

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK**

KELLEY D.F. HARDWICK,

Plaintiff,

-against-

GENO AURIEMMA, individually and as an employee of USA BASKETBALL, INC., USA BASKETBALL, INC., NATIONAL BASKETBALL ASSOCIATION, JAMES TOOLEY, individually and as an employee of USA BASKETBALL, and JAMES CAWLEY, individually and as an employee of NATIONAL BASKETBALL ASSOCIATION,

Defendants.

Index No. 153557/12

**VERIFIED AMENDED  
COMPLAINT**

**JURY TRIAL DEMANDED**

Plaintiff Kelley D.F. Hardwick (“Plaintiff” or “Mrs. Hardwick”), by and through her attorneys, Newman Ferrara LLP, as and for her Amended Complaint, alleges upon knowledge, information, and/or belief as follows:

**PRELIMINARY STATEMENT**

1. Plaintiff brings this action for employment discrimination against Defendants, Geno Auriemma (“Auriemma”), USA Basketball, Inc. (“USAB”), and National Basketball Association, Inc. (“NBA”), James Tooley (“Tooley”), and James Cawley (“Cawley”) under the New York State Human Right Law (“NYHRL”), N.Y. Executive Law § 296 *et seq.* and the New York City Human Rights Law (“NYCHRL”), N.Y.C. Administrative Code § 8-107 *et seq.*, and seeks monetary and injunctive relief, disbursements, costs, and fees.

2. In October 2009, during a trip to Russia with the USAB Women’s Senior National Team, Defendant Auriemma stalked, assaulted, and battered Plaintiff by following her

to her room, grabbing her about the arm and attempting to forcibly kiss her on the mouth. Such contact was offensive and unwanted but fortunately thwarted by the Plaintiff.

3. Plaintiff reported the incident to her colleagues and superiors but remained willing to continue her travel assignment with the USAB Women's Senior National Team, a prestigious position she coveted, enjoyed, and took great pride in.

4. Despite her willingness to continue her USAB assignment (which she had had for many years prior), Defendant Auriemma, apparently spurred by rejection, continued to act vindictively towards her on subsequent USAB trips and ultimately undertook to deprive her of her USAB duties by demanding that the NBA relieve her of her USAB travel assignment, including her duties overseeing security for the Women's National Basketball Team at the 2012 Olympic Games in London, England.

5. In furtherance of his goal of punishing Plaintiff, Auriemma enlisted the aid of Tooley to deprive Plaintiff of the Olympic assignment. Tooley, acting in concert with Auriemma, contacted Plaintiff's supervisor, Cawley, and advised Cawley that Auriemma did not want Plaintiff assigned to the Olympic detail. Cawley, aiding and abetting the Auriemma scheme, assented to Auriemma's demand.

6. Despite Plaintiff's untarnished record with USAB, when she complained to NBA officials that she believed Auriemma's effort to have her removed stemmed from her rejection of his sexual advances, the NBA failed to do a meaningful investigation (including failing to speak to Auriemma or many of the witnesses she provided), and instead complied with Auriemma's request and removed Plaintiff from her USAB duties.

7. However, after the filing of Complaint, Cawley and NBA decided to send Plaintiff to the Olympic Games, but in retaliation for Plaintiff's Complaint, assigned her to

significantly diminished material responsibilities and subjected her to a hostile work environment, including, but not limited to, a verbal assault by Auriemma and other acts and statements by him designed to intimidate Plaintiff and retaliate against her for bringing this action against Auriemma and the other Defendants herein.

8. In sum, this action alleges that because the Plaintiff had the temerity to fend off an attempted sexual advance by Auriemma she has been relieved of her long term duties maintaining security for the Women's National Basketball Association ("WNBA") players traveling with USA Basketball, and she has been the victim of a corporate culture of gender discrimination to such an extent that she has been subjected to a flagrant and persistent glass ceiling with regard to her regular employment with the NBA.

9. The NBA maintained and continues to maintain a discriminatory workplace where Plaintiff has been continually denied promotions based on her gender. Plaintiff alleges further that the NBA, through certain individuals, engaged in gender discrimination by assigning Plaintiff to perform duties that would afford her less opportunity for advancement than similarly situated male employees. The NBA also denied her employment opportunities that were afforded to male employees so that male employees could advance in their careers. Plaintiff alleges that from the date of her hire and continuing up to and including the present, she has been denied compensation and other emoluments commensurate with male employees who were similarly situated in terms of experience, seniority and skillset.

10. Moreover, this environment permitted for a grossly negligent investigation into her complaint where the perpetrator, Defendant Auriemma, was never even interviewed by the NBA representative allegedly tasked with investigating her complaint.

11. As a direct and proximate result of the foregoing violations of law and/or deprivations, Plaintiff seeks an award of injunctive relief, compensatory damages, an award of back pay and front pay, punitive damages, and such other relief as the Court deems just and proper.

## PARTIES

### Plaintiff

12. Plaintiff is an African-American female citizen of the United States who resides in New York State. Mrs. Hardwick is a graduate of Pace University School of Law and a former Detective, 3<sup>rd</sup> Grade, of the New York City Police Department. Beginning in 2002, and at all times relevant to the allegations in the Complaint, Mrs. Hardwick was employed by the NBA. Currently, Mrs. Hardwick is a Director in the Security Department of the NBA. She is the only female Director in the Security Department and is responsible for security for the NBA and WNBA. Plaintiff's job function requires her to travel regularly both domestically and internationally. In fact, many of her assignments are performed at sports facilities in several states where NBA or WNBA teams are based.

13. This action and her desire to be free from discrimination notwithstanding, Mrs. Hardwick continues to perform her duties diligently and remains a dedicated employee of the NBA.

### Defendants

14. Defendant Auriemma, a white male, was the head coach of the 2012 United States Olympic Team, the Women's Senior National Team, and is the head coach of Women's Basketball Team of the University of Connecticut. As the head coach of the aforementioned teams, Auriemma regularly travels within the United States and internationally. On June 4,

2012, Auriemma was named as a director and spokesperson for the Berkshire Hills Bancorp, on information and belief, a bank that derives substantial revenue from interstate commerce. Auriemma, directly and indirectly, derives substantial revenue from interstate commerce. Auriemma is an owner of Geno's Fast Break Food Court and Pub ("Geno's), located at the Mohegan Sun Resort in Connecticut. Geno's has an interactive web site ([genosfastbreak.com](http://genosfastbreak.com)) where customers in other states and cities, including, but not limited to, New York State and New York City, can purchase goods and services from Geno's. An email address is posted on the website for customers who wish to book events and parties at Geno's. Auriemma engages in interstate commerce through his numerous speaking engagements and has utilized the services of national booking agencies, including, but not limited to, Athlete Promotions, located in Windmere Fla., and All American Speakers, which has a New York office and web address ([nyoffice@allamericanspeakers.com](mailto:nyoffice@allamericanspeakers.com)) to schedule speeches across the country. Auriemma has also served as an analyst on ABC's and ESPN's coverage of the WNBA games. At all times relevant hereto, Auriemma acted individually and/or as an agent of USAB.

15. Defendant USAB is an Illinois Corporation with its principal place of business in Colorado Springs, Colorado. USAB is the national governing body for the sport of basketball and recommends to the United States Olympic Committee individuals and teams to represent the United States in Olympic Games in the sport of basketball. USAB also sponsors the Women's Senior National Team in international basketball events. The Women's Olympic Team is chosen from members of the Women's Senior National Team. The members of the Women's Senior National Team are either athletes with the WNBA or, occasionally, collegiate athletes. Defendant NBA is a professional member of USAB. Based on the foregoing, USAB derives substantial revenue from interstate and international commerce.

16. Defendant NBA is an integrated business enterprise that is organized as a joint venture with its principal place of business at 645 Fifth Avenue, New York, New York, 10022.

17. Defendant James Tooley, a white male, is the Executive Director of USA Basketball.

18. Defendant James Cawley, a white male, is a Senior Vice President of Security at the NBA and is Plaintiff's direct supervisor.

### **FACTUAL ALLEGATIONS**

19. In November of 2002, Mrs. Hardwick began her employment in the NBA's Security Department (the "Security Department") as a Senior Security Manager. However, she had applied for a position as Director in the Security Department. The position had never been held by less than the title of Director. Upon her hire, Plaintiff was informed by the Senior Vice President of Security for the NBA, Bernard Tolbert ("Tolbert"), that although she would perform all the functions of a Director, she would have the title of Senior Manager. While Plaintiff performed the functions of a Director, she was paid the salary of a Senior Manager.

20. At all times relevant to the Complaint, Mrs. Hardwick was and is the only female manager in the Department.

21. Upon her hire, Mrs. Hardwick was responsible for the supervision of facility security for 645 5th Avenue, the NBA's corporate office, various NBA assignments and the WNBA. Plaintiff was, however, denied numerous employment opportunities that were made available to her male counterparts who performed similar functions for the NBA Security Department. Moreover, the facilities security assignment was reassigned to a male colleague who has since received several promotions. As a result of their assignment to more prestigious

opportunities, similarly situated males were able to advance in the Security Department, whereas Mrs. Hardwick's opportunity for advancement was stymied as a result of the aforementioned pattern of discriminatory assignments.

22. In 2005, Plaintiff requested a promotion to Director since she had been performing the functions of a Director for over three years. Tolbert promoted her, but failed to give her a salary increase commensurate with the position. On information and belief, Plaintiff was paid then and continues to be paid less than male Directors in the Security Department. When she inquired of Tolbert why she did not receive an appropriate raise, he stated, "I thought you only wanted a promotion not a raise."

23. Since 2005, Plaintiff continually has slammed against the NBA's glass ceiling and has not received any promotions despite the fact that less or equally qualified males in the Security Department repeatedly have been promoted over or receive more monetary compensation than Mrs. Hardwick.

24. Since her hire, Plaintiff's responsibilities have included, but were not limited to, the following: security oversight for the NBA Development League, a host of NBA related security assignments including the NBA All Star Jam Session for the past 10 years and security for all WNBA teams, including the recruitment, hiring and supervision for the security representatives for each team, the administration of drug testing for all WNBA players, including drug collector training for all security representative participants, the management and maintenance of the WNBA Life Management Program, which consists of consultation with the League's Medical Director for any players that may exhibit a need for counseling due to depression, stress, anxiety, or drug use etc., the compilation and presentation of security training at both the WNBA Rookie Orientation Program and WNBA Referee Orientation, the review and

update of all security related manuals, yearly, all WNBA investigations, serving as the point of contact for all security related player matters and the Security Head for USAB's Women's Senior National Team.

25. Plaintiff's job description also provides that she is responsible for managing security at international events. In connection with this responsibility, since her hire, Plaintiff has provided security for the NBA Basketball Without Borders program in Dakar, Africa and Rio De Janeiro, Brazil, and the Women's Team for the 2004 Olympics in Athens Greece and the 2008 Olympics in Beijing, China. Since 2002, she has provided security oversight for the Women's National Team for the following events: 2004 Spanish Invitational (Havana, Cuba & Poland), 2004 USAB's Women's Senior National Team Training (Germany & Budapest), 2006 World Challenge (Hungary, Poland and Australia), 2006 FIBA World Championship (Brazil), 2007 College Tour (Maryland, Connecticut, California, Texas and Arizona), 2007 FIBA World League Tournament (Italy, New Jersey & Yekaterinburg, Russia), 2007 Women's Senior National Team Training (Chile), 2008 USAB's Men's Olympic Nike Tour (New York City), 2009 USAB's Women's Senior national Team (Ekaterinburg, Russia), 2010 USAB's Women's Senior National Team/Pre-world Championship (Hartford, Connecticut/Salamanca Spain) and 2011 USAB's Women's Senior National Team Training (Italy, Spain, Czech Republic & Hungary).

26. None of the male managers in the NBA have the same level of experience with the Olympic Games as does Plaintiff. In fact, none of the male managers have worked on two Olympic Games. Mrs. Hardwick has more years of experience with providing security with teams sponsored by USA Basketball than any of her male counterparts and is the most senior of the basketball managers.



27. Despite her numerous accomplishments with the NBA Development League, NBA and WNBA, Plaintiff has not received a promotion since 2005.

28. In October 2009, Plaintiff traveled with the Women's Senior National Team to Yekaterinburg, Russia for an Invitational Tournament. Plaintiff was responsible for providing security oversight for the WNBA players who played for the Women's Senior National Team. Also on the trip was Defendant Auriemma. Plaintiff had never met Defendant Auriemma previously.

29. On or about the evening of October 9, 2009, Plaintiff and her staff person, Rachel Shannon, an African-American female, were in the lounge of the hotel where the team was staying. Defendant Auriemma, uninvited, approached the two women, sat at their table, and engaged them in conversation. Defendant Auriemma stated that his parents were poor Italian immigrants, and that he did not grow up wealthy, and could "relate to inner city blacks." During the unwelcomed conversation, Defendant Auriemma made a number of inappropriate comments that increasingly made Plaintiff and Ms. Shannon uncomfortable.

30. Eventually, Plaintiff and Ms. Shannon left the lounge and headed toward the elevators to return to their rooms. Once they were on the elevator, Defendant Auriemma appeared and stuck his hand in the door to access the same elevator. Ms. Shannon exited at her floor.

31. Upon reaching her floor, Plaintiff exited the elevator and proceeded to walk towards her room. Defendant Auriemma exited the elevator as well and, unbeknownst to Plaintiff, was following her to her room. As Plaintiff put her key into the door, Defendant Auriemma approached her from behind, took hold of her left arm, and, as she turned, he forcibly tried to kiss her on her mouth. Plaintiff was startled but, utilizing her training as a police officer

and security professional, reacted quickly by shoving him away and stating, "What are you doing? You better check yourself before you get hurt!"

32. After being rebuffed, Defendant, red-faced, turned and walked quickly back in the direction of the elevators. Once he was out of her sight, Plaintiff entered her room, called Ms. Shannon and relayed the entire disturbing incident to her.

33. The next morning, Defendant Auriemma nervously avoided eye-contact with the Plaintiff and said nothing to her as the team boarded the team bus.

34. That afternoon, a USAB media person was taking photos of the team, and several of the athletes asked Plaintiff and Ms. Shannon to join them in the photo. Defendant Auriemma was overheard calling Plaintiff "ghetto" and stating "I don't know why they are calling Shaniqua over here."

35. When she returned to the NBA office, Plaintiff advised several managers, including, but not limited to, her supervisor, Tolbert, about the incident. Tolbert asked whether Auriemma had been drinking and stated, "Well, these things happen, but it sounded like you handled it." Nothing was done by Defendant Tolbert or other NBA managers to investigate the incident.

36. Plaintiff traveled with the USAB Women's team two subsequent times following the October 2009 trip. The first was in October 2010 to the Women's Senior National Training Camp/Pre-World Championship in Hartford, Connecticut and Salamanca, Spain. The second was in October 2011 to the Women's Senior National Team Training Session in Italy, Spain, Czech Republic and Hungary.

37. During the first trip, Defendant Auriemma continued his obvious avoidance of Plaintiff but his apparent discomfort with her presence manifested as vindictiveness. The

Plaintiff, being one of only two members of the USA Basketball delegation who elected to wear a Nike baseball cap emblazoned with the USA Basketball Insignia (which was issued to her as part of the USA uniform), was informed by the USA Basketball Travel Director, Carol Callan, that Coach Auriemma did not want her to wear the baseball cap. Despite finding the request ridiculous, Plaintiff nonetheless complied without question.

38. During the second trip, Defendant Auriemma used Callan once again to send a “you’re not welcome here” message through her colleague Rachel Shannon, who told Plaintiff that Auriemma wanted her to stop encouraging the players while they were playing – Plaintiff had been clapping or cheering for them during the games. Such encouragement had been routine and welcome since 2003.

39. On information or belief, in June 2011, after Tolbert left the employ of the NBA, Plaintiff’s direct supervisor, Gregory Robinson (“Robinson”), advised Plaintiff that Tolbert had rejected positive evaluations Robinson had drafted for her, erased them, and then rewrote negative evaluations which were then sent in under Robinson’s name. At the time, Tolbert was still Robinson’s superior so he did not protest but he expressed regret about it to the Plaintiff.

40. In furtherance of his continued efforts to humiliate and punish Plaintiff, on information and belief, Auriemma spoke with Tooley and enlisted his aid in Auriemma’s campaign of vindictiveness. On information and belief, Auriemma told Tooley that he did not want Plaintiff to attend the Olympic Games and provide security for the women’s basketball team. Tooley agreed to aid and abet Auriemma in his effort to remove Plaintiff from her Olympic assignment. In furtherance of their agreement to affect Plaintiff’s employment by the NBA in New York City and to cause damage to her career as an NBA employee, it was further agreed that Tooley, acting as agent and abettor of Auriemma, would speak directly with Cawley.

41. On information and belief, subsequent to the agreement between Auriemma and Tooley, Tooley contacted Cawley at the NBA offices in New York City via telephone. During the telephone conversation with Cawley, Tooley told Cawley that Auriemma did not want Plaintiff to be assigned to work at the Olympic Games in London. Without inquiring as to the reasons for such an unusual request from a coach, and without cause or business justification, Cawley agreed to remove Plaintiff from the Olympic assignment. By his agreement to remove Plaintiff from the assignment, Cawley agreed to act in concert with Auriemma and Tooley and/or aided and abetted Auriemma and Tooley in their agreement to adversely affect Plaintiff's employment by NBA. As a result of their agreement, and in furtherance thereof, Cawley took steps to remove Plaintiff from the Olympic assignment.

42. On or about March 22, 2012, a call to the NBA's office in New York was led by James Cawley "(Cawley)" (Tolbert's successor as Senior Vice President of Security), with Randy Inniss (Senior Director of Security), Greg Robinson (Senior Director of Security), Joel Downing (Director of Security), Plaintiff, and a host of NBA Arena Security Directors. Plaintiff was not present in the office during the call and participated via telephone. On information and belief, after the call ended, Cawley told Robinson, Inniss, and Downing that Auriemma did not want Plaintiff to provide security for the women's basketball team at the Olympics.

43. On or about March 24, 2012, Cawley, in an effort to cover-up his agreement with Tooley and Auriemma, falsely advised Plaintiff that he was changing the assignments for security personnel and that her functions would change as a result thereof. He did not tell Plaintiff that he was changing assignments at the behest of Tooley and Auriemma. He stated that as a result of the "reassignments" she would not oversee security for the USAB's Women's National Basketball Team at the London Olympics. Cawley did not tell Plaintiff that he was

removing her from the assignment as a result of the agreement he had entered into with Tooley and Auriemma.

44. Plaintiff later learned that Cawley was acting pursuant to a demand by Auriemma (via Tooley). Having received no prior complaints regarding performance of her USAB-related duties, Plaintiff was convinced, and reasonably so, that Defendant Auriemma had exercised his influence through USAB and the NBA to retaliate against her for rejecting his prior sexual advance and causing him embarrassment and discomfort with her continued presence.

45. On or about March 25, 2012, Plaintiff advised Cawley that she had learned of the Tooley call and that Defendant Auriemma was the one who wanted her removed from the assignment. He did not deny that her information was correct. She further advised Cawley of the October 2009 incident, the fact that she had reported the incident to the NBA, and that she believed Defendant Auriemma did not want her on the assignment because she had rejected him and caused him embarrassment. She told Cawley that she felt abused by both Defendant Auriemma and the NBA and that she believed the NBA was acquiescing to or condoning Defendant Auriemma's discriminatory behavior. Despite her protestations, Cawley did not admit that he was acting pursuant to the telephone conversation with Tooley. Cawley also did not advise Plaintiff that he would reassign her to the Olympic Games.

46. On or about March 29, 2012, Plaintiff received a call from NBA Senior Vice President and General Counsel Neal Stern advising her that he had heard that she had reported an incident that occurred in Russia with Auriemma. She advised Stern about the incident and her belief that Auriemma was seeking to exact punishment on her for refusing his sexual advances and to avoid further interaction with her. The Plaintiff further provided Stern with a list of

witnesses who could corroborate her version of events. Stern told the Plaintiff that he would investigate the incident.

47. It should be noted that the Senior Vice President of Human Resources is an African American female, who is normally tasked with conducting investigations of this nature; however, at no time since Mrs. Hardwick's second notification to the NBA about Auriemma's unwelcome sexual advance was she contacted by her or involved in the investigation.

48. On or about April 26, 2012, Stern contacted Plaintiff and advised her that he had concluded his investigation and had determined that the decision by USAB had nothing to do with her complaint regarding Auriemma. She inquired as to whether Stern spoke to Auriemma to ask him about her allegations. Incredibly, Stern would not tell her who he interviewed but confirmed that he had not spoken with Auriemma or many of the other witnesses she had provided him.

49. On June 11, 2012, Plaintiff filed a Complaint in this action wherein she alleged that Auriemma, USA Basketball, and the NBA had violated the Human Rights Laws of New York State and New York City.

50. On or about July 10, 2012, Cawley held a meeting of the Security Department wherein he advised the Department regarding the plans for London. For first time, Plaintiff learned that she was to attend the Olympic Games. Prior to the July 10<sup>th</sup> meeting, Plaintiff had not received any communications from Cawley or anyone else indicating that she was to attend the Games.

51. On information and belief, Cawley and NBA made the decision to send Plaintiff to the Olympic Games as a result of the litigation filed herein and the attendant publicity regarding the claims asserted in the Complaint. However, Cawley and NBA, in retaliation for

Plaintiff's filing of her law suit decided to provide Plaintiff with significantly diminished material responsibilities. In fact, Cawley and NBA decided that Plaintiff would not be provided with credentials that would enable her to have access to or perform her security functions at the basketball arena in London.

52. Subsequent to the departmental meeting, on July 10<sup>th</sup>, Plaintiff attended another meeting with Cawley, which Keri Chandler ("Chandler"), the head of Human Resources attended. At the beginning of the meeting, Chandler stated that it had been a long time since she had seen Plaintiff, and Chandler specifically referenced Plaintiff's lawsuit as the "pink elephant in the room." Cawley proceeded to state that he had been told by officials at USAB that Plaintiff had made comments about Auriemma in the past, which Plaintiff denied.

53. During the meeting Chandler made negative comments concerning the clothing that Plaintiff had worn to NBA events. No such comments had been made to Plaintiff prior to filing her lawsuit. Chandler also told Plaintiff that NBA would not be making comments to the media and requested that Plaintiff refrain from making comments. Chandler's comments regarding the media were made with respect to Plaintiff's lawsuit and were an attempt to threaten her job security and to retaliate against her for filing the suit and speaking to the media concerning the discrimination she had experienced as an NBA employee.

54. On information and belief, an employee of USAB, Carol Callan, stated to the Women's Basketball players during a session at American University in Washington, D.C., prior to the team departing for London that: "As you know, Kelley Hardwick is suing us." To which Auriemma responded, "That's all going to be taken care of." These comments were a continuation of the retaliatory conduct of Auriemma and an implicit threat against her and her employment at the NBA.

55. Upon arriving in London on or about July 27<sup>th</sup>, Plaintiff learned that she was not to be provided credentials as a security official, was not to have access to the basketball arena, and would only perform ancillary functions, such as escorting guests to and from the arena, securing the NBA House, not an Olympic venue, and other similar assignments. Cawley was responsible for the assignments and directed that Plaintiff not be provided credentials, tickets or access to the arena. Other security personnel of NBA and personal bodyguards of NBA players were provided with security credentials.

56. These actions and directives were in retaliation for Plaintiff filing her lawsuit. On both of the prior Olympic Games that Plaintiff worked, she had complete access to the arena and had appropriate credentials.

57. On at least one occasion, Plaintiff after escorting guests to the arena was unable to enter the arena because she did not have credentials and was forced to wait outside for three hours in the rain while others, including security personnel from the NBA attended the games.

58. On July 31<sup>st</sup>, Plaintiff learned that Cawley had assigned her to provide security for the Women's Shoot Around at East London University on August 1<sup>st</sup>, at which Auriemma would be in attendance. On August 1<sup>st</sup>, as Plaintiff stood outside the bus at the hotel, as the players boarded, Auriemma walked over to Cawley, who was standing nearby, and greeted him warmly. Auriemma said nothing to Plaintiff, at that time.

59. Upon her arrival at the gym, Plaintiff performed a security check, and seated herself in the bleachers because in her professional opinion that was the optimal vantage point for security and at that location she would have a full and complete view of the gym and points of egress and ingress. Renee Brown from NBA was also seated in the bleachers. No players



were seated in the bleachers. She noticed that Tooley and other employees of USAB were in the gym.

60. As Plaintiff remained in her position on the bleachers, Auriemma walked over to Plaintiff, and in full view and earshot of the players and others, screamed at Plaintiff. He pointed his finger at her and yelled that she needed to move from her seat. Auriemma's behavior caused Plaintiff alarm and distress. Plaintiff did not respond to his threatening conduct.

61. Auriemma's yelling, screaming, and finger pointing was a continuation of his retaliatory behavior as aforementioned. Additionally, his conduct was in retaliation for Plaintiff's filing a law suit against Auriemma for his prior conduct.

62. Immediately after the incident, Plaintiff forwarded an email to Cawley and Chandler advising them of the incident and that this was yet another act of interference with her job performance by Auriemma. She requested that Auriemma be instructed to act professionally and to refrain from interacting with her unless there was a security emergency or situation. Later, that day she spoke with Cawley and reiterated her concern.

63. On or about August 3<sup>rd</sup>, Cawley responded via email to Plaintiff's communications regarding the latest incident with Auriemma. Cawley stated that "there is nothing wrong with USAB personnel (including Coach Auriemma) providing direction to members of the security team and otherwise interacting with them when necessary or appropriate."

64. Cawley's refusal to address the incident, Plaintiff's concerns, or Auriemma's behavior, condoned the hostile treatment of Plaintiff by Auriemma. The email also was an indication that if Auriemma continued to harass, threaten and verbally assault Plaintiff, Cawley

would take no action to address such behaviors. Cawley's failure to address these issues and his condonation of Auriemma's behavior resulted in a hostile work environment.

65. Following the incident, Plaintiff's communication regarding the hostile treatment of her by Auriemma, Cawley again assigned Plaintiff to provide security for the Women's Basketball team; thus providing Auriemma with another opportunity to exert his dominance, control and to repeat and continue his campaign of vindictiveness, harassment, and retaliation.

66. Cawley's continued assignments were also part and parcel of the agreement with Tooley and Auriemma to adversely affect Plaintiff's employment as the NBA employee both in New York and now London. Cawley's assignment and continued assignment of Plaintiff to work in an environment where Auriemma could continue his behaviors resulted in the continuation of a hostile working environment.

67. In an effort to ensure that such conduct and behavior would not be repeated, counsel for Plaintiff contacted his counterpart with the NBA to advise him of the situation.

68. On August 3<sup>rd</sup>, Plaintiff was advised that she her assignment had been changed to the NBA House.

69. During the London Games, on information and belief, USAB and/or NBA controlled the assignments for guests staying at the Westbury Hotel, where Plaintiff stayed. Auriemma was also assigned to that hotel and was placed in a room on the same floor as Plaintiff. When Plaintiff passed Auriemma in the lobby of the hotel, he stated: "We're gonna see who is gonna win." This was a direct reference to her lawsuit and a threat.

70. On October 12, 2012, Plaintiff was called into a meeting at the NBA offices in New York City by Cawley, to which, unbeknownst to her, Chandler had been invited as well. Prior to filing her lawsuit, Chandler had never attended meetings with Cawley and Plaintiff.

71. During the meeting Cawley, while referencing what had transpired in London, stated, "If you hadn't contacted your lawyers and ask to be removed from working with Geno you would have had more options."

72. Cawley's statement was a threat that because she had exercised her rights to be free from a hostile work environment she was going to have less options during her continued employment by the NBA. Cawley's statement was also retaliation for Plaintiff bringing to the attention of his superiors the fact that Cawley had assigned her to work with Auriemma and condoned the hostile treatment of Plaintiff by Auriemma.

73. At all times relevant to the Amended Complaint, Auriemma, Tooley and USAB were aware that Plaintiff was an employee of the NBA. At all times relevant hereto, Auriemma, Tooley, and USAB were aware that Plaintiff during the course of her employment performed services for the NBA in New York City, in several states in United States and internationally.

74. Auriemma's actions aforesaid were intended by him to retaliate against Plaintiff and to adversely affect Plaintiff's employment by the NBA, whether in New York City, New York State or elsewhere. Cawley and Tooley conspired with Auriemma to achieve that result and/or aided and abetted to achieve that result.

75. Auriemma's actions and campaign of vindictiveness, retaliation and hostility, and Tooley's and Cawley's complicity therein, have negatively affected and will continue to negatively affect Plaintiff's employment at NBA.

76. By NBA's actions and/or inactions it has ratified, acquiesced in and/or condoned the conduct of Auriemma, Tooley and Cawley; thereby creating or maintaining a hostile work environment and has retaliated against Plaintiff.

77. The foregoing also demonstrates that the NBA has continued and will continue its pattern of discrimination against Plaintiff. These actions, collectively, evince that Plaintiff continues to suffer the effect of discrimination, including being denied opportunities for advancement.

## CAUSES OF ACTION AGAINST DEFENDANTS

### First Cause of Action

#### *Violation of New York State Human Rights Law*

78. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above as though fully set forth herein.

79. The conduct complained of herein by the Defendants constitutes unlawful discrimination, harassment, hostile work environment, and retaliation in violation of New York State Human Rights Law

80. The NBA condoned, ratified, and acquiesced in the foregoing conduct of its employees, and the terms and conditions of employment and is responsible under the doctrine of *respondeat superior* for the discriminatory acts of its employees, including, but not limited to, Tolbert, Cawley, Chandler, and Stern.

81. USAB condoned, ratified, and acquiesced to the foregoing conduct of its employees and is responsible under the doctrine of *respondeat superior* for the discriminatory conduct of its employees, including, but not limited to, Tooley and Auriemma.

## Second Cause of Action

### *Violation of New York City Human Rights Law*

82. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above as though fully set forth herein.

83. The conduct complained of herein by the Defendants constitutes unlawful discrimination, harassment, hostile work environment and retaliation in violation of the New York City Human Rights Law.

84. The NBA condoned, ratified, and acquiesced in the foregoing conduct of its employees, and the terms and conditions of employment and is responsible under the doctrine of *respondeat superior* for the discriminatory acts of its employees, including, but not limited to, Tolbert, Cawley, Chandler, and Stern.

85. USAB condoned, ratified, and acquiesced in the foregoing conduct of its employees and is responsible under the doctrine of *respondeat superior* for the discriminatory conduct of its employees, including, but not limited to, Tooley and Auriemma.

## Third Cause of Action

### *Assault*

86. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above as though fully set forth herein.

87. The actions of Auriemma on August 1<sup>st</sup> constituted an assault.

88. As stated above, Auriemma approached Plaintiff in a threatening manner, yelled at her, and made physical gestures that caused her alarm.

89. As a result of Auriemma's behavior, Plaintiff was placed in imminent fear for her physical safety.

90. At time of Auriemma's assault, Plaintiff had a reasonable apprehension that he was about to or intended to commit a battery.

91. As a result of the actions of said Defendant, Plaintiff has suffered emotional distress, humiliation, degradation, and the benefits of employment.

92. USAB is responsible under the doctrine of *respondeat superior* for the tortious conduct of Auriemma.

### DAMAGES

93. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above as though fully set forth herein.

94. The actions of the Defendants, and each of them, were committed intentionally, wantonly, and with malice, warranting the imposition of punitive damages.

95. As a result of the actions of the Defendants, and each of them, Plaintiff has suffered emotional distress, humiliation, degradation, and loss of income and the benefits of employment

### PRAYER FOR RELIEF

WHEREFORE, Plaintiff seeks the following relief:

- A. Compensatory damages;
- B. An award of back pay;
- C. An award of front pay;
- D. Punitive damages;

- E. Costs, disbursements, expert fees and attorneys' fees;
- F. Any and all other injunctive and equitable relief that the Court deems just and proper.

**JURY DEMAND**

Plaintiff demands a trial by jury

DATED: New York, New York  
October 22, 2012

**NEWMAN FERRARA LLP**

By: \_\_\_\_\_

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*Counsel for Plaintiff*

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

KELLEY D.F. HARDWICK,

Plaintiff,

-against-

GENO AURIEMMA, individually and as an  
employee of USA BASKETBALL, INC., USA  
BASKETBALL, INC., NATIONAL BASKETBALL  
ASSOCIATION, JAMES TOOLEY, individually and  
as an employee of USA BASKETBALL, and JAMES  
CAWLEY, individually and as an employee of  
NATIONAL BASKETBALL ASSOCIATION,

Defendants.

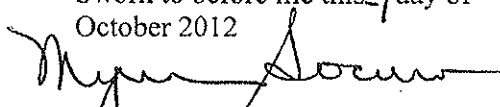
VERFICIATION

KELLEY D.F. HARDWICK, being duly sworn, deposes and says that deponent is the Plaintiff in the within action and that she has read the foregoing Verified Amended Complaint and knows the contents thereof, that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes them to be true.

Dated: New York, New York  
October 22, 2012

  
KELLEY D.F. HARDWICK

Sworn to before me this 24 day of  
October 2012

  
NOTARY PUBLIC

MYRNA M. SOCORRO  
Notary Public, State of New York  
No. 02SO6109100  
Qualified in Westchester County  
Commission Expires April 26, 2016