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December 4, 2025

VIA CM/ECF

Hon. Mae A. D'Agostino
U.S. District Judge
United States District Court Northern District of New York
James T. Foley U.S. Courthouse
445 Broadway
Albany, NY 12207

Re: Buckley v Village of Saranac Lake
Case No.: 8:25-CV-01524 (MAD/PJE)
Our File No.: 08050

Dear Judge D'Agostino:

Our firm represents the Village of Saranac Lake, Saranac Lake Police Department and Leigh Wenske in the above-mentioned matter. By way of this letter, pursuant to Rule 2(A)(i) of this Court's Individual Rules and Practices, the Defendants request a leave to file a motion to dismiss.

Defendants intend to base their motion on the grounds that Plaintiff's New York State Human Rights Law claims ("HRL" claims) are barred by the applicable statute of limitations. Plaintiff initiated a complaint with the New York State Division of Human Rights (SDHR) on April 27, 2022, regarding alleged incidents that occurred in 2021 and 2022. On May 16, 2024, plaintiff's (former) attorney requested that the SDHR complaint be dismissed on the grounds of administrative convenience as plaintiff sought to pursue the matter in federal court. At plaintiff's request, the SDHR dismissed her complaint effective October 2, 2024.

A plaintiff has the right to voluntarily withdraw their administrative complaint with the SDHR in exchange for filing a complaint with the court. However, any judicial proceedings following the annulment are subject to New York's general statute of limitations bar, beginning at the date of the alleged discrimination. Bishop v. Henry Modell & Co., No. 08-CV-7541, 2009 WL 3762119, at *8 & n.8 (S.D.N.Y. Nov. 10, 2009) (collecting cases); See also Henderson v. Town of Van Buren, 789 N.Y.S.2d 355, 356 (4th Dep't 2005); Farrugia v. North Shore Univ. Hosp., 820 N.Y.S.2d 718, 723 (Sup. Ct. 2006). While a complainant may annul their election to the administrative process at the SDHR prior to a hearing and then proceed to court, if such annulment is made, any judicial proceedings are

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subject to New York's statute of limitations measured from the occurrence of the discrimination, with no tolling for the period in which the claim was pending in the administrative process before the SDHR. Id.

When a plaintiff requests a dismissal for administrative convenience so that they can pursue their case in federal court, then they have also, by necessity, annulled their election of remedies. As a result, their right to subsequently bring suit in "a court of appropriate jurisdiction shall be limited by the statute of limitations in effect in such court at the time the complaint was initially filed with the division." N.Y. Exec. Law § 297(9).

At the time the plaintiff filed her SDHR complaint in 2022, the limitations period was three years from the alleged discriminatory act. Given this information, Defendants believe that Plaintiff's NYSHRL claims are barred due to the statute of limitations. Thus, Defendants respectfully request a leave to file a motion to dismiss.

Very truly yours,

NAPIERSKI, VANDENBURGH,
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