

MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION
AND EEOC
CHARGE OF DISCRIMINATION



This form is affected by the Privacy Act of 1974.

Enter Charge Number: FEPA: _____
EEOC: _____

MOST RECENT OR CONTINUING DISCRIMINATION
VIOLATION DATE: February 26, 2008
FILING DATE: May 7, 2008

NAME (Indicate Mr., Ms., or Mrs.) Ms. Michelle Moor HOME TELEPHONE NO. (Include area code) (617) 742 - 6020
STREET ADDRESS _____
C/O Zalkind, Rodriguez, Lunt & Duncan LLP 65a Atlantic Ave.
CITY, STATE, ZIP CODE Boston, MA 02110 COUNTY Suffolk

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below):

NAME Bingham McCutchen LLP NUMBER OF EMPLOYEES/MEMBERS More than 25
STREET ADDRESS _____ TELEPHONE NO. (Include Area Code) (617) 951 - 8000
150 Federal Street
CITY, STATE, ZIP CODE Boston, MA 02110

NAME _____ NUMBER OF EMPLOYEES/MEMBERS _____
STREET ADDRESS _____ TELEPHONE NO. (Include Area Code) _____
CITY, STATE, ZIP CODE _____

CAUSE OF DISCRIMINATION BASED ON:

RACE [] COLOR [] SEX PREGNANCY (SEX) [] SEXUAL ORIENTATION [] AGE []
SEXUAL HARASSMENT RELIGION [] NATIONAL ORIGIN []
DISABILITY/HANDICAP/LONG-TERM MEDICAL CONDITION [] RETALIATION

OTHER (Specify): _____

The Particulars Are As Follows:

See attached Complaint Narrative.

[XX] I also want this charge filed with the EEOC.

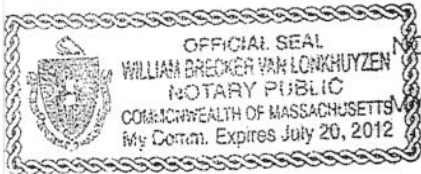
I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

Michelle A. Moor

Signature of Complainant

SWORN TO AND SUBSCRIBED BEFORE ME THIS 7th DAY OF May, 2008



NOTARY PUBLIC: William B. VanLonkhuyzen

COMMISSION EXPIRES: 7-20-12

DATED: **May 7, 2008**

Respectfully submitted,

The Complainant,
By her Counsel, Rachel Stroup
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Rachel Stroup (BBO#667410)
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COMMONWEALTH OF MASSACHUSETTS
COMMISSION AGAINST DISCRIMINATION
One Ashburton Place, Room 601
Boston, MA 02108

MICHELLE MOOR,
Complainant

v.

BINGHAM McCUTCHEN, LLP,
Respondent.



Complaint Narrative

1. Michelle Moor is an attorney who, after working very successfully as a summer associate during law school, accepted a position as an associate at Bingham McCutchen LLP (hereinafter “Bingham” or “the firm”), where she started working in September 2007. Ms. Moor’s employment at the firm was going very well but her experience there changed dramatically after she was drugged at a firm-sponsored holiday party in December 2007. In the days after this event, Ms. Moor learned that another female attorney had also been drugged after socializing with Bingham co-workers and had, in fact, been raped. Although Ms. Moor promptly reported both her own involuntary drugging and the attack on the other woman, and despite her repeated inquiries, Bingham conducted no investigation. Some weeks later, at a work-related dinner, another Bingham employee engaged in highly inappropriate, sexual conversation that included statements to the effect that he enjoyed giving women date rape drugs and having sex with them. These comments only heightened Ms. Moor’s concerns for her safety, and she promptly reported them to Bingham management. Despite corroborating Ms. Moor’s account of events almost immediately, Bingham’s investigation languished. Bingham failed to take steps to ensure Ms. Moor’s safety and left her to work three doors away from the co-worker she now feared had drugged and meant to attack her. After weeks of inaction by the firm – weeks in which Ms. Moor constantly felt unsafe at work – Ms. Moor felt she had no choice but to leave Bingham.
2. Bingham’s failure to investigate and take prompt and adequate remedial action in response to these incidents of assault and sexual harassment constitute sex discrimination in violation of G.L. c. 151B, § 4. As a result of Bingham’s failure to respond adequately to these two incidents, Ms. Moor has suffered and will continue to suffer substantial monetary damages and significant emotional distress.

BACKGROUND

3. Ms. Moor graduated from Northeastern University School of Law in May 2007. After working as a Summer Associate for Bingham during the summer between her second and third years of law school, Ms. Moor was offered, and accepted, the coveted position of a litigation associate at Bingham.
4. Ms. Moor began working as an associate for Bingham on September 17, 2007. By all accounts, Ms. Moor performed exceedingly well during her time at Bingham, both as a summer associate and as an associate. She worked hard, was a team player, and received nothing but positive feedback in response to her work.
5. As of December 13, 2007, Ms. Moor had no intention of leaving the firm. All of that changed following two intensely disquieting incidents of sexual harassment, and Bingham's failure to take prompt and adequate remedial action in response.

HOSTILE WORK ENVIRONMENT AND CONSTRUCTIVE DISCHARGE

6. On December 14, 2007, Ms. Moor attended the firm's annual holiday party for associates. The event was a lunch held at Lucia, a restaurant in the North End of Boston. The firm paid for the meal, which included wine. After lunch, the party moved upstairs to the bar area on the second floor. The firm paid for drinks from the bar, and many party attendees had a substantial amount to drink.
7. Ms. Moor, who drinks socially and with moderation, remembers little of the afternoon beyond receiving a second glass of wine. She later learned that she had been drugged at the holiday party.
8. Dazed and extremely disoriented, Ms. Moor made it to an emergency room that evening where a blood test revealed that she had ingested Tegretol, an anti-seizure medication that, mixed with alcohol, causes memory loss and other symptoms. Ms. Moor does not take Tegretol medication and did not knowingly take it, or any other potentially mind altering drug or medication, on the day of the firm party.
9. On information and belief, more common date rape drugs are generally undetectable after a number of hours which is part of their appeal and, although the hospital lab initially told Ms. Moor that she had a "weak positive" for one of these drugs, subsequent testing for these drugs was negative.
10. On the Monday following the holiday party, December 17th, Ms. Moor reported the incident to a more senior associate who, upon hearing Ms. Moor's story, informed Ms. Moor that she had been drugged and raped by a Bingham employee the year before and

that, while she had reported the incident to police, she had decided not to report the incident to Bingham for fear that to do so would jeopardize her prospects of promotion at the firm.

11. Ms. Moor also reported the incident to a partner at the firm, who, without warmth or a spirit of support, said something to the effect that “now that you’ve told me, knowledge is imputed to the partnership.” This partner also suggested that Ms. Moor wait until further drug test results were received before reporting the incident to police.
12. After re-run blood test results confirmed the presence of Tegretol on Thursday, December 20, Ms. Moor reported the incident to Lou Rodriques, her partner-mentor at the firm and the head of the firm’s labor and employment group. Mr. Rodriques went with Ms. Moor to Human Resources, where they reported the incident to Lynn Carroll, the firm’s Chief Human Resources Officer.
13. During the meeting on December 20, 2007, Ms. Moor told Ms. Carroll and Mr. Rodriques that, since her attack, she had learned from another female Bingham associate that that associate had been drugged and raped a year earlier by a Bingham employee when she was socializing with fellow Bingham employees. In speaking with Ms. Carroll and Mr. Rodriques, Ms. Moor expressed her strong concern for the safety and well being of female associates at the firm, and asked that a warning go out to all of them. At the end of their meeting, Ms. Carroll indicated that the firm would investigate the incident and get back to Ms. Moor.
14. Over the next several weeks Ms. Moor spoke on several occasions with Mr. Rodriques, who asked how she was doing, and Ms. Carroll, who said that the firm was “still figuring out” how to handle the situation. Nothing was done to notify female employees at Bingham about the potential risk they faced at firm-sponsored events and, to Ms. Moor’s knowledge, no investigation occurred to determine who drugged her.
15. Four-and-a-half weeks after reporting her drugging incident, on January 17, 2008, Ms. Moor was invited by two firm senior associates to a dinner at Grill 23, a restaurant in Boston, to celebrate the firm’s successful litigation of a motion to dismiss. At the dinner were three other Bingham attorneys, Brandon Bigelow, David Magee, and Josephine Deang, a Bingham litigation technology support person, Jeremy Breen, and members of DTI, the company that helped to manage the electronic discovery in the case.
16. At the dinner, Mr. Breen made a number of alarming sexually inappropriate comments, the most serious being that he enjoyed having sex with women (he used the word “girls” but, presumably, he meant to refer to adults) who were unconscious, and that he knew how to get “roofies” (the colloquial term for the date rape drug Rohypnol). Stunned and overwhelmed, Ms. Moor shut down and said nothing for the remainder of the meal.

17. After the dinner ended, Ms. Moor asked Messrs. Bigelow and Magee whether Mr. Breen had attended the December associates party; they reported that he had and that they had seen Ms. Moor speaking with him there. Ms. Moor later learned that Mr. Breen had been seen “pushing drinks” at the holiday party.
18. Ms. Moor, who felt incredibly upset, scared and violated, cried during the cab ride home (she shared a cab with Ms. Deang), and continued crying for several hours upon returning home. Ms. Moor’s office was just three doors down from Mr. Breen and she was actively working with him on a project. She struggled with coming to terms with the fact that Mr. Breen may have been the person who drugged her and may have intended to rape her while she was unconscious. Ms. Moor was unable to go to work the following day because she was so upset.
19. The following Monday, the MLK Jr. Holiday, January 21st, Ms. Moor sent an email to Ms. Carroll, reporting what had happened at the dinner. Ms. Carroll replied, saying she would follow up with her the next day.
20. On January 22nd, Ms. Moor and Ms. Carroll met and Ms. Moor described more fully what had occurred at the dinner. Ms. Moor raised the fact that Bingham still had not warned female employees about the drugging incidents, and again asked that it do so. She also expressed her discomfort with working in such close proximity to Mr. Breen, in light of his comments and the fact that she herself had been drugged at the holiday party. Ms. Carroll said she would investigate and keep Ms. Moor updated as the investigation progressed.
21. According to handwritten notes contained in Ms. Moor’s personnel file at Bingham, Ms. Carroll spoke with Mr. Magee the following day, on January 23, at which time Mr. Magee corroborated Ms. Moor’s account of the evening. In addition, Mr. Magee told Ms. Moor on January 24th that, while speaking with Ms. Carroll about the incident at Grill 23, he had also informed Ms. Carroll that at the firm’s 2006 associate holiday party Mr. Breen had solicited money to buy “an eight-ball” (the street name for a certain quantity of cocaine or methamphetamine), left the party to purchase drugs, returned to the party, and consumed the drugs.
22. Over the next week Ms. Moor heard from others – Mr. Bigelow and Ms. Deang – that each had spoken to Ms. Carroll and confirmed the events as Ms. Moor had reported them.
23. Despite the fact that Bingham rapidly corroborated Ms. Moor’s description of the incident at Grill 23, nearly two weeks passed in which Ms. Moor did not hear anything further from Ms. Carroll. Most troubling for Ms. Moor, Mr. Breen continued to work three doors down from her. When at work, she was constantly on guard. Ms. Moor found herself constantly re-navigating her way to the bathroom, afraid each time she left her office that she might run into Mr. Breen. In order to avoid communicating directly with Mr. Breen

regarding a project on which she still worked with him, Ms. Moor used fellow associates as intermediaries. In addition, while she made great efforts to avoid walking past Mr. Breen's office, seeing him on a daily basis was unavoidable, given that they shared a common kitchen area, and Mr. Breen worked next door to Ms. Moor's senior associate mentor. Despite her efforts to avoid Mr. Breen, Ms. Moor felt unsafe in her workplace.

24. After an unsettling experience of riding alone in a firm elevator with Mr. Breen (with Ms. Moor not knowing whether or not he had been informed of or spoken to about her complaint), Ms. Moor took it upon herself to follow up with Ms. Carroll on Monday, February 4th.
25. In their February 4th meeting, Ms. Carroll reported that she had not yet spoken to Mr. Breen. Ms. Moor again informed Ms. Carroll that she did not feel safe working in such close proximity to Mr. Breen. Ms. Carroll responded that, if she wished, Ms. Moor could move her office from the 19th floor to the 17th floor so that she would not have to work as close to Mr. Breen.
26. Ms. Moor told Ms. Carroll that she did not understand why she was being moved when she had done nothing wrong and that it seemed strange that Mr. Breen still had not been spoken to. She expressed her concern that she was being punished for reporting Mr. Breen's inappropriate behavior, and indicated that she did not want to move offices. Ms. Carroll responded that if Ms. Moor changed her mind about moving offices, she should leave her a voicemail, but because Ms. Carroll would be in Bingham's San Francisco office for the remainder of the week, she would not be able to do anything further until the following week.
27. Moving from the 19th floor, which is known as the general litigation floor, to the 17th floor, which is known as the broker-dealer floor, would have materially altered Ms. Moor's working conditions, as the work assigned to associates at the firm is directly linked with their location in the building.
28. Ms. Moor was the only first year associate on Team Three, the general litigation team, a coveted position for young associates at the firm, and one that she had earned. A move to the 17th floor would have meant risking getting pulled off general litigation projects, as it would have made it more likely that a partner in the broker-dealer group would pull her into a big project.
29. By presenting Ms. Moor with the choice between moving her office to get away from Mr. Breen and remaining on the general litigation floor, Bingham placed Ms. Moor in the untenable position of having to choose between pursuing her career in the general litigation group and her safety.
30. Ms. Moor made the difficult decision to remain on the 19th floor because she did not want

to lose out on the benefits and opportunities afforded her by her placement in the general litigation group. However, she remained frightened to work three doors down from Mr. Breen.

31. On February 5th, Ms. Moor spoke with Peter Pound, her senior associate mentor, telling him that she felt unsafe and was frustrated by Bingham's apparent inaction. She noted that the firm was able to move quickly on things when it was so inclined and that the pace of the investigations and lack of action vis-a-vis a warning to employees indicated a lack of concern on Bingham's part.
32. Ms. Moor's conversation with Mr. Pound apparently triggered a contact by Daniel Jackson, Director of Attorney Development, who informed Ms. Moor that the firm was still considering how to send the appropriate warning about the holiday party incident to the firm's associates. He expressed the firm's view that it could not put anything in writing about the incident as a warning to female employees, for fear that doing so could result in the fact of the incidents leaking outside the firm. Ms. Moor reiterated that she was afraid to be working so close to Mr. Breen, and that, while she did not care what form a warning was in, she believed that it was critical that a warning go out to female associates at the firm.
33. Still nothing happened from February 5th through February 20th. Mr. Breen continued to work three doors down from Ms. Moor.
34. Moreover, Bingham still had not provided notice to Bingham employees about appropriate safety precautions to avoid the inadvertent ingesting of drugs. Yet the firm sponsored at least four events where alcohol was served between December 17, 2007 and February 21, 2008: at all four, there was an open bar. Ms. Moor attended one of the four, and drank only bottled water. She did not feel safe attending any of the other events.
35. Finally, on Thursday, February 21, 2008, Ms. Moor received a phone message from Ms. Carroll, in which she was informed that Jeremy Breen no longer worked for Bingham. While Mr. Breen's termination was entirely appropriate, it was long overdue.
36. For more than a month after Bingham was made aware of the incident at the Grill 23, Ms. Moor had to go to work every day aware that she was working three doors down from Mr. Breen, and she had to continue to work with him. This made Ms. Moor's work environment intolerable. It was a completely untenable situation for Ms. Moor, and she repeatedly made members of the Human Resources department, and others, aware of that fact.
37. Because of the enormous discomfort of working in this environment, Ms. Moor was compelled to leave the firm and work elsewhere. As of December 13, 2007, Ms. Moor had no intention of leaving the firm. Indeed, Ms. Moor was successful in her work at the

firm, and she and her long-term boyfriend were making plans for the future based upon her salary at Bingham.

38. However, after Bingham refused to take steps to ensure her safety and failed to take other remedial steps required by law, Ms. Moor no longer felt safe at Bingham. Therefore, when, in late January 2008, Ms. Moor received a phone call out of the blue from a prior employer asking if she might be interested in an associate position opening up in his firm, she found herself considering the possibility despite the fact that she had had no intentions of leaving Bingham, and despite the significant difference in salaries between the two jobs.
39. As of early February 2008, Bingham had still done nothing to ensure Ms. Moor's safety and there was no indication that it had plans to do so or take other appropriate remedial action. As a result, when, in February 2008, she received an offer of employment with the firm for which she had previously interned, she took the job. She no longer felt safe at Bingham and she could not continue to work there. Her decision to leave Bingham, though necessary, was difficult and disillusioning and brings with it substantial economic consequences.
40. Despite Ms. Moor's repeated requests that Bingham issue a warning to female employees at the firm about the incident at the holiday party, it was only after Ms. Moor resigned, and again reiterated her concerns about the firm's failure to issue a warning, that Bingham issued a notice to employees about the incident.
41. Ms. Moor was recently informed by Bingham that, in connection with this dispute, she cannot sue the firm in court because of a clause contained in a four-paged letter which contained details of her employment with Bingham including her start date, moving companies she could use if necessary, and the firm's dress code. Bingham sent this letter to Ms. Moor in February 2007, months after she accepted the associate position at Bingham. One clause in this document provides that any disputes related to her employment are to be "resolved exclusively through final and binding private arbitration."