

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SHELTON J. HAYNES and GRETCHEN K.
ROBINSON,

Plaintiffs,

v.

EXECUTIVE CHAMBER FOR THE
OFFICE OF THE GOVERNOR OF NEW
YORK, ROOSEVELT ISLAND
OPERATING CORPORATION, ROGER
MALDONADO, TANIA DISSANAYAKE,
RUTHANNE VISNAUSKAS, DIANA
LOPEZ, ALEJANDRO VALELLA, and BEN
FHALA.

Defendants.

1:23-cv-08051

SECOND AMENDED COMPLAINT

JURY TRIAL DEMANDED

Plaintiffs Shelton J. Haynes and Gretchen K. Robinson, by their undersigned attorneys, allege as follows:

PRELIMINARY STATEMENT

1. This is a case about how the Executive Chamber for the Office of the Governor of New York (the “Chamber”) and the Roosevelt Island Operating Corporation (“RIOC”) have unfairly subjected Shelton J. Haynes and Gretchen K. Robinson (“Robinson,” and together with Haynes, the “Plaintiffs”), two African American executives, to continuous and pervasive discrimination by, including but not limited to, subjecting Plaintiffs to frequent unwarranted investigations by the New York State Inspector General (“NYSIG”) as well as ordering an independent investigation by an outside counsel—something not done for other, more serious allegations—based entirely on specious allegations of wrongdoing. The Chamber did so while simultaneously thwarting Plaintiffs’ efforts to fight back against the discrimination and defend themselves and RIOC against a multitude of defamatory statements made by a local blogger and a

group of disgruntled former employees. After a seven-month investigation by an outside counsel—an investigation that was wholly out of step with prior practice of the RIOC Board of Directors (the “RIOC Board” or the “Board”) and referred to by one RIOC Board Member as a “f***** racist witch hunt”—State officials close to the Governor, led by Defendants Alejandro Valella (“Valella,” who provided updates to the Chamber on the investigation) and Diana Lopez (“Lopez”) intentionally delayed outside counsel’s publication of a report that exonerated Plaintiffs of wrongdoing, and instructed outside counsel to sanitize the first draft of the report to remove and cover up the statements that supported Plaintiffs’ ongoing complaints of experiencing racial discrimination while working at RIOC. Other Chamber officials, including Defendants Roger Maldonado (“Maldonado”), Tania Dissanayake (“Dissanayake”), RuthAnne Visnauskas (“Visnauskas”), and Lopez, who were aware of the discussion of discrimination in the report, have discriminated and retaliated against Plaintiffs by, among other means: (1) installing RIOC Board Members (Defendant Ben Fhala (“Fhala”) and Lydia Tang (“Tang”))—who, from the beginning of their board tenures, have been antagonistic to Plaintiffs—without consulting Plaintiffs (a departure from prior practice); and (2) preventing existing RIOC Board Members—who are supportive of Plaintiffs—from filling committee vacancies.¹ Moreover, since Plaintiffs filed this lawsuit, Defendants have continued—and even escalated—their unwarranted targeting of Plaintiffs by initiating yet another frivolous investigation into them, interfering with their ability to do their jobs, criticizing them to the media, and, most recently, placing them on paid administrative leave pending another sham investigation. Through their actions, Defendants have

¹ The Chamber, RIOC, Valella, Lopez, Maldonado, Dissanayake, Visnauskas, and Fhala are collectively referred to as the “Defendants.” Valella, Lopez, Maldonado, Dissanayake, Visnauskas, and Fhala are referred to as the “Individual Defendants.”

also subjected Plaintiffs to a hostile work environment. In doing so, they have made their message to Plaintiffs clear: GET OUT.

2. The unprecedented actions taken against Plaintiffs were never taken against previous, similarly situated White RIOC executives.

3. Defendants' conduct violates federal, state, and city law. Accordingly, Plaintiffs bring this action pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, *et seq.*, 42 U.S.C. § 1983; the New York State Human Rights Law ("NYSHRL"), N.Y. Exec. L. §§ 290 *et seq.*; and the New York City Human Rights Law ("NYCHRL"), N.Y.C. Admin. Code §§ 8-101 *et seq.* The causes of action against Defendants are brought against them in their individual capacities.

4. Collateral to the filing of the original Complaint on September 12, 2023, Plaintiffs initiated the charge of discrimination process with the United States Equal Employment Opportunity Commission ("EEOC"). Plaintiffs received Right to Sue letters from the EEOC with respect to the Chamber and RIOC on or about November 17, 2023.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343(a)(4) over Plaintiffs' federal claims. This Court has supplemental jurisdiction over Plaintiffs' claims brought under state and city law pursuant to 28 U.S.C. § 1367.

6. Venue is properly laid in the Southern District of New York because a substantial part of the events and omissions giving rise to the claims set forth herein occurred in this District.

PARTIES AND REFERENCED ENTITIES AND PEOPLE

7. Haynes is the Chief Executive Officer ("CEO") and President of RIOC and has held that title full-time since in or about March 2021. In this position, he works closely with the RIOC

Board to ensure that the goals and objectives of RIOC are fulfilled. Under his leadership, numerous improvements to Roosevelt Island have been made, including, but not limited to, renovating the Blackwell House, restoring the Southpoint Park Shoreline, replacing the Seawall Railing, restoring the Motorgate parking garage, restoring the Lighthouse Tower and Park, renovating the Roosevelt Island Youth Center, renovating the Roosevelt Island Sportspark Complex, dedicating the FDR Hope Memorial, completing the Tram Elevator Project, and securing funding for the Riverwalk Building 9 project—a total cost of approximately \$76M. He first joined RIOC to serve as RIOC’s Chief Operating Officer (“COO”) in or about April 2016.

8. Robinson is the Vice President and General Counsel of RIOC. She joined the New York State Government in or about January 2015, when she became the Compliance & Internal Controls Officer for RIOC. In or about June 2018, Robinson served as Senior Counsel to the Empire State Development Corporation’s Division of Minority and Women’s Business Development (the “Division”), where she advised the Division on policy matters and proposed legislation that would affect the Minority and Women-owned Business Enterprise (“MWBE”) Program. She also advised other agencies and public benefit corporations around the state on MWBE matters and defended the Division in administrative appeals. Robinson returned to RIOC in or about August 2019 to serve as Vice President and General Counsel.

9. Defendant the Chamber advances the Governor’s policy initiatives and agenda and oversees government operations. The Chamber includes the Counsel and Assistant Counsel to the Governor. The Chamber is involved in all aspects of hiring RIOC administrative staff. The Chamber is involved in terminating the employment of RIOC executives and employees and provides Plaintiffs with directives on various issues.

10. Defendant RIOC is a New York State public benefit corporation responsible for operating Roosevelt Island, New York.

11. Defendant Maldonado serves as Assistant Counsel to Governor Hochul and works in the Chamber. Because of his background in housing policy, his portfolio of assignments includes the Governor's oversight of RIOC matters. Through approximately September 12, 2023, he regularly held check-in meetings with Robinson and provided her with directives on various issues.

12. Defendant Dissanayake serves as Deputy Secretary for Housing for New York State and works in the Chamber. Through approximately September 12, 2023, she regularly held check-in meetings with Plaintiffs and provides them with directives on various issues.

13. New York State Homes & Community Renewal ("HCR") is the New York State affordable housing agency that is charged with developing, preserving, and protecting affordable housing and investing in communities. HCR ex officios on the RIOC Board closely consult with the Chamber on a regular basis with respect to RIOC and provide Plaintiffs with directives on various issues.

14. Defendant Visnauskas is the Commissioner and CEO of HCR. She also serves as an ex officio member of the RIOC Board and serves as the Chair of the RIOC Board. Through her role in HCR, she reports to Defendants Dissanayake and Maldonado.

15. Defendant Lopez is the Senior Vice President and General Counsel for HCR. Until on or about September 12, 2023, she also served as the RIOC Board Chair Representative on the RIOC Board. In that role, she represented Defendant Visnauskas on the RIOC Board. Through her role in HCR, she reported to Defendants Dissanayake and Maldonado.

16. Defendant Valella serves as Vice President and Deputy Counsel in HCR and served as RIOC's Board Chair Representative before Defendant Lopez's appointment by Defendant Visnauskas on or about December 6, 2022. Through his role in HCR, he reports to Defendant Maldonado.

17. Defendant Ben Fhala serves as a RIOC Board Member. The New York State Senate confirmed his nomination on or about June 9, 2023.

18. NYSIG has jurisdiction over, among other things, New York State public benefit corporations. NYSIG's functions and responsibilities include receiving and investigating complaints concerning allegations of corruption, fraud, criminal activity, conflicts of interest or abuse in any entity under its jurisdiction.

19. OER is the New York State entity charged with investigating complaints of employment-related protected class discrimination in agencies and departments over which the Governor has executive authority.

20. The New York State Commission on Ethics and Lobbying in Government (the "COELIG" and formerly known as the Joint Commission on Public Ethics (JCOPE)) was created to restore public trust in government by ensuring compliance with the State's ethics and lobbying laws and regulations. It has jurisdiction over, among other things, New York State public benefit corporations. The COELIG provides information, education, and advice regarding ethics and lobbying laws and promotes compliance through audits, investigations, and enforcement proceedings.

21. The New York State Department of Human Rights ("NYSDHR") is the State agency charged with enforcing New York State's Human Rights Law.

22. The Office of the New York State Comptroller (the “Comptroller”) is responsible for, among other things, providing independent fiscal oversight on State and local finances.

23. The RIOC Board governs RIOC and, pursuant to RIOC’s enabling legislation, the Board is to be composed of nine members, including the Commissioner of the New York State Division of Housing and Community Renewal (or his or her designee), who serves as the Chair; the New York State Budget Director (or his or her designee); and seven public members appointed by the Governor with the advice and consent of the Senate. The RIOC Board sets RIOC policy and is responsible for the business affairs of RIOC.

24. Lydia Tang (“Tang”) serves as a RIOC Board Member. The New York State Senate confirmed her nomination on or about June 9, 2023.

25. Elizabeth Fine (“Fine”) serves as Counsel to Governor Kathleen Hochul and works in the Chamber.

26. Simonida Subotic (“Subotic”) is the former Deputy Secretary for Economic Development and Housing and worked in the Chamber.

27. R. Nadine Fontaine (“Fontaine”) is the former First Assistant Counsel to former Governor Andrew Cuomo and worked in the Chamber.

28. Valerie Lubanko (“Lubanko”) is a former Assistant Counsel to former Governor Cuomo and worked in the Chamber.

29. Carrie Bronsther (“Bronsther”) serves as the Assistant Secretary of Financial Services & Technology and previously served as Senior Policy Advisor. She works in the Chamber.

30. Bella Satra (“Satra”) serves as Assistant Counsel to Governor Hochul and works in the Chamber.

31. Pei Pei Cheng (“Cheng”) serves as Assistant Counsel to Governor Hochul and works in the Chamber.

32. Robert Megna (“Megna”) serves as the Director of the New York State Division of Budget. He also serves as an ex officio member of the RIOC Board.

33. Erica Levendosky (“Levendosky”) serves as Budget Examiner in the New York State Division of Budget. She is also a RIOC Board Member. In her role, she represents Megna on the RIOC Board. She is also a RIOC Board Audit Committee Member.

34. Jason Gough (“Gough”) serves as the Deputy Communications Director in the Office of Governor Hochul.

35. John O’Reilly (“O’Reilly”) is a former Chief Financial Officer of RIOC. He was terminated for cause in or about August 2022.

36. Arthur Eliav (“Eliav”), Erica Spencer-El (“Spencer-El”), Karline Jean (“Jean”), Amy Smith (“Smith”), and Jessica Cerone (“Cerone,” and together with Eliav, Spencer-El, Jean, and Smith, the “Former Employees”) are former employees of RIOC. Many of the Former Employees had a reputation for filing unsubstantiated complaints and all of them have been either terminated for cause (Eliav and Spencer-El) or laid off as part of a RIOC reorganization plan sanctioned by the Chamber, the RIOC Board, and OER, and reviewed in advance by outside labor counsel (as to Jean, Smith, and Cerone).

37. Howard Polivy (“Polivy”) serves as a RIOC Board Member.

38. David Kraut (“Kraut”) serves as a RIOC Board Member.

39. Fay Christian (“Christian”) serves as a RIOC Board Member.

40. Conway Ekpo (“Ekpo”) formerly served as a RIOC Board Member, until his removal in or about June 2020, described in more detail below.

41. Bryant Daniels (“Daniels”) is the Director of Communications and Community Affairs for RIOC.

42. Mary Cunneen (“Cunneen”) is the Acting COO of RIOC.

43. Dhruvika Patel Amin (“Amin”) serves as the Vice President and CFO of RIOC.

44. Tajuna Sharpe (“Sharpe”) is the Assistant Vice President, Administration of RIOC.

45. Aida Morales (“Morales”) is the Chief of Staff of RIOC.

46. Gerrald Ellis (“Ellis”) serves as Assistant Vice President and Deputy General Counsel of RIOC.

47. James Miskiewicz (“Miskiewicz”) is a partner at the law firm, Greenberg Traurig, LLP (“Greenberg Traurig”). He is a former federal prosecutor in the Eastern District of New York.

48. New York State Senator Liz Krueger (“Senator Krueger”) is the state senator for the 28th Senate District, which includes Roosevelt Island.

49. New York State Assemblymember Rebecca A. Seawright (“Assemblymember Seawright”) is the state assemblymember for the 76th Assembly District, which includes Roosevelt Island.

50. David Stone (“Stone”) is a local blogger. He operates the website “The Roosevelt Island Daily.”

51. Rick O’Conor (“O’Conor”) is a local blogger. He operates the website “Roosevelt Islander Online.”

FACTUAL ALLEGATIONS

I. Backdrop

52. In or about June 2020, RIOC’s prior CEO and President, Susan Rosenthal (“Rosenthal”), was terminated by the Chamber following an investigation by the New York State Office of Employee Relations (“OER” and formerly the Governor’s Office of Employee Relations

(GOER)), which revealed numerous instances in which Rosenthal spoke to subordinates using racist and sexually inappropriate language. Some of those instances occurred in conversations with Haynes. For example, on one occasion in 2019, Haynes was discussing with Rosenthal how uncomfortable he felt being an African American executive on Roosevelt Island. He then highlighted a double standard: if he were to curse publicly, it would not be viewed the same as if Rosenthal cursed publicly. She then agreed with Haynes, stating that if he were to curse publicly, he would be viewed as a “typical n*****.” On another occasion, in early 2020, she attempted to mediate a disagreement between Haynes and O’Reilly (who was CFO of RIOC at the time). Rosenthal said that Haynes and O’Reilly should get out a ruler and measure their penises and for Haynes to not worry because his was bigger.

53. At the time, Haynes was COO of RIOC, a role in which he was highly regarded. Haynes was appointed to the role of Acting President on or about June 19, 2020, upon Rosenthal’s termination.

54. On or about March 16, 2021, the RIOC Board appointed Haynes to the permanent position of CEO and President of RIOC.

II. Haynes’s Ascension to RIOC CEO and President Caused a Racist and Defamatory Backlash.

55. Haynes’s promotion to CEO and President of RIOC was historic, as very few African Americans have held such positions in the RIOC hierarchy. Unfortunately, after Rosenthal was fired, Haynes and other African American RIOC executives, including Robinson, have received an unprecedented level of scrutiny and hostility because of their race.

56. Since Haynes’s promotion, both Plaintiffs have been attacked and harassed because of their race.

57. One form of harassment of Plaintiffs has come from Stone. Since Haynes replaced Rosenthal, Stone has written several baseless articles about RIOC's staff and executives, often using racially charged language. For example, in one article, Stone criticized Rosenthal's termination (for using racist and sexually inappropriate language) as "unfairly firing a caucasian woman and replacing her with an African-American man. On Juneteenth." In another article, Stone claimed that Plaintiffs had been accused of "teaming up in a practice or [*sic*] racial cleansing at RIOC." In multiple articles, Stone cited an unnamed source claiming Haynes was building a Roosevelt Island "Wakanda" where he was surrounded "by a circle of female loyalists" or "a praetorian guard of females covering for him." Moreover, by backlinking (*i.e.*, providing hyperlinks to old articles in new articles), Stone was able to amplify engagement with his negative articles, posted among several social media accounts.

58. Since Haynes took over in June 2020 through June 2023, Stone has posted approximately 21 articles per month about RIOC. Haynes has been in his role of Acting and Permanent CEO and President of RIOC for approximately three years, or approximately 750 business days. Of those approximately 750 days, Stone has posted 532 articles about him, 98% of which were negative and/or demonstrated racial animus. In that same time, Stone posted 83 articles about Robinson, 84% of which were negative. For comparison, from 2016 through June 2020 (during Rosenthal's tenure), Stone wrote approximately 1 article per month about RIOC, 2% of which were negative. Moreover, although less than half (7 out of 22 or 32%) of the RIOC staff mentioned in Stone's articles are African American, more than half (approximately 56%) of the posts negatively mention the African American staff.

59. Despite the racist nature of these articles, Stone and his blog were supported by local elected officials, namely Senator Krueger and Assemblymember Seawright.

Assemblymember Seawright has endorsed Stone's racist articles on her social media accounts in the past, she has paid to advertise on his blog, and has published Stone's articles in her constituent newsletters. Senator Krueger has interviewed with Stone and has even posed for a photo with him. Since this endorsement and validation, Stone has been quoted in the New York Times, Crain's Business New York, and Business Insider, further compounding the negative impact on Plaintiffs.

60. These racist blog posts, their dissemination, and their apparent support by public officials—which never existed during the prior RIOC administrations run by White individuals—had a severe negative impact on Plaintiffs, their staff, and RIOC's working environment. However, Plaintiffs—as more fully described below—were not allowed to take any steps to protect their reputations as well as that of RIOC's, or to remedy the hostile environment.

61. Indeed, Defendants RIOC and the Chamber took no steps to remedy the hostile work environment of which Plaintiffs repeatedly complained.

62. Moreover, Plaintiffs and the other RIOC minority executive staff were subject to a hostile work environment, discrimination, and retaliation in that every action taken by them as RIOC executives was scrutinized, depicted in the most unfavorable light, unfairly investigated by state governmental entities as well as a law firm, and they, as a result of the Defendants' actions and indifference, were rendered completely helpless. Indeed, this was blatantly disparate treatment as none of the RIOC administrations run by White individuals had ever encountered such treatment.

III. Plaintiffs' Complaints of Discrimination Have Gone Ignored and Their Attempts at Fighting Back Against Defamatory Statements Have Been Thwarted.

63. The pervasive continuous racially hostile articles directed at Plaintiffs, and sanctioned by public officials, dominated the workplace environment and led to harassment, which resulted in low morale and unwarranted investigations.

64. Plaintiffs complained repeatedly to the Chamber about the hostile racial climate as far back as in or about October 2020.

65. On or about October 13, 2020, Haynes emailed the Chamber—specifically Subotic, Fontaine, Lubanko, and Bronsther—to complain about Stone’s disparaging comments about RIOC’s minority executives and staff. Haynes continued to make similar complaints throughout his tenure as CEO and President to Defendants Dissanayake and Maldonado, as well as Satra.

66. RIOC’s executive staff periodically sent the Chamber weekly reports (so-called “Red/Green Reports”) that flagged problems (red flags) and upcoming meetings (green flags). Through these reports, RIOC’s minority executives complained to the Chamber regarding the hostile racial climate.

67. For example, on or about January 13, 2022, the Red/Green Report informed the Chamber that Stone had posted an article confirming that he had filed a complaint to NYSIG about outside activities of Haynes from 2018. This report further explained to the Chamber that Stone said he would continue to file more NYSIG complaints because of his displeasure with the RIOC executives.

68. On or about January 25, 2022, the Red/Green Report informed the Chamber that Stone had filed or threatened to file multiple complaints with state agencies. Despite this revelation in the Red/Green Report, and Plaintiffs’ prior complaints about the racist campaign against them based on specious allegations, many of these state investigations into Haynes’s and RIOC’s management remain open.

69. On or about February 1, 2022, the Red/Green Report informed the Chamber that RIOC intended to engage outside counsel and a crisis management team to advise RIOC on how to best address Stone’s targeted attacks against RIOC’s minority executives and staff. This report

also noted that Stone's attacks and barrage of FOIL requests and complaints have negatively affected employee productivity and morale. The Red/Green Reports to the Chamber on or about February 15, 2022, February 24, 2022, March 15, 2022, and March 29, 2022 provided the same information to the Chamber regarding Stone and his impact on RIOC staffers' morale.

70. Plaintiffs even compiled a dossier of Stone's articles to measure how frequently he disparaged RIOC minority executives.

71. Plaintiffs also informed the Chamber that due to the added stress caused by the articles and the reaction to the articles, some of the RIOC minority executives have sought therapy, some of the minority staff have resigned, and some staff have been unwilling to accept promotions due to fear of public backlash. Plaintiffs also explained that the hostile climate made it challenging to attract and retain talent, as interviewees often raised concerns about the hostile climate during interviews.

72. To date, the Chamber has done nothing to assist RIOC's minority executives and staff, and, in fact, has aided and abetted the racist campaign against Plaintiffs, and the RIOC minority executives and staff.

73. For example, on or about February 11, 2022, Defendant Dissanayake and Satra directed Plaintiffs to "stand down" and not circulate the dossier they created on Stone's articles. Defendant Dissanayake and Satra further instructed Plaintiffs not to contact outside counsel for legal advice or crisis management advice regarding Stone.

IV. Plaintiffs Have Been Discriminated Against and Retaliated Against through the Continuous Use of Unsubstantiated Allegations of Misconduct as a Basis for Baseless and Unwarranted Investigations.

74. Defendants' failures to protect Plaintiffs from the hostile work environment were not the only form of discrimination against Plaintiffs. Plaintiffs were also subjected to repeated

unwarranted and frivolous investigations, to which none of their White predecessors were ever subjected.

75. From when Haynes was officially appointed CEO and President in or about March 2021 through approximately the beginning of March 2022, State agencies, including NYSIG, OER, the COELIG, and NYSDHR have launched no fewer than ten (10) inquiries and investigations into alleged wrongdoing by the RIOC management and Plaintiffs specifically. The allegations underlying these investigations were clearly frivolous—most were initiated in response to allegations by Stone or the Former Employees. However, despite the frivolous nature of the allegations, all but one of the NYSIG investigations remains open. These types of investigatory inquiries rarely occurred during the 4.5 years that both Plaintiffs reported to Rosenthal.

76. An additional investigation by the New York State Comptroller was announced on April 4, 2023, the same day Crain's Business New York published an article criticizing the RIOC executive staff, which included Plaintiffs. The Comptroller informed Plaintiffs via email of its intent to conduct the audit based on allegations of wrongdoing outlined in the pending lawsuit filed by some of the Former Employees in which they allege to have filed a complaint with said agency back in 2021. This was the first time RIOC executives had ever been contacted by the Comptroller for this purpose.

V. The Chamber's Directive to Plaintiffs to Do Nothing and Decision to Conduct an Unprecedented Investigation.

77. The discriminatory investigations reached a new low in or about March 2022.

78. On or about March 26, 2022, the Former Employees published an open letter, referred to as the #NYSWeDeserveBetter open letter, accusing RIOC executive staff, including Plaintiffs, of serious wrongdoing, including, but not limited to, accepting kickbacks, abuse of power, cronyism, and promoting a toxic work environment.

79. Despite the Former Employees' reputations for filing unsubstantiated complaints, the Chamber instructed Plaintiffs to take a similar do-nothing approach—as they were instructed to with Stone's attacks—in response to the press inquiries regarding the #NYSWeDeserveBetter open letter.

80. On or about April 5, 2022, Gough instructed Plaintiffs to say: "The Roosevelt Island Operating Corporation has received this letter, which has been forwarded to the NYSIG's office as well as Governor's Office of Employee Relations for their review. RIOC has no further comment at this time." Gough also instructed Plaintiffs to keep him posted regarding additional inquiries.

81. Some of the Former Employees filed a lawsuit against RIOC in or about February 2023—including allegations that were defamatory and further damaging to the reputations and morale of RIOC staff.²

82. In response, Robinson engaged outside counsel to file a countersuit for defamation on behalf of RIOC, as was her purview as General Counsel and consistent with prior practice. The majority of the Board agreed with this decision.

83. However, the Chamber interfered and prevented Plaintiffs from pursuing this litigation strategy, which would have actively challenged individuals who were defaming RIOC and would have helped to remedy RIOC's toxic and hostile work environment. Defendant Maldonado called Robinson on or about March 30, 2023, and scolded her for filing the defamation counterclaim without first consulting the Chamber. The Chamber took the position that RIOC

² Eliav filed his own lawsuit against RIOC, Plaintiffs, and Sharpe on or about November 23, 2022, in the Southern District of New York (No. 22-CV-09978). That lawsuit was dismissed on or about January 18, 2024.

should never have filed the counterclaim, notwithstanding the frivolous and defamatory nature of the complaints.

84. Then, on or about April 26, 2023, Defendants Lopez and Visnauskas had a call with Haynes and directed him to dismiss the defamation counterclaim. This directive was not communicated to the rest of the RIOC Board, went against the consensus of the RIOC Board (who wanted it filed), was inconsistent with prior practice, and violated RIOC's bylaws.

85. Notwithstanding the complete lack of support, Plaintiffs continued to try to work with the Chamber and other state agencies to address the toxic racially charged work environment. After the Former Employees published the #NYSWeDeserveBetter open letter on or about March 26, 2022, Robinson reported the #NYSWeDeserveBetter open letter to NYSIG for further review on or about April 1, 2022.

86. Plaintiffs also made a presentation to the Chamber and the RIOC Board that provided background information on the Former Employees, namely their motive to ruin Plaintiffs' professional reputations, and the fact that they were well known to the Chamber and the RIOC Board as being disgruntled.

87. Despite this, the Chamber's and RIOC Board's response to the allegations in the #NYSWeDeserveBetter open letter was unprecedented. Wholly separate from the normal NYSIG reporting and investigation process, in the weeks following the publication of the #NYSWeDeserveBetter open letter, Defendant Valella, with the support of some RIOC Board Members, considered hiring a law firm to independently investigate the practices and procedures of RIOC management.

88. The push to hire a law firm was led by the Chamber through Satra, and Defendants Dissanayake and Valella. The Chamber and Defendant Valella pushed to hire a law firm despite

the expected cost of an independent investigation (likely hundreds of thousands of dollars), the risk of interfering with the ongoing NYSIG investigations, and the fact that this was an unprecedented step.

89. Ultimately, the RIOC Board's Audit Committee decided at the June 23, 2022 RIOC Board meeting to hire a prominent, global law firm, Greenberg Traurig, to investigate the practices and procedures of RIOC management. Greenberg Traurig was formally engaged on or about September 2, 2022.

90. Defendant Valella was consulted in the drafting of the engagement letter, and Defendant Valella authorized the engagement letter's approval. Defendant Valella has also received updates during the investigation. This is notable because Defendant Valella does not serve on the RIOC Board's Audit Committee, let alone the RIOC Board, as his role of ex officio ended in December 2022 upon the appointment of Defendant Lopez as the new proxy for Defendant Visnauskas.

91. The decision to hire outside counsel to investigate alleged wrongdoing was a stark departure from how allegations of wrongdoing by RIOC management had been handled in the past. Investigations of RIOC executives and employees in the past were carried out by State agencies, such as the NYSIG, OER, COELIG, or the NYSDHR. For example, following a complaint in March 2012 to NYSIG alleging kickbacks and other ethics violations by the Vice President of Operations for RIOC, NYSIG — not outside counsel — conducted a sweeping investigation that also uncovered wrongdoing by other RIOC executives. Another example: outside counsel was not engaged to investigate the allegations of racism against Rosenthal in or about June 2020. Finally, outside counsel was not engaged to investigate the wrongdoing of O'Reilly, who was terminated for cause in or about August 2022 after it was revealed he was

drinking alcohol while on the job and golfing while he claimed to be working from home (ultimately stealing approximately 56 days in time).

92. The circumstances surrounding the termination of O'Reilly further underscore how Plaintiffs have been disparately treated. NYSIG declined to pursue corrective action and closed that case without any findings, recommendations, or reports, despite being presented with years of evidence in the form of emails and receipts of O'Reilly's golf outings during work hours, video footage of O'Reilly on the golf course on a day he claimed to work from home, and weeks of evidence tracking O'Reilly's RIOC-issued phone during business hours. Juxtapose that with the numerous, still ongoing NYSIG investigations of Plaintiffs, all of which were launched on completely baseless allegations from sources lacking credibility (*e.g.*, Stone and the Former Employees).

93. In addition, prior to the termination of O'Reilly's employment, Defendant Dissanayake and Satra prevented Haynes from suspending O'Reilly notwithstanding the overwhelming evidence against him. This further demonstrates the Chamber's involvement in employment decisions of RIOC.

V. The Sanitization of the Report to Cover Up the Discussion of Discrimination.

94. On or about September 2, 2022, Robinson signed a retainer agreement with Greenberg Traurig to conduct the unprecedented investigation.

95. Miskiewicz led the Greenberg Traurig investigation.

96. For approximately the next seven months, Greenberg Traurig interviewed numerous employees and reviewed many personnel files, documents, emails, and reports.

97. Greenberg Traurig's investigation, though wholly unwarranted and unprecedented, appears to have been conducted thoroughly and aboveboard. But the Chamber's response to the investigation and the Greenberg Traurig's draft report of its investigation was not. The initial draft

of Greenberg Traurig's report fully exonerated Plaintiffs of any wrongdoing, including the allegations by the Former Employees. Moreover, Miskiewicz also included a section discussing racial discrimination, which Robinson and Haynes complained about for months.

98. This was not the result that the Chamber wanted. Thus, as described below, instead of allowing the Greenberg Traurig report to be released, the Chamber insisted that it first be sanitized to remove all discussion of discrimination and hostile work environment—presumably because it would create problems for the Chamber.

99. Since they were the subjects of the investigation, Plaintiffs were only tangentially involved in it. During the investigation, Plaintiffs received informal updates on the investigation from a number of people, including Board Member Howard Polivy and Gerrald Ellis, who, as Deputy General Counsel, acted as a liaison between Greenberg Traurig and the Board. Conway Ekpo, another Board member, also eventually provided information about the investigation, but only after he had been removed from the Board. Many of these updates occurred in conversations that Haynes or Robinson recorded.

100. By on or about January 31, 2023, the scope of the investigation had expanded from focusing on RIOC Management's processes to the allegations against Plaintiffs in the #NYWeDeserveBetter open letter.

101. On or about January 31, 2023, Robinson spoke to Polivy. She recorded the conversation. During this conversation, Polivy confirmed that Defendant Valella was "running things through—in communication with Chamber." Polivy also stated that he and Levendosky "came up with the engagement scope," but that Defendant Valella had tweaked it. Polivy said that he was not sure what Defendant Valella wanted to accomplish. Polivy also confirmed that most,

if not all, of the allegations that blogger David Stone had lodged against Haynes (which were the subject of an NYSIG investigation) were completely meritless.

102. On or about March 16, 2023, Greenberg Traurig interviewed Haynes. After the interview, Miskiewicz told Haynes that he should sue.

103. On or about April 14, 2023, Greenberg Traurig interviewed Board Member Kraut, who is white. Later that day, Plaintiffs learned from Ellis that Kraut said they should end this “f***** racist witch hunt.” Kraut also said “Shelton [Haynes] is the best executive [of RIOC] so far.” Kraut acknowledged that some people had not liked Haynes since day one. Kraut also accused Assemblymember Seawright of buying into false assumptions about Haynes and said that if Haynes decided to sue, “things would get ugly” because elected officials would be “dragged into this” and they would be on the “wrong side” because they do not know what they are talking about, and that Haynes “crosses his ‘T’s and dots his ‘I’s.”

104. Indeed, Ellis ultimately advised Robinson and Haynes to file this suit.

105. In the meanwhile, the hostile and discriminatory environment at RIOC continued.

106. On or about April 5, 2023, Defendants Lopez and Visnauskas emailed Robinson and Haynes instructing them not to speak with RIOC Board Members without Defendants Lopez and Visnauskas present because “they don’t feel comfortable” with Plaintiffs speaking directly to the RIOC Board, notwithstanding that no RIOC Board Chair or RIOC Board Chair Representative had ever previously taken such a position.

107. On or about April 7, 2023, Haynes (copying Robinson) emailed Defendants Visnauskas, Lopez, and Valella, putting them on notice that Assemblymember Seawright was publicly advancing a false narrative about RIOC executive staff and how that narrative—combined

with the Crain's article—had become extremely disruptive to operations. Haynes forwarded the email to Defendants Dissanayake and Maldonado later that day.

108. On or about April 7, 2023, Robinson spoke with two deputy inspector generals of NYSIG about Greenberg Traurig's report. The deputy inspector generals were surprised to discover that RIOC's General Counsel was not the actual client with respect to Greenberg Traurig's retention.

109. Also, in or about April 2023, NYSIG contacted Greenberg Traurig to obtain a copy of the report. NYSIG was told that the report was privileged and would not be disclosed.

110. On or about April 26, 2023, Haynes (copying Robinson) emailed Defendants Maldonado and Dissanayake complaining about the toxic, negative, and racially charged environment they have had to work in as well as the false and defamatory claims made against the RIOC staff. Haynes also requested public exoneration in the form of a public meeting and written statement from the RIOC Board and the Chamber at the conclusion of Greenberg Traurig's investigation.

111. Neither the Chamber, RIOC, nor the Board took any action. Instead of doing something to address the racism that Plaintiffs had suffered and complained about, the only proffered solution was to offer Robinson a new job after the Chamber was made aware of the original report's findings of innocence and the claims of a racially hostile work environment on Roosevelt Island.

112. Specifically, on or about May 22, 2023, Robinson had a call with Cheng and Defendant Maldonado—a call that Cheng described as a “checkup.” Robinson recorded the call. Cheng began the call by saying: “Liz [Fine] does know what's going on with RIOC.” Cheng then pivoted to asking Robinson if she “wanted to go elsewhere”—in other words, she offered

Robinson the opportunity to move to another position. However, taking any of the purportedly available positions would have effectively been a demotion, because there “were no general counsel positions open and available in [New York] City,” and all the positions had a lower salary and less responsibility than Robinson’s current position of General Counsel for RIOC. During that call, Cheng also noted that Bella Satra “expressed to [her] very bluntly that there’s obviously racial issues.” Cheng also said she did not “feel like it was fair for” Robinson “to be in a place where it is so stressful and controversial.”

113. By on or about May 24, 2023, Greenberg Traurig had drafted a report detailing its findings and conclusions. The first draft of the report cleared Plaintiffs of all wrongdoing. Moreover, the first draft also included statements that supported Plaintiffs’ claims of racial discrimination.

114. However, the first draft was never released—not even to the RIOC Board. Instead, at some point before the May 2023 Board Meeting, Defendants Lopez and Valella instructed Greenberg Traurig to remove and sanitize all discussion in the report that touched on Plaintiffs’ accounts of the racial discrimination that they had experienced.

115. This was an unprecedented interference with the independence of the investigation, which had no purpose except to exacerbate the effects of the discrimination against Plaintiffs and protect the Chamber and RIOC from the airing of negative discussions about the racially charged atmosphere at RIOC (and their failure to address it).

116. On or about May 24, 2023, Haynes spoke to Ellis. Haynes recorded this conversation. Ellis explained to Haynes that Miskiewicz had told him that Defendants Lopez and Valella had instructed Miskiewicz to remove from the first draft of the report the section discussing allegations of a racially charged hostile work environment. In fact, Ellis’s specific words were:

“[T]hey decided that . . . all of that stuff was basically beyond the scope of [Miskiewicz’s] representation and what they had retained [Miskiewicz] for, so they wanted the report limited to just policies and procedures. . . . The retainer agreement is purposefully vague. It can mean whatever you f***** want it to mean, which is what they are doing. So they are saying ‘Oh no no no. We don’t want to read about any of that. Don’t put that in the report. That’s beyond the scope of the representation.’” Ellis complained about Defendants Valella’s and Lopez’s authority, saying “it’s such a farce . . . it’s all made up, it’s a farce.”

117. During that same recorded conversation, Ellis told Haynes he had also spoken to Polivy. Ellis characterized Polivy’s explanation of the “justification” for the removal of the section as follows: “you can’t have all that s*** in paper—you can’t have a report that is incriminating. If Jim’s report is incriminating, they need to clean it up. . . . If the report is going to be all about racism, now you’ve got a report about racism on your hands.” Ellis also predicted that the report would be a “whitewash,” clearing Plaintiffs of wrongdoing but not saying anything about the “racist witch hunt aspect of it.” Ellis agreed that filing a discrimination lawsuit was good advice. Ellis also predicted that the long-term plan was to get rid of Haynes and to remove Robinson by offering her another job in a lesser role.

118. Greenberg Traurig presented the second draft of the report to the RIOC Board during executive session on or about May 25, 2023. The second draft that the RIOC Board received indicated that it was a second draft—and did not contain the any discussion of Plaintiffs’ claims of discrimination. During this RIOC Board meeting, however, Greenberg Traurig also presented a PowerPoint to the RIOC Board that did discuss racial discrimination.

119. On or about May 25, 2023, after the presentation to the RIOC Board, Haynes spoke to Ellis. During that conversation, which Haynes recorded, Ellis described Miskiewicz’s

presentation to the RIOC Board: “he had two documents”: “the report itself”—which by that point had been sanitized—and a “PowerPoint presentation.” Ellis confirmed that “[t]he PowerPoint presentation does mention racism.” Ellis added: “the report exonerates you.” According to Ellis, Miskiewicz also said “there is major risk here for lawsuits from Shelton, Gretchen, Tajuna.” Ellis told Haynes that he had made the same point during the meeting: “that’s what I kept going back to, too. Every time I had a chance. Because honestly, I’ve told you this. . . . I’m a lawyer. I see lawsuits. I was a plaintiffs’ f***** employment lawyer. And I literally said that at one point in the whole Board meeting. . . . I was like, I was a plaintiffs’-side employment lawyer, and I will tell you—the facts here are very very bad.”

120. The fact that the report was sanitized before the RIOC Board ever received a draft all but confirms that the Chamber, rather than the RIOC Board Audit Committee, exercised actual control over Greenberg Traurig’s investigation and report.

121. On or about May 31, 2023, Haynes spoke to Polivy. During that conversation, which Haynes recorded, Polivy provided Haynes with an update on the report. When Haynes asked about the next steps for the report, Polivy said the report was “making the rounds in Albany – with our ex officios.” Polivy also said the plan was to “ramp up and roll something out in June.” When Haynes asked why it was taking so long for the report to be published, Polivy said it was “new papers for them to look at” and reiterated that they “haven’t seen it before because we held it close to chest.”

122. Plaintiffs spoke to Ellis again on or about June 6, 2023. Haynes recorded this conversation. During the conversation, Ellis gave Plaintiffs an update on the second draft of the report. Ellis confirmed “a section at the end that talked about . . . morale problems” had been deleted. Haynes then asked whether the word “racism” appeared in the report. Ellis responded: “I

did not ‘control F’ the word, but I believe it’s not here. . . . [I]t’s my understanding that that word was used once, and only in the PowerPoint.”

123. On or about June 17, 2023, Haynes spoke to Ekpo, after he had been removed from the Board. During that conversation, which Haynes recorded, Ekpo confirmed that Miskiewicz had provided the RIOC Board with a “full cleansed report” and the “Greenberg Traurig summary of the report,” in which Miskiewicz observed “the attacks were racially motivated based on online trolling and comments, use of racial graphics, [and] anonymous quotes.”

124. At the June 29, 2023 RIOC Board meeting, discussion about publicly releasing the report was thwarted by Defendant Lopez, who claimed that due to a “challenge” to the report, she would not engage in any further discussion of the report with the RIOC Board. Defendant Lopez did not reveal that the “challenge” she referenced was a litigation hold notice sent by Plaintiffs’ counsel on or about June 16, 2023.

125. On or about June 29, 2023, Haynes spoke with Ellis, recording the conversation. Ellis said Miskiewicz “called [him] the day before the last Board meeting and he was, like, kind of apologetic and he asked me to pass on the message to you, Gretchen, and Tajuna saying that . . . basically, the report was going to be limited and that it was going to focus . . . exactly what it is.” Ellis also noted that he knew that Miskiewicz “would routinely have calls with Alex [Valella], Diana [Lopez], and, I believe, Howard [Polivy].”

126. Even though Greenberg Traurig’s investigation had again raised Plaintiffs’ allegations of racism and discrimination, the Chamber and RIOC failed to take any action.

127. At the RIOC Board Meeting on or about September 14, 2023, the Board adopted a resolution authorizing the release of Greenberg Traurig’s report. There was no press release announcing the exoneration of Plaintiffs.

VI. The Chamber's Interference with Plaintiffs' Execution of Their Duties and Responsibilities Constitutes Discrimination and Retaliation and Contributed to a Hostile Work Environment.

128. It is an integral part of the job of any CEO to have input into the board's composition as those individuals are the ones that the CEO and General Counsel will have to frequently work with to successfully guide an organization.

129. In past RIOC administrations (with White CEOs at the helm), the general practice of selecting, nominating, and appointing new RIOC Board Members always included working with the RIOC CEO and President and General Counsel to identify potential candidates. The Chamber circumvented that process once RIOC was under the leadership of an African American CEO and President and General Counsel.

130. Since Haynes took over, it has been the clear intent of Defendants to undermine Plaintiffs' authority and ability to discharge their job functions by appointing new Board members who are antagonistic to Plaintiffs. Plaintiffs have been disparately treated and excluded from the selection of new RIOC Board Members, having only been informed of their selections after the fact. This departure from prior practice has also been retaliatory, as it was the result of Plaintiffs complaining about racial discrimination, and it has contributed to a racially hostile work environment.

131. Despite several requests by Haynes for the names of new potential RIOC Board Members, the Chamber worked closely with elected officials (namely Senator Krueger and Assemblymember Seawright) to add new RIOC Board Members without telling Plaintiffs.

132. On or about May 17, 2023, the Chamber emailed Robinson to draft recusal memos for two of the proposed new members (Defendant Fhala and Tang) to "resolve" conflicts of interest concerns. The email was sent by the Assistant Appointments Counsel in the Governor's Appointment Office at the behest of Defendant Maldonado, who was copied on the email.

Defendant Maldonado—who oversees RIOC matters for the Governor’s office, including appointments of RIOC Board Members—had requested that the Assistant Appointments Counsel contact Robinson because Assistant Appointments Counsel had a question for Robinson, who served as the ethics officer of RIOC.

133. On or about May 17, 2023, Robinson voiced concerns about the two potential RIOC Board Members’ conflicts of interest. The Chamber ignored these concerns and pushed forward with Defendant Fhala’s and Tang’s appointments. The Chamber insisted that Robinson draft recusal memos and gave Robinson very short notice in drafting the memos and reiterated the directive on multiple occasions in or about mid-to-late May 2023.

134. The New York State Senate confirmed the three new RIOC Board Members on or about June 9, 2023.

135. This was not the only interference with and undermining of Plaintiffs’ discharge of their duties and responsibilities. Defendant Lopez also prevented two already-serving RIOC Board Members—Fay Christian and Conway Ekpo, both of whom were long-tenured African American RIOC Board Members who are supportive of Plaintiffs—from serving on RIOC Board committees. Neither of these RIOC Board Members condone the unfair and discriminatory treatment of Plaintiffs.

136. On or about April 26, 2023, Haynes emailed Defendants Visnauskas, Lopez, and Valella asking to add Christian and Ekpo to the Operations Advisory Committee given their in-depth knowledge of RIOC and the Roosevelt Island community.

137. Defendant Lopez rejected the request, claiming that since two (2) new Board Members were anticipated to join RIOC, the Board should “hold off.”

138. On or about May 31, 2023, Christian emailed the entire RIOC Board inquiring about the status of the vacancy on the Operations Advisory Committee.

139. On or about June 1, 2023, Ekpo emailed the entire RIOC Board to express the need for the Operations Advisory Committee to meet.

140. On or about June 15, 2023, Robinson received an email from the Governor's Appointment Office stating that Ekpo had been removed and replaced with another individual. Plaintiffs found out about this change only via email. The removal letter attached to the email (backdated to June 9, 2023), said that Ekpo was being removed because his term was expiring. While Ekpo's appointment to the RIOC Board had expired in 2021, the Chamber allowed two White men to remain on the RIOC Board even though both of their terms expired over thirteen (13) years ago. And, of important note, Ekpo never received a copy of that letter or any notification of his removal.

141. On or about June 16, 2023, the Chamber and HCR received a letter from Plaintiffs' counsel requesting a litigation hold, citing racial discrimination and retaliation.

142. On or about June 20, 2023 (after the Juneteenth holiday), Ekpo received a call from the Governor's Appointment Office claiming that a "clerical error" had been made in his removal, and that they were trying to reinstate him. Neither Defendant Lopez nor any of the Chamber's liaisons who work with Plaintiffs notified them of this "clerical error." Moreover, none of the other RIOC Board Members were informed of this "error," and when Haynes asked about the circumstances surrounding Ekpo's removal, Defendant Lopez initially claimed to know nothing about it, only stating that there had been a "clerical error" when pressed. Moreover, although the reinstatement was apparently scheduled to occur in January 2024, when the New York State Senate convened, Ekpo still has not been reinstated.

143. On or about July 7, 2023, Defendant Fhala—who was appointed to the RIOC Board without consulting Haynes or Robinson—sent an email request to Defendant Lopez, Levendosky, and Ellis requesting that he be added to the Audit Committee, and he asked to create a new committee for transportation and parking, excluding both Plaintiffs from the email.

144. On or about July 10, 2023, Defendant Lopez approved Defendant Fhala’s request, and asked Ellis to draft the appointment letters for her signature without Haynes or Robinson being aware. Ellis, who reports to Robinson, made Plaintiffs aware. Haynes then contacted Defendants Visnauskas, Lopez, and Valella to express concern over the matter.

145. On other occasions, Defendant Fhala has ignored the practice of how a RIOC Board Member should contact stakeholders. For example, on or about July 7, 2023, he contacted the Metropolitan Transit Authority (“MTA”) to discuss various topics and explore potential transit solutions involving Roosevelt Island without first discussing the topics with Haynes. On or about July 10, 2023, MTA responded to Defendant Fhala, informing him that he should have a discussion with RIOC executive leadership and RIOC Acting Chief Operating Officer Cunneen to make sure that RIOC is speaking in one accord.

146. Defendant Fhala has also been copying Senator Krueger’s staff on communications with stakeholders rather than Haynes or Robinson, which is contrary to prior practice.

147. On another occasion, on or about July 18, 2023, during the welcome session for new RIOC Board Members, Plaintiffs had to explain to Defendant Fhala that it was inappropriate for him to directly contact sister agencies and other RIOC staff without first reaching out to Haynes.

148. On another occasion, on or about July 31, 2023, Defendant Fhala sent an email about matters pertaining to the upcoming RIOC Board meeting to the RIOC Board, Haynes,

Robinson, the RIOC Legal Department, Senator Krueger, and Assemblymember Seawright, as well as Defendants Maldonado, Dissanayake, and Valella. In the email, Defendant Fhala wrongfully accused Robinson of deliberately delaying the upcoming RIOC Board meeting. Moreover, Defendant Fhala breached the general practice of not sending emails pertaining to internal RIOC Board matters to non-RIOC parties (*e.g.*, elected officials).

149. At the subsequent RIOC Board meeting, on or about August 7, 2023, Defendant Fhala accused Haynes of blocking his appointment to committee positions. Defendant Fhala accused Robinson of misrepresenting the RIOC Board bylaws to prevent him from being appointed to committee positions. During that meeting, Defendant Fhala acted in an antagonistic manner and was rude and condescending, tones that were noted by other people present. Robinson openly expressed concern about Defendant Fhala's conduct and questioned his ability to maintain confidentiality and not share sensitive information with elected officials and other members of the public.

150. On or about August 10, 2023, Acting COO of RIOC Mary Cunneen forwarded an email from Defendant Fhala to Plaintiffs. Defendant Fhala had emailed "urgent" concerns to various stakeholders and elected officials, but he omitted Plaintiffs from the email. Cunneen noted that she was concerned about Defendant Fhala's behavior as it "seem[ed] to involve disruptions and communications with internal and external parties." She also noted that his actions "appear[ed] erratic and unpredictable" and have "the potential to generate confusion amongst various stakeholders."

151. Also, on or about August 10, 2023, Defendant Fhala emailed Defendant Lopez, copying Defendant Visnauskas, Defendant Valella, Robinson and other staff in RIOC's Legal Department. Defendant Fhala made his position clear that he did not believe he was under an

obligation to keep internal RIOC matters confidential, and he asked for Defendant Lopez's legal guidance. In response to that email, later that day, Haynes emailed Robinson and Defendants Visnauskas, Lopez, Valella, Dissanayake, and Maldonado to complain about Defendant Fhala's disrespectful and condescending behavior.

152. Despite being instructed otherwise, Defendant Fhala continues to flout the norms and procedures all RIOC Board Members are to abide by. Defendant Fhala also continues to communicate with Plaintiffs in an antagonistic manner. For example, in an August 28, 2023 email that included the entire RIOC Board, Haynes, Robinson, and Defendants Lopez, Valella, and Visnauskas, Defendant Fhala likened Haynes's prior responses on MTA issues as "2 months of running in circles."

153. In another example, Defendant Fhala and Tang—who was also appointed to the RIOC Board without consulting Haynes or Robinson—both disregarded the norms for conduct of a RIOC Board Member and criticized Haynes. After receiving an inquiry from the blogger Rick O'Connor that referred to a privileged and confidential legal memo Robinson had drafted, Haynes emailed the RIOC Board and other stakeholders on August 28, 2023 asking for information about how the memo was divulged. Tang replied later that day to confirm she divulged the memo to the local blogger. Tang, in her email, went on to criticize the RIOC executive team, calling out Haynes for needing to "figure out how to work smarter." Defendant Fhala replied to Tang's email on August 29, 2023 to agree with Tang and further criticize and demean Haynes:

Shelton, given your keen attention to not being responsive to board members, I'd like to remind you: you work at the pleasure of the board. It seems a refresher in understanding your role and responsibilities is needed. Dianna/Alex, could you assist in organizing training for Shelton? This would help him better understand his obligations to the residents of this island and to this oversight board.

VII. Defendants Have Retaliated Against Plaintiffs After They Filed this Lawsuit and Their Amended Complaint.

154. Since Plaintiffs filed the initial Complaint in this Action, Defendants have continued—and in some cases increased—their unwarranted targeting of Plaintiffs by initiating a new unwarranted investigation into Plaintiffs, interfering with Plaintiffs’ ability to do their jobs, and making critical remarks about Plaintiffs to the media.

155. Plaintiffs filed their initial Complaint in this action on September 12, 2023. Within approximately one week, Defendant Fhala—one of the two new Board members whose appointment the Chamber pushed through despite significant conflict of interest concerns—along with Tang, had begun taking steps to reduce the scope of Plaintiffs’ authority, initiate a new frivolous investigation against them, and malign Plaintiffs to the same media outlet that had been responsible for the racist articles against them.

156. Within a week after Plaintiffs filed their initial Complaint, Defendant Fhala sought an “emergency” Board meeting to reduce Haynes’s monetary approval thresholds by nearly 50%. Specifically, Defendant Fhala wanted to reduce the amount of funds Haynes was authorized to spend without pre-approval by the Board from \$175,000 to \$90,000—a significant reduction that would significantly curtail his ability to run day-to-day operations.

157. Around that same time, in or about September or October 2023, Tang requested an accounting of Haynes’s time worked, leave requested, and salary since his appointment to the position of acting CEO in June 2020.

158. On information and belief, Tang did not need Haynes’s time and leave records for the completion of her duties as a member of the Board but, rather, requested those records in an effort to search for and “find” issues with Haynes’s work history.

159. Approximately one week after Plaintiffs filed their initial Complaint, Defendant Fhala, along with Tang, met with Gerrald Ellis, without Plaintiffs' knowledge.

160. On information and belief, that meeting was conducted at the behest of Defendant Fhala and Tang for the purpose of obtaining information that could be used against Plaintiffs.

161. Shortly after that meeting, Ellis requested access to RIOC's email search systems, under the pretense of needing access to obtain information for certain legal work. In fact, Ellis used the access he was given to search through Plaintiffs' past emails. Ellis searched through Plaintiffs' past emails on multiple occasions, from on or about September 26, 2023, to on or about October 20, 2023—*i.e.*, a time period after Plaintiffs filed their initial Complaint in this matter. There was no valid reason for Ellis to surreptitiously search through their emails.

162. On information and belief, Ellis did so for the purpose of searching for information to be used against Plaintiffs.

163. Defendant Fhala initiated yet another baseless and unwarranted investigation into Plaintiffs, including by Defendant Fhala emailing both the NYSIG's office and the COELIG to suggest that Plaintiffs' procurement of a contract with a digital reputation management company was somehow improper.

164. The contract had been entered into approximately one year earlier—well before Defendant Fhala joined the RIOC Board—in an effort to counter the negative impacts on RIOC and its staff created by the onslaught of unfavorable press David Stone had generated.

165. The contract had been entered into after a public procurement process based on responses to a public Request for Proposals. RIOC's comptroller, director of procurement, IT director, and legal staff were all aware of and/or involved in the procurement process. Indeed, before the contract had been signed, Polivy had encouraged Plaintiffs to counterbalance the

negative press with positive stories. Board members Fay Christian and David Kraut also supported Plaintiffs efforts to counterbalance the negative impacts of the unfavorable press.

166. Moreover, the Battery Park City Authority—RIOCC’s sister agency for Battery Park City—had entered into a similar contract with a similar media firm that has conducted similar work and no questions had been raised about the propriety of that contract.

167. Despite this background establishing the propriety of the contract, Defendant Fhala has nevertheless attempted to raise suspicions about the contract and use it to initiate yet another frivolous investigation into Plaintiffs.

168. Defendant Fhala has, since the filing of the initial Complaint, sent several emails critical of Haynes and expressing concerns about Haynes’s performance as CEO to the blogger Rick O’Conor, who had also previously been critical of Plaintiffs. Defendant Fhala has included local elected officials on some of these emails.

169. For example, on or about October 20, 2023, Defendant Fhala sent an email to O’Conor suggesting that the contract with the digital reputation management company raised “significant concern[s]” and warranted investigation into the procurement of and authority for the investigation.

170. Defendant Fhala sent another email, on or about November 27, 2023, to O’Conor, claiming that “multiple whistleblowers” had provided “alarming information” that raised “numerous legal and ethical concerns” about the procurement of the digital reputation management contract.

171. As set forth above, the digital reputation management contract was properly entered into pursuant to a public procurement process. However, Defendant Fhala’s reference to

“whistleblowers” and “legal and ethical concerns” falsely suggested that Plaintiffs had engaged in illegal or unethical conduct.

172. Separately, Defendant Fhala also told O’Conor that Haynes had prohibited his staff from speaking to Board members and was impeding the Board from conducting its work. This was deliberately misleading and designed to further malign Plaintiffs: as discussed below, because Fhala and Tang had repeatedly interfered with RIOC’s day-to-day work by showing up at RIOC headquarters and demanding to speak to staff, Plaintiffs had, in consultation with the Board Chair, instituted protocols for Board members’ discussions with staff, to ensure that any such discussions were coordinated through executive leadership.

173. Defendant Fhala’s communications with the blogger served to further malign Plaintiffs and cast baseless aspersions on their conduct—despite the fact that Plaintiffs had complained for years about the impact of the unfair negative articles that had previously been written about them. Rather than seek to remedy the problem, Defendant Fhala chose to add fuel to the fire.

174. Defendant Fhala had no basis to write these emails to the blogger except to harm Plaintiffs.

175. Defendant Fhala and Tang have, on several occasions, shown up to RIOC’s headquarters unannounced and demanded meetings with Plaintiffs as well as with other members of the RIOC staff, interfering with the staff’s work. Defendant Fhala and Tang have also harassed staff members for information. This type of conduct by RIOC board members is unprecedented and retaliatory.

176. For example, on or about September 28, 2023, Defendant Fhala and Tang arrived unannounced to RIOC headquarters, asking to speak with Bryant Daniels, the Director of

Communications and Community Affairs for RIOC. The front desk associate told Defendant Fhala and Tang that Daniels was working from home and the liaison who handles communications and constituent services liaison was unavailable. The front desk associate also told Defendant Fhala and Tang that meetings with Daniels typically require appointments. Defendant Fhala then interrupted the front desk associate and insisted that he did not need an appointment because he was a Board member and should be able to speak to whomever he would like without an appointment. In the same visit, Defendant Fhala and Tang asked to speak with the head of human resources, Tajuna Sharpe. The front desk associate told Defendant Fhala and Tang that Sharpe was out sick. Defendant Fhala then asked to speak with two more individuals from human resources, mentioning his status as a new Board member in a condescending tone. During the same visit, Defendant Fhala and Tang requested an impromptu tour of the Roosevelt Island Sportspark Complex, which is the hub for sports, fitness, and wellness activities on Roosevelt Island and had just re-opened in or about May 2023 after major renovations. Aida Morales, the RIOC Chief of Staff, explained that staff members were not authorized to provide impromptu tours without Haynes's approval, which made Tang visibly upset.

177. Defendant Fhala has also repeatedly "scolded" Plaintiffs and spoke to them in a condescending, derogatory manner. For example, at a Board meeting on or about September 14, 2023, Defendant Fhala condescendingly told Plaintiffs, "May I remind you that you report to us?" He has also written similar things in emails to Plaintiffs.

178. Defendants Visnauskas, RIOC, and the Chamber were aware of the retaliatory conduct engaged in by Defendant Fhala and Tang as described above. However, Defendants Visnauskas, RIOC, and the Chamber have taken no steps to stop or mitigate the retaliatory conduct

and, instead, have implicitly approved it. Defendants Visnauskas, RIOC, and the Chamber have also failed to take any steps to prevent yet another baseless investigation against Plaintiffs.

179. On or about November 28, 2023, outside counsel for RIOC emailed Plaintiffs' counsel proposed "Protocols for Executive Leadership and the RIOC Board of Directors" (the "Protocols"), which were designed to govern how Plaintiffs should interact with RIOC staff and Board members in order to reduce any friction inadvertently caused by Plaintiffs' pending lawsuit.

180. On or about December 8, 2023, Plaintiffs filed the amended complaint, adding the Chamber, RIOC, and Fhala as defendants.

181. On or about December 7 and December 18, 2023, Plaintiffs' counsel emailed RIOC's outside counsel edits to the proposed Protocols. Those edits were designed to make the proposed protections mutual, so that Plaintiffs could continue to attend to the essential functions of their roles. For example, one of Plaintiffs' proposed edits was to have the RIOC Board agree "to not take any retaliatory adverse employment action against any non-union RIOC staff member, including Mr. Haynes and/or Ms. Robinson." RIOC never signed the proposed revised Protocols. In fact, RIOC's counsel never responded to Plaintiffs' proposed revisions at all.

182. On or about January 2, 2024, Haynes met with Fay Christian. She informed Haynes that she had learned that a few days prior to their meeting, Dhruvika Patel Amin (RIOC Vice President and CFO) was having trouble accessing information for the Board regarding confidential overtime records for RIOC employees. Christian believed that Amin was attempting to see whether Haynes received overtime pay during his time as CEO and President (such pay is not permitted).

183. Also on or about January 2, 2024, Haynes spoke with Ekpo. Ekpo confirmed his belief that the allegations in the amended complaint are 100 percent accurate. Ekpo also confirmed

that Lopez had instructed Miskiewicz to remove observations of racism that were in the first draft of the report.

184. On or about January 4, 2024, Defendant Fhala emailed Stone and O’Conor, (copying Plaintiffs, Ellis, Daniels, and the rest of the RIOC Board) his “commit[ment] to fostering more extensive discussions on operational and governance topics, particularly with” Stone and O’Conor. Defendant Fhala’s email added: “My intention is to engage in ongoing dialogues until I am satisfied with the performance of the communications team, executive leadership, and board oversight concerning our fiduciary duties to RIOC and responsibilities to the community.”

185. On or about January 7, 2024, Fhala wrote to Stone again, saying, among other things, “We eagerly anticipate your insightful writings and inquiries, and we invite you to allow the new resident board members to contribute their perspectives in response to your publications.”

186. The email back-and-forth between Defendant Fhala and Stone continued for several more days. On or about January 11, 2024, Defendant Fhala invited Stone to a meeting the following week, after the RIOC Operations Advisory Committee was scheduled to meet.

187. On or about January 12, 2024, Defendant Fhala sent another email blast to Plaintiffs, the RIOC Board, Defendant Visnauskas, Ellis, Daniels, Stone other RIOC staff, and local elected officials. In this email, he asserted that at the upcoming RIOC Operations Advisory Committee meeting, he would sit in the place of another RIOC Board member who was on the committee (with her permission) so that he could, among other things, publicly scrutinize the procurement contract with the digital reputation management company. Defendant Fhala also called out Haynes and Defendant Visnauskas in the email:

While the specific topics remain uncertain and potential opposition from Shelton Haynes or RuthAnne Visnauskas looms, I am optimistic that your attendance will draw sufficient attention. Positive pressure exerted on our elected officials, who genuinely

care about our residents and RIOC's well-being, may prompt them to send representation. Ideally, this could encourage RuthAnne Visnauskas to officially include this item on the agenda or, if not, make it publicly clear that she does not prioritize RIOC's core goal of serving the community. I have faith that a bit of political pressure can redirect her focus from lawyers and advisors whispering in the silence.

188. On or about January 14, 2024, Defendant Fhala further made clear that he wanted to scrutinize the procurement contract—in an effort to discredit Plaintiffs—involving the digital reputation management in a public forum, and he would stop at nothing, including defying the RIOC Board Chair and threaten to take over a meeting of a committee he was not a member of. Defendant Fhala sent another email blast to Board member Christian, Plaintiffs, Defendant Valella, Ellis, the RIOC Board, and local elected officials. In this email, he put Christian (who is the chair of RIOC Operations Advisory Committee) on notice that he would occupy another Board member's seat and participate in the meeting. He added: “Kindly consult with your legal team to confirm you understand the laws that govern RIOC. I plan to attend, participate, and won't heed requests to leave.”

189. On or about January 15, 2024, an assistant commissioner in HCR replied to Defendant Fhala's email, informing him that under the RIOC bylaws—and quoting the relevant provision—committee members lack the authority to designate someone to participate in their place. Therefore, Defendant Fhala could not participate in the upcoming RIOC Operations Advisory Committee. Defendant Fhala replied: “Adding the [Authorities Budget Office] for their knowledge. I will only comply to a direct request from the elected official or the abo.” Defendant Fhala then sent another reply email, adding: “The bylaws to [sic] not explicitly specify the [sic] board members can not have desegnees [sic]. Please reach out to your legal counsel and we can debate that in the upcoming meeting in front [sic] of a live audience.”

190. On or about the morning of January 16, 2024, Defendant Visnauskas and Polivy informed Plaintiffs in separate meetings that, effective immediately, they would be placed on paid administrative leave.

191. During their meetings, Plaintiffs were told that the RIOC Board had received complaints from at least five staff members about them and RIOC's administration, alleging a toxic work environment. Plaintiffs were also told the Board determined that it was necessary to investigate the cited concerns and to put Plaintiffs on leave pending that investigation. When Plaintiffs noted that Defendant Fhala and others had been harassing and interfering with their work and the work of the RIOC administration, Defendant Visnauskas said there was no recourse.

192. According to outside counsel for the Board, the five employee complaints were submitted sometime after Plaintiffs' counsel provided revisions to the proposed Protocols, and after Plaintiffs filed their amended complaint.

193. This is the first time Plaintiffs have ever been placed on administrative leave as a result of an investigation. During Haynes's tenure as CEO and President of RIOC, Plaintiffs have faced twelve other investigations—none of which have resulted in any findings of wrongdoing—but Plaintiffs were never put on leave.

194. Moreover, in Plaintiffs' experience, investigations of this nature are usually submitted through human resources or OER. This time, however, Plaintiffs were told that, instead, the Board planned to hire yet another outside law firm to "quickly" conduct an investigation. This is in contrast to the other twelve investigations initiated against Plaintiffs, all of which took several months to resolve or remain open. On information and belief, the Board did not hire Greenberg Traurig to conduct this investigation, even though it conducted the previous one.

195. On information and belief, numerous RIOC staff members and employees are terrified about their job security and career opportunities given Defendants' unreasonable and targeted treatment of Plaintiffs following their complaints of discrimination and retaliation.

196. Within hours of Plaintiffs being placed on administrative leave, Ellis emailed a listserv of RIOC staff and employees announcing that the Board had "received notice of several employee concerns about the RIOC workplace . . . [and] determined that it is necessary to conduct a review of these concerns by way of an outside professional," and that "[d]uring this review," Plaintiffs would be "placed on administrative paid leave." In the same email, Ellis announced that, while Plaintiffs are on leave, the day-to-day operations of RIOC will be overseen by an interim leadership team that includes Dhruvika Patel Amin and Gerrald Ellis, while Polivy will serve as a Board member liaison providing additional support to the interim leadership.

197. Later that afternoon, the same announcement was issued as a press release on Rick O'Connor's website. The article also included a quote from Senator Krueger and was also published on Facebook and X (formerly known as Twitter).

198. The next day, on or about January 17, 2024, Stone published an article on his website about the press release, including the same quote from Senator Krueger and another quote from Assemblymember Seawright. The article was also published on Facebook and X.

199. Neither the Chamber, RIOC, nor the RIOC Board issued a press release when other investigations against RIOC executives were announced—not even at the launch of the investigation into the allegations of racism and sexism against Rosenthal.

200. Neither the Chamber, RIOC, nor the RIOC Board issued a press release when Plaintiffs were exonerated after the Greenberg Traurig investigation.

201. On or about January 18, 2024, Haynes learned that an article had been re-published on a website called “criminalaffairs.com,” calling Haynes a criminal and accusing him of corruption and cronyism.

202. Ellis’s and Amin’s public statements since becoming the interim leaders of RIOC reflect their apparent understanding that they are not merely “interim” leaders. For example, on or about January 17, 2024, the RIOC Operations Committee held a public meeting. This meeting was attended by the three of the Board members on the Operations Committee: Christian (the committee chair), Polivy, and Kraut, who appeared remotely. Also in attendance were the new interim leadership team: Ellis and Amin, as well as RIOC Director of Communications and Community Affairs Daniels, Board Members Fhala and Tang, and Rick O’Conor. Notably, Fhala disrupted this meeting repeatedly by violating the procedure Christian set forth at the beginning (which is within her rights as the committee chair): that the only questions that would be answered would be questions from committee members.

203. After the RIOC Operations Committee, there was an informal meeting attended by most of the attendees of the committee meeting. Ellis indicated that he understood his leadership role to be more than “interim.” In response to a question from Fhala, Ellis discussed a “new communications approach” he intended to take. Ellis then mentioned that he had previously spoken with Daniels about having “informal” off-the-record conversations with Stone and O’Conor to get to know them better and build relationships with them. Ellis also complimented O’Conor’s blog for being a resource of information.

204. Similarly, on or about January 18, 2024, both Ellis and Patel made statements suggesting that their leadership roles were more than temporary. Manhattan Community Board Number 8 held a meeting which Ellis, Amin, and Bryant Daniels attended. After introducing

herself, Amin told the attendees that “I really hope to bridge the gap between RIOC and the public. . . . And just know that RIOC is under new leadership and we’re more solutions oriented. If you reach out to us, you will definitely receive a response. I hope to work with you very closely to meet our objectives.” Ellis then introduced himself and later said: “In terms of . . . the community outreach aspect and just us being more available . . . to the community, I think that is for us, especially right now, one of the most important things that we’re trying to focus on. You know the onus is on us, the onus is on RIOC to be out there and to be available. I understand that. I understand that there has been . . . many years of this tension building, let’s say. And I understand that we need to be the party to break the ice and be out there and available for you all.”

205. The decisions to place Haynes on paid administrative leave and email the announcement to RIOC staff and employees, and the subsequent dissemination of the email announcement O’Conor and Stone, who then published it on their websites as well as their social media accounts, have caused significant and irreparable harm to Plaintiffs’ reputation, particularly because there has been no investigation and the prior allegations against Plaintiffs have never been corroborated.

VIII. The Racial Discrimination Has Harmed Plaintiffs’ Health.

206. Defendants the Chamber and RIOC knew about the unlawful discrimination and harassment of Plaintiffs by Stone, the Former Employees, and others, and not only failed to take appropriate remedial action, but also affirmatively prevented Plaintiffs from taking any remedial actions. As a result, the Chamber and RIOC unlawfully discriminated against Plaintiffs in the terms and conditions of their employment on the basis of their race by subjecting Plaintiffs to disparate working conditions and denying Plaintiffs the opportunity to work in an employment setting free of unlawful discrimination and harassment and by creating, fostering, condoning, accepting, ratifying, and/or otherwise failing to prevent or to remedy a hostile work environment

that included, among other things, severe and pervasive discrimination against and harassment of Plaintiffs.

207. As a result of the racist conduct and being rendered completely helpless by Defendants' actions and indifference, Haynes has experienced undue stress that has caused his health to deteriorate.

208. On or about September 6, 2023, Haynes went on Family and Medical Leave ("FMLA") leave. His FMLA leave ended on or about October 20, 2023. He returned to work on or about October 23, 2023. As a result of his FMLA leave, Haynes had less interaction with staff than usual over months prior to his being placed on leave.

209. As a result of the racist conduct and being rendered completely helpless by Defendants' actions and indifference, Robinson has experienced undue stress that has caused her health to deteriorate.

FIRST CAUSE OF ACTION
(Violation of Title VII of the Civil Rights Act, as amended, 42 U.S.C. 2000e, et seq.)
(Against Defendants Chamber and RIOC)

210. Plaintiff repeats and realleges the allegations in paragraph 1 – paragraph 209 as if fully set forth herein.

211. By reason of the foregoing, Plaintiffs are members of a protected class and qualified for their positions of employment. Defendants Chamber and RIOC unlawfully discriminated against Plaintiffs in the terms and conditions of their employment on the basis of their race in violation of Title VII by, including, but not limited to, subjecting Plaintiffs to disparate working conditions, denying Plaintiffs the opportunity to work in an employment setting free of unlawful discrimination and harassment, placing Plaintiffs on paid administrative leave, and launching another unwarranted investigation on or about January 16, 2024.

212. As detailed above, Defendants Chamber and RIOC knew about the unlawful discrimination and harassment of Plaintiffs by Stone, the Former Employees, and others, and not only failed to take appropriate remedial action, but also affirmatively prevented Plaintiffs from taking any remedial actions. As a result, Chamber and RIOC further unlawfully discriminated against Plaintiffs in the terms and conditions of their employment on the basis of their race in violation of Title VII by creating, fostering, condoning, accepting, ratifying, and/or otherwise failing to prevent or to remedy a hostile work environment that included, among other things, severe and pervasive discrimination against and harassment of Plaintiffs.

213. Defendants Chamber's and RIOC's unlawful discriminatory acts caused Plaintiffs to suffer emotional distress and severely damaged Plaintiffs' reputations.

214. Defendants Chamber and RIOC acted with malice and/or reckless indifference to Plaintiffs' rights, entitling them to an award of punitive damages.

215. Defendants Chamber and RIOC are therefore liable to Plaintiffs for their emotional distress and other compensatory damages, reputational damages, punitive damages, prejudgment interest, post-judgment interest, attorneys' fees, costs and disbursements.

SECOND CAUSE OF ACTION

**(Retaliation Under Title VII of the Civil Rights Act, as amended, 42 U.S.C. 2000e, et seq.)
(Against Defendants Chamber and RIOC)**

216. Plaintiff repeats and realleges the allegations in paragraph 1 – paragraph 215 as if fully set forth herein.

217. By reason of the foregoing, Defendants Chamber and RIOC retaliated against Plaintiffs by, including, but not limited to, placing Plaintiffs on paid administrative leave and launching another unwarranted investigation on or about January 16, 2024 for having exercised their rights to oppose and seek redress for discrimination on the basis of race. Plaintiffs engaged

in protected activity when they opposed and complained of the racial discrimination they were being subjected to in emails or reports to RIOC and the Chamber, by filing a complaint in the United States District Court for The Southern District of New York on or about September 12, 2023, and by filing an amended complaint in the United States District Court for The Southern District of New York on or about December 7, 2023.

218. As a direct and proximate result of these actions, Plaintiffs suffer and continue to suffer actual damages in an amount to be determined at trial.

THIRD CAUSE OF ACTION
(Race Discrimination in Violation of 42 U.S.C. § 1983)
(Against The Individual Defendants)

219. Plaintiffs repeat and reallege the allegations in paragraph 1 – paragraph 218 as if fully set forth herein.

220. The Individual Defendants, in their individual capacities, acting under color of law, custom or usage, discriminated against Plaintiffs on the basis of race in terms, conditions, or privileges of employment, thus depriving them of their rights under the Equal Protection Clause of the 14th Amendment to the Constitution of the United States.

221. Plaintiffs, African Americans, are members of a protected group.

222. Plaintiffs are qualified for their positions as CEO and President (Haynes) and General Counsel (Robinson) of RIOC.

223. Plaintiffs have been subject to adverse employment actions including, among other things, Defendants undermining and interfering with Plaintiffs' ability to perform their job functions as set forth above; subjecting Plaintiffs to numerous, unwarranted investigations; excluding Plaintiffs from the process of selecting Board members; placing Plaintiffs on paid

administrative leave; and launching another unwarranted investigation on or about January 16, 2024.

224. The Individual Defendants were personally involved in the discriminatory conduct.

225. These adverse actions did not take place when Plaintiffs' predecessors, who were White, were employed at RIOC. These adverse actions clearly give rise to an inference of discrimination.

226. As a direct and proximate result of these actions, Plaintiffs suffered and continue to suffer actual damages, including monetary damages, damages to their reputation and career, emotional pain, mental anguish, and humiliation in an amount to be determined at trial.

227. Defendants acted with malice and/or reckless disregard of Plaintiffs' rights and privileges as protected by federal law, and, as such, should be subjected to punitive damages to deter unlawful conduct similar to the conduct alleged herein.

FOURTH CAUSE OF ACTION
(Retaliation in Violation of 42 U.S.C. § 1983)
(Against The Individual Defendants)

228. Plaintiffs repeat and reallege the allegations in paragraph 1 – paragraph 227 as if fully set forth herein.

229. By the acts and practices alleged above, the Individual Defendants, in their individual capacities, under color of law custom or usage, have retaliated against Plaintiffs by, including, but not limited to, placing Plaintiffs on paid administrative leave and launching another unwarranted investigation on or about January 16, 2024 for having exercised their rights to oppose and seek redress for discrimination on the basis of race under the Equal Protection Clause of the 14th Amendment to the Constitution of the United States, in violation of Section 1983.

230. Plaintiffs engaged in protected activity when they opposed and complained of the racial discrimination they were being subjected to in emails or reports to RIOC and the Chamber, by filing a complaint in the United States District Court for The Southern District of New York on or about September 12, 2023, and by filing an amended complaint in the United States District Court for The Southern District of New York on or about December 7, 2023.

231. The Individual Defendants knew that Plaintiffs engaged in protected activity.

232. Plaintiffs' engagement in their protected activity caused the materially adverse, and retaliatory, actions by the Individual Defendants, including, but not limited to, being excluded from the practice of selecting new RIOC Board Members, and having input before a RIOC Board Member—adverse to Plaintiffs—was appointed to a committee of his choosing.

233. The Individual Defendants were personally involved in the retaliatory conduct.

234. There was a causal connection between Plaintiffs' protected activities and the actions of the Individual Defendants. The Individual Defendants subjected Plaintiffs to such actions because of and in retaliation for Plaintiffs' protected activities.

235. As a direct and proximate result of these actions, Plaintiffs suffered and continue to suffer actual damages in an amount to be determined at trial.

FIFTH CAUSE OF ACTION
(Hostile Work Environment in Violation of 42 U.S.C. § 1983)
(Against The Individual Defendants)

236. Plaintiffs repeat and reallege the allegations in paragraph 1 – paragraph 235 as if fully set forth herein.

237. By the acts and practices alleged above, all Individual Defendants, in their individual capacities, under color of law custom or usage, have subjected Plaintiffs to a hostile

work environment that violated their rights under the Equal Protection Clause of the 14th Amendment to the Constitution of the United States, in violation of Section 1983.

238. Plaintiffs' workplace was permeated with discriminatory intimidation, ridicule, and insult that was sufficiently severe or pervasive to alter the conditions of their employment and create an abusive working environment.

239. The Individual Defendants were personally involved in creating and fostering the hostile work environment.

240. The Individual Defendants knew, or should have known, about the hostile work environment and failed to take corrective action.

241. The Individual Defendants also prevented Plaintiffs from taking any corrective actions.

242. As a direct and proximate result of these actions, Plaintiffs suffered and continue to suffer actual damages in an amount to be determined at trial.

SIXTH CAUSE OF ACTION
(Race Discrimination in Violation of NYSHRL, N.Y. Exec. L. §§ 290 *et seq.*)
(Against The Individual Defendants)

243. Plaintiffs repeat and reallege the allegations in paragraph 1 – paragraph 242 as if fully set forth herein.

244. RIOC and the Chamber are Plaintiffs' employers under the NYSHRL. RIOC and the Chamber discriminated against Plaintiffs within the meaning of the NYSHRL, N.Y. Exec. L. §§ 290 *et seq.*, on the basis of race in terms, conditions, or privileges of employment. The Individual Defendants aided and abetted the discrimination against Plaintiffs.

245. Plaintiffs, African Americans, are members of a protected group.

246. Plaintiffs are qualified for their positions as CEO and President (Haynes) and General Counsel (Robinson) of RIOC.

247. Plaintiffs have been subjected to adverse actions including, among other things, the Individual Defendants undermining and interfering with Plaintiffs' ability to perform their job functions as set forth above; subjecting Plaintiffs to numerous, unwarranted investigations; excluding Plaintiffs from the process of selecting Board members; placing Plaintiffs on paid administrative leave; and launching another unwarranted investigation on or about January 16, 2024.

248. These adverse actions did not take place when Plaintiffs' predecessors, who were White, were employed at RIOC. These adverse actions clearly give rise to an inference of discrimination.

249. The Individual Defendants knew of, disregarded, and failed to take any corrective action in response to the discriminatory conduct and participated in the discriminatory conduct.

250. As a direct and proximate result of these actions, Plaintiffs suffered and continue to suffer actual damages, including monetary damages, damages to their reputation and career, emotional pain, mental anguish, and humiliation in an amount to be determined at trial.

SEVENTH CAUSE OF ACTION
(Retaliation in Violation of NYSHRL, N.Y. Exec. L. §§ 290, *et seq.*)
(Against The Individual Defendants)

251. Plaintiffs repeat and reallege the allegations in paragraph 1 – paragraph 250 as if fully set forth herein.

252. RIOC and the Chamber are Plaintiffs' employers under the NYSHRL. RIOC and the Chamber retaliated against Plaintiffs by, including, but not limited to, placing Plaintiffs on paid administrative leave and launching another unwarranted investigation on or about January 16, 2024 for having exercised their rights to oppose and seek redress for discrimination on the basis

of race. The Individual Defendants aided and abetted RIOC's and the Chamber's retaliation against Plaintiffs.

253. Plaintiffs engaged in protected activity when they opposed and complained of the racial discrimination they were being subjected to in emails or reports to RIOC and the Chamber, by filing a complaint in the United States District Court for The Southern District of New York on or about September 12, 2023, and by filing an amended complaint in the United States District Court for The Southern District of New York on or about December 7, 2023.

254. The Individual Defendants knew that Plaintiffs engaged in protected activity.

255. Plaintiffs' engagement in their protected activity caused the materially adverse, and retaliatory, actions by the Individual Defendants, including, but not limited to, being excluded from the practice of selecting new RIOC Board Members, and having input before a RIOC Board Member—adverse to Plaintiffs—was appointed to a committee of his choosing.

256. There was a causal connection between Plaintiffs' protected activities and the actions of the Individual Defendants. The Individual Defendants subjected Plaintiffs to such actions because of and in retaliation for Plaintiffs' protected activities.

257. As a direct and proximate result of these actions, Plaintiffs suffered and continue to suffer actual damages in an amount to be determined at trial.

EIGHTH CAUSE OF ACTION
(Hostile Work Environment in Violation of NYSHRL, N.Y. Exec. L. §§ 290 *et seq.*)
(Against The Individual Defendants)

258. Plaintiffs repeat and reallege the allegations in paragraph 1 – paragraph 257 as if fully set forth herein.

259. By reason of the foregoing, the Individual Defendants aided and abetted in subjecting Plaintiffs to a hostile work environment within the meaning of the NYSHRL, N.Y. Exec. L. §§ 290 *et seq.*

260. The environment of Plaintiffs' workplace was permeated with discriminatory behavior such that Plaintiffs were treated less well than other employees, and were subjected to inferior terms, because of their race.

261. The Individual Defendants knew, or should have known, about the hostile work environment and failed to take corrective action.

262. The Individual Defendants also prevented Plaintiffs from taking any corrective actions.

263. As a direct and proximate result of the Individual Defendants' unlawful and discriminatory conduct in violation of the NYSHRL, Plaintiffs suffered and continue to suffer actual damages in an amount to be determined at trial.

NINTH CAUSE OF ACTION
(Race Discrimination in Violation of NYCHRL, N.Y.C. Admin. Code §§ 8-101, *et seq.*)
(Against The Individual Defendants)

264. Plaintiffs repeat and reallege the allegations in paragraph 1 – paragraph 263 as if fully set forth herein.

265. RIOC and the Chamber are Plaintiffs' employers under the NYCHRL. RIOC and the Chamber discriminated against Plaintiffs within the meaning of the NYCHRL, N.Y.C. Admin. Code §§ 8-101 *et seq.*, on the basis of race in terms, conditions, or privileges of employment. The Individual Defendants aided and abetted RIOC's and the Chamber's discrimination of Plaintiffs.

266. Plaintiffs, African Americans, are members of a protected group.

267. Plaintiffs are qualified for their positions as CEO and President (Haynes) and General Counsel (Robinson) of RIOC.

268. Plaintiffs have been subjected to adverse actions including, among other things, the Individual Defendants undermining and interfering with Plaintiffs' ability to perform their job functions as set forth above; subjecting Plaintiffs to numerous, unwarranted investigations; excluding Plaintiffs from the process of selecting Board members; placing Plaintiffs on paid administrative leave; and launching another unwarranted investigation on or about January 16, 2024.

269. These adverse actions did not take place when Plaintiffs' predecessors, who were White, were employed at RIOC as the CEO and General Counsel. These adverse actions clearly give rise to an inference of discrimination.

270. The Individual Defendants knew of, disregarded, and failed to take any corrective action in response to the discriminatory conduct of its administrators and participated in the discriminatory conduct.

271. As a direct and proximate result of these actions, Plaintiffs suffered and continue to suffer actual damages, including monetary damages, damages to their reputation and career, emotional pain, mental anguish, and humiliation in an amount to be determined at trial.

TENTH CAUSE OF ACTION
(Retaliation in Violation of NYCHRL, N.Y.C. Admin. Code §§ 8-101 *et seq.*)
(Against The Individual Defendants)

272. Plaintiffs repeat and reallege the allegations in paragraph 1 – paragraph 271 as if fully set forth herein.

273. The NYCHRL prohibits an employer from retaliating against any employee who has engaged in any activity protected by the NYCHRL.

274. RIOC and the Chamber are Plaintiffs' employers under the NYCHRL. RIOC and the Chamber retaliated against Plaintiffs by, including, but not limited to, placing Plaintiffs on paid administrative leave and launching another unwarranted investigation on or about January 16, 2024 for having exercised their rights to oppose and seek redress for discrimination on the basis of race. The Individual Defendants aided and abetted RIOC's retaliation against Plaintiffs.

275. Plaintiffs engaged in protected activity when they opposed and complained of the racial discrimination they were being subjected to in emails or reports to RIOC and the Chamber, by filing a complaint in the United States District Court for The Southern District of New York on or about September 12, 2023, and by filing an amended complaint in the United States District Court for The Southern District of New York on or about December 7, 2023.

276. The Individual Defendants knew that Plaintiffs engaged in protected activity.

277. Plaintiffs' engagement in their protected activity caused the materially adverse, and retaliatory, actions by the Individual Defendants, including, but not limited to, being excluded from the practice of selecting new RIOC Board Members, and having input before a RIOC Board Member—adverse to Plaintiffs—was appointed to a committee of his choosing.

278. There was a causal connection between Plaintiffs' protected activities and the actions of the Individual Defendants. The Individual Defendants subjected Plaintiffs to such actions because of and in retaliation for Plaintiffs' protected activities.

279. As a direct and proximate result of these actions, Plaintiffs suffered and continue to suffer actual damages in an amount to be determined at trial.

ELEVENTH CAUSE OF ACTION
(Hostile Work Environment in Violation of NYCHRL, N.Y.C. Admin. Code §§ 8-101 *et seq.*)
(Against The Individual Defendants)

280. Plaintiffs repeat and reallege the allegations in paragraph 1 – paragraph 279 as if fully set forth herein.

281. By reason of the foregoing, the Individual Defendants aided and abetted in subjecting Plaintiffs to a hostile work environment within the meaning of the NYCHRL, N.Y.C. Admin. Code §§ 8-101 *et seq.*

282. The environment of Plaintiffs' workplace was permeated with discriminatory behavior such that Plaintiffs were treated less well than other employees, and were subjected to inferior terms, because of their race.

283. The Individual Defendants knew, or should have known, about the hostile work environment and failed to take corrective action.

284. The Individual Defendants also prevented Plaintiffs from taking any corrective actions.

285. As a direct and proximate result of the Individual Defendants' unlawful and discriminatory conduct in violation of the NYCHRL, Plaintiffs suffered and continue to suffer actual damages in an amount to be determined at trial.

JURY TRIAL DEMANDED

286. Plaintiffs demand a jury trial as to all issues triable by a jury.

PRAYER FOR RELIEF

Wherefore, Plaintiffs pray that the Court enter judgment and relief as follows:

- a. Declaring that the acts and omissions complained of herein are unlawful and violate Title VII, 42 U.S.C. § 1983, the NYSHRL, and the NYCHRL;

- b. Awarding damages to Plaintiff, in an amount to be determined at trial, for lost opportunities and to otherwise make Plaintiffs whole for any losses suffered as a result of Defendants' actions;
- c. Awarding Plaintiffs compensatory damages, in an amount to be determined at trial, for humiliation, mental anguish, emotional distress, and injury to reputation;
- d. Awarding Plaintiffs punitive damages in an amount to be determined at trial;
- e. Awarding Plaintiffs attorneys' fees, costs, and expenses incurred in the prosecution of this action; and
- f. Awarding Plaintiffs such other and further relief as the Court may deem equitable, just, and proper to remedy Defendants' actions.

Dated: New York, New York
January 31, 2024

WALDEN MACHT & HARAN LLP

By:  _____

Milton L. Williams

Georgia K. Winston

Jeffrey C. Skinner

Hannah Belitz

250 Vesey Street, 27th Floor

New York, New York 10281

Tel: (212) 335-2030

mwilliams@wmhlaw.com

gwinston@wmhlaw.com

jskinner@wmhlaw.com

hbelitz@wmhlaw.com

*Attorneys for Plaintiffs Shelton J. Haynes and
Gretchen K. Robinson*