

United States District Court, S.D. New York.  
Stella MITCHELL, Hwa-Mei C. Gee, Barbara LaChance, Durpatty Persaud, and Janet Ramsey, on behalf of  
themselves and all others similarly situated, Plaintiffs,

v.

METROPOLITAN LIFE INSURANCE COMPANY, INC., dba Metlife, Defendant.

No. 01 Civ. 2112 (WHP).

July 26, 2002.

Answer to First Amended Complaint

Defendant Metropolitan Life Insurance Company (“MetLife” or “defendant”) by and through its attorneys, Proskauer Rose LLP, states in answer to the First Amended Complaint (“Complaint”):

1. Defendant denies the allegations contained in Paragraph 1 of the Complaint, except admits that plaintiffs purport to proceed as stated therein.

2. Defendant denies the allegations contained in Paragraph 2 of the Complaint, except admits that MetLife is a financial services provider that sells individual insurance, annuities, investment products, group insurance, and retirement and savings financial products and derives its revenues primarily from the sale of those financial products, that individual insurance products are sold through the MetLife Financial Services division and that MetLife provides insurance to individuals and corporations and other institutions in the United States.

3. Defendant denies the allegations contained in Paragraph 3 of the Complaint, except admits the allegations contained in the first and fourth sentences and admits that the compensation for Financial Services Representatives is based, in part, on commissions made through the sale of MetLife insurance and financial products and that many Financial Services Representatives work in agency offices throughout the country.

4. Defendant denies the allegations contained in Paragraph 4 of the Complaint, except admits that there is a second-line management position between Managing Director and Financial Services Representative entitled Agency Director; that Regional Vice Presidents are typically responsible for a number of agencies within their region; and that the Zone Vice Presidents report to an Executive Vice President of MetLife.

5. Defendant denies the allegations contained in Paragraph 5 of the Complaint.

6. Defendant denies the allegations contained in Paragraph 6 of the Complaint, except admits that, currently, all of the Zone Vice Presidents and the head of MLFS are men.

7. Defendant denies the allegations contained in Paragraph 7 of the Complaint.

8. Defendant denies the allegations contained in Paragraph 8 of the Complaint, except admits that plaintiffs purport to proceed as stated therein.

9. Defendant denies the allegations contained in Paragraph 9 of the Complaint, except admits that plaintiffs purport to

bring this action pursuant to the jurisdictional references.

10. Defendant denies the allegations contained in Paragraph 10 of the Complaint, except admits that plaintiffs purport to establish venue as alleged.

11. Defendant denies the allegations contained in Paragraph 11 of the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning when Mitchell filed her charge, second charge and second supplemental affidavit with the Equal Employment Opportunity Commission (“EEOC”), whether and when she received a Notice of Right to Sue and the location of her residence and admits that Mitchell has been employed by MetLife since July 1987 and has held the positions of Financial Services Representative, Associate General Manager and Managing Director and that she filed a charge of discrimination with the EEOC, a second charge of retaliation with the EEOC on October 25, 2000 and a second supplemental affidavit with the EEOC.

12. Defendant denies the allegations contained in Paragraph 12 of the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning whether and when Gee received a Notice of Right to Sue and the location of her residence and admits that Gee has been employed by MetLife since 1986 and has held the positions of Financial Services Representative and Associate General Manager and that she filed a charge of discrimination with the EEOC on January 17, 2001.

13. Defendant denies the allegations contained in Paragraph 13 of the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning whether and when LaChance received a Notice of Right to Sue and the location of her residence and admits that LaChance filed a charge of discrimination with the EEOC on October 19, 2000.

14. Defendant denies the allegations contained in Paragraph 14 of the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning when Persaud filed her charge of discrimination with the EEOC, whether and when she received a Notice of Right to Sue and the location of her residence and admits that Persaud was employed by MetLife from 1993 to February 2001 as a Financial Services Representative and that she filed a charge of discrimination with the EEOC.

15. Defendant denies the allegations contained in Paragraph 15 of the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning when Ramsey received a Notice of Right to Sue from the EEOC on her charge of discrimination, when Ramsey filed a charge of retaliation with the EEOC and the location of her residence and admits that Ramsey was employed by MetLife from June 1983 to April 6, 2001 and held the positions of Financial Services Representative, Branch Manager and Managing Director, that she filed a charge of discrimination with the EEOC on June 20, 2000, that she filed a charge of retaliation with the EEOC, that the EEOC issued her a Notice of Right to Sue on her charge of discrimination dated February 26, 2001 and that this action was filed within ninety days from the date on that Notice of Right to Sue.

16. Defendant admits the allegations contained in Paragraph 16 of the Complaint.

17. Defendant denies the allegations contained in Paragraph 17 of the Complaint.

18. Defendant denies the allegations contained in Paragraph 18 of the Complaint, except admits that plaintiffs purport to proceed and define the “Class” as stated therein.

19. Defendant denies the allegations contained in Paragraph 19 of the Complaint, except admits that plaintiffs purport to proceed and define the “New York State Subclass” as stated therein.

20. Defendant denies the allegations contained in Paragraph 20 of the Complaint, except admits that plaintiffs purport to proceed and define the “New York City Subclass” as stated therein.

21. Defendant denies the allegations contained in Paragraph 21 of the Complaint.

22. Defendant denies the allegations contained in Paragraphs 22-24 of the Complaint and states that plaintiffs have not met the requirements of Rule 23, F.R.Civ.P.

23. Defendant denies the allegations contained in Paragraphs 25-26 of the Complaint and all of its subparts and states that class certification is not appropriate pursuant to Rule 23(b), F.R.Civ.P.

24. Defendant denies the allegations contained in Paragraph 27 of the Complaint, except admits that Mitchell is a female and is currently employed by MetLife as a Financial Services Representative in Garden City, New York.

25. Defendant denies the allegations contained in Paragraph 28 of the Complaint, except admits that MetLife hired Mitchell in 1987 as a Financial Services Representative, that she worked in the Broadway Agency located in New York, New York, that in 1994 she was promoted from Account Representative/Associate Branch Manager of the Broadway Agency to Branch Manager of the Regency Agency located in New York, New York, that in 1996 she became the Agency Director of the Riverside Agency located in New York, New York, that in 1998 she became the Managing Director of the Madison Square Agency located in New York, New York and that in October 2000 she became a Financial Services Representative, the position she currently holds.

26. Defendant denies the allegations contained in Paragraph 29 of the Complaint.

27. Defendant denies the allegations contained in Paragraph 30 of the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegation concerning whether Mitchell received the “Regional Leader of Exceptional Achievement, Mideastern Territory, Superbowl Recruiting Campaign” in January of 1995 and admits that between 1994 and 1996, Mitchell served as Managing Director of the Regency Agency and that two Financial Services Representatives in the Regency Agency qualified for the Leader's Conference.

28. Defendant denies the allegations contained in Paragraph 31 of the Complaint, except admits that in 1996 the Regency Agency was merged with the Riverside Agency, that Mitchell was made an Agency Director of the Riverside Agency and that a man remained Managing Director of the Riverside Agency.

29. Defendant denies the allegations contained in Paragraph 32 of the Complaint, except admits that Mitchell received a “Behemoth” award and that in or about May 1998 Mitchell was made the Managing Director of the Madison Square Agency.

30. Defendant denies the allegations contained in Paragraph 33 of the Complaint, except admits that on or about October 13, 2000 the Madison Square Agency was abolished, that Mitchell became a Financial Services Representative and that Mitchell's Zone Vice President is a man.

31. Defendant denies the allegations contained in Paragraph 34 of the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegation concerning when Mitchell filed an EEOC charge of discrimination and admits that on or about September 18, 2000 Mitchell sent an email addressed to her Zone Vice President stating that she had filed a charge of discrimination with the EEOC.

32. Defendant denies the allegations contained in Paragraph 35 of the Complaint and all of its subparts.

33. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 36 of the Complaint, except admits that Mitchell filed a charge of discrimination, a second charge and a second supplemental affidavit with the EEOC and that a copy of the Notice of Right to Sue dated May 10, 2001 is attached to the First Amended Complaint as Exhibit 1.

34. Defendant denies the allegations contained in Paragraph 37 of the Complaint, except admits that Gee is a female, is employed by MetLife, is a Functional Manager and works in Garden City, New York.

35. Defendant denies the allegations contained in Paragraph 38 of the Complaint, except admits that in 1986 Gee was hired to work as a Financial Services Representative in the Mitchell Garden Office in Lake Success, New York, that in 1995 she became a Sales Manager, that in 1998 she began working at the Hudson Agency Group in Brooklyn, New York and that in 1999 she began working at the Flushing Financial Center Agency.

36. Defendant denies the allegations contained in Paragraph 39 of the Complaint, except admits that in 1999 Gee began working at the Flushing Financial Center Agency.

37. Defendant denies the allegations contained in Paragraph 40 of the Complaint, except admits that in December 2000, the Flushing Financial Center Agency was closed.

38. Defendant denies the allegations contained in Paragraph 41 of the Complaint, except admits that, at some point, Gee was a “manager-in-training.”

39. Defendant denies the allegations contained in Paragraph 42 of the Complaint.

40. Defendant denies the allegations contained in Paragraph 43 of the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegation concerning whether a female member of the Asian Marketing Group in MetLife's home office recommended Gee for the position of Advisory Committee Member of the Chinese Market.

41. Defendant denies the allegations contained in Paragraph 44 of the Complaint and all of its subparts.

42. Defendant denies the allegations contained in Paragraph 45 of the Complaint, except admits that Gee filed a charge of discrimination with the EEOC, that a copy of that charge was attached to the Original Complaint as Exhibit B and that a copy of the Notice of Right to Sue dated May 7, 2001 is attached to the First Amended Complaint as Exhibit 2.

43. Defendant denies the allegations contained in Paragraph 46 of the Complaint, except admits that LaChance works in the Compensation Unit located in Tampa, Florida as a Senior Staff Associate, that she is a female and that she has worked for MetLife for more than thirty years.

44. Defendant denies the allegations contained in Paragraph 47 of the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegations in the third sentence and admits that from March 1976 to May 1977 LaChance worked as a Financial Services Representative, that in 1994 LaChance became the Regional Administrator for the Atlantic Coast Region, that such position was abolished in May 1999, that in May 1999 she commenced a disability leave of absence and that in September 1999 she began working as a Senior Staff Associate in the Compensation Unit, her current position.

45. Defendant denies the allegations contained in Paragraph 48 of the Complaint, except admits that from March 1976 to May 1977 LaChance worked as a Financial Services Representative.

46. Defendant denies the allegations contained in Paragraph 49 of the Complaint.

47. Defendant denies the allegations contained in Paragraph 50 of the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning whether LaChance had conversations with an "employee in MetLife management," the substance of those purported conversations and how many purported conversations they had and whether LaChance spoke with the "National Director of Women's Recruiting" and the substance of their purported communications.

48. Defendant denies the allegations contained in Paragraph 51 of the Complaint and all of its subparts.

49. Defendant denies the allegations contained in Paragraph 52 of the Complaint, except admits that LaChance filed a charge of discrimination with the EEOC on October 19, 2000, that a copy of that charge was attached to the Original Complaint as Exhibit C and that a copy of the Notice of Right to Sue dated May 10, 2001 is attached to the First Amended Complaint as Exhibit 3.

50. Defendant denies the allegations contained in Paragraph 53 of the Complaint, except admits that Persaud is a female and that she was employed as a Financial Services Representative for MetLife from April 1993 to February 8, 2001.

51. Defendant denies the allegations contained in Paragraph 54 of the Complaint.

52. Defendant denies the allegations contained in Paragraph 55 of the Complaint, except admits that in 1999 Persaud acquired the designation of Certified Financial Planner, that in 1999 she qualified for Leader's Conference and that she never held the title of Functional Manager.

53. Defendant denies the allegations contained in Paragraph 56 of the Complaint.

54. Defendant denies the allegations contained in Paragraph 57 of the Complaint, except admits that effective May 1, 2000 Persaud was transferred to the Lake Success Financial Group in Lake Success, New York where she was a Financial Services Representative until she left MetLife and that on or about May 12, 2000 Persaud met with the then Atlantic Zone Vice President, a man.

55. Defendant denies the allegations contained in Paragraph 58 of the Complaint, except admits that Persaud was terminated effective February 8, 2001, that in the Fall 2000 she went on disability leave and that she was informed in January 2001 that she was being terminated.

56. Defendant denies the allegations contained in Paragraph 59 of the Complaint and all of its subparts.

57. Defendant denies the allegations contained in Paragraph 60 of the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning whether and when Persaud received a Notice of Right to Sue from the EEOC and when she filed a charge of discrimination with the EEOC and admits that Persaud filed a charge of discrimination with the EEOC and that a copy of the amended charge was attached to the Original Complaint as Exhibit D.

58. Defendant denies the allegations contained in Paragraph 61 of the Complaint, except admits that Ramsey is a female.

59. Defendant denies the allegations contained in Paragraph 62 of the Complaint, except admits that Ramsey began working for MetLife as a Financial Services Representative in 1983 at the Durham Agency in Durham, North Carolina, that in 1986 she became an Agency Manager, that she became Managing Director of the Triangle Agency, that in January 2000 she became an Agency Director and that in January 2001 she became a Financial Planner.

60. Defendant denies the allegations contained in Paragraph 63 of the Complaint, except admits that Ramsey has achieved production or other awards at MetLife, including Leader's Conference and Management Leader's Conference.

61. Defendant denies the allegations contained in Paragraph 64 of the Complaint, except admits that in January 2000 Ramsey became an Agency Director when her agency merged with another agency.

62. Defendant denies the allegations contained in Paragraph 65 of the Complaint, except admits that in January 2001 Ramsey became a Financial Planner.

63. Defendant denies the allegations contained in Paragraph 66 of the Complaint and all of its subparts.

64. Defendant denies the allegations contained in Paragraph 67 of the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning when Ramsey filed a charge of retaliation with the EEOC and whether and when she received the Notices of Right to Sue and admits that Ramsey filed a charge of discrimination with the EEOC on or about June 20, 2000, that she filed a charge of retaliation with the EEOC, that the June 20, 2000 charge was attached to the Original Complaint as Exhibit E, that the Original Complaint was filed within 90 days of February 27, 2001 and that copies of two Notices of Right to Sue dated February 26, 2001 and October 26, 2001, respectively, are attached to the First Amended Complaint as Exhibit 4.

65. Defendant denies the allegations contained in Paragraph 68 of the Complaint.

66. Defendant denies the allegations contained in Paragraph 69 of the Complaint.

67. Defendant denies the allegations contained in Paragraph 70 of the Complaint and all of its subparts.

68. Defendant denies the allegations contained in Paragraph 71 of the Complaint.

69. In response to the allegations contained in Paragraph 72, defendant repeats each of its answers to Paragraphs 1 through 71 as if fully set forth herein.

70. Defendant denies the allegations contained in Paragraph 73 of the Complaint, except admits that plaintiffs purport to proceed as stated therein.

71. Defendant denies the allegations contained in Paragraph 74 of the Complaint.

72. Defendant denies the allegations contained in Paragraph 75 of the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning whether plaintiffs received Notices of Right to Sue from the EEOC.

73. Defendant denies the allegations contained in Paragraph 76 of the Complaint, except admits that plaintiffs purport to proceed as stated therein.

74. In response to the allegations contained in Paragraph 77, defendant repeats each of its answers to Paragraphs 1 through 76 as if fully set forth herein.

75. Defendant denies the allegations contained in Paragraph 78 of the Complaint, except admits that plaintiffs purport to proceed as stated therein.

76. Defendant denies the allegations contained in Paragraph 79 of the Complaint.

77. Defendant denies the allegations contained in Paragraph 80 of the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegation concerning whether plaintiffs have filed a complaint with the State Division of Human Rights.

78. Defendant denies the allegations contained in Paragraph 81 of the Complaint, except admits that plaintiffs purport to proceed as stated therein.

79. In response to the allegations contained in Paragraph 82, defendant repeats each of its answers to Paragraphs 1 through 81 as if fully set forth herein.

80. Defendant denies the allegations contained in Paragraph 83 of the Complaint, except admits that plaintiffs purport to proceed as stated therein.

81. Defendant denies the allegations contained in Paragraph 84 of the Complaint.

82. Defendant denies the allegations contained in Paragraph 85 of the Complaint, except admits that plaintiffs purport to proceed as stated therein.

83. Defendant denies the allegations contained in Paragraph 86 of the Complaint, except admits that plaintiffs purport to proceed as stated therein.

84. Defendant denies the allegations contained in Paragraph 87 of the Complaint.

85. Defendant denies the allegations contained in Paragraph 88 of the Complaint.

86. Defendant denies the allegations contained in Paragraph 89 of the Complaint.

87. Defendant denies the allegations contained in the Prayer for Relief of the Complaint.

*AFFIRMATIVE DEFENSES*

*FIRST AFFIRMATIVE DEFENSE*

88. The Complaint, in whole or in part, fails to state a claim upon which relief may be granted.

*SECOND AFFIRMATIVE DEFENSE*

89. The Complaint, in whole or in part, fails to state a claim upon which an award of compensatory damages, punitive damages and attorney's fees can be granted.

*THIRD AFFIRMATIVE DEFENSE*

90. The Complaint is barred, in whole or in part, by the applicable statutes of limitations and/or filing periods and/or by the failure to satisfy the statutory and/or administrative prerequisites to the bringing of an action under Title VII, 42 U.S.C. § 2000e *et seq.*, the New York State Human Rights Law, New York Executive Law § 290, *et seq.*, and Title 8 of the Administrative Code of the City of New York.

*FOURTH AFFIRMATIVE DEFENSE*

91. Plaintiffs, (individually, and/or any purported member of any purported class (hereinafter, for identification purposes only, referred to as "Plaintiffs")) are not entitled to recover punitive damages on their claims of discrimination and retaliation because at all relevant times, including prior to the allegations that form the basis of plaintiffs' claims, defendant has engaged in good faith efforts to comply with all laws prohibiting discrimination in employment.



*FIFTH AFFIRMATIVE DEFENSE*

92. Plaintiffs' claims and the purported class claims are barred, in whole or in part, because their claims are beyond the scope of their administrative charges.

*SIXTH AFFIRMATIVE DEFENSE*

93. Plaintiffs' claims for monetary relief are barred, in whole or in part, by their failure to mitigate damages.

*SEVENTH AFFIRMATIVE DEFENSE*

94. Plaintiffs' claims are barred, in whole or in part, as the plaintiffs have elected their remedies.

*EIGHTH AFFIRMATIVE DEFENSE*

95. To the extent that defendant's actions were motivated, in part, by unlawful reasons (which defendant denies), defendant would have taken the same actions with respect to plaintiffs for legitimate, non-discriminatory reasons.

*NINTH AFFIRMATIVE DEFENSE*

96. Plaintiffs' claim for the recovery of punitive damages is in contravention of defendant's rights under each of the following provisions: (a) the Commerce Clause of Article I, Section 8 of the United States Constitution; (b) the Contract Clause of Article I, Section 10 of the United States Constitution; (c) the Due Process Clause of the Fifth and Fourteenth Amendments to the United States Constitution; (d) the Equal Protection of the laws afforded by the Fourteenth Amendment to the United States Constitution; (e) the Constitutional prohibition against vague and overbroad laws; and (f) the corresponding state constitutional provisions.

*TENTH AFFIRMATIVE DEFENSE*

97. Defendant's liability and penalties, if any, should be mitigated by virtue of the factors set forth in Sections 8-107(13)(d) and (e) of the New York City Human Rights Law.

*ELEVENTH AFFIRMATIVE DEFENSE*

98. The Complaint is barred, in whole or in part, to the extent plaintiffs (or any member of any purported class) agreed to resolve their claims through final and binding arbitration.

*TWELFTH AFFIRMATIVE DEFENSE*

99. Plaintiffs' claims are barred, in whole or in part, by the applicable statute of frauds.

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