

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
VICTORIA YING,

Plaintiff,
-against-

10 CV 4990
(CBA) (SMG)

THE CITY UNIVERSITY OF NEW
YORK, NEW YORK CITY COLLEGE OF
TECHNOLOGY, RUSSELL K. HOTZLER,
individually, and PAMELA BROWN,
individually.

**SETTLEMENT AGREEMENT, GENERAL
RELEASE, AND WAIVER OF ALL
CLAIMS**

Defendants.
-----X

This SETTLEMENT AGREEMENT, GENERAL RELEASE, AND WAIVER OF ALL CLAIMS (“Settlement Agreement”) is made by and between Plaintiff Victoria Ying (“Plaintiff”) and Defendant The City University of New York (“CUNY”) as of August 6, 2012:

WHEREAS, Plaintiff commenced this action by filing a complaint on or about October 29, 2010 (“the Complaint”), in this Court against CUNY, New York City College of Technology, Russell K. Hotzler, individually, and Pamela Brown, individually (together “the Individual Defendants”) which bears Case Number 10-cv-4990 (“the Action”); and

WHEREAS, Plaintiff filed an amended complaint on or about March 24, 2011 (“the Amended Complaint”) asserting claims pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*; the New York State Human Rights Law, N.Y. Exec. Law § 290 *et seq.*; the New York City Human Rights Law, N.Y.C. Admin. Code § 8-101 *et seq.*; and 42 U.S.C. § 1983;

WHEREAS, New York City College of Technology is a subdivision of CUNY and does not have a corporate existence apart from CUNY; and

WHEREAS, any reference to CUNY in this Settlement Agreement includes but is not

limited to New York City College of Technology; and

WHEREAS, CUNY and the Individual Defendants filed a motion to dismiss the Amended Complaint, which was granted in part and denied in part by orders of the Court dated December 16, 2011 and December 19, 2011;

WHEREAS, Defendants made the annexed Offer of Judgment for \$310,000.00 that was accepted by Plaintiff;

WHEREAS, CUNY, for itself, the State, and on behalf of all defendants in the Action, expressly denies any wrongful conduct or liability, or violation of any federal, state, or local statute, ordinance, or law in this matter whatsoever; and

WHEREAS, Plaintiff and Defendants desire to fully resolve the claims between them and any and all other disputes, whether known or unknown, without further litigation and without admission of fault or liability;

WHEREAS, no party hereto is an infant or incompetent person for whom a committee has been appointed, and no person not a party has an interest in the subject matter of the Action;

NOW THEREFORE, in consideration of the mutual promises, covenants, representations and other consideration contained in this Settlement Agreement, Plaintiff and CUNY hereby stipulate and agree as follows:

1. **Discontinuance Of The Action Against CUNY and the Individual Defendants With Prejudice.** The Action and all claims asserted in the Action are discontinued with prejudice against CUNY (including but not limited to New York City College of Technology), Russell K. Hotzler, and Pamela Brown pursuant to Fed. R. Civ. P. 41(a) and without payments, attorneys' fees, costs, disbursements, or expenses in excess of the amounts specified in paragraph 2 below. Simultaneously with the execution of this Agreement, counsel for Plaintiff shall execute

and deliver to counsel for the Defendants a Stipulation and Order of Discontinuance with Prejudice pursuant to Fed. R. Civ. P. 41(a) in the form attached hereto as **Exhibit A**.

2. **Payment To Plaintiff and Plaintiff's Attorneys.** In full consideration of Plaintiff's execution of this Settlement Agreement, her agreement to be bound by its terms, and her undertakings as set forth herein including, but not limited to, the dismissal of the Action with prejudice and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the gross amount of \$310,000.00 shall be paid in full and complete satisfaction of all claims, allegations or actions, direct or indirect, known or unknown, that Plaintiff had, has, or may have against the State of New York and CUNY (including but not limited to New York City College of Technology), together with all of their present and former principals, officers, directors, members, trustees, shareholders, affiliates, employees, agents, attorneys, insurers, subdivisions, subsidiaries, heirs, administrators, and assigns, whether in their personal or official capacities, including but not limited to the Individual Defendants in their personal and official capacities, arising out of conduct, acts, or omissions prior to and as of the date of this Settlement Agreement, including but not limited to those asserted in the Action, as well as in full and complete satisfaction of all claims for compensatory damages (including but not limited to pain and suffering, mental and emotional anguish and trauma, damage to reputation, punitive damages, and liquidated damages), lost wages, benefits, and economic damages (including but not limited to back pay, front pay, severance pay, commissions, bonuses, reimbursements, and pension plan contributions), and attorneys' fees, costs, disbursements, and expenses incurred by Plaintiff for any and all counsel who have at any time represented Plaintiff in the Action, as well as in connection with any other proceeding, administrative, judicial, or otherwise, and any other claim or action alleging any of the acts, transactions, occurrences, or omissions asserted in the Action:

CUNY shall pay to Plaintiff, VICTORIA YING, the gross sum of one hundred eighty two thousand five hundred dollars (\$182,500.00), for which an I.R.S. Form W-2 shall be issued, in full and complete satisfaction of any and all claims for past or future lost wages and benefits (including but not limited to back pay, front pay, severance pay, commissions, bonuses, reimbursements, and pension plan contributions), less all applicable withholding and/or payroll deductions, including but not limited to federal, state, and local taxes. The foregoing payment shall be made payable to "Victoria Ying," and sent to Michael J. Borrelli Esq., The Law Office of Borrelli & Associates, P.L.L.C., 1010 Northern Boulevard, Suite 328, Great Neck, New York 11021.

The State of New York, on behalf of CUNY, shall pay to Plaintiff, VICTORIA YING, the sum of forty four thousand dollars (\$44,000.00), for which an I.R.S. Form 1099 shall be issued, in full and complete satisfaction of any and all claims for compensatory damages (including but not limited to pain and suffering, mental and emotional anguish and trauma, damage to reputation, economic damages, punitive damages, and liquidated damages). The foregoing payment shall be made payable to "Victoria Ying" and sent to Michael J. Borrelli Esq., The Law Office of Borrelli & Associates, P.L.L.C., 1010 Northern Boulevard, Suite 328, Great Neck, New York 11021.

The State of New York, on behalf of CUNY, shall pay to Plaintiff's counsel, THE LAW OFFICE OF BORRELLI & ASSOCIATES, P.L.L.C., the sum of eighty three thousand five hundred dollars (\$83,500.00), for which an I.R.S. Form 1099 shall be issued, in full and complete satisfaction of any and all claims for attorneys' fees, costs, disbursements, and expenses incurred by Plaintiff for any and all counsel who have at any time represented Plaintiff in the Action as well as in connection with any other proceeding, administrative, judicial, or otherwise, including but not limited to any other claim or action alleging any of the acts, transactions, occurrences, or

omissions asserted in the Action. The foregoing payment shall be made payable to “The Law Office of Borrelli & Associates, P.L.L.C.” and sent to Michael J. Borrelli Esq., The Law Office of Borrelli & Associates, P.L.L.C., 1010 Northern Boulevard, Suite 328, Great Neck, New York 11021. Upon the execution of this Settlement Agreement, Plaintiff’s counsel shall furnish to Defendants’ counsel all contemporaneous billing records associated with the Action.

3. **State Approval Of Payment On Behalf Of Defendants.**

The payment referenced in paragraph 2 of this Settlement Agreement is subject to the approval of all appropriate state officials in accordance with N.Y. Public Officers Law § 17. In the event such approval is not obtained, then this Settlement Agreement shall be null, void, and of no further force and effect.

4. **Accrual Of Interest.**

In the event that the payment of the sums referenced in paragraph 2 of this Settlement Agreement has not been made by the one hundred twentieth day after receipt by the New York State Department of Law of a “So Ordered” copy of the Stipulation and Order of Dismissal with Prejudice of the Action attached hereto as Exhibit A, interest on any part of the sum not paid by the one hundred twentieth day shall begin to run on the one hundred twenty-first day at the statutory rate pursuant to 28 U.S.C. § 1961.

5. **Liability of Plaintiff for Taxes.** Any taxes, or interest or penalties on taxes, on the payments referred to in paragraph 2 of this Settlement Agreement shall be the sole and complete responsibility of Plaintiff and Plaintiff shall have no claim, right, or cause of action against the State of New York, CUNY, or any of their agencies, departments, or subdivisions on account of such taxes, interest, or penalties. In the event that any taxing authority or any other federal, state or local government, administrative agency or court issues a final determination

that CUNY and/or the State of New York is liable for the failure of Plaintiff to pay federal, state or local income, or other taxes or withholdings with respect to any portion of the payment referred to in paragraph 2, or are liable for interest or penalties related thereto, other than the taxes that Defendants are legally required to pay for pursuant to the New York Labor Law and all other applicable laws, Plaintiff agrees to reimburse and indemnify CUNY and/or the State of New York for such liability with respect to any portion of the payment referred to in paragraph 2, so long as Plaintiff has been provided with notice of any such claim or proceeding promptly following receipt of notice of such claim or proceeding by CUNY and/or the State of New York. In addition, in the event that any taxing authority or any other federal, state or local government, administrative agency or court issues a final determination that CUNY and/or the State of New York is liable for the failure of Plaintiff to pay federal, state or local income or other taxes or withholdings with respect to any portion of the payment referred to in paragraph 2, or are liable for interest or penalties related thereto, Plaintiff agrees to reimburse and indemnify CUNY and/or the State of New York for such liability with respect to any portion of the payment referred to in paragraph 2, so long as Plaintiff has been provided with notice of any such claim or proceeding promptly following receipt of notice of such claim or proceeding by CUNY and/or the State of New York. The language of this paragraph does not in any way limit or release any recipient of any payment referred to in paragraph 2 from any tax obligations, nor is it to be deemed the customary language of any settlement agreement with the State of New York, its agencies, departments, or officials..

6. **Medicare Certification.** Plaintiff further represents and warrants that she is not a Medicare recipient, has never been on Medicare, that no conditional payments have been made

to her by Medicare, and that she does not expect to be a Medicare recipient within the next 30 months.

7. **Covenant Not to File Claim in Court of Claims.** Plaintiff warrants and represents that, as of the date of this Settlement Agreement, she has not filed or sought permission to file with the New York Court of Claims a claim against the State of New York, CUNY (including but not limited to New York City College of Technology and any and all constituent colleges, institutes, departments, divisions, associations, units, or related entities of CUNY), the Individual Defendants in their personal and official capacities, or any other person or entity based in whole or in part upon any of the acts, transactions, occurrences or omissions asserted in the Complaint or the Amended Complaint in the Action, and further covenants and agrees never to do so in the future.

8. **General Release in Favor of Defendants.** For and in consideration of the payments referenced in paragraph 2 of this Settlement Agreement and other good and valuable consideration, the sufficiency of which is hereby acknowledged, and except for the rights and obligations set forth in this Settlement Agreement, Plaintiff, on behalf of herself, her heirs, executors, administrators, successors, and assigns (collectively, "the Releasing Parties"), hereby releases and forever discharges, the State of New York and CUNY (including but not limited to New York City College of Technology and any and all constituent colleges, institutes, departments, divisions, associations, units, or related entities of CUNY), together with all of their present and former principals, officers, directors, members, trustees, shareholders, affiliates, employees, agents, attorneys, insurers, subdivisions, subsidiaries, heirs, administrators, and assigns, personally and in their official capacities, including but not limited to the Individual Defendants in their personal and official capacities (collectively, "the Released Parties"), from

all manner of actions, injuries, proceedings, causes of action, grievances, suits, debts, obligations, dues, sums of money, accounts, contracts, controversies, agreements, promises, damages, judgments, claims, and demands whatsoever, direct or indirect, known or unknown, discovered or undiscovered, that the Releasing Parties ever had, now have, or shall or may have in the future against some, any, or all of the Released Parties, for or by reason of any act, transaction, occurrence, omission, cause, matter, or thing whatsoever up to and including the date of this Settlement Agreement, including but not limited to: (a) any and all claims regarding or arising out of the acts, transactions, occurrences, or omissions which are described, alleged, or contained in the Action, including without limitation the Complaint and the Amended Complaint; (b) any and all claims regarding or arising directly or indirectly from Plaintiff's association with any of the Released Parties or the terms and conditions of her association with any of the Released Parties; (c) any and all claims of harassment, hostile work environment, or discrimination based upon disability, age, race, color, national origin, ancestry, religion, marital status, sex, sexual orientation, citizenship, military service, status, medical condition, or retaliation; (d) any and all claims under federal, state, or local laws, statutes, constitutions, regulations, rules, ordinances, or orders, including but not limited to claims under 42 U.S.C. §§1981-1988, Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, the Equal Pay Act of 1963, 29 U.S.C. § 206(d), the Fair Labor Standards Act of 1938, 29 U.S.C. § 201 *et seq.*, the Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-634, the Rehabilitation Act of 1973, 29 U.S.C. § 794 *et seq.*, the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.*, the Family and Medical Leave Act of 1993, 29 U.S.C. §2601 *et seq.*, the New York State Human Rights Law, N.Y. Exec. Law § 296 *et seq.*, the New York City Human Rights Law, N.Y.C. Admin. Code § 8-101 *et seq.*, the New York State Labor Law, N.Y. Labor Law §§

740 and 741 *et seq.*, N.Y. Civil Service Law § 75-b, the United States Constitution, the New York State Constitution, the New York City Charter, and any other federal, state or local law; (e) any claims of retaliation for participation in a protected activity and/or engaging in any activity protected under any federal, state, or local laws, statutes, constitutions, regulations, rules, ordinances, or orders; (f) any and all claims for salary, bonuses, severance pay, vacation pay, sick pay, incentive pay, clinical practice income or other compensation, or any non-vested retirement, pension, or savings plan benefits; (g) any and all grievances pursuant to any applicable collective bargaining agreement; and (h) any and all other claims, whether for moneys owed, damages (including but not limited to claims for equitable relief, compensatory, punitive, or other damages), breach of implied or express contract, breach of promise, misrepresentation, negligence, fraud, estoppel, defamation, infliction of emotional distress, tortious interference with contract, tortious interference with business relations, tortious interference with prospective contractual relations, tortious interference with prospective business relations, violation of public policy, wrongful or constructive discharge, or any other tort, or any claim for costs, fees, or other expenses, including attorneys' fees, or any other claims under federal, state, or local law relating to employment, discrimination, retaliation, retirement, or otherwise. This release also includes a waiver and release of any and all claims related to allegations made before the U.S. Equal Employment Opportunity Commission, the New York State Division of Human Rights, and/or the New York City Commission on Human Rights, as well as any and all claims against the State of New York, its agencies, departments, and officials in the New York Court of Claims or any other forum, administrative or otherwise, related to or arising from any transactions, acts, omissions, or occurrences up to and including the date of this Settlement Agreement.

9. **Limited Release in Favor of Plaintiff.** For and in consideration of the terms of

this Settlement Agreement and other good and valuable consideration, the sufficiency of which is hereby acknowledged, and except for the rights and obligations set forth in this Settlement Agreement, CUNY, solely on its own behalf, hereby agrees to release Plaintiff, her heirs, executors, administrators, successors, and assigns from any compulsory counterclaims which were or could have been brought against Plaintiff in this Action. This release in favor of Plaintiff is limited exclusively to claims arising out of the transactions or occurrences that are described, alleged, or contained in the Complaint or Amended Complaint. Specifically excluded from this release in favor of Plaintiff are: (i) any claims and/or liability relating to the payment of taxes of any kind or other withholding charges; (ii) any rights or claims relating to the satisfaction of applicable liens; and (iii) any claims and/or liability concerning benefits of any kind, including but not limited to workers' compensation, disability, supplemental security income (SSI), pension, retirement or savings plan benefits, or any health plan benefits, from any entity, including but not limited to the federal, state, or local governments or their agencies. 10.

10. **No Other Action Commenced.** Other than the Action, Plaintiff represents that she has not commenced, maintained, or prosecuted any action, charge, complaint, grievance, or proceeding of any kind against the State of New York or CUNY (including but not limited to New York City College of Technology and any and all constituent colleges, institutes, departments, divisions, associations, units, or related entities of CUNY), together with all of their present and former principals, officers, directors, members, trustees, shareholders, affiliates, employees, agents, attorneys, insurers, subdivisions, subsidiaries, heirs, administrators, and assigns, personally and in their official capacities, including but not limited to the Individual Defendants in their personal and official capacities, on his own behalf and/or on behalf of any other person and/or on behalf of or as a member of any alleged class of persons, that none of the

foregoing is currently pending in any court or before any administrative or investigative body or agency, and acknowledges that this representation constitutes a material inducement for CUNY to enter into this Settlement Agreement.

11. **No Prevailing Party.** Neither Plaintiff nor any Defendant shall be deemed a “prevailing party” for any purpose, including but not limited to any statutory or contractual claim based upon “prevailing party” status with respect to the Action.

12. **Successors And Assigns.** The terms and conditions of this Settlement Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of each party hereto.

13. **Authority.** Each signatory to this Settlement Agreement hereby represents and warrants that he, she, or it has the requisite authority to enter into this Settlement Agreement, and has not previously assigned or transferred any rights or interests with respect to the matters covered by this Settlement Agreement.

14. **Voluntary Agreement.** Each of the parties hereto executes and delivers this Settlement Agreement voluntarily after being fully informed of its terms, contents, and effect, and acknowledges that she, he, or it understands its terms, contents, and effect. Each of the parties hereto acknowledges that she, he, or it is aware and is advised of her, his, or its right to seek the advice of an attorney, and that she, he, or it has been represented by counsel of her, his, or its own choosing before agreeing to any settlement or release, and no compromise or representation of any kind, other than as set forth or referred to herein, has been made to any party hereto or any one acting on behalf of such party.

15. **Negotiated Agreement.** The parties acknowledge that each party has cooperated in the drafting and preparation of this Settlement Agreement. The language in all parts of this Settlement Agreement shall be in all cases construed according to its fair meaning and not

strictly for or against any party.

16. **No Admission Of Liability.** It is understood and agreed that any actions taken or payments made pursuant to this Settlement Agreement are made solely to avoid the burdens and expense of protracted litigation; that this Settlement Agreement and the actions taken pursuant hereto are not to be construed as constituting any determination on the merits of any claims in this dispute or as constituting any admission of wrongdoing or liability on the part of the State of New York or CUNY (including but not limited to New York City College of Technology and any and all constituent colleges, institutes, departments, divisions, associations, units, or related entities of CUNY), together with all of their present and former principals, officers, directors, members, trustees, shareholders, affiliates, employees, agents, attorneys, insurers, subdivisions, subsidiaries, heirs, administrators, and assigns, personally and in their official capacities, including but not limited to the Individual Defendants in their personal and official capacities, and that they expressly deny any wrongdoing or liability. Nothing contained in this Settlement Agreement shall be deemed to constitute a policy or practice of the State of New York and/or CUNY (including but not limited to New York City College of Technology and any and all constituent colleges, institutes, departments, divisions, associations, units, or related entities of CUNY).

17. **No Precedential Value.** This Settlement Agreement shall not in any manner be construed as determinative of the issues raised in the Action or any other proceeding, and shall have no precedential value. In addition, notwithstanding the provisions of any paragraph herein, this Settlement Agreement shall not bind or collaterally estop the State of New York or CUNY (including but not limited to New York City College of Technology and any and all constituent colleges, institutes, departments, divisions, associations, units, or related entities of CUNY),

together with all of their present and former principals, officers, directors, members, trustees, shareholders, affiliates, employees, agents, attorneys, insurers, subdivisions, subsidiaries, heirs, administrators, and assigns, personally and in their official capacities, including but not limited to the Individual Defendants in their personal and official capacities, in pending or future actions or proceedings in which the same or similar issues are raised, from defending any and all issues raised in said actions or proceedings, or from advancing any defenses.

18. **Entire Agreement.** This Settlement Agreement, which is in part reflected in the Offer of Judgment, attached hereto as **Exhibit B**, issued at the request of the Plaintiff, constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof, and supersedes and embodies, merges and integrates all prior and current agreements and understandings of the parties hereto, whether written or oral, with respect to the subject matter of this Settlement Agreement, and may not be clarified, modified, changed, or amended except in a writing duly executed by the parties hereto or an authorized representative of the parties hereto. Specifically, the Offer of Judgment, attached hereto as Exhibit B, which will be signed upon the execution of this Settlement Agreement and the attached Stipulation of Discontinuance attached as Exhibit A, does not supersede, clarify, modify change or amend this Settlement Agreement, but has been prepared at Plaintiff's request.

19. **Governing Law.** The terms of this Settlement Agreement shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts to be performed wholly within the State of New York, except to the extent that federal law applies to the releases and waiver of federal claims pursuant to paragraph 9 of this Settlement Agreement.

20. **Severability.** If any provision of this Settlement Agreement shall be held by a court of competent jurisdiction to be invalid, void, or unenforceable in whole or in part, such

decision shall not invalidate the remaining portion or affect its validity.

21. **Headings.** The headings contained in this Settlement Agreement are for convenience of reference only and are not a material part of this Settlement Agreement.

22. **Submission to the Court.** The Stipulation and Order of Discontinuance With Prejudice in the form annexed hereto as **Exhibit A** shall be submitted to the Court to be “So Ordered” without further notice.

23. **Counterparts.** This Settlement Agreement may be executed in several counterparts, each of which shall be deemed an original and which, taken together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto acknowledge that they have read this Settlement Agreement, and accept and agree to the provisions contained herein, and have each executed this Settlement Agreement to be effective on the day and date first above written.

Dated: Great Neck NY
August 6, 2012

Victoria Ying Plaintiff

STATE OF NEW YORK
COUNTY OF NASSAU §§:

On August 6, 2012, before me, the undersigned, a Notary Public in and for THE STATE OF NY, personally appeared VICTORIA YING, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Martin McAllister
NOTARY PUBLIC

Suborn to BEFORE ME
this 6th day of AUGUST,
2012.

QUALIFIED IN NASSAU COUNTY
STATE OF NEW YORK
ID Num ~~361~~ 02SI 603 4696

EXY - DATE 12/13/13

Dated: Great Neck, New York
August 6, 2012

LAW OFFICE OF BORRELLI &
ASSOCIATES, P.L.L.C.

Attorney for Plaintiff

By:



Michael J. Borrelli, Esq.
1010 Northern Boulevard, Suite 328
Great Neck, NY 11021
(516) 248-5550

Dated: New York, New York
August ____, 2012

ERIC T. SCHNEIDERMAN
Attorney General of the State of New York
Attorney for Defendants

By:

Alissa S. Wright, Esq.
Assistant Attorney General
120 Broadway, 24th Floor
New York, New York 10271
(212) 416-6035

EXHIBIT A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
VICTORIA YING,

Plaintiff,

-against-

10 CV 4990
(CBA) (SMG)

THE CITY UNIVERSITY OF NEW
YORK, NEW YORK CITY COLLEGE OF
TECHNOLOGY, RUSSELL K. HOTZLER,
individually, and PAMELA BROWN,
individually.

**STIPULATION AND ORDER OF
DISCONTINUANCE WITH PREJUDICE**

Defendants.
-----X

IT IS HEREBY STIPULATED, AGREED and ORDERED by and between the undersigned attorneys for the parties herein that, pursuant to Fed. R. Civ. P. 41(a), the above-captioned action and all claims asserted against The City University of New York, New York City College of Technology, Russell K. Hotzler, and Pamela Brown in the above-captioned action are voluntarily dismissed with prejudice as against all parties, provided however, that any party may apply to the Court to have the case reinstated if payment is not made pursuant to the terms of paragraph 2 of the Settlement Agreement are not met within 120 days of the entering of this so-ordered Stipulation and Order on the Court's docket.

Dated: Great Neck, New York
August 6, 2012

Dated: New York, New York
August ____, 2012

LAW OFFICE OF BORRELLI &
ASSOCIATES, P.L.L.C.
Attorney for Plaintiff

ERIC T. SCHNEIDERMAN
Attorney General for the State of New York
Attorney for Defendants

By: _____
Michael J. Borrelli, Esq.
1010 Northern Boulevard, Suite 328
Great Neck, NY 11021
(516) 248-5550

By: _____
Alissa S. Wright, Esq.
Assistant Attorney General
120 Broadway, 24th Floor
New York, New York 10271
(212) 416-6035

SO ORDERED:

The Honorable Carol Bagley Amon
United States District Judge
Dated: _____, 2012

EXHIBIT B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
VICTORIA YING,

Plaintiff,

- against -

THE CITY UNIVERSITY OF NEW YORK,
NEW YORK CITY COLLEGE OF TECHNOLOGY,
RUSSELL K. HOTZLER, individually,
PAMELA BROWN, individually,

Defendants.

RULE 68
OFFER OF JUDGMENT

Docket No.: 10-cv-4990

(CBA) (SMG)

Pursuant to Federal Rule of Civil Procedure 68, and subject to the terms and conditions of the accompanying Settlement Agreement, General Release, and Waiver of All Claims, together with the exhibit annexed thereto (the "Settlement Agreement"), Defendant The City University of New York ("CUNY") (s/h/a New York City College of Technology)¹ hereby tenders this offer of judgment, pursuant to the terms of Settlement agreement between the parties, in the amount of \$310,000.00 (three hundred ten thousand dollars), inclusive of all costs and attorneys' fees.

This Offer of Judgment resolves all claims by Plaintiff against all the Defendants in this action, as set forth in full in the accompanying Settlement Agreement.

This Offer of Judgment is conditioned upon the execution of the Settlement Agreement and its exhibit, and the issuance of payment pursuant to paragraph 2 of the Settlement Agreement. It shall have no binding effect outside of the terms of the Settlement Agreement and shall not entitle Plaintiff or her representatives to file this offer or seek entry of judgment against any of the defendants.

¹ The only proper institutional defendant in this action is CUNY. CUNY is a distinct corporate body. See N.Y. Educ. Law § 6203. New York City College of Technology ("City Tech") is a senior college in the CUNY system which is not a legally cognizable entity separate and apart from CUNY. See N.Y. Educ. Law §§ 6202 (2) and (5).

This Offer of Judgment is not to be construed as either an admission that Defendants are liable in this action, or that the Plaintiff has suffered any damage, but rather is made solely for the purpose of compromising a disputed claim.

This Offer of Judgment shall not be filed with the Court nor shall it be used except in connection with the terms of the accompanying Settlement Agreement.

Dated: New York, New York
July __, 2012

Respectfully submitted,

ERIC T. SCHNEIDERMAN
Attorney General of the State of New York
Attorney for Defendants
By:

Alissa S. Wright
Assistant Attorney General
120 Broadway, 24th Floor
New York, New York 10271
Tel. (212) 416-6035