

**STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION ON CIVIL RIGHTS  
DCR DOCKET NO. EG12JB-66985**

Claudia Robinson, )  
 )  
Complainant, )  
 )  
v. )  
 )  
Genpact Pharmalink Global )  
Regulatory Affairs,<sup>1</sup> )  
 )  
Respondent. )

**Administrative Action**

**FINDING OF PROBABLE CAUSE**

On May 29, 2018, Claudia Robinson (Complainant) filed a verified complaint with the New Jersey Division on Civil Rights (DCR) alleging that Genpact Pharmalink Global Regulatory Affairs (Respondent, or “Genpact”), transferred her to a new assignment in reprisal for engaging in protected activity and aided and abetted Sanofi U.S. Services, Inc. (hereinafter, “Sanofi”) in discriminatory practices in violation of the New Jersey Law Against Discrimination (LAD), N.J.S.A. 10:5-1 to -49. DCR’s investigation found as follows.

**Summary of Investigation**

Respondent, located in Short Hills, New Jersey, provides life sciences organizations, such as Sanofi, with specialized expertise to ensure compliance with regulations governed by various international and U.S. government agencies, including the U.S. Food and Drug Administration (FDA). In or around March 2012, Respondent’s predecessor, Pharmalink, hired Complainant as a Senior Regulatory Affairs Associate. In or around May 2014, Respondent acquired Pharmalink and retained its personnel, including Complainant. In or around October 2015, Respondent promoted Complainant to Senior Manager, Regulatory Operations. In this capacity, Complainant was assigned to work for several different Genpact clients in various roles, including leading small teams of Genpact employees working remotely.

On January 1, 2017, Sanofi engaged Genpact to assist its Product Quality Complaints (PQC) group in managing its high volume of complaints. Sanofi, located in Bridgewater, New Jersey, develops, manufactures, and markets pharmaceutical products for various medical conditions. Its PQC group is responsible for managing the receipt, documentation, investigation, and close out of complaints from doctors, pharmacies, and consumers concerning Sanofi-manufactured products. Such complaints are recorded in Sanofi’s Product Technical Complaints (“PTC”) database and must be handled according to FDA regulations. Pursuant to the agreement

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<sup>1</sup> In the verified complaint, Complainant identified Respondent as “Genpact.” The caption is hereby amended to reflect counsel’s representation that Respondent’s proper designation is Genpact Pharmalink Global Regulatory Affairs.

between Genpact and Sanofi, Genpact was responsible for recording complaints in the PTC database, tracking complaint trends, answering complaints in a consistent and timely manner, suggesting procedural changes to improve efficiency, and training newly on-boarded employees.

The investigation revealed that, in or around August 2017, Respondent assigned Complainant (Black, age 35)<sup>2</sup> to replace [REDACTED] (white, age 50) as Project Manager (“PM”) on the Sanofi PQC project.<sup>3</sup> As PM, Complainant was responsible for overseeing the PQC initiative, managing her direct reports, including, but not limited to Genpact Specialist [REDACTED]. (white, age 50) and Genpact Analyst/Team Lead [REDACTED]. (white, age 59),<sup>4</sup> and working closely with her Sanofi counterparts, such as Sanofi Director of PTC Medical Devices – North America Quality Margaret Quinn (white, age 56) and Sanofi PQC Manager Lynn Meyer (white, age 58). While assigned to the Sanofi PQC project, Complainant reported directly to Genpact Assistant Vice President for Regulatory Affairs Robert Baldry, and worked exclusively from Sanofi’s Bridgewater facility alongside her direct reports.<sup>5</sup>

Complainant alleges that she complained to her superiors at Genpact that she was subjected to a hostile work environment based on her race and her age at Sanofi and that in retaliation for her complaints, Respondent removed her as PM on the Sanofi project and transferred her to an inferior assignment. She further alleged that by removing her from the project and transferring her to another assignment, Respondent aided and abetted Sanofi’s discriminatory conduct. Respondent denied the allegations in their entirety.

**a. Complainant’s complaints of discrimination at Sanofi**

Complainant produced evidence showing that throughout the spring of 2018, she complained to Respondent about a hostile work environment at Sanofi. For example, on March 5, 2018, Complainant sent an e-mail to Baldry, stating, in relevant part:

Two specific members of the Client Mgmt. Team gravely concern me – they are very unprofessional, undermining, divisive, prejudice and ‘racist’ – these words have been carefully selected and are not being used randomly/haphazardly. In the 10+ years in my career in this Industry, I have never personally encountered such an unethical lot of professionals . . . I have been targeted and they are trying to tear down the progressive and productive efforts of our Genpact project because it is currently being led by someone who does not share any relatable background cultural and skin color similarities . . . I am working under duress because of the negative environment these two individuals create, when they are present.

DCR reviewed Complainant’s contemporaneous meeting notes documenting her complaints of race discrimination at Sanofi. For example, on March 8, 2018, Complainant documented a telephone call with Respondent’s Assistant Manager of Human Resources, Jodi

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<sup>2</sup> All ages herein reflect each individual’s age at the time Complainant filed the instant charge.

<sup>3</sup> [REDACTED] voluntarily resigned her position effective August 11, 2017.

<sup>4</sup> [REDACTED] passed away during DCR’s investigation.

<sup>5</sup> In total, Complainant was responsible for roughly 30 Genpact employees on the Sanofi PQC project.

Culotti. According to Complainant's notes, she told Culotti that she had been subjected to "frequent racial remarks that are offensive not only to me but to other people in the group."

Complainant also complained to her immediate supervisor. In an e-mail to Baldry, on April 6, 2018, Complainant stated:

I understand that it is normal for people to have prejudices and take (subtle) discriminatory stances (in the workplace), so I cannot do anything about this, but at the same time, I need to protect my mental, physical and emotional health and well-being – it is the only way I am able to continuously endure and survive!

On April 13, 2018, Complainant sent an e-mail to Culotti wherein she alleged that she continues to be subjected to a "hostile and toxic work environment" by both Sanofi and Genpact personnel.

On April 26, 2018, Complainant sent an e-mail to herself documenting a conference call she had with Baldry earlier that day. Complainant wrote, in relevant part:

I said to Robert [Baldry] that I respectfully have to let him know that he does not understand... [Ellipsis in original] and that he has never been in my situation, i.e., a situation being a black, mid-30s, female working in a prejudice and racist environment with white, 50-60+ year old females who do not feel they have any business reporting to and being led by someone like me... [Ellipsis in original].

DCR also reviewed audio of an April 27, 2018 conference call between Complainant and Genpact's Associate Vice President of North American Human Resources Operations, Sheryl Chromey. During the call, Complainant stated:

I am managing a team that is very diverse – different race, religion, background. I am in my mid-thirties. I'm a black female. And my team members – the majority – they're all different races and religions. And I'm not making this a big deal or an issue, but these particular women that I reported, they are of an older, mature age and I personally feel at times that they feel that they do not need to be managed or be under someone of my background and that type of association. But I'm not making that an issue. I just feel like this current environment here is just unprofessional conduct from the client as well as these Genpact people and I explained to Robert [Baldry] and Jodi [Culotti] last week in an e-mail that I can no longer continue to work under these conditions.

In its answer to the verified complaint, Respondent acknowledged the contents of Complainant's March 5, 2018 e-mail, but stated that Complainant later advised Baldry that she did not wish to pursue her allegations. Respondent acknowledged that Complainant had also contacted Culotti, but Respondent said stated that Complainant's complaints to Culotti were strictly work related and did not include any allegations of discrimination. Respondent told DCR that it nonetheless immediately assigned Culotti, Baldry, and Chromey to conduct an on-site investigation at Sanofi's facility. According to Respondent, that investigation revealed only that

Complainant's direct report, [REDACTED] had disrupted a business meeting and inappropriately discussed her concerns about Complainant's management style with Sanofi personnel.<sup>6</sup>

DCR interviewed Baldry, Chromey, and Culotti.<sup>7</sup> Baldry acknowledged having received Complainant's March 5, 2018 e-mail and said that he "generally" discussed it with Respondent's Human Resources personnel. Baldry told DCR that he did not escalate the matter because Complainant later advised him that she did not wish to take her complaints any further. Complainant told DCR that she only told Baldry that she didn't want to pursue her complaints after it became clear to her that doing so was futile. To support her claim, Complainant provided DCR with an e-mail she sent to Baldry on March 22, 2018, seventeen days after her original complaint e-mail, which states, in relevant part:

I respectfully withdraw all complaints previously raised/lodged pertaining to the 1) abusive, unprofessional and strenuous working environment created by Sanofi Mgmt. and their personal agendas targeted towards me . . . It is very clear and fully understood that I cannot expect to receive the support needed to completely resolve these matters.

Culotti told DCR that Complainant mentioned her belief that Sanofi personnel did not respect her because of her age, but did not mention race as a possible motivating factor for their treatment of her.

In an interview with DCR, Chromey explained that what Respondent characterized as an "investigation" of Complainant's complaints was what Respondent called "pulse meetings" - i.e., meetings that were scheduled for the purpose of obtaining a better understanding of the relationship between Genpact and Sanofi personnel. Chromey said that during the "pulse meetings," which took place on April 26, 2018, she interviewed various Genpact employees without a management presence.

According to Chromey's statement to Complainant during their April 27, 2018 call, the "pulse meetings" were pre-planned and not in any way related to Complainant's reported concerns of workplace discrimination. Specifically, in the audio recording of the call, Chromey said, "We did meet with the groups yesterday. It was already planned anyway. I think the timing was really good just to see how everything was going." She added, "All of this was kind of planned for us to be doing the reach out. So it kind of - it just happened to be timely . . . We're doing the same thing with everybody, and we'll be doing the same thing with Pfizer and we'll be doing the same thing with our HMS verticals."

DCR reviewed Chromey's report on the results of the "pulse meetings," dated April 27, 2018. The report indicates that while Baldry interviewed Sanofi manager Quinn via telephone on April 25, 2018, Complainant's allegations of discrimination and hostile environment were not discussed. Further, there is no indication in Chromey's report that Respondent questioned anyone

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<sup>6</sup> Respondent issued [REDACTED] a written warning dated June 13, 2018 for "unprofessional conduct", approximately one week after DCR served the instant charge on Respondent.

<sup>7</sup> Culotti is no longer employed by Respondent.

or sought any information related to Complainant's allegations of discrimination or hostile environment.

As stated, on April 27, 2018, Complainant reported to Chromey her belief that older white women at Sanofi "feel that they do not need to be managed or be under someone of [her] background [a black woman in her thirties]." Later that day, after her telephone interview with Complainant, Chromey interviewed [REDACTED] and Genpact Specialist [REDACTED]. There is nothing in Chromey's report that signifies a discussion with [REDACTED] or [REDACTED] touching on Complainant's allegations of hostile work environment or discrimination. Nor was there evidence that she followed up with any other witnesses. Turning again to Chromey's statements during the April 27, 2018 phone call with Complainant, when referring to the meetings, Chromey stated, "We weren't looking for anything from them. It's not like we walked in and started talking about you or anything else. We did a standard [inaudible] protocol which is an update on the business and where it's at. We did an update on HR and where it's at and then we just opened the conversation and that was the extent of it."

**b. Complainant's removal from the Sanofi PQC project**

In its answer to the verified complaint, Respondent stated that in late April 2018, Sanofi began reporting concerns about Complainant's performance and communication. The evidence shows that on May 7, 2018, Sanofi Vice President – Head Product Quality North America, Gabriela Aguado, asked Respondent to remove Complainant from her role as PM because of performance issues. Complainant denies that she had performance issues, and contends that the real reason Sanofi requested her removal was bias against young, Black employees in positions of authority.<sup>8</sup>

In response to Sanofi's request, Baldry and Genpact Head of Commercial Solutions, Padmanabham Navuluri, met with Complainant the next day and informed her of Sanofi's request, and told her that Respondent had granted the request. Baldry and Navuluri told Complainant that she would be reassigned to another project that played to her strengths.

During an interview with DCR, Navuluri reported that Sanofi said, among other things, that Complainant's practice of sending e-mails rather than engaging in face to face dialogue did not align with its practices, and that the relationship between Complainant and Sanofi had become untenable. Navuluri told DCR that Respondent does not always grant a client's request to remove one of its employees from an assignment, but it did so in this case because both parties were continuously complaining about one another. He said that he and Baldry felt it would be best for both Complainant and Sanofi if they took Complainant off the project.

During an interview with DCR, Baldry echoed Navaluri's claim, stating that it had become apparent that it would not be possible for Complainant and Sanofi personnel to co-exist on the project. He stated that, as can happen from time to time, it was simply not a good fit. Baldry stated

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<sup>8</sup> In addition to this complaint, Complainant filed a separate complaint against Sanofi, alleging that Sanofi personnel subjected Complainant to discrimination based on her race and age. In that matter, the Director found probable cause to support Complainant's allegations. See Claudia Robinson v. Sanofi U.S. Services, Inc., DCR Docket No. ET06WB-66984 – Finding of Probable Cause.

that he did not believe the relationship could be salvaged and he thought it would be best for all involved, including Complainant, to move on. Baldry told DCR that he was “genuinely concerned” for Complainant’s well-being given the volume and nature of the complaints he was receiving from her on an almost daily basis towards the end of her tenure on the project. Baldry and Navuluri denied that Respondent’s decision to remove Complainant from the Sanofi PQC project and reassign her was in any way motivated by retaliatory animus for her having engaged in LAD-protected activity; namely her complaints about the hostile and discriminatory work environment at Sanofi.

Approximately three weeks after her removal from the Sanofi PQC project, Respondent assigned Complainant to work as a PM on a product labeling project at Kraft-Heinz. Complainant’s salary, title, and benefits remained the same. According to Complainant, she had far less responsibility in the new role, managing only a dozen or so employees, most of whom worked off site. This, in contrast to her role at Sanofi, where she managed about thirty on-site employees. Complainant provided records to support these figures. Complainant told DCR that her position as PM on the Kraft-Heinz project was merely “title only” because it was a consulting role and not the more prestigious operations role like the Sanofi PQC project.<sup>9</sup> According to Complainant, her removal from the Sanofi PQC project may reflect poorly on her efforts to advance her career.

### **Analysis**

At the conclusion of an investigation, the DCR Director is required to determine whether “probable cause exists to credit the allegations of the verified complaint.” N.J.A.C. 13:4-10.2. “Probable cause” for purposes of this analysis means a “reasonable ground of suspicion supported by facts and circumstances strong enough in themselves to warrant a cautious person in the belief that the [LAD] has been violated.” *Ibid.* If the Director determines that probable cause exists, the matter will proceed to a hearing on the merits. N.J.A.C. 13:4-11.1(b). If, on the other hand, the Director finds there is no probable cause to believe the LAD has been violated, that finding is a final agency order subject to review by the Appellate Division of the Superior Court of New Jersey. N.J.A.C. 13:4-10.2(e); R. 2:2-3(a)(2).

A finding of probable cause is not an adjudication on the merits. Instead, it is merely an initial “culling-out process” in which the Director makes a threshold determination of “whether the matter should be brought to a halt or proceed to the next step on the road to an adjudication on the merits.” *Frank v. Ivy Club*, 228 N.J. Super. 40, 56 (App. Div. 1988), rev’d on other grounds, 120 N.J. 73 (1990), cert. den., 498 U.S. 1073. Thus, the “quantum of evidence required to establish probable cause is less than that required by a complainant in order to prevail on the merits.” *Id.*

<sup>9</sup> According to Respondent, operations work “generally involves business relationships where Genpact performs tasks or functions that the client has or could perform themselves,” whereas consulting work “typically includes circumstances where Genpact is engaged by a client to review and analyze business issues, business processes, methods of operations and/or distribution, goals, strategies or other business considerations.”

**a. Hostile Work Environment**

Under the LAD, it is a form of discrimination to be subjected to a hostile working environment due to being a member of a protected class. See Lehmann v. Toys R Us, Inc., 132 N.J. 587, 623 (1993) (hostile work environment based on sex); Cutler v. Dorn, 196 N.J. 419, 431 (2008)(hostile work environment based on religion); Taylor v. Metzger, 152 N.J. 490, 500 (1998)(hostile work environment based on race). Further, “[w]hen an employer knows or should know of the harassment and fails to take effective measures to stop it, the employer has joined with the harasser in making the working environment hostile.” Lehmann, 132 N.J. at 623. During the course of DCR’s investigation, it became clear that, although not stated with specificity in the verified complaint, there is sufficient evidence to support a reasonable suspicion that Complainant was subjected to a hostile work environment on the basis of race and age while working on the Sanofi project, that Complainant reported and complained of the harassment to her superiors at Genpact and that Respondent failed to investigate or take remedial action to address her complaint.

The evidence showed that Complainant’s complaints to Respondent made it clear that she was being subjected to a hostile work environment based on her race, sex, and age. By way of example, Complainant’s emails of March 5, April 6, April 13, and April 26 set forth explicit complaints of the hostile work environment at Sanofi, including Complainant’s statement that she is a black woman in her thirties that is working “in a prejudice and racist environment.” She echoed her complaints in two telephone conversations where she reported being subjected to “frequent racial remarks that are offensive not only to [her] but to other people in the group.” Complainant lodged these complaints with her immediate supervisor, Respondent’s Assistant Manager of Human Resources, and Respondent’s Associate Vice President of North American Human Resources Operations.

DCR investigated Sanofi’s alleged discriminatory conduct. That investigation revealed evidence that, *inter alia*, a Sanofi supervisor once referred to Complainant as a “black bitch;” that two Sanofi supervisors referred to groups of Black employees as “packs” - for example, stating that they “cannot travel in packs,” or that they “cannot work in packs;” and that Complainant’s older, white Sanofi counterparts repeatedly disrespected her and belittled her in ways in which they did not subject her predecessor or replacement, both of whom are older and white. See Claudia Robinson v. Sanofi U.S. Services, Inc., DCR Docket No. ET06WB-66984 – Finding of Probable Cause.

The investigation found sufficient evidence to support a reasonable suspicion that, despite explicit complaints to three high-level employees, Respondent took no action to investigate or remedy the hostile work environment. Instead, the evidence demonstrates that although Respondent conducted “pulse meetings” with Sanofi personnel, those meetings were not designed to nor conducted as part of an investigation into Complainant’s allegations of discrimination. Moreover, audio evidence and witness statements indicate that the “pulse meetings” were not called in response to Complainant’s allegations but instead were already planned. Witness statements further demonstrate that although the meetings presented Respondent’s personnel an opportunity to investigate Complainant’s allegations, Respondent’s personnel failed to ask employees on the Sanofi project a single question related to those allegations.

Nothing in Respondent's report on the "pulse meetings" reflects any inquiry into or information about Complainant's allegations of hostile environment and discrimination. Simply put, the investigation produced no evidence to support Respondent's assertion that it investigated Complainant's complaints. An employer may not fail to act in response to an employee's repeated and explicit complaints of hostile environment. Payton v. New Jersey Turnpike Authority, 148 N.J. 524, 537 (1997)(effective response to an employee's LAD hostile work environment complaint must include employer's timely and thorough investigation of employee's complaint that is reasonably calculated to end the harassment.)

While Respondent claimed that it chose not to investigate Complainant's allegations because she withdrew her complaints, the evidence demonstrates that Complainant only did so because she believed her complaints proved futile, and told Respondent as much. The evidence instead suggests that Respondent may have been more concerned with the well-being of its business relationship with its client than with maintaining a workplace free of discrimination.

In sum, despite Complainant's repeated complaints, Respondent made no effort to take prompt remedial action to address and correct the discrimination, choosing instead to move the alleged victim to a less prestigious position. Woods-Pirozzi v. Nabisco Foods, 290 N.J. Super. 252, 268 N.J (App.Div. 1996) (employer is liable for a hostile work environment when it knows or should have known of the conduct and fails to take immediate and appropriate corrective action.)

#### **b. Removal and Involuntary Transfer**

The LAD makes it unlawful for an employer to discriminate in the "terms, conditions or privileges of employment" based on race and/or age. N.J.S.A. 10:5-12(a). To state a claim for discriminatory removal and transfer under the LAD, Complainant must show that she was subject to an adverse employment action, and that her membership in a protected class was a substantial motivating factor for Respondent's adverse employment action.

There is no dispute that Respondent removed Complainant from her role as Project Manager at Sanofi and transferred her to a Project Manager position at Kraft-Heinz. However, Respondent argues that Complainant's removal and transfer do not constitute adverse employment actions because it ultimately transferred her to an assignment with the same "salary, title and benefits."

Proofs necessary to demonstrate an adverse employment action include "actions that affect wages [or] benefits, or result in direct economic harm" but "[s]o too, noneconomic actions that cause a significant, non-temporary adverse change in employment status or the terms and conditions of employment would suffice." Victor v. State, 401 N.J. Super. 596, 616 (App. Div. 2008), *aff'd in part, modified in part*, 203 N.J. 383 (2010). In addressing the question of how harmful an act must be in order to be considered an adverse action, "a plaintiff must show that a reasonable employee would have found the challenged action materially adverse," which in this context means it well might have "dissuaded a reasonable worker from making or supporting a charge of discrimination." Roa v. Roa, 200 N.J. 555, 757 (2010), citing Burlington Northern & Santa Fe Ry. v. White, 548 U.S. 53, 61 (2006).



Here, Complainant alleges she was transferred to a position with less responsibility supervising fewer people, which may adversely affect her future employment prospects. She contends that her role at Kraft-Heinz was significantly smaller than her role at Sanofi, even as her title remained the same. The evidence appears to support Complainant's claim. Specifically, Complainant produced records demonstrating that she managed roughly thirty on-site employees at Sanofi, but managed only a dozen or so employees at Kraft-Heinz, most of whom worked off site. Moreover, Respondent does not dispute that the Kraft-Heinz position was a consulting role, rather than the more prestigious operations role Complainant filled as Project Manager at Sanofi. Thus, the Director finds for purposes of this disposition that Respondent's decisions to remove Complainant from Sanofi and transfer her to Kraft-Heinz sufficiently qualify as adverse employment actions under the LAD. The question then remains as to whether Respondent's decisions were motivated by Complainant's race and/or age.

An employer may at times be held liable if it acts as the metaphorical "cat's paw" of a person who, with a discriminatory motive, seeks an adverse employment action against an employee.<sup>10</sup> For example, a supervisor, motivated by discriminatory animus, may proximately cause a negative employment action by a different manager responsible for hiring and firing. "[I]f a supervisor performs an act motivated by [discriminatory] animus that is *intended* by the supervisor to cause an adverse employment action, and if that act is a proximate cause of the ultimate employment action, then the employer is liable[.]" Sanks-King v. Univ. of Med. & Dentistry of New Jersey, A-3050-11T4, 2013 WL 3644098, at \*7 (N.J. Super. Ct. App. Div. July 18, 2013) citing Staub v. Proctor Hosp., 562 U.S. at 422.

By further example, in Spencer v. Bristol-Myers Squibb Co., 156 N.J. at 463-64, 720 A.2d 601, the plaintiff alleged that Bristol-Myers Squibb (BMS) denied her employment because of her race and gender. The Court held that the plaintiff could introduce evidence that a BMS employee told her that an important person outside the company objected to her hiring because he did not want a Black woman of her age supervising his daughter, who worked at BMS. Id. at 457-66, 720 A.2d 601.

Similarly, in Grasso v. West New York Board of Education, 364 N.J. Super. 109, 115-16, 834 A.2d 1026 (App.Div.2003), a female plaintiff presented evidence suggesting that a school board, upon a superintendent's recommendation, hired a Hispanic male as an assistant high school principal after the principal indicated to interviewers that he wanted a Hispanic individual to fill the position. The Court held that there was sufficient evidence for the jury to infer that the Board's selection of the male candidate was "probably tainted" by the superintendent's recommendation, which was affected by the principal's "discriminatory preference." Id. at 119, 834, A.2d, 1026.

Here, the "cat's paw" theory may also apply. Indeed, Complainant produced evidence suggesting that Sanofi decision-makers did not want to work with a younger, Black woman, and that Respondent was aware, or should have been aware, of same. DCR's investigation of Sanofi's

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<sup>10</sup> See Staub v. Proctor Hosp., 562 U.S. 411, 415 n. 1 (2011) ("The term 'cat's paw' derives from a fable conceived by Aesop, put into verse by La Fontaine in 1679, and injected into United States employment discrimination law by [Judge Richard] Posner in 1990. See Shager v. Upjohn Co., 913 F.2d 398, 405 [ (7th Cir.1990) ]. In the fable, a monkey induces a cat by flattery to extract roasting chestnuts from the fire. After the cat has done so, burning its paws in the process, the monkey makes off with the chestnuts and leaves the cat with nothing.").

alleged discriminatory conduct found probable cause that Sanofi subjected Complainant to race and age discrimination, and that its discriminatory animus against Complainant motivated its request for Complainant's removal. See Claudia Robinson v. Sanofi U.S. Services, Inc., DCR Docket No. ET06WB-66984 – Finding of Probable Cause. When Sanofi ultimately requested Complainant's removal from the project, Respondent granted it without any investigation or inquiry.

Therefore, because Sanofi's discriminatory conduct was intended to cause Complainant's removal from the project, and its discriminatory request for Complainant's removal was a "proximate cause" of Respondent's decision to remove Complainant from the project, the Director finds that there is sufficient evidence to support a reasonable suspicion that Respondent is liable for Complainant's discriminatory removal and transfer.

**c. Reprisal**

The LAD makes it unlawful for an employer to take reprisals against an employee for engaging in LAD-protected activity. N.J.S.A. 10:5-12(d). A finding of reprisal requires a showing of a causal connection between the LAD-protected activity – i.e., Complainant's complaints to Respondent's management of a hostile work environment and discrimination based on Complainant's race and age - and Respondent's decision to remove her from the Sanofi PQC project and assign her to a different, less prestigious, project.

Here, the investigation found evidence suggesting that the decision to remove Complainant from the Sanofi project and assign her to a less prestigious project may have been made, at least in part, in retaliation for her complaints of hostile work environment and race and age discrimination. Even though Complainant complained to both her supervisor and Genpact human resources about Sanofi's discriminatory conduct on several occasions, Respondent failed to take any action in response to her pleas for assistance. Sanofi's request that Complainant be removed from her position came after two months of Complainant's reports of discriminatory conduct at Sanofi. Respondent told DCR that it is not obligated to grant a client's removal request. And by all accounts, Complainant was, and still is, a satisfactory employee that Respondent holds in high regard. There is no evidence of any performance or behavioral issues from either before or after she worked at Sanofi. The timing of Complainant's removal and the lack of support for any performance issues suggests a retaliatory motivation. Therefore, Respondent's motivation for acquiescing to its client's request to remove Complainant, without vetting the request at all, remains in question. Accordingly, at this point in the process, DCR is unable to rule out the allegation that Respondent removed Complainant from the Sanofi project and transferred her to a lesser assignment in retaliation for complaining about Sanofi's discriminatory conduct.

In sum, DCR's investigation found sufficient evidence to support a reasonable suspicion that Respondent retaliated against Complainant for engaging in LAD-protected activity.

**d. Aid and Abet**

The LAD makes it unlawful for "any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under the LAD, or to

attempt to do so.” N.J.S.A. 10:5-12(e). Here, however, as stated above, DCR finds that Respondent is liable for the hostile work environment that Complainant was subject to, as well as her discriminatory transfer.

As noted, the Director has determined that probable cause exists that Complainant was subjected to discriminatory treatment by Sanofi. See Claudia Robinson v. Sanofi U.S. Services, Inc., DCR Docket No. ET06WB-66984 – Finding of Probable Cause. In connection with Sanofi’s alleged discriminatory conduct, Complainant may argue at a plenary hearing that Respondent aided and abetted Sanofi’s conduct.

At this threshold stage in the process, there is a sufficient basis to warrant “proceed[ing] to the next step on the road to an adjudication on the merits,” Frank, supra, 228 N.J. Super. at 56. Therefore, the Director finds probable cause to support Complainant’s allegations that Respondent discriminated and retaliated against Complainant and subjected her to a hostile work environment in violation of the LAD.



Rachel Wainer Apter, Director  
NJ Division on Civil Rights

Date: June 16, 2020