

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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MICHELLE CHU,

*Plaintiff,*

20-cv-00497

v.

**Complaint**

ALPHA UX, INC,

*Defendant.*

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Plaintiff Michelle Chu, by her counsel, The Law Offices of Veronica S. Jung PLLC, alleges for her Complaint against Defendant Alpha UX, Inc. as follows:

**PRELIMINARY STATEMENT**

1. Michelle Chu, a forty-three-year-old Asian American woman of Chinese descent, is an experienced Project Manager and Designer with a background in user experience and design operations. Ms. Chu joined Alpha UX, Inc. (“Alpha” or the “Company”) in February 2015 as a Project Manager.

2. Alpha is a technology start-up founded in New York City in and around 2014; at the time Ms. Chu joined Alpha in 2015, she was one of the first women working at the company.

3. Ms. Chu worked at Alpha for three and a half years, during which time Alpha’s CEO, Thor Ernstsson, engaged in abusive and discriminatory behavior towards Alpha’s employees, and towards Ms. Chu and Alpha’s other female employees in particular.

4. Mr. Ernstsson fostered a toxic and hostile work environment by regularly making sexist, racist, abusive, or otherwise offensive comments. Mr. Ernstsson’s abusive behavior towards Ms. Chu and others exceeded all acceptable professional norms; his egregious conduct led multiple women to resign from Alpha.

5. Ms. Chu dedicated herself to Alpha and worked grueling hours in the hope of stopping Mr. Ernstsson's abuse by convincing him of her worth to the Company. And although Alpha thrived during her employment there, the abuse from Mr. Ernstsson did not stop.

6. Ms. Chu reported Mr. Ernstsson's hostile and discriminatory behavior to her supervisor and to other Alpha executives, but Alpha refused to address it in any meaningful way. Ms. Chu went so far as to specifically complain to Mr. Ernstsson about the way his discriminatory behavior affected her and others in the office, but these complaints only resulting in Ms. Chu being forced out of Alpha.

7. Alpha terminated Ms. Chu on October 31, 2018, while Ms. Chu was in Hong Kong for her grandmother's funeral.

8. Defendant Alpha violated federal, state, and city law by discriminating against and retaliating against Ms. Chu, and its actions caused her significant harm. Plaintiff Chu seeks damages and costs against Defendant Alpha for discriminating against her on the basis of her gender, in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.* ("Title VII") and the New York City Human Rights Law, N.Y.C. Admin. Code §§ 8-101 *et seq.* ("NYCHRL").

9. Plaintiff Chu also seeks damages and costs against Defendant Alpha for retaliating against her for complaining of the above-described discrimination, in violation of Title VII and the NYCHRL.

### **PARTIES**

10. Plaintiff Chu, at all times relevant hereto, was and is a resident of New York County in the State of New York.

11. Upon information and belief, at all times relevant hereto, Defendant Alpha UX, Inc. was and is a corporation organized under the laws of Delaware with its principle place of business in New York County in the State of New York.

**JURISDICTION, VENUE, AND ADMINISTRATIVE PREREQUISITES**

12. Pursuant to 28 U.S.C. § 1331, this Court has original jurisdiction over Plaintiff's claims arising under Title VII.

13. Plaintiff Chu filed a charge with the Equal Employment Opportunity Commission on June 14, 2019 and received a notice of her right to sue on October 22, 2019.

14. Pursuant to 28 U.S.C. § 1367(a), this Court has supplemental jurisdiction over Plaintiff's NYCHRL claims, as these claims are so related to the claims within such original jurisdiction that they form part of the same case or controversy.

15. Pursuant to 28 U.S.C. § 1391(b), venue is proper in the United States District Court for the Southern District of New York, as a substantial part of the events giving rise to these claims occurred within this District.

**TRIAL BY JURY**

16. Plaintiff respectfully requests a trial by jury

**STATEMENT OF FACTS**

17. Ms. Chu is a 43-year-old Chinese American woman and a United States citizen.

18. Ms. Chu began working for Alpha in February 2015, when she was hired as a Project Manager.

19. At the time of her hire, Ms. Chu was Alpha's ninth employee and only the second woman working at the company.

20. Initially, her duties included working with Alpha's data team and account managers to manage Alpha's product cycles.

21. In and around April 2015, Thomas Quarre – who at the time was Alpha's only designer – left the company.

22. As a result of Mr. Quarre's departure, Ms. Chu took on significant additional responsibilities, including handling design requests and managing off-site designers.

23. Throughout her employment, Ms. Chu worked extremely long hours and would work through weekends and through events in an effort to meet her goals and help the company grow.

24. Initially, Ms. Chu reported directly to Thor Ernstsson, who was Alpha's CEO during Ms. Chu's tenure with the company.

25. Immediately upon reporting to Mr. Ernstsson, Ms. Chu discovered that Mr. Ernstsson was, as other Alpha employees put it, "challenging."

26. Mr. Ernstsson berated Alpha's employees, made numerous inappropriate comments, and generally personified a stereotypical no-holds-barred, break-the-rules start-up culture.

27. Ms. Chu had to endure Mr. Ernstsson's regular comments about "tits," his preferences as to which of Alpha's clients he would sleep with, or his incessant sexual innuendos.

28. As an example, Mr. Ernstsson's account image on Slack – Alpha's internal communications software – was a picture of a statue of a naked man.

29. In and around 2016, Ms. Chu approached Linda Gramsch, the one woman who predated Ms. Chu at Alpha, about Mr. Ernstsson's inappropriate sexist and gendered comments at work.

30. Ms. Gramsch told Ms. Chu that the comments had, in fact, been worse before Ms. Chu joined Alpha.

31. In and around August 2016, Alpha underwent restructuring and Ms. Chu began reporting to Ms. Gramsch. As Ms. Chu had already discussed Mr. Ernstsson's behavior with Ms. Gramsch, Ms. Chu saw this reorganization as an opportunity to work with one of the few other women in the office and address some of the cultural problems at Alpha.

32. However, Ms. Gramsch did not stop Mr. Ernstsson's inappropriate behavior.

33. Ms. Chu repeatedly went to Ms. Gramsch to ask for advice on how to deal with Mr. Ernstsson's day-to-day aggression.

34. Any advice Ms. Gramsch provided to Ms. Chu did not help. For example, Ms. Chu sought Ms. Gramsch's assistance when Mr. Ernstsson assigned Ms. Chu tasks outside of her role, such as writing marketing materials. Ms. Gramsch and others attempted to assist Ms. Chu with the projects, but Mr. Ernstsson continued to berate Ms. Chu for her efforts.

35. Mr. Ernstsson continued to make offensive comments and to berate Ms. Chu at work.

36. While Ms. Gramsch offered Ms. Chu positive feedback and encouragement, Mr. Ernstsson invariably criticized and insulted Ms. Chu, even where Ms. Chu had explicitly followed Ms. Gramsch's instructions.

37. Mr. Ernstsson mistreated Ms. Chu during her entire tenure at Alpha by verbally berating her. He did so in private meetings with her, during regular group meetings, and on Slack channels that were open to Ms. Chu's colleagues.

38. The inappropriate comments and actions at Alpha's office were not limited to Mr. Ernstsson, but his behavior created a culture of permissiveness at Alpha where nearly anything – no matter how offensive – was tolerated.

39. In one of the most egregious instances, Mayowa Fadina, one of Alpha's only African-American employees, was subjected to inappropriate racist comments that were so severe it nearly led to a physical altercation at an Alpha work function.

40. On several occasions, Ms. Chu spoke out about what she perceived to be inappropriate race-based comments towards Chinese-Americans, Asian-Americans, and other minority groups.

41. Ms. Chu found it much more difficult, however, to speak out about gender discrimination in the office; she did not feel equipped to educate the entire company on sexism, misogyny, and the difficulties faced by women in the workplace, particularly women working in technology.

42. Ms. Chu felt powerless to address Mr. Ernstsson's problematic behavior because it was so extensive and ingrained in the company.

43. Whenever Mr. Ernstsson was in a relationship, he would bring his girlfriends to company events and fondle them in front of Alpha's staff.

44. Alpha and Mr. Ernstsson routinely held "happy hours," both in the office and at neighborhood bars, as well as a regular "poker night" for employees. At these events Mr.

Ernstsson and others perpetuated the “macho” atmosphere that disadvantaged women at the Company.

45. Alpha’s employees openly “joke” – on Alpha’s open Slack channels – about one another’s sex lives, masturbation, rape, and having sex with animals.

46. Mr. Ernstsson routinely derailed work-related conversations to discuss how “hot” the women at issue in those conversations were.

47. For example, when Ms. Chu sent Mr. Ernstsson a sample image for a project she was working on, Mr. Ernstsson’s first reaction was to note that the woman in the image was “hot.”

48. Similarly, Mr. Ernstsson regularly commented about the physical appearance of Alpha’s contractors and contacts.

49. Mr. Ernstsson regularly met with Moska Naderi, a contact for Verizon, which was a major Alpha client. Whenever Mr. Ernstsson would meet with Ms. Naderi, he would return to the Alpha offices and comment about her appearance, and how he stared at her during their meetings.

50. This atmosphere weighed heavily on Ms. Chu and other women at Alpha.

51. While Mr. Ernstsson frequently abused other Alpha employees, his animus towards Ms. Chu was unique. Mr. Ernstsson spent nearly four years threatening to fire Ms. Chu, disrespecting her work, and generally behaving unprofessionally towards her.

**Ms. Chu Complains to Alpha About Its Hostile Work Environment**

52. In September 2017, Mr. Ernstsson finally crossed a line by repeatedly “joking” about Ms. Chu having sex with one of Alpha’s software engineers.

53. Ms. Chu, appalled, spoke to Ms. Gramsch and Bryce Storie, Alpha's CFO, about the comments.

54. These conversations quickly expanded to encompass all of Mr. Ernstsson's inappropriate behavior. Ms. Chu broke down in tears when discussing everything Mr. Ernstsson had done at the office.

55. Ms. Chu complained about Mr. Ernstsson's constant references to "tits" and "ass," she complained about sexually demeaning comments, and she complained about the atmosphere that allowed people to behave however they saw fit.

56. Ms. Chu's exhaustive complaints led to Mr. Storie and Ms. Gramsch meeting with Mr. Ernstsson to discuss the substance of her claims, and eventually calling a meeting with Mr. Ernstsson, Ms. Gramsch, Mr. Storie, and Ms. Chu.

57. During this meeting, Mr. Ernstsson did not apologize to Ms. Chu or show any remorse. Instead, he raised his voice and insisted that anyone who did not want to work at Alpha simply should not work there anymore.

58. Ms. Chu was extremely distressed by Mr. Ernstsson's disregard for her and by the fact that this meeting, which was ostensibly about addressing Ms. Chu's complaints of abuse and discrimination, devolved into further abuse.

59. Mr. Ernstsson made clear that the only way Ms. Chu could stop the day-to-day abuse she faced at work would be to quit.

60. This meeting erased any hope Ms. Chu had that her internal complaints would lead to improvement at the Alpha. Ms. Chu's pessimism was borne out: Alpha promised to follow up on Ms. Chu's complaints and hold regular meetings; neither of which ever happened.



61. After the meeting, Mr. Ernstsson continued to abuse Ms. Chu, to the extent that, in January 2018, Ms. Chu needed to begin seeing a therapist to address mental health issues caused by workplace stress.

**Alpha's Retaliation Against Ms. Chu.**

62. After Ms. Chu's complaints in September and October 2017, Mr. Ernstsson began deliberately setting Ms. Chu up to fail by giving her assignments well outside of her areas of expertise.

63. Mr. Ernstsson insisted that Ms. Chu work on developing partnerships and acquisitions and assigned her to write marketing emails. Ms. Chu, having little experience in these fields, reached out to her colleagues for assistance. Mr. Ernstsson berated her after learning that she had done so.

64. After escalating his abuse through 2018, on October 25, 2018, Mr. Ernstsson melted down during a Client Admin meeting led by Ms. Chu, demanded that the other attendees ignore Ms. Chu's presentation, and stormed out of the room.

65. The next day, during a previously scheduled conference call, Ms. Gramsch did not address what had happened at the meeting with Mr. Ernstsson, instead telling Ms. Chu that the product team and her in particular needed to "step up."

66. Later that day, Ms. Chu learned that her grandmother had passed away, and made plans to travel to Hong Kong to attend her funeral.

67. Ms. Chu informed Ms. Gramsch of her need to travel to Hong Kong to attend her grandmother's funeral, and flew to Hong Kong.

68. When Ms. Chu arrived in Hong Kong, she continued to stay in touch with her team in the office. She quickly realized that Ms. Gramsch had not informed her team of the

reason that Ms. Chu was out of the office. Ms. Chu then told her teammates of her grandmother's death and the funeral in Hong Kong.

69. Ms. Gramsch then told Ms. Chu that the two of them needed to talk. Ms. Chu received an invitation for a conference call – scheduled for the middle of the night in Hong Kong – to which Mr. Storie was also invited.

70. During that call, on October 31, 2018, Alpha terminated Ms. Chu. Mr. Storie and Ms. Gramsch told Ms. Chu that she was “talented,” but that Alpha had to let her go.

71. Ms. Chu was devastated. Alpha's decision to terminate her represented the culmination of years of abuse and neglect. The fact that Alpha chose to fire her while she was with her family at a funeral made clear exactly how little regard Alpha had for her as a person.

72. Ms. Chu had worked long hours for this company for years and exhausted herself trying to fix problems that were entirely out of her control. When Ms. Chu saw how little Alpha cared about her, the futility and meaninglessness of her years of sacrifice for the company.

73. Even to the present, Ms. Chu is sickened both by the way that she was treated at Alpha and by her own dedication to a company that – from the outset – showed nothing but contempt for her.

74. Alpha and Mr. Ernstsson discriminated against Ms. Chu because of her gender. She was treated less well at work and subjected to a hostile work environment based on her gender. When Ms. Chu complained about gender discrimination at Alpha, the company retaliated against her. Ultimately, Alpha terminated Ms. Chu because of her gender and in retaliation for making complaints of gender discrimination.

**CAUSES OF ACTION**  
**FIRST CAUSE OF ACTION**  
**Gender Discrimination in Violation of Title VII**

75. Plaintiff Chu hereby realleges and incorporates each and every allegation contained in paragraphs 1 through 74 with the same force as though separately alleged herein.

76. Title VII prohibits an employer from discriminating against an employee in terms, conditions, or privileges of employment on the basis of gender.

77. Alpha is an employer as contemplated by Title VII, and Plaintiff Chu is an employee as contemplated by Title VII.

78. Alpha discriminated against Plaintiff upon the basis of her gender by subjecting her to a hostile work environment and taking adverse employment action against her.

79. As such, Alpha has violated Title VII.

80. As a direct and proximate consequence of Alpha's discrimination, Plaintiff Chu has suffered, and continues to suffer, substantial damages, including, but not limited to, emotional distress and suffering, all in amounts to be determined at trial.

81. Alpha's discriminatory treatment of Plaintiff Chu was willful and/or in reckless disregard of Plaintiff Chu's protected rights. Accordingly, Plaintiff Chu is entitled to an award of punitive damages against Alpha.

**SECOND CAUSE OF ACTION**  
**Retaliation in Violation of Title VII**

82. Plaintiff Chu hereby realleges and incorporates each and every allegation contained in paragraphs 1 through 81 with the same force as though separately alleged herein.

83. Title VII prohibits an employer from retaliating against an employee for engaging in protected activity under Title VII.

84. Alpha is an employer as contemplated by Title VII, and Plaintiff is an employee as contemplated by Title VII.

85. Plaintiff Chu engaged in protected activity under Title VII when she complained of race and gender discrimination.

86. Alpha retaliated against Plaintiff Chu by making it impossible for her to perform her job and ultimately by ultimately terminating her employment with Alpha.

87. As such, Alpha has violated Title VII.

88. As a direct and proximate consequence of Alpha's retaliation, Plaintiff Chu has suffered, and continues to suffer, substantial damages, including, but not limited to, emotional distress and suffering, all in amounts to be determined at trial.

89. Alpha's retaliatory action towards Plaintiff Chu was willful and/or in reckless disregard of Plaintiff Chu's protected rights. Accordingly, Plaintiff Chu is entitled to an award of punitive damages against Alpha.

**THIRD CAUSE OF ACTION**  
**Gender Discrimination in Violation of the NYCHRL**

90. Plaintiff Chu hereby realleges and incorporates each and every allegation contained in paragraphs 1 through 89 with the same force as though separately alleged herein.

91. Title VII prohibits an employer from discriminating against an employee in terms, conditions, or privileges of employment on the basis of gender.

92. Alpha is an employer as contemplated by the NYCHRL, and Plaintiff Chu is an employee as contemplated by the NYCHRL.

93. Alpha discriminated against Plaintiff upon the basis of her gender by subjecting her to a hostile work environment and taking adverse employment action against her.

94. As such, Alpha has violated the NYCHRL.

95. As a direct and proximate consequence of Alpha's discrimination, Plaintiff Chu has suffered, and continues to suffer, substantial damages, including, but not limited to, emotional distress and suffering, all in amounts to be determined at trial.

96. Alpha's discriminatory treatment of Plaintiff Chu was willful and/or in reckless disregard of Plaintiff Chu's protected rights. Accordingly, Plaintiff Chu is entitled to an award of punitive damages against Alpha.

**FOURTH CAUSE OF ACTION**  
**Retaliation in Violation of NYCHRL**

97. Plaintiff Chu hereby realleges and incorporates each and every allegation contained in paragraphs 1 through 96 with the same force as though separately alleged herein.

98. The NYCHRL prohibits an employer from retaliating against an employee for engaging in protected activity under the NYCHRL.

99. Alpha is an employer as contemplated by the NYCHRL, and Plaintiff is an employee as contemplated by the NYCHRL.

100. Plaintiff Chu engaged in protected activity under the NYCHRL when she complained of race and gender discrimination.

101. Alpha retaliated against Plaintiff Chu by making it impossible for her to perform her job and ultimately by terminating her employment with Alpha.

102. As such, Alpha has violated the NYCHRL by retaliating against Plaintiff Chu.

103. As a direct and proximate consequence of Alpha's retaliation, Plaintiff Chu has suffered, and continues to suffer, substantial damages, including, but not limited to, emotional distress and suffering, all in amounts to be determined at trial.

104. Alpha's retaliatory action towards Plaintiff Chu was willful and/or in reckless disregard of Plaintiff Chu's protected rights. Accordingly, Plaintiff Chu is entitled to an award of punitive damages against Alpha.

**REQUESTS FOR RELIEF**

**WHEREFORE**, the individually named Plaintiff respectfully requests that this Court grant the following relief:

- A. on Plaintiff's first claim, damages to be determined at trial;
- B. on Plaintiff's second claim, damages to be determined at trial;
- C. on Plaintiff's third claim, damages to be determined at trial;
- D. on Plaintiff's fourth claim, damages to be determined at trial;
- E. an award of costs and expenses of this action together with reasonable attorneys' and expert fees; and
- F. such other and further relief as this Court deems appropriate.

Dated: New York, New York  
January 20, 2019

Respectfully Submitted,

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