To Be Argued By:
TONI ANN HOLLIFIELD
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COURT OF APPEALS
STATE OF NEW YORK X

In the Matter of CLIFTON PARK APARTMENTS, LLC, &c., et al.,

Respondents,

APL-2022-00179

v.

NEW YORK STATE DIVISION OF HUMAN RIGHTS,

Appellant,

et al.,

Respondents.

(And Another Related Proceeding.)
X

BRIEF ON BEHALF OF APPELLANT NEW YORK STATE DIVISION OF HUMAN RIGHTS

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PRELIMINARY STATEMENT

In order for the State Division of Human Rights (Division) to fulfill its statutory mission of "eliminat[ing] and prevent[ing] discrimination" (Executive Law § 290 [3]), a complainant must be able to file a good-faith discrimination complaint without fear that the content of that complaint could lead the respondent to threaten to sue them for defamation or libel. Indeed, the Human Rights Law depends on "the unfettered right of those who are colorably aggrieved to file and litigate complaints" (*Matter of Electchester Housing Project, Inc. v Rosa*, 225

AD2d 772, 773 [2d Dept 1996]). Otherwise, those seeking to assert their rights under the Law will be discouraged from filing discrimination complaints, frustrating the public interest the Legislature recognized.

Annulling the Division's *Notice and Final Order* on the complaint of CityVision Services, Inc. (CityVision) and Leigh Renner (Renner) (collectively, Complainants) (*Final Order*) (R. 51-76[1]), the court below held that the letter written by Respondent David H. Pentkowski, Esq. (Pentkowski), the attorney for Respondent Clifton Park Apartments, LLC, the owner of Pine Ridge II Apartments (Pine Ridge), to Complainants, calling the original complaint they had filed at the Division "'false, fraudulent and libelous'" and asserting that his client "would be expecting compensation" from Complainants for the expenses incurred in defending its actions did not constitute illegal retaliation. (R. 7 [*Matter of Clifton Park Apts., LLC v New York State Div. of Human Rights*, 204 AD3d 1358, 1359 [3d Dept 2022], *lv granted* 39 NY3d 904 [2022].)

The Division maintains that, in so holding, the Third Department exceeded its "extremely narrow" (*Matter of State Div. of Human Rights (Granelle)*, 70 NY2d 100, 106 [1987]) judicial review authority to consider whether the determination of the Division's Commissioner was supported by substantial evidence on the record. Instead, it set aside that determination because the Court found an alternative

[1] Numbers following the letter "R." refer to pages of the *Appendix*.

interpretation of the evidence to be reasonable (*see 300 Gramatan Ave. Assoc. v State Div. of Human Rights*, 45 NY2d 176 [1978]; *Matter of Mize v State Div. of Human Rights*, 33 NY2d 53 [1973]; *Rainer N. Mittl, Ophthalmologist, P.C. v New York State Div. of Human Rights*, 100 NY2d 326 [2003]). In doing so, the Third Department disregarded this Court's long-established holding that a Division determination, so long as substantial evidence supports it, cannot be annulled "merely because the opposite decision would have been reasonable and also sustainable" (*Matter of Mize,* 33 NY2d at 56).

Additionally, the Third Department erred when it failed to remit this matter to the Division for a determination of the "factual issues as to whether [complainants'] subjectively held belief that [they] were entitled to the protection of the Human Rights Law was reasonable" (*Modiano v Elliman*, 262 AD2d 223, 223 [1st Dept 1999]), after it stated that the Division's Commissioner had failed to make such a determination and that such failure would "typically … result in remittal" (R. 7 [*Clifton Park Apts.,* 204 AD3d at 1360]). In the *Final Order*, the Commissioner had concluded that the complainants in the instant matter had made "a good faith Division claim" (R. 73 [*Final Order* at pp 5]).

QUESTIONS PRESENTED

I. In annulling the Division's determination that the letter Respondents Clifton Park Apartments, LLC (Pine Ridge) and David H. Pentkowski, Esq. sent to Complainants threatening a lawsuit for their having previously filed a Division complaint was an unlawful act of retaliation, did the Third Department err by substituting its judgment for that of the Division's Commissioner regarding a question of fact, thus exceeding its extremely narrow judicial review authority?

The court below, annulling the Division's Findings of Fact on this matter, held that the threatening letter did not constitute retaliation under the Human Rights Law

II. Did the Third Department err when, having found that the Division's ALJ "did not undertake any analysis as to whether CityVision reasonably believed that Pine Ridge was engaging in a discriminatory practice during the telephone call in question," it failed to remit this matter to the Division for further proceedings regarding this question of fact?

The court below, considering the analysis on this issue insufficient, nonetheless declined to remit the matter to the Division for further fact-finding.

STATEMENT OF THE CASE

Introduction

Appellant New York State Division of Human Rights (Division) appeals from the Judgment of the Supreme Court of the State of New York, Appellate Division, Third Judicial Department dated April 28, 2022 (R. 6-8 [*Clifton Park Apts.*, 204 AD3d 1358]), which granted the Petition filed by Respondents Clifton Park Apartments, LLC, as Owner of Pine Ridge II Apartments (Pine Ridge) and David H. Pentkowski, Esq. (Pentkowski) (collectively, Respondents), and annulled the Division's *Final Order*.

In its *Final Order*, the Division found Respondents liable for retaliating against Complainants CityVision Services, Inc. (CityVision) and Leigh Renner (Renner) (collectively, Complainants), in violation of the Human Rights Law, for having filed a complaint the Division had dismissed after investigation, when Respondents thereafter sent a letter seeking damages for "false, fraudulent and libelous" allegations. The Division ordered that Respondents pay CityVision damages for the diversion of resources it suffered as a result of Respondents' unlawful retaliation and pay CityVision's attorneys reasonable attorney's fees and expenses. Additionally, the Division assessed a civil fine and penalty against

Respondents, to be paid to the State of New York. (*see generally* R. 51-76 [*Final Order*].)

The Division concluded that Complainants filed their initial complaint at the Division against parties they in good faith believed had violated the Human Rights Law, even if the Division ultimately disagreed and dismissed that complaint for lack of probable cause. In retaliation for their efforts, according to the *Final Order,* Respondents, calling Complainants' allegations "false, fraudulent and libelous," threatened them with "damages" if Complainants did not contact them to "discuss a resolution to this claim." (*see* R. 71 [FF-6[2]; FF-7].) Finding that Complainants were victims of illegal retaliation, the Division recognized the importance of ensuring an environment in which persons may in good faith report discrimination without the threat of retaliatory legal action even if their claims are ultimately not sustained.

By Notice of Petition and Petition filed on or about June 29, 2020 (R. 11-21), Respondents commenced this proceeding in Supreme Court, Saratoga County for judicial review of a *Notice and Final Order* the Division issued on June 1, 2020, on the complaint of CityVision Services, Inc. and Leigh Renner (*Final Order*) (R. 51-76). The Division cross-petitioned for judicial review and enforcement of the *Final Order*.

[2] Numbers following the letters "FF" pertain to the numbered Findings of Fact of the *Notice and Final Order*.

By Order entered on January 12, 2021 (R. 9-10), the Supreme Court, Saratoga County transferred the Petition (R. 11-21) and the Division's Cross-Petition (R. 31-45) for enforcement of the *Final Order* to the Third Department for disposition, pursuant to Executive Law § 298 and 22 NYCRR § 202.57.

Decision of the Court Below

The Court below found that the Division "employed an incorrect burden-shifting analysis" in that "CityVision was required to show that it held a reasonable belief that Pine Ridge was engaged in discriminatory practices" and the Division "did not undertake any analysis as to whether CityVision reasonably believed that Pine Ridge was engaging in a discriminatory practice during the telephone call in question." (R. 7 [*Clifton Park Apts.*, 204 AD3d at 1360.]) The Court below stated that the Division

> "simply stated in conclusory fashion that CityVision's discrimination complaint was made in good faith, that '[petitioners had] not shown that [CityVision's] allegations were made in bad faith and, therefore, [CityVision] should prevail.' In our view, this approach improperly shifted the burden to petitioners to prove, in the first instance, that CityVision did not hold a reasonable belief that Pine Ridge was engaging in housing discrimination"

(*Id*.). Such an error, the court below wrote, would "typically … result in remittal for further proceedings" (*Id*.), but in this instance, such remittal was not ordered.

The Third Department declined to order remittal, as it found that the hearing evidence "failed to support the finding that petitioners took adverse action against CityVision." It reasoned that Pentkowski's letter "simply stated his view that the allegations of discrimination against his client were false" and that his clients intended to seek compensation (R. 8 [*Clifton Park Apts.*, 204 AD3d at 1360-1361]). The court below set aside the determination of the Division's Commissioner, concluding that "the mere sending of the letter" (R. 8 [*Id.* at 1361]), could not rise to the level of retaliation.

Court of Appeals Proceedings

On May 31, 2022, the Division asked the Third Department for reargument or, in the alternative, leave to appeal to this Court. The Third Department denied that Motion on July 14, 2022 [R. 5]. This Court granted the Division's motion for leave to appeal on December 13, 2022 [R. 4].

BACKGROUND

Respondent CityVision, a fair housing advocacy organization, employs testers who pose as potential tenants to identify landlords who may be violating fair housing laws (R. 85-96 [ALJX-2[3]]; R. 70 [FF-1, FF-2]). Respondent Leigh Renner (Renner) is affiliated with CityVision (*Id.*).

On December 22, 2016, CityVision filed a complaint against Pine Ridge II Apartments (Respondent Clifton Park; hereinafter known as Pine Ridge) with the Division, alleging familial status discrimination stemming from a testing call that took place on November 9, 2016. That complaint alleged that Pine Ridge steered the tester to another property after she stated to a Pine Ridge employee that she had three minor children. (R. 71 [FF-4]; R. 85-96 [ALJX-2]; R. 218-221 [Transcript of Telephone Call, dated November 9, 2016].) After investigating the complaint, on June 30, 2017, the Division found No Probable Cause to believe Pine Ridge had engaged in an unlawful discriminatory practice (R. 71 [FF-4]; R. 85-96 [ALJX-2]).

Shortly after this finding of No Probable Cause, Respondent Pentkowski, Pine Ridge's attorney, sent a letter to CityVision and Renner, dated July 25, 2017, alleging that the allegations contained in their complaint were "false, fraudulent

[3] Numbers following the letters "ALJX", "CX", and "RX" refer, respectively, to hearing exhibits designated "Administrative Law Judge's," "Complainants'," and "Respondents'." Numbers following the letter "T." refer to the pages of the hearing transcripts of the public hearing session held on June 25, 2018.

and libelous" and noting that "Pine Ridge is looking to [CityVision and Renner] for damages they have sustained as a result of this wrongful conduct." Pentkowski's letter further indicated that CityVision's representative should contact him to "discuss a resolution of this claim" and stated that, if he did not hear from anyone within ten days, Respondents "[would] proceed accordingly." (R. 71 [FF-6, FF-7]; R. 112 [CX-1].) "It is difficult to see how this can be viewed as anything other than a threat" (R. 72 [*Final Order* at 4]).

On August 18, 2017, Complainants filed the instant complaint with the Division, alleging that Pentkowski's letter constituted unlawful retaliation, in violation of the Human Rights Law (R. 85-96 [ALJX-2]). In furtherance of the instant complaint, CityVision expended $4,775.00 in diverted resources (R. 71 [FF-10]; R. 105-111 [ALJX-5]).

ARGUMENT

POINT I

THE THIRD DEPARTMENT EXCEEDED ITS EXTREMELY NARROW JUDICIAL REVIEW AUTHORITY AND INSTEAD SUBSTITUTED ITS JUDGMENT FOR THAT OF THE DIVISION REGARDING THE QUESTION OF FACT OF WHETHER RESPONDENTS' THREATENING LETTER CONSTITUTED A RETALIATORY ADVERSE ACTION.

In its Memorandum and Judgment, the Third Department exceeded its "extremely narrow" (*Matter of State Div. of Human Rights (Granelle)*, 70 NY2d at 106) judicial review authority to consider whether the Division's determination was supported by substantial evidence on the record. Instead, it set aside that determination because the court found the opposite decision to be reasonable and sustainable (*see 300 Gramatan Ave. Assoc.*, 45 NY2d 176; *Matter of Mize*, 33 NY2d 53; *Rainer N. Mittl, Ophthalmologist, P.C.*, 100 NY2d 326).

Under the Human Rights Law,

> "It shall be an unlawful discriminatory practice for any person engaged in any activity to which this section applies to retaliate or discriminate against any person because he or she has opposed any practices forbidden under this article or because he or she has filed a complaint, testified or assisted in any proceeding under this article."

(Former Executive Law §296 [7] [4]). A complainant alleging retaliation

[4] Last year, the Legislature expanded this section of the Human Rights Law, but the language from the former section cited herein remains part of the revised section (*see* 2022 NY Laws Ch 140).

> "must show that he or she engaged in protected activity, that the respondent was aware of this activity, that the respondent took adverse action against the complainant and that a causal connection exists between the protected activity and the adverse action (*see Broome v Biondi,* 17 F Supp2d 211, 218-219 [SD NY 1997]."

(Hollandale Apts. & Health Club v Bonesteel, 173 AD3d 55, 68 [3d Dept 2019]; *Matter of Delkap Mgt., Inc. v New York State Div. of Human Rights*, 144 AD3d 1148, 1151-1152 [2d Dept 2018], *revd on other grounds* 33 NY3d 925 [2019].

"[A] claim for retaliatory conduct does not necessarily fail by reason of a subsequent finding that the underlying discrimination complaint, upon which the claim of retaliation is premised, is without merit (*see, Matter of New York State Off. of Mental Retardation & Dev. Disabilities v New York State Div. of Human Rights,* 164 AD2d 208, 210)" (*Modiano*, 262 AD2d at 223). In *Matter of New York State Off. of Mental Retardation & Dev. Disabilities (Staten Is. Dev. Ctr.) v New York State Div. of Human Rights* (164 AD3d 208 [3d Dept 1990]) the court, noting the need for "broad interpretations of the Human Rights Law," reasoned:

> "Considering the remedial purpose of the Human Rights Law and an explicit statutory admonition to construe the law liberally (*see*, Executive Law §300), it strikes us that a person who suffers retaliation after reasonably acting to protect others from forbidden discrimination should be protected. Otherwise, employees would be hesitant to raise objections to questionable practices, a result contrary to the purposes of the Human Rights Law"

(*Id.* at 210).

"It is undisputed," wrote the Commissioner in the instant matter, "that Complainants filed a complaint against Pine Ridge in December 2016. It is also undisputed that Pentkowski wrote a letter to Complainants describing their complaint as 'false, fraudulent and libelous,' while seeking damages from Complainants" (R. 72 [*Final Order* at 4]). Thus, the Division found Complainants' engagement in a protected activity in the filing of their original complaint, Respondents' adverse action against Complainants in the sending of their letter threatening litigation, and a causal relationship between the protected activity and the adverse action.

The Division determined, based upon the hearing record, that the threat of a lawsuit contained in a letter to CityVision written by Respondents' counsel constituted illegal retaliation under Executive Law § 296 (7). The annulment of the *Final Order* based upon a reinterpretation of the evidence that discounted the threat is an error of law that will have a chilling effect on the willingness of persons who believe they are victims of discrimination to come forward with their charges.

When exercising their narrow judicial review function, courts reviewing the determinations of the Division's Commissioner have been charged by this Court to bear three underlying principles in mind:

> "the statute is to be 'construed liberally for the accomplishment of the purposes thereof'; wide powers have been vested in the commissioner

> in order that he effectively eliminate specified unlawful discriminatory practices; and discrimination is rarely so obvious or its practices so overt that recognition of it is instant and conclusive, it being accomplished usually by devious and subtle means"

(*300 Gramatan Ave. Assoc.*, 45 NY2d at 183 [internal citations omitted]).

In reviewing the Commissioner's determinations, this Court has recognized that

> "identifying discriminatory acts indeed requires expertness … Thus it has become axiomatic that this court, in reviewing the Commissioner's findings on the presence of unlawful discrimination, 'may not weigh the evidence or reject [the Commissioner's] choice where the evidence is conflicting and room for a choice exists', and that the judicial function is concluded when it is determined that the Commissioner's determination is supported by substantial evidence on the record … Even where conflicting inferences may be rationally drawn from the record, those inferences are for the Commissioner, and not for this court, to draw"

(*Matter of State Div. of Human Rights v County of Onondaga Sheriff's Dept.*, 71 NY2d 623, 630-31 [1988] [internal citations omitted]; *Matter of State Div. of Human Rights (Granelle)*, 70 NY2d 100; *see also Matter of Pace Coll. v Commission on Human Rights of City of N.Y.*, 38 NY2d 28, 39-40 [1975] ["The evidence could have been interpreted otherwise; but be that as it may, the Commission's interpretation is reasonable and sufficiently supported by the evidence … it was the province of the commission to weigh the evidence, make the permissible interferences, and to come to conclusions supported by the evidence"].

The filing of a lawsuit seeking damages for libel and malicious prosecution, based solely upon the content of a complaint dismissed by the Division of Human Rights, may constitute retaliation under the Human Rights Law (*Moran v Simpson*, 80 Misc2d 437 [Sup Ct, Livingston County, January 24, 1974]).

> "If [the Human Rights Law] is to be meaningful, a person claiming to be aggrieved by an unlawful discriminatory practice must be in a position to initiate a proceeding without fear that he is embarking upon a perilous course should his complaint not be sustained"

(*Id*. at 438). "It is certainly true that 'a lawsuit … may be used … as a powerful instrument of coercion or retaliation' and that such suits can create a 'chilling effect' on the pursuit of discrimination claims" (*EEOC v Outback Steakhouse of Fl, Inc.*, 75 FSupp2d 756, 758 [ND OH 1999] [internal citations omitted]; *EEOC v Levi Strauss & Co.*, 515 FSupp 640, 642-643 [ND IL 1981] [Retaliation "places an added cost on the exercise of [statutory rights to challenged discrimination] and as such has a 'chilling effect'"].

In *Thomas v Petrulis* (125 IllApp3d 415, 465 NE2d 1059 [2d Dist 1984]), the court dismissed a libel action based upon allegedly false and malicious statements the defendant had made in a discrimination complaint filed at the federal Equal Employment Opportunity Commission (EEOC). Citing *Moran,* the court reasoned:

> "Were a complainant aware that he would be subject to a libel suit as a result of filing an EEOC charge, this fact could have a chilling effect on the exercise of his rights under the Act.

> Furthermore, absent immunity from liability, employees facing employers with substantial resources and access to legal services might forego the civil rights charge rather than risk having to defend themselves in a retaliatory libel action with the attendant expenses and potential exposure to liability."

(*Id.*, 465 NE2d at 1064).

In a case interpreting the Human Rights Law, the District Court for the Eastern District of New York stated that the "primary purpose" of the Law's anti-retaliation provisions is to "maintain[] unfettered access to statutory remedial mechanisms" (*Illiano v Mineola Union Free School Dist.*, 585 FSupp2d 341, 352 [ED NY 2008] [internal citations omitted]). The court found that "[t]his purpose is furthered by extending the NYHRL's anti-retaliation protections to this case where the Plaintiff alleges that her former employer explicitly threatened to sue her if she sought to vindicate her rights" (*Id*.).

In another case, after noting that retaliation claims under Title VII and the Human Rights Law are treated similarly (*Spencer v Intl. Shoppes, Inc.*, 902 FSupp2d 287, 293 [ED NY 2012]), the Eastern District stated that litigation "may be considered retaliatory if motivated, even partially, by a retaliatory animus" (*Id.* at 294), and explained that evaluating the intent of allegedly retaliatory litigation is a "fact-specific inquiry" (*Id.* at 296).

It logically follows that where, as in the instant matter, respondents to a Division complaint threaten to file a lawsuit based upon allegations made in a

complaint, that said respondents may be engaging in unlawful retaliation, in violation of the Human Rights Law. The analysis of the intent behind such a threat is one of fact for the agency's determination.

In order for the Division to fulfill its mission of "eliminat[ing] and prevent[ing] discrimination" (Executive Law § 290 [3]), a complainant must be able to file a good-faith discrimination complaint without fear that the content of that complaint could lead the respondent to threaten to sue them for defamation or libel. In a case sustaining a Division order after hearing finding a party liable for retaliation, the Second Department observed, "[t]he viability of the Human Rights Law, and, indeed, of all civil rights laws, depends on the unfettered right of those who are colorably aggrieved to file and litigate complaints" (*Matter of Electchester Housing Project, Inc.,* 225 AD2d at 773). Finding otherwise contravenes the public interest by discouraging those seeking to assert their rights under the Law from filing discrimination complaints.

In the instant matter, the Commissioner interpreted Respondents' telling the Complainants through their attorney's communication that their complaint was "false, fraudulent and libelous" and indicating strongly that they will initiate a lawsuit if Complainants fail to get in touch with them in order "discuss a resolution to this claim" (R. 71 [FF-6, FF-7]) as a threat of "retaliatory litigation" proscribed by the Human Rights Law's protections against retaliation. The Commissioner's

determination in the instant matter was reasonable and in line with existing case law. Annulling the Commissioner's findings of retaliation, the Third Department pointed to no additional evidence for its actions; the holding of the court below was based upon a reinterpretation of the evidence the Commissioner considered. The Commissioner's findings of fact and conclusions of law – even if other factfinders might have interpreted the evidence differently – were reasonable and based on substantial evidence in the record.

The determination of whether Respondents' threat of a lawsuit constituted illegal retaliation was a question of fact clearly within the province of the Division's Commissioner to determine. By substituting the Commissioner's findings of retaliatory actions with its own finding that Respondents' threat did not constitute an "adverse action" against Complainants, the court below erroneously assumed the fact-finding powers in the service of eliminating discrimination that the Legislature bestowed upon the Division's Commissioner.

POINT II

THE THIRD DEPARTMENT ERRED WHEN, HAVING FOUND THAT THE DIVISION'S ALJ DID NOT UNDERTAKE ANY ANALYSIS AS TO WHETHER CITYVISION REASONABLY BELIEVED THAT PINE RIDGE WAS ENGAGING IN A DISCRIMINATORY PRACTICE, THE COURT FAILED TO REMIT THIS MATTER TO THE DIVISION FOR FURTHER PROCEEDINGS REGARDING THIS QUESTION OF FACT.

The court below stated that the Division had failed to make actual findings that Complainants had "a reasonable belief" that Pine Ridge had engaged in discriminatory practices when they filed their initial complaint, which was dismissed by the Division. (R. 7 [*Clifton Park Apts.*, 204 AD3d at 1360] [internal citations omitted]). Such failure, the lower court noted, would "typically … result in remittal" (*Id.*). The Division had concluded that complainants made "a good faith Division claim" (R. 73 [*Final Order* at 5]) but did not raise Complainants' good faith in a numbered finding of fact. However, holding that Respondents' threats against Complainants were insufficient to constitute retaliation, the Third Department declined to remit this matter to the Division for a determination of the "factual issues as to whether [complainants] subjectively held belief that [they] were entitled to the protection of the Human Rights Law was reasonable" (*Modiano*, 262 AD2d at 223).

As discussed in Point I, *supra*, the Division contends that the court below erred in finding an absence of retaliation. Thus, if the Third Department believed

that evidence concerning Complainants' good faith in bringing its initial complaint was insufficiently considered in the findings of fact, it should have remitted the matter for further development on this issue.

In *State Div. of Human Rights v County of Monroe* (73 AD2d 1058 [4th Dept 1980], *lv denied* 50 NY2d 805 [1980]), the Division, after hearing, found that an age limitation not otherwise mandated by law for appointment to the position of deputy sheriff-patrol violated the Human Rights Law. The Fourth Department, upon judicial review concluded:

> "There is insufficient evidence in the record concerning the duties and responsibilities of a deputy sheriff-patrol and the similarities and/or differences between that position and a police officer covered by civil service [subject to age limitations stated in the Civil Service Law]. The matter is remitted, therefore, to the State Division of Human Rights for further proof and appropriate findings on this issue"

(*Id*.). The Second Department in *Matter of State Div. of Human Rights v North Queensview Homes, Inc.* (75 AD2d 819 [2d Dept 1980]), in which the Division sustained charges of retaliation against an employer, remitted a matter "for consideration of the evidence adduced at the hearing…." because the findings of fact, decision and order of this agency made no reference to the employer's allegations that it had legitimate, nondiscriminatory reasons for its actions (*Id.* at 821).

Having found that the Division's conclusion that the Complainants had brought their initial charges in good faith lacked an adequate factual explanation,

the Third Department, rather than annul the *Final Order* and void the relief the Division found the complainants were entitled to, should have returned the matter to the Division for further factual development on that point.

CONCLUSION

THAT THIS COURT REVERSE THE MEMORANDUM AND JUDGMENT OF THE APPELLATE DIVISION, THIRD DEPARTMENT, DATED APRIL 28, 2022, AND CONFIRM IN ITS ENTIRETY THE NOTICE AND FINAL ORDER OF THE NEW YORK STATE DIVISION OF HUMAN RIGHTS ON THE COMPLAINT OF CITYVISION SERVICES, INC AND LEIGH RENNER, DATED JUNE 1, 2020, OR, IN THE ALTERNATIVE, THAT THIS COURT REMIT THE MATTER TO THE DIVISION OF HUMAN RIGHTS FOR ADDITIONAL FACT-FINDING ON THE ISSUE OF WHETHER THE INITIAL COMPLAINT WAS FILED IN GOOD FAITH; AND SUCH OTHER AND FURTHER RELIEF AS THIS COURT DEEMS JUST AND PROPER.

Dated: Bronx, New York
February 1, 2023

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CERTIFICATION OF COMPLIANCE

This brief was prepared on a computer, using a Microsoft Word program. The type is Times New Roman, Fourteen Point and it is double-spaced. It contains 4,304 words.