

IN THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SHERYL BAROMETRE,	:	
	:	
Charging Party,	:	
	:	Charge No.
v.	:	
	:	AFFIDAVIT
L & L PAINTING CO., INC.,	:	
	:	
Respondent.	:	

CITY OF NEW YORK)
 ss.:
 COUNTY OF NEW YORK)

I, Sheryl Barometre, being duly sworn, depose and say:

1. I am a 36-year-old woman.

2. I am a painter in the second year of my apprenticeship sponsored by the International Union of Painters and Allied Trades District Council 9 ("DC 9").

Upon information and belief, respondent L & L Painting Company ("L & L" or the "company") is a signatory to DC 9's Independent Trade Agreement, which provides for signatories' employment of apprentice workers.

3. I was assaulted by a co-worker on the job while working for L & L. Although I complained about the attack to company representatives, L & L fired me and retained the co-worker who attacked me.

4. From the spring of 2005 until my firing in January 2006, I worked for L & L on the Morgan Library and Museum renovation and expansion project (the "Morgan Library project") at 225 Madison Avenue in New York City. Upon information and belief, L & L was a sub-contractor on the project. L & L is one of the largest

painting companies in New York and frequently performs work on publicly-funded projects.

5. At all relevant times, James Henry (“Henry”) was the company’s foreman of the Morgan Library project and my direct supervisor, and Mike Horowitz (“Horowitz”) was the company’s representative on the job.

6. Throughout my employment on the Morgan Library project, the number of women workers varied from three to five (including me), out of approximately 200 workers.

7. In August 2005, L & L hired Jerome Saunders (“Saunders”) to work on the Morgan Library project. Saunders also is a second-year apprentice painter.

8. Upon information and belief, at the time he was hired on the Morgan Library project, Saunders had been fired from at least one L & L job for fighting with a male co-worker.

9. Almost immediately upon Saunders’ arrival on the site, he was overtly hostile and physically aggressive toward me. He also sabotaged my work and work materials, further interfering with my ability to do my job.

10. In August 2005, Saunders destroyed some of my work and kicked me in the shin. I complained to Henry; Horowitz also was present. After hearing my complaint, Henry told me that I should not have complained. Neither Henry nor Horowitz took any action in response to my complaint.

11. In November 2005, Saunders raised his fists at me as if to hit me. I ran away, and reported the incident to Henry. Henry did not respond, except to tell me

that he believed I was bothering other workers. Upon information and belief, Henry never took any action in response to my complaint.

12. On January 24, 2006, Henry told me that the Morgan Library project was “slowing down.” He told me that L & L was firing me as well as the only other female painter on the job, Amanda (last name unknown) (“Amanda”), and that the next day, January 25, would be our last. None of the male painters on the job, including Saunders, was fired. Henry told me that L & L would find work for me at another jobsite.

13. At the end of the day on January 25, Henry told me that I would be needed for one additional day, and that I should report to work on January 26.

14. On the morning of January 26, while I was in a hallway loading work materials on to a cart for transport to another part of the jobsite, Saunders accosted me. He grabbed an empty five-gallon bucket and slammed it into my chest, violently dragged it up and over my breasts.

15. I cried out in pain, and fell to the floor, struggling to breathe. A mechanic who heard my cries, Fernando (last name unknown) (“Fernando”), ran from his work area into the hallway. He asked me what happened and I told him.

16. I eventually was able to catch my breath and to stand. Although I was in extreme pain, I attempted to continue working, and took some work materials to another part of the library as I had been instructed. On the way, I met at least two workers who noticed my distress and asked if I was okay.

17. Upon my return to the painters’ work area, I told Henry – in the presence of Saunders, Amanda, and two mechanics (including Fernando) – that Saunders

had attacked me. Henry's response was to yell at me that I was "cantankerous" and that "nobody wants to work with [me]." He also yelled, "The company can't hear about this. If the company hears about this they'll send all of you fuckers home."

18. Within minutes, the pain in my chest was so severe that I began to feel faint and nauseous. I went to the restroom and vomited. Using my cellphone, I called 911, and then called my husband and my union to report what had occurred.

19. Henry and Amanda came into the restroom. Henry demanded to know whom I had called. When I told Henry I had called my union, Henry turned to Amanda and told her, "Oh, that's it. She's fired." As I continued making phone calls, Henry continued demanding to know who I was calling, "Damn it, Sheryl! I'm your foreman!" I repeatedly told Henry that Saunders had "hurt me bad," but Henry did not respond.

20. While still in the restroom with me, Henry called Horowitz on his cellphone. I heard Henry tell Horowitz that "Sheryl is alleging that Jerome hit her."

21. Emergency medical personnel arrived and took me to St. Vincent's Hospital. I was treated for a deep contusion to my chest wall and prescribed Vicodin for pain.

22. Hospital personnel who treated me called the police to report Saunders' assault. Two officers came to St. Vincent's and questioned me; they instructed me to make a full report at the police precinct after my release from the hospital. I made the report later that afternoon. Upon information and belief, the police arrested Saunders the following Friday, February 3, at the Morgan Library project site, and later released him.

23. The Manhattan District Attorney's Office charged Saunders with assault; trial is scheduled to begin in May. The DA's Office also obtained a temporary restraining order on my behalf against Saunders.

24. The day after the attack, on January 27, I called Horowitz to tell him about Saunders' assault. Horowitz said he already knew about the incident from James, but stated that James "did not know what had happened." Horowitz told me that he would look for a job for me on another L & L worksite.

25. On numerous occasions since January 27, I have called Horowitz to inquire about work. To date, I have not been re-hired by L & L.

26. In March 2006, I contacted L & L seeking to apply for worker's compensation benefits. The company's representative, Bernice (last name unknown) ("Bernice"), said that I could not collect benefits because this was a "he said, she said" situation. I wrote a detailed account of Saunders' attack and submitted it to the company.


27. Upon information and belief, Saunders remained employed at the Morgan Library project through its completion in April 2006.

28. Throughout my tenure on the Morgan Library project, I performed well and received positive evaluations of my performance.

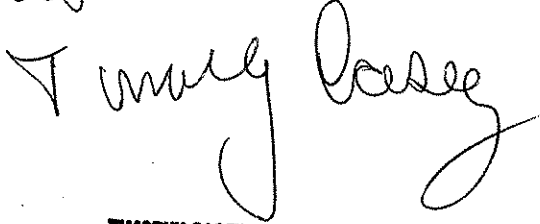
29. Since Saunders' assault on January 26 and L & L's refusal to take any action in response to my complaints, I have experienced extreme emotional distress, including panic attacks, severe depression, weight loss, and insomnia.

30. I declare under penalty of perjury that the foregoing is true and correct, except as to the matters stated to be on information and belief, and as to those matters, I believe them to be true and correct.

Executed at New York City on April 28, 2006.


Sheryl Barometre

Subscribed and sworn to before me the undersigned notary public,
this 28 day of April, 2006



TIMOTHY CASEY
COMMISSION # 02 CA 6131753
State of NY, Commission Exp. 8/22/09