

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

Barbara Fagan-Zelazny,

Plaintiff, Case No.

v

Young Women’s College Prep,

**AFFIDAVIT OF BARBARA FAGAN-  
ZELAZNY**

Defendant.

---

State of New York  
County of Monroe

The undersigned affiant, Ms. Barbara Fagan-Zelazny, being duly sworn, hereby deposes and says:

1. To my knowledge, all of the facts stated in this affidavit are true and correct.
2. I am over 18 years of age. I reside in Monroe County, State of New York.
3. I am fully competent to make this affidavit and I have personal knowledge of the facts stated in this affidavit.
4. I was hired in January 2018 as Principal/Head of School at the Young Women’s College Prep (YWCP), a K-12 charter school located in Rochester, New York.
5. I was successful in my role, receiving positive performance reviews and recognition at the local and state levels.
6. The 2021-2022 school year was challenging for YWCP due to residual COVID-19 impacts, and I tried to collaborate with Board of Trustees Chair, Ms. Jennifer Allen on these issues.
7. One of the challenges facing YWCP was related to staff behavior. I received several reports of allegations of staff misconduct and in December 2021 I requested the YWCP Board of Trustees (“the Board”) hire external counsel to investigate these allegations.
8. During a March 1, 2022 meeting with the Board, I was blindsided by allegations of misconduct lodged against me, allegedly supported by statements apparently made during the investigations of staff misconduct I had initiated months earlier.

9. After this meeting on March 1, 2022, the Board sent me a letter grossly and obviously misstating facts related to these investigations and my role in them.
10. A true and accurate copy of this document is included with this affidavit as Exhibit A.
11. While this letter outlined supposed deficiencies in my performance, the Board offered a list of expectations for my continued employment. *See* Exhibit A.
12. I was extremely stressed and anxious after this meeting.
13. On March 11, 2022, I visited my primary care physician and was diagnosed with anxiety, depression, and panic disorder.
14. My physician wrote a sick leave note notifying YWCP I would be out “March 14, 2021 [sic] through March 28, 2022” which I emailed to Board Chair Allen.
15. A true and accurate copy of this document is included with this affidavit as Exhibit B.
16. On March 16, 2022, YWCP sent me FMLA leave paperwork, and I was approved for leave pursuant to FMLA on April 4, 2022.
17. A true and accurate copy of this document is included with this affidavit as Exhibit C.
18. On May 24, 2022, my physician extended my leave through August 10, 2022.
19. On May 24, 2022, I sent a completed “Accommodation Form” to YWCP detailing the accommodations my physician recommended be granted given my disability.
20. A true and accurate copy of this document is included with this affidavit as Exhibit E.
21. Prior to and during my FMLA leave, I communicated my intention to return to my duties at the conclusion of my leave period with the provision of reasonable accommodations as required by law. *See* Exhibit D.
22. On June 13, 2022, the YWCP notified me my position was terminated and presented a proposed severance agreement.
23. A true and accurate copy of this document is included with this affidavit as Exhibit F.
24. The justification provided by the YWCP for my termination relied on Clause 4(c) of our employment agreement dated June 30, 2020.

25. A true and accurate copy of this document is included with this affidavit as Exhibit G.
26. Clause 4(c) states that if I am unable to effectively perform my duties for more than ninety (90) days due to a physical, mental, or emotional illness, ailment, or accident, my employment may be terminated.
27. The YWCP erroneously marked March 11, 2022, as the commencement date of my disability-related leave.
28. This is factually incorrect as I continued to perform my responsibilities for the YWCA until the approved start date of my disability-related leave on April 4, 2022.
29. In fact, I was not even provided the paperwork to apply for FMLA leave until March 16, 2022.
30. Nothing in the communications I received from YWCP indicated my medical leave began on March 11, 2022.
31. Instead, I was on a pre-scheduled vacation for the week ending on March 11, 2022, I was out on sick leave for the following two weeks and was approved on disability leave on April 4, 2022.
32. My employment was terminated on June 13, 2022.
33. June 13, 2022 was before the end of my approved FMLA leave (and within the ninety-day period referenced in Clause 4(c) of my employment agreement).
34. The FMLA and YWCP's handbook provide up to 12 weeks of job protected leave.
35. A true and accurate copy of the YWCP's policy related to FMLA leave is included with this affidavit as Exhibit H.
36. The actions taken by the YWCP, including the failure to engage in the interactive process and the premature and wrongful termination of my employment, constitute a willful violation of my rights under the Americans with Disabilities Act.
37. In response to these actions, I filed a charge with the New York State Division of Human Rights (NYSDHR) and the Equal Employment Opportunity Commission (EEOC) under the charge number 525-2023-00452 on March 1, 2023.
38. The EEOC issued a right to sue letter on May 6, 2024.

39. A true and accurate copy of this document is attached as Exhibit I to this affidavit.

40. I have suffered significant monetary and non-monetary damages due to YWCP's discriminatory and retaliatory acts.

Barbara Fagan-Zelazny  
Barbara Fagan-Zelazny

State of New York )

County of Monroe ) ss.:

On the 24 day of June in the year 2024, before me, the undersigned notary public, personally appeared Barbara Fagan-Zelazny personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Annette Velazquez-Belancourt Notary Public

My Commission Expires:

**ANNETTE VELAZQUEZ-Belancourt**  
Notary Public - State of New York  
No. 01VE6317188  
Qualified in Monroe County  
My Commission Expires December 29, 2026