensatory and punitive damages, lost wages and benefits, and costs.

THE PARTIES

3. Plaintiff Jennifer Blair is a transgender female who resides at 8925 Parsons Boulevard, Room 414, Jamaica, NY 11432.

4. Defendant Brooklyn Transportation Corporation is a school bus transportation service provider incorporated in New York. Its principal place of business is in Brooklyn, and it maintains an office at 3167 Atlantic Avenue, Brooklyn, New York 11208.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this action pursuant to 42 U.S.C. §§ 2000e-5(f) and (g) and 28 U.S.C. §§ 1331, 1343(a)(4), 2201 and 2202 and has jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367 and principles of pendent jurisdiction.

6. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and 42 U.S.C. § 2000e-5(f)(3) because Defendant resides in this District and a substantial part of the events or omissions giving rise to the claim occurred in this District.

7. This Court has personal jurisdiction over Defendant pursuant to CPLR § 301 because Defendant is incorporated in the State of New York and Defendant's principal place of business is in the State of New York.

8. On or about November 12, 2014, Ms. Blair timely filed charges of sex discrimination with the Equal Employment Opportunity Commission ("EEOC").

9. On or about June 20, 2016, the EEOC issued a reasonable cause determination and began attempting conciliation, which failed.

10. On or about December 6, 2016, Ms. Blair received a Notice of Right to Sue dated November 30, 2016.

11. Ms. Blair has fully complied with all statutory and administrative prerequisites for filing this action.

FACTUAL BACKGROUND

12. Ms. Blair was hired by Defendant in 2007 as a bus driver based in Defendant's office at 3167 Atlantic Avenue in Brooklyn.

13. At the time of her hiring, Ms. Blair's gender, gender identity, and gender expression were female. Ms. Blair's supervisors, co-workers, and peers strictly referred to her by her preferred name, Jennifer Blair.

14. Defendant was aware of Ms. Blair's transgender female status because Ms. Blair dressed and presented herself as a female, however, because Ms. Blair had not yet legally changed her name and sex, her employment-related documentation, as well as her paychecks, displayed her former name, Keith Edward Blair.

15. In 2009, Ms. Blair changed her legal name to Jennifer Blair. At that time, she updated all the documentation required for her employment, including her commercial drivers' license and related paperwork, social security records, and company paperwork, to reflect her new legal name.

16. The one exception was that Ms. Blair was not permitted to change the gender marker on her drivers' license from male to female because a DMV clerk told her, incorrectly, that proof of genital surgery was required.

17. In or around Summer 2013, Ms. Blair began working under the supervision of a new manager, William Lewis, who had access to employee personnel files containing their personal information.

18. During the course of Ms. Blair's employment, Mr. Lewis repeatedly attempted to get Ms. Blair's attention while she was at work and made inappropriate comments toward her.

19. In February 2014, Ms. Blair was subjected to an adverse employment action when Mr. Lewis, notwithstanding his knowledge of Ms. Blair's status as a transgender female, intentionally issued her medical certification form under her former name, Keith Edward Blair.

20. From 2009, when the change in Ms. Blair's legal name took effect, until February 2014, Ms. Blair's medical certification form had been issued under her legal name, Jennifer Blair.

21. The medical certification form is required for Ms. Blair to obtain medical clearance to continue operating a bus pursuant to New York State Department of Transportation and federal regulations. In particular, to obtain medical clearance in compliance with New York State Vehicle and Traffic Law § 19-A, drivers are required provide the medical certification form to a designated medical provider and obtain an annual physical exam. Upon completing the exam, drivers receive a "white card" indicating that they have complied with medical safety requirements.

22. Because Ms. Blair is diabetic, she is required to get a physical examination every six months.

23. Until February 2014, Ms. Blair had consistently obtained medical clearance without any problems.

24. After receiving the medical certification form under her former name, Ms. Blair immediately alerted Defendant of the error and requested new paperwork under her legal name.

25. Defendant did not reissue the paperwork, even though Defendant had full knowledge that doing so would prevent Ms. Blair from obtaining the physical exam necessary to renew her commercial license.

26. As a result, in June 2014, Ms. Blair received notice from Defendant that her medical clearance had lapsed and that she was no longer qualified to operate a commercial vehicle effective June 4, 2014.

27. The error on Ms. Blair's medical certification form led Ms. Blair's co-workers to discover Ms. Blair's status as transgender and resulted in emotional distress and a loss of privacy.

28. In June 2014, although she lacked the necessary paperwork under her legal name, Ms. Blair went to a designated medical provider, JFK Medport, and requested a physical examination.

29. After an employee at JFK Medport confirmed Ms. Blair's employment, the employee informed Ms. Blair that since her last physical exam, the requirements for medical clearance for diabetic drivers had been changed to require an evaluation by an endocrinologist.

30. Ms. Blair made the earliest possible appointment with an endocrinologist for July 29, 2014, after which she was evaluated and medically cleared to resume driving, although the relevant state agencies did not finish processing her paperwork until October 2014.

31. Ms. Blair was suspended from her employment without pay from June 4 to October 29, 2014.

32. During this time, Defendant failed to provide Ms. Blair with alternative work in a non-driving position in violation of Title VII.

33. Ms. Blair filed a charge with the EEOC on or about November 12, 2014, alleging sex discrimination and harassment. A true and correct copy of the EEOC charge is attached hereto as Exhibit A.

34. After reviewing evidence submitted by both Ms. Blair and Defendant, on June 20, 2016, the EEOC issued a reasonable cause determination. A true and correct copy of the EEOC's Determination is attached hereto as Exhibit B.

35. The EEOC found that Ms. Blair "was subjected to gender discrimination when [her] medical clearance form was incorrectly issued in her former name, and she incurred a loss of income when she was suspended without pay, all in violation of Title VII." The EEOC additionally determined that Defendant "failed to take prompt and appropriate corrective action by offering [Ms. Blair] alternative work in a non-driving position and/or immediately correcting the name to reflect [Ms. Blair's] preferred legal name."

36. The EEOC attempted conciliation, but that effort failed.

37. Ms. Blair requested a Notice of Right to Sue, which was issued on November 30, 2016. A true and correct copy of the Notice of Right to Sue is attached hereto as Exhibit C.

FIRST CAUSE OF ACTION

38. Ms. Blair incorporates the allegations set forth in all prior paragraphs of this Complaint as if set forth fully herein.

39. Defendant is an employer within the meaning of Title VII.

40. At all relevant times, Ms. Blair was an employee within the meaning of Title VII.

41. Defendant engaged in unlawful discrimination against Ms. Blair on the basis of her gender, in violation of Title VII of the Civil Rights Act of 1964, as amended by, among others, the Civil Rights Act of 1991, by discriminating against Ms. Blair with regard to the terms of her employment.

SECOND CAUSE OF ACTION

42. Ms. Blair incorporates the allegations set forth in all prior paragraphs of this Complaint as if set forth fully herein.

43. Defendant is an employer within the meaning of the New York State Human Rights Law.

44. At all relevant times, Ms. Blair was an employee within the meaning of the New York State Human Rights Law.

45. Defendant engaged in unlawful discrimination against Ms. Blair on the basis of her gender, in violation of the New York State Human Rights Law, NY Exec. L. § 290 et seq., and, more particularly, NY Exec. L. § 296, by discriminating against Ms. Blair with regard to the terms of her employment.

THIRD CAUSE OF ACTION

46. Ms. Blair incorporates the allegations set forth in all prior paragraphs of this Complaint as if set forth fully herein.

47. Defendant is an employer within the meaning of the New York City Human Rights Law.

48. At all relevant times, Ms. Blair was an employee within the meaning of the New York City Human Rights Law.

49. Defendant engaged in unlawful discrimination against Ms. Blair on the basis of her gender, in violation of the New York City Human Rights Law, NYC Admin Code § 8-101 et. seq., and, more particularly, NYC Admin. Code § 8-107, by discriminating against Ms. Blair with regard to the terms of her employment.

50. Defendant is liable for the actions and inactions of its agents and employees, including without limitation Mr. Lewis, pursuant to the New York City Human Rights Law, NYC Admin. Code § 8-107(13).

51. A copy of this Complaint will be timely served upon the New York City Commission on Human Rights and the Corporation Counsel.

DEMAND FOR JURY TRIAL

Ms. Blair demands a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Ms. Blair respectfully requests that this Court enter judgment:

a. On the first cause of action, declaring that Defendant engaged in unlawful discrimination against Ms. Blair on the basis of her gender, in violation of Title VII of the Civil

Rights Act of 1964, as amended by, among others, the Civil Rights Act of 1991, by discriminating against Ms. Blair with regard to the terms of her employment.

b. On the second cause of action, declaring that Defendant engaged in unlawful discrimination against Ms. Blair on the basis of her gender, in violation of the New York State Human Rights Law, NY Exec. L. § 290 et seq., and, more specifically, NY Exec. L. § 296, by discriminating against Ms. Blair with regard to the terms of her employment.

c. On the third cause of action, declaring that Defendant engaged in unlawful discrimination against Ms. Blair on the basis of her gender, in violation of the New York City Human Rights Law, NYC Admin Code § 8-101 et. seq., and, more specifically, NYC Admin. Code § 8-107, by discriminating against Ms. Blair with regard to the terms of her employment.

d. On all causes of action, awarding compensatory damages for personal injury and past, present, and future pain and suffering (collectively referred to as “Compensatory Damages”) and punitive damages in the maximum amounts permitted by law, together with full compensation for all past lost wages and benefits.

e. On all causes of action, awarding reasonable attorneys’ fees pursuant to Title VII of the Civil Rights Act of 1964, as amended by among others, 42 U.S.C. § 1988, the New York State Human Rights Law, NY Exec. L. § 297(10), the New York City Human Rights Law, NYC Admin Code § 8-101 et. seq., and any other applicable fee shifting statutes.

f. Granting Ms. Blair all costs incurred and disbursements paid in the course of this action;

g. Granting Ms. Blair pre-judgment interest; and

h. Granting Ms. Blair such other and further relief as the Court deems just and proper.

New York, New York
January 24, 2017

By: s/ Neil K. Roman
Neil K. Roman
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Katherine L. Bromberg, of Counsel

Counsel for Plaintiff Jennifer Blair

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Jennifer Blair

(b) County of Residence of First Listed Plaintiff Queens County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Neil K. Roman, Covington & Burling, 620 Eighth Ave. New York, NY
10018-1405 (212) 841-1000

DEFENDANTS

Brooklyn Transportation Corp.

County of Residence of First Listed Defendant Kings County
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY	FEDERAL TAX SUITS
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer w/Disabilities - Employment <input type="checkbox"/> 446 Amer w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 870 Taxes (U S Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
IMMIGRATION			<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions		

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. 2000 et seq.

Brief description of cause:
Discrimination in violation of Title VII

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____ CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE: 01/24/2017 SIGNATURE OF ATTORNEY OF RECORD: Neil K. Roman

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG JUDGE _____

Print

Save As...

Reset

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

I, Neil K. Roman, counsel for Jennifer Blair, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- the complaint seeks injunctive relief,
- the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? No
- 2.) If you answered "no" above:
 - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? No
 - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? _____

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

- Yes
- No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

- Yes (If yes, please explain)
- No

I certify the accuracy of all information provided above.

Signature: Neil K. Roman

EXHIBIT A

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

FEPA
 EEOC

New York City Commission on Human Rights, New York State Division of Human Rights and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

Ms. Jennifer Blair

Home Phone (Incl. Area Code)

(646)715-9243

Date of Birth

06/30/1972

Street Address

115-23 Jamaica Ave

City, State and ZIP Code

Queens, NY 11418

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

Brooklyn Transportation Corporation

No. Employees, Members

15+

Phone No. (Include Area Code)

(718) 647- 5100

Street Address

3167 Atlantic Avenue

City, State and ZIP Code

Brooklyn, NY 11208

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

RACE COLOR SEX RELIGION NATIONAL ORIGIN
 RETALIATION AGE DISABILITY OTHER (Specify below.)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

02/2014

Latest

6/4/14

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

STATEMENT OF CLAIM

I am an employee of Brooklyn Transportation Corporation working as a bus driver. I have worked for the company for nearly eight years and have an excellent driving record. Brooklyn Transportation has discriminated against me because of my sex, specifically because I am a transgender woman. Since February of 2014, I have been subject to adverse terms and conditions of employment which my cisgender (non-transgender) co-workers do not experience. I attempted to resolve this issue internally to no avail.

I was hired by Brooklyn Transportation in 2007 to work as a bus driver. At the time, I went by Jennifer but my legal name was culturally male. In 2009, I had my name legally changed to Jennifer Blair. My commercial driver's license and related paperwork, social security records, and company paperwork were updated with my legal name after obtaining the name change. Unfortunately I was not able to change the gender marker on my drivers' license to female. Brooklyn Transportation is aware that I am a transgender woman because until 2009 I had to use my former name to receive paychecks.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - When necessary for State and Local Agency Requirements



I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

ELIZABETH U CUKOR

11/12/14
Date

Jennifer Blair
Charging Party Signature

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
 (month, day, year) **11/12/14** STATE OF NEW YORK

2017 NOV 28 10 46 28 AM
CLIFFFIELD INKINGS COUNTY

EEOC Form 5 (5/01)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

FEPA
 EEOC

New York City Commission on Human Rights, New York State Division of Human Rights

and EEOC

State or local Agency, if any

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

(continued from previous page)

A manager, William Lewis, started working at Brooklyn Transportation in Summer of 2013 and has access to employees' personal information via their personnel files. While at work, he would attempt to get my attention. He also made unwanted and inappropriate comments to me based on sex. It made me feel uncomfortable in the workplace.

As a bus operator employed by Brooklyn Transportation I am required to have a yearly physical in order to comply with New York State Department of Transportation and Federal regulations. Drivers who pass the physical get a "white card" stating that they have medical clearance. From when I changed my name until 2014, Brooklyn transportation issued the paperwork I needed to get clearance, in my legal name, Jennifer Blair.

In February of 2014, Brooklyn Transportation issued paperwork, necessary for me to maintain my medical clearance in my former name, which is culturally male. I was shocked and humiliated. I immediately alerted Brooklyn Transportation about the error and asked for new paperwork with my legal name. However, Brooklyn Transportation did not issue paperwork in my correct name, which prevented me from getting a physical.

In June of 2014, I received a notice from the Department of Transportation informing me that my medical certification had lapsed and that I was unable to drive. I immediately went to get a physical. I still did not have necessary paperwork in my legal name from Brooklyn Transportation, however I convinced the Medical Provider to call Brooklyn Transportation to get the information necessary to evaluate me. However, my doctor informed me that the requirements for medical clearance had changed around April of 2014 and that I would have to be evaluated by an endocrinologist also. I made an active effort to contact numerous endocrinologists to schedule an appointment in order to return to work and made the earliest possible appointment—July 29, 2014. I was medically cleared at that appointment but processing the necessary paperwork through state agencies took until on or around October, 2014.

As a result of Brooklyn Transportation's discrimination, I experienced loss of income. Brooklyn transportation suspended me without pay from June, 2014 until October 29, 2014. As a result of their discriminatory actions I could not practice my profession, bus driving, anywhere. I also experienced emotional distress and humiliation. Brooklyn Transportation's deliberate use of my former name led to my co-workers discovering that I am transgender without my consent. I highly value my privacy and try to maintain separation between my professional and personal lives. I know that my status as a transgender woman is being discussed in the workplace and I feel that I now have to be more cautious in the workplace. This is very upsetting to me.

ELIZABETH U CUKOR

NOTARY PUBLIC STATE OF NEW YORK

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - When necessary for State and Local Agency Requirements

NO 02CU6284879
 QUALIFIED IN KINGS COUNTY

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

11/12/14
 Date

Jennifer Blair
 Charging Party Signature

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
 (month, day, year)

PRIVACY ACT STATEMENT: Under the Privacy Act of 1974, Pub. Law 93-579, authority to request personal data and its uses are:

1. **FORM NUMBER/TITLE/DATE.** EEOC Form 5, Charge of Discrimination (5/01).
2. **AUTHORITY.** 42 U.S.C. 2000e-5(b), 29 U.S.C. 211, 29 U.S.C. 626, 42 U.S.C. 12117.
3. **PRINCIPAL PURPOSES.** The purposes of a charge, taken on this form or otherwise reduced to writing (whether later recorded on this form or not) are, as applicable under the EEOC anti-discrimination statutes (EEOC statutes), to preserve private suit rights under the EEOC statutes, to invoke the EEOC's jurisdiction and, where dual-filing or referral arrangements exist, to begin state or local proceedings.
4. **ROUTINE USES.** This form is used to provide facts that may establish the existence of matters covered by the EEOC statutes (and as applicable, other federal, state or local laws). Information given will be used by staff to guide its mediation and investigation efforts and, as applicable, to determine, conciliate and litigate claims of unlawful discrimination. This form may be presented to or disclosed to other federal, state or local agencies as appropriate or necessary in carrying out EEOC's functions. A copy of this charge will ordinarily be sent to the respondent organization against which the charge is made.
5. **WHETHER DISCLOSURE IS MANDATORY; EFFECT OF NOT GIVING INFORMATION.** Charges must be reduced to writing and should identify the charging and responding parties and the actions or policies complained of. Without a written charge, EEOC will ordinarily not act on the complaint. Charges under Title VII or the ADA must be sworn to or affirmed (either by using this form or by presenting a notarized statement or unsworn declaration under penalty of perjury); charges under the ADEA should ordinarily be signed. Charges may be clarified or amplified later by amendment. It is not mandatory that this form be used to make a charge.

NOTICE OF RIGHT TO REQUEST SUBSTANTIAL WEIGHT REVIEW

Charges filed at a state or local Fair Employment Practices Agency (FEPA) that dual-files charges with EEOC will ordinarily be handled first by the FEPA. Some charges filed at EEOC may also be first handled by a FEPA under worksharing agreements. You will be told which agency will handle your charge. When the FEPA is the first to handle the charge, it will notify you of its final resolution of the matter. Then, if you wish EEOC to give Substantial Weight Review to the FEPA's final findings, you must ask us in writing to do so within 15 days of your receipt of its findings. Otherwise, we will ordinarily adopt the FEPA's finding and close our file on the charge.

NOTICE OF NON-RETALIATION REQUIREMENTS

Please **notify** EEOC or the state or local agency where you filed your charge **if retaliation is taken against you or others** who oppose discrimination or cooperate in any investigation or lawsuit concerning this charge. Under Section 704(a) of Title VII, Section 4(d) of the ADEA, and Section 503(a) of the ADA, it is unlawful for an *employer* to discriminate against present or former employees or job applicants, for an *employment agency* to discriminate against anyone, or for a *union* to discriminate against its members or membership applicants, because they have opposed any practice made unlawful by the statutes, or because they have made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the laws. The Equal Pay Act has similar provisions and Section 503(b) of the ADA prohibits coercion, intimidation, threats or interference with anyone for exercising or enjoying, or aiding or encouraging others in their exercise or enjoyment of, rights under the Act.

EXHIBIT B



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
New York District Office

33 Whitehall Street, 5th Floor
New York, NY 10004-2112
For General Information: (800) 669-4000
TTY: (800)-669-6820
District Office: (212) 336-3620
General FAX: (212) 336-3625

DETERMINATION

Charging Party:

Jennifer Blair
115-23 Jamaica Avenue
Queens, NY 11418

Respondent:

Brooklyn Transportation Corporation
3167 Atlantic Avenue
Brooklyn, NY 11208

Re: *Jennifer Blair v. Brooklyn Transportation Corporation*
EEOC Charge No. : 520-2015-00900

On behalf of the U.S. Equal Employment Opportunity Commission (“EEOC” or “Commission”), I issue the following Determination on the merits of the above referenced Charge of Discrimination (“Charge”) filed under Title VII of the Civil Rights Act of 1964 (“Title VII”), as amended. Respondent is an employer within the meaning of Title VII and all requirements for coverage and timeliness have been met.

On November 28, 2014, Jennifer Blair (“Charging Party”) filed the above referenced Charge with the EEOC alleging that she was subjected to discrimination on the basis of her sex (female) by Brooklyn Transportation Corporation (“Respondent”).

In 2007, Charging Party was hired as Bus Driver by Respondent. Charging Party claims that at the beginning of her employment, she went by her preferred name, Jennifer, but her legal name at the time, Keith, was still culturally male. She claims that Respondent was aware of her transgender female status because from the beginning of her employment until 2009 Charging Party used her former name to receive paychecks. In 2009, CP reports that she legally changed her legal name to Jennifer Blair and all of her requisite documents required for her job were updated with her present legal name. Charging Party acknowledges that she was not able to change the gender marker on her driver’s license until recently, however, Charging Party asserts that since 2009, all of her required paperwork to perform the functions of her job was issued in her preferred legal name, despite this incorrect gender marker.

In the summer of 2013, Charging Party claims that she began working with a new Manager, Mr. William Lewis, who had access to employees’ personal information. Charging Party claims that Mr. Lewis subjected her to unwelcome flirtation, leering and comments about her physical attributes.

Charging Party alleges that in February 2014 she was subjected to adverse employment action, specifically because she is a transgender female, when Mr. Lewis issued her medical certification form in her former name. Charging Party insists that she repeatedly asked

The undersigned, being duly sworn, depose and say that the foregoing is a true and correct copy of the original as the same appears in the files of the undersigned, and that the same is a true and correct copy of the original as the same appears in the files of the undersigned.

Subscribed and sworn to before me this _____ day of _____, 2017.

Notary Public in and for the State of _____

I, _____, do hereby certify that the foregoing is a true and correct copy of the original as the same appears in the files of the undersigned, and that the same is a true and correct copy of the original as the same appears in the files of the undersigned.

Witness my hand and the seal of my office this _____ day of _____, 2017.

Notary Public in and for the State of _____

I, _____, do hereby certify that the foregoing is a true and correct copy of the original as the same appears in the files of the undersigned, and that the same is a true and correct copy of the original as the same appears in the files of the undersigned.

Witness my hand and the seal of my office this _____ day of _____, 2017.

Notary Public in and for the State of _____

Respondent to change the name on her medical certification form to her preferred legal name but Respondent failed to take prompt corrective action. Because of this, Charging Party claims that her medical certification lapsed and she was not able to drive, thus she incurred a loss of income when she was suspended without pay from June 2014 until October 29, 2014. Furthermore, Respondent also failed to provide Charging Party alternative work in a non-driving position, all in violation of Title VII.

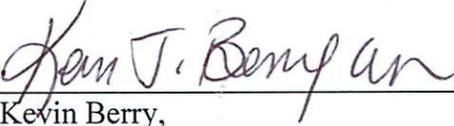
Respondent denies Charging Party's allegation of sex discrimination. Respondent asserts that it did not issue the medical certification paperwork issued to Charging Party. It claims that the incorrect name was issued to Charging Party by the Department of Motor Vehicle because of the incorrect gender marker.

The Commission has reviewed the evidence submitted by both parties. Based upon an analysis of the documentary evidence obtained by the EEOC during the investigation of this Charge, the Commission has determined there is reasonable cause to believe that the Charging Party was subjected to gender discrimination when Charging Party's medical clearance form was incorrectly issued in her former name, and she incurred a loss of income when she was suspended without pay, all in violation of Title VII. The Commission also determined that Respondent failed to take prompt and appropriate corrective action by offering Charging Party alternative work in a non-driving position and/or immediately correcting the name to reflect Charging Party's preferred legal name. However, the record does not support Charging Party's claim that the alleged unwelcome comments that she was subjected to created a hostile work environment for her.

This Determination is final. Title VII requires that if the Commission determines that there is reasonable cause to believe that a violation has occurred, it shall endeavor to eliminate the alleged unlawful employment practice by informal methods of conference, conciliation and persuasion. Having determined that there is reasonable cause to believe that a violation has occurred, the Commission now invites both parties to join with it in a collective effort toward a just resolution of this matter. A representative of this office will be in contact with both parties in the near future to begin the conciliation process.

Disclosure of information obtained by the Commission during the conciliation process will be made in accordance with the statutes and Section 1601.26 of the Commission's Procedural Regulations. If a Respondent declines to enter into settlement discussions, or when, for any other reason, the Commission's representative is unable to secure a settlement acceptable to the Commission's District Director, the Director will so inform the Respondent in writing of the court enforcement alternative of the Commission.

On behalf of the Commission:


Kevin Berry,
District Director

JUN 20 2016

Date

EXHIBIT C

EEOC Form 161-A (11/09)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE
(CONCILIATION FAILURE)

To: Jennifer Blair
44 Aberdeen Street
2nd Floor
Brooklyn, NY 11207

From: New York District Office
33 Whitehall Street
5th Floor
New York, NY 10004

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
520-2015-00900	Mabel Tso, Investigator	(212) 336-3762

TO THE PERSON AGGRIEVED:

This notice concludes the EEOC's processing of the above-numbered charge. The EEOC found reasonable cause to believe that violations of the statute(s) occurred with respect to some or all of the matters alleged in the charge but could not obtain a settlement with the Respondent that would provide relief for you. In addition, the EEOC has decided that it will not bring suit against the Respondent at this time based on this charge and will close its file in this case. This does not mean that the EEOC is certifying that the Respondent is in compliance with the law, or that the EEOC will not sue the Respondent later or intervene later in your lawsuit if you decide to sue on your own behalf.

- NOTICE OF SUIT RIGHTS -

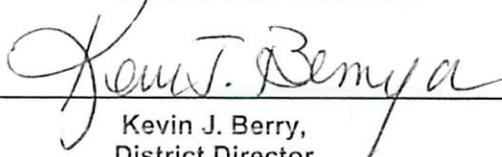
(See the additional information, attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission


Kevin J. Berry,
District Director

NOV 30 2016

Enclosures(s)

(Date Mailed)

CC: Respondent Attorney
Jeffrey Pollack
MINTZ & GOLD
600 Third Avenue, 25th Floor
New York, NY 10016

Charging Party Attorney:
Katherine Bromberg, Esq.
NEW YORK LEGAL ASSISTANCE GROUP
7 Hanover Square
New York, NY 10004

Enclosure with EEOC
Form 161-A (11/09)

**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),
the Genetic Information Nondiscrimination Act (GINA), or the Age
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge within 90 days of the date you receive this Notice. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell *him or her the date you received it*. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed within 90 days of the date this Notice was mailed to you (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred more than 2 years (3 years) before you file suit may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit before 7/1/10 – not 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, *suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.*

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.