

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

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ERIN MURPHY,	:	
	:	
Plaintiff	:	
	:	CIV. NO. _____
v.	:	
	:	
GLENCORE, LTD.	:	
	:	
Defendant	:	JUNE 18, 2018
	:	JURY TRIAL DEMANDED
	:	
_____	:	

COMPLAINT

Plaintiff **ERIN MURPHY** (hereinafter “Plaintiff” or “Ms. Murphy”) by and through her undersigned counsel, files this Complaint against the Defendant Glencore, Ltd. (hereinafter “Defendant” or “Glencore”). Plaintiff alleges as follows:

I. PRELIMINARY STATEMENT

1. Plaintiff asserts claims for: (1) unlawful gender discrimination pursuant to Title VII of the 1964 Civil Rights Act, 42 U.S.C. § 2000e-2(a)(1), (“Title VII”); (2) unlawful gender discrimination pursuant to Connecticut’s Fair Employment Practices Act, § 46a-60(7)(a), (CFEPA); (3), discrimination based on pregnancy pursuant to the Pregnancy Discrimination Act, 42 U.S.C § 2000e (k), (“PDA”); (4) discrimination based on pregnancy pursuant to Connecticut’s Fair Employment Practices Act § 46a-60(7)(a) (CFEPA); (5) hostile work environment; and (6) retaliation pursuant to Title VII, PDA and CFEPA. Plaintiff further requests declaratory judgment on the matter of mandatory arbitration.

II. JURISDICTION, VENUE & PARTIES

2. Plaintiff is a resident of Woodbridge, Connecticut.
3. Defendant is a subsidiary of Glencore Plc., a limited public company with headquarters in Baar Switzerland.
4. Prior to February 15, 2018, Glencore, Ltd. was located at 301 Tresser Boulevard, Stamford, Connecticut 06901. Defendant is now located at 330 Madison Avenue, New York, New York 10017-5001.
5. Defendant is in the business of providing commodity mining and trading services.
6. Defendant is subject to the personal jurisdiction of this Court because Defendant maintained offices in Stamford, Connecticut, where Plaintiff worked. Defendant's unlawful actions that form the basis of Plaintiff's pleadings were committed within the jurisdiction of the United States District Court for the District of Connecticut.
7. This action is authorized and instituted pursuant to 28 U.S.C. Sec. 451, 1331 and 1343(3) and (4); 42 U.S.C. § 2000 et.seq. and 42 U.S.C. § 2000e-(k) et.seq. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367.

III. PROCEDURAL PREREQUISITES

8. On January 2, 2018, Plaintiff filed a dual charge of discrimination against Defendant with the United States Equal Employment Opportunity Commission (EEOC), complaint number 523-2018-00443, and with the Connecticut Commission on Human Rights and Opportunities (CHRO), complaint number 1820275. On March 23, 2018, Plaintiff filed her second dual charge with the EEOC (complaint number 523-2018-00929) and CHRO (complaint number 1820400 pending).
9. On May 10, 2018, the EEOC issued a Notice of Right to Sue (Exhibit A).

10. On May 17, 2018, the CHRO issued a Release of Jurisdiction (Exhibit B).

11. On May 17, 2018, the EEOC issued Notice of Right to Sue (Exhibit C). The second CHRO complaint (1820400) is still pending and Plaintiff anticipates a Release of Jurisdiction will be issued soon. Plaintiff will file an amended complaint to include the second FEPA claim.

IV. STATEMENT OF FACTS

Background and management structure

12. Plaintiff began working as an Operator for the Crude Oil Desk on or about August 15, 2012.

13. Plaintiff has a Masters degree in Business Administration, Finance and Marketing, and over nine years of industry experience at the time she was hired.

14. As a Crude Oil Desk Operator, Plaintiff is responsible for providing direct support to Traders in the execution of their deals (scheduling oil on pipelines, vessel or tank, assistance with blending, etc.)

15. “Junior Operators” are responsible for managing inventory and costs, paying invoices, and entering data into the system. These positions are often filled by recent college graduates.

16. Operators are more experienced employees. Typically, Operators are either hired with several years of industry experience, or progress from Junior Operator or other junior roles within the firm.

17. Head of Operations is the highest position in the Operations Group. Positions beneath that include, Operators and Junior Operators (also known as “Traffic”). At each trading desk, (ex. the Crude Desk), are Traders (including Analysts), Operations employees (including Junior Operators) and Risk employees. Each report to a different manager, however the Risk Group Manager, Head of Operations and Traders all report to the Head of Oil Trading, Giles Jones.

18. As an Operator, Plaintiff reports directly to the Head of Crude Desk Trading, Guy Freshwater.

19. Mr. Freshwater directly controls the terms, conditions and privileges of Plaintiff's employment. He has significant influence over the progress of Plaintiff's career.

20. Guy Freshwater not only manages, but also sets the tone for the Crude Desk. He is known to be extremely unpredictable, often erupting in verbal outbursts directed at other employees.

21. Each year in preparation for Plaintiff's performance reviews, Mr. Freshwater gathers input from the Traders, then presents it along with his own input to Head of Operations (previously Louise Bullen), who then delivers the review.

22. Defendant's internal jobs policy states that the Human Resources Department, "*make their best effort to post job openings to [current employees]*" (October 27, 2014 Inter Company Correspondence re: Internal Job Applications)

23. In or about August or September, 2012, as a new employee, Plaintiff met with Louise Bullen, an external lawyer, and the current Crude Desk Operator. The purpose of the meeting was to review the new process and procedure for "Fronting Agreements", a practice whereby the company attempts to position itself better in pipeline lotteries to gain more pipeline space. After learning about the business model, Plaintiff questioned whether there were any negative implications with this type of model. Ms. Bullen responded by telling her, "you're not at Goldman anymore." This statement carried a clear implication that Plaintiff was not permitted to question any of Glencore's practices.

24. On or about January, 2017, an employee from the Tax Department issued a blanket NAFTA certificate of origin for products being sold to another company. Although there was no

backup documentation to show that the product was wholly produced in a NAFTA region, Cheryl Driscoll signed the issued document. When this was discovered in November 2017, the employee who had emailed the document was fired immediately. There were no apparent repercussions to Ms. Driscoll, and she did nothing to help protect the other employee.

25. Glencore's inclement weather policy states "Employees should use their best judgment to (1) stay safe, and (2) get their work done as best as they can. Employees should contact their immediate supervisor to agree on a course of action. If you cannot come to the office, or work from home (per prior approval) via remote access, a PTO day must be used. If the office is closed, no PTO day is necessary."

26. On or about March 6, 2018, a winter storm warning was issued for the following day. As the head of Plaintiff's desk, Guy Freshwater sent an email telling Plaintiff not to come in the next day because of the storm.

27. On or about October 26, 2017, a document was released on the intranet informing employees that the company would be instituting a Flexible Working Policy that would be coordinated by Human Resources.

28. However, in January, 2018, on information and belief, Human Resources was still unable to provide employees with any details on the Flexible Working program, even though the move was scheduled for February, 2018.

29. At some point during the next two months, without notifying employees, HR posted a Flexible Working Schedule procedure to the intranet.

30. Several Traders, all of whom are male, appear to have been given flexible work schedules both prior to and since the move.

31. On information and belief, during the first few months of 2018, Mr. Freshwater told two of Plaintiff's coworkers that he did not understand why Plaintiff had not approached him with a flexible work schedule proposal. Plaintiff did in fact discuss this subject with Mr. Freshwater in September, 2017, before the details of the office move were confirmed, and offered several alternative plans that she believed might work.

32. Mr. Freshwater has granted other Crude Desk employees flexible working schedules without following the policy posted by HR.

33. Mr. Freshwater's assumed authority in this matter directly contradicts the flexible schedule policy posted on the intranet by HR.

Hostile, unprofessional and sexually-charged environment

34. Although the office has a no alcohol policy, several Traders keep scotch in their desk drawers and periodically drink at the end of a work day.

35. In or about mid-December, 2012, the Crude Desk had a holiday party. The Crude Desk Traders invited the HR team, a group whose physical attractiveness was a frequent topic of discussion amongst them. During the party, two married male Traders and two married females HR employees displayed inappropriately close physical contact. Rumors were sparked that the couples were having affairs.

36. At least one of these couples, Guy Freshwater and Head of HR, Michele Morck, later confirmed the rumors. It is uncertain whether the other couple, a male Trader and a female HR analyst, were having an affair as well. After the Trader left Glencore, the HR analyst went on to have an affair with a married Trader from another desk. The two now live together and have a child.

37. During the party, another male Trader and a newly hired female employee were kissing in public view. Plaintiff offered the female employee advice, commenting that she believed this behavior to be inappropriate. The female employee reacted by threatening to beat up Plaintiff.

38. The couple continued their inappropriate behavior at another office party a few nights later. Neither employee was reprimanded, and they remained employed. They continued a pattern of similar behavior with the tacit support of Mr. Freshwater.

39. Plaintiff has been made to feel extremely uncomfortable by the general conduct of her coworkers during the office parties.

40. In or about July, 2013, during a business trip to Calgary, Mr. Freshwater, who was married at the time, told Plaintiff that he was having an affair with Michele Morck, Head of HR.

41. On or about June 6, 2017, Guy Freshwater emailed to a group of about 15 other employees, a snapshot from the Instagram account of the Crude Desk's current Junior Operator. The picture was of the Junior Operator doing a handstand, and Mr. Freshwater wrote, "*if you are going to Instagram yourself partaking in junior gymnastics, be prepared to be exposed!*"

42. Louise Bullen, who was the Junior Operator's direct manager replied, "*1. Is [Junior Operator] wearing a romper? 2. The red heart in the screenshot would suggest that Mr. Freshwater actually 'loves' this display of junior gymnastics and the below email was simply a way to express his admiration – please confirm.*" Mr. Freshwater responded, "*I don't have Instagram but I do have good old fashioned spies.*"

43. Mr. Freshwater had told Plaintiff on more than one occasion that he did not care for this particular Junior Operator. This email chain made Plaintiff very uncomfortable. The clear implication was that anyone working at the desk who was not on Mr. Freshwater's good side would be exposed to taunts and verbal abuse. Females, to an even greater extent than their male

counterparts, are subject to harsh treatment by Mr. Freshwater when they do not stay on his good side.

44. On or about September 13, 2017, referring to his cell phone, Guy Freshwater commented to Plaintiff, “do you know how many naked pictures of Michele I have on here?”

45. Later that day, Mr. Freshwater complained to Plaintiff of a bad hangover, and told her that what he needed to relieve it was drugs. He said, "I need 3 OxyContin" and asked if Plaintiff had been prescribed any for the birth of her child. Plaintiff had not been prescribed OxyContin, and would have been unwilling to break criminal laws regarding prescription medicine.

46. On or about December 15, 2017, Mr. Freshwater was sent a chocolate log filled with more chocolates for the holidays. Mr. Freshwater told the person who sent the gift, “Sean is sticking his fingers in your log”.

47. On or about January 11, 2018, Plaintiff heard the Crude Desk Analyst, who was looking for members of the team to go out with him that evening ask loudly, “should we rage tonight, get some cocaine and hookers?”

Pervasive hostility toward women

48. In or about March, 2013, a female Crude Desk Operator who had been struggling with her performance, received an instant message from a male Trader, which contained a derogatory comment about her intelligence, referring to her as an “idiot” or a “moron”. The message was meant for another male Trader. After receiving the message, the female Operator did not return to work. On information and belief, she received a legal settlement from Glencore based, at least in part, on the damages she suffered as a result of this incident. The Trader who had sent the message, however, remained employed until November, 2017, when he left for unrelated reasons.

49. Defendant's 2015 Code of Conduct Policy, page 5 directs employees to do the following: *"[y]ou must raise promptly any situations in which the Code, its underlying policies or the law appear to be breached with a supervisor or manager. Alternatively, concerns can be raised with the appropriate manager in human resources, legal, corporate affairs, sustainability or senior management, or with your local compliance contact, whose details are available in the Compliance section of the Group intranet or on notice boards."*

50. In or about mid-2015, in accordance with company policy, Plaintiff filed a complaint with Head of HR Michele Morck about the lack of progress in her career and the hostility directed toward her by Louise Bullen. Plaintiff expressed to Ms. Morck that Ms. Bullen treated her in a way that was condescending, dismissive and flat out rude. She told Ms. Morck that she found it impossible to get any help from Ms. Bullen in her role as Manager of Operations. Plaintiff explained that each time she had to go to Ms. Bullen's office, she felt sick to her stomach from anxiety.

51. Ms. Morck listened but did not comment, not even to suggest tactics she might use to mediate the situation. Ms. Morck said that she would address the issues with Andy Gibson ("Mr. Gibson"), Head of Operations in the London office, however no action was taken.

52. Several months later, Plaintiff received an email from Ms. Morck saying that her complaint was not being ignored, and that she still planned to address the issue with Mr. Gibson. Ms. Morck indicated that she had been reluctant to email to Mr. Gibson about the issue because she was concerned about possible retaliation if it were forwarded.

53. The hostile behavior in Plaintiff's work environment continued unabated. Later in 2016, after several more months had gone by, Plaintiff again followed up on her complaint. Ms. Morck said that Ms. Murphy's was not the only complaint she had received about the matter.

Ms. Morck told Plaintiff although she was well aware of the hostile tone set by Ms. Bullen, nothing could be done to address the situation.

54. In or about 2016, during one of Mr. Gibson's occasional visits to the Stamford office, Plaintiff expressed to him that she wished to take on more work and to advance her career.

55. During his next visit, Mr. Gibson approached Plaintiff at her desk to apologize for not having the time to speak with her.

56. During his two most recent visits, Mr. Gibson did not engage in direct discussions with the Crude Desk Operators. During his last visit, on or about September 13, 2017, Plaintiff asked Mr. Gibson if he would meet with her privately the next day. She wanted to discuss the hostility she was experiencing in the office. However, Mr. Gibson was never available to meet with her, and returned to London without contacting her

57. In late 2015 or early 2016, Mr. Freshwater and Ms. Morck went public with their relationship, and later moved in together. Since finding out about their relationship in 2012 or 2013, Plaintiff felt too uncomfortable to speak to Ms. Morck about any of the inappropriate situations that involved Mr. Freshwater, or the overall culture of the Crude Desk.

58. On or about October 17, 2016, Plaintiff approached Mr. Freshwater to provide feedback about another female employee. He responded with hostility, "all you women need to get back into the kitchen".

59. On November 9, 2016, when Hillary Clinton was delayed in giving her concession speech, Mr. Freshwater stood up in front of Plaintiff and other employees, and yelled "lazy bitch!"

60. On or about November 11, 2016, Plaintiff heard the Traders discussing which first lady they believed was the "hottest". Guy Freshwater again stood up, and looking at Plaintiff and the

other female Operator said, "now that Trump is president, I can say those sexist misogynistic comments without fear of retribution".

61. In or about November 21, 2016, Plaintiff heard the Crude Desk Traders discussing Trump and his meeting with the Queen of England. They openly talked about "grabbing her pussy", in reference to Donald Trump's taped statements.

62. On or about January 11, 2017, Guy Freshwater emailed a newspaper clipping to the entire Crude Desk, including Plaintiff, that referenced Donald Trump's lewd and inappropriate sexual activity with prostitutes, including 'golden showers'.

63. On or about January 11, 2017, a group of Traders sent emails about the Dallas Cowboys to a distribution list that included Plaintiff and the entire Crude Desk. One Trader emailed back to the distribution list a picture from the movie 'Brokeback Mountain', with an extremely derogatory homosexual caption.

64. On or about February 8, 2017, Plaintiff heard a group of Traders, including Guy Freshwater, openly discussing how much "hot ass" they expected in the gym near the company's new building in New York City.

65. On or about October 9, 2017, in frustration with his computer, Plaintiff heard Guy Freshwater refer to it a "fucking cunt".

66. On or about November 1, 2017, referring to a deal that had been lost, Plaintiff heard Mr. Freshwater say, "we got fucked without any lube."

67. On or about November 8, 2017, while discussing with another Trader how he did not like the way a colleague had transacted business with him, Plaintiff heard Guy Freshwater refer to the colleague as "the massive vagina that he is".

68. On or about November 21, 2017, Plaintiff observed a group of Traders, including Guy Freshwater and two others from the Crude Desk, gathered around a computer. They were joking about news of recent sexual misconduct claims, calling them “fabricated”, then laughing at the victim. One Trader said in a derogatory manner, “you know you’re supposed to be thinking she’s someone’s daughter”.

Female employees subject to second class treatment

69. In or about September, 2012, a male Junior Operator was hired directly after graduating from college.

70. In or about November 2013, another male Junior Operator left his role in another group and joined the Crude Desk as a Risk Manager.

71. In or about July, 2013, Mr. Freshwater told Plaintiff that her looks had played a role in his decision to hire her.

72. In or about December, 2013, Plaintiff received her annual performance review, which was excellent. Mr. Freshwater commented, “*Erin is the best operator I have ever worked with... I believe she is capable of excelling at any operational level and shows enormous potential to take on a senior ops role. With a few more years cargo experience under her belt I would (have) no hesitation in recommending her for a Head of Ops position.*”

73. Based on her exceptional performance, Plaintiff was issued shares as part of her bonus. In her self-assessment, Plaintiff set the goal of increasing her leadership role in the company.

74. In or about August, 2014, the male Junior Operator who had been hired directly after college just two years prior was moved to an Trading Analyst role at another oil trading desk.

75. In or about November, 2015, a male employee was moved to the Crude Desk as a Risk Manager.

76. In or about November or December, 2015, after the departure of another female employee who had planned the Crude Desk's holiday lunch the previous year, Mr. Freshwater tasked Plaintiff with planning that year's luncheon. Plaintiff was the only female on the desk that year.

77. In or about December, 2014, Plaintiff received another positive performance review. She made it her goal to, "*increase (her) leadership more broadly within the company*".

78. In or about December, 2015, Plaintiff received another positive performance review. She again made it her goal to, "*take on new businesses and increase (her) leadership more broadly within the company... and work towards moving into a more commercial role... to be more involved in Glencore's overall business to improve (her) leadership skills to further (her) career and future at the company*".

79. In or about January, 2016, a Crude Desk Risk Manager who had been in the role for just over two years, was moved to a marketing role on the commercial side of the business.

80. In or about May, 2016, Plaintiff approached Mr. Freshwater to ask for his opinion on her prospective career progression. When she inquired about the possibility of moving into a trading role, Mr. Freshwater responded in reference to putting women in trading positions, "we don't do that here". He encouraged her to find a job elsewhere if she wanted to move into a commercial role. Mr. Freshwater advised Plaintiff to go to a company "more like Plains, Husky or PBF where they make women traders", and he even provided her with a reference to a Trader for an open position at PBF.

81. In or about August, 2016, a male college student ended his summer internship where he had been doing ship tracking and other data gathering under a male Crude Desk Analyst. The male Analyst asked Plaintiff if the male Junior Operator could take over intern's analyst work. He made this request knowing that Plaintiff's assigned role was to manage ship operations.

82. In or about December, 2016, Plaintiff received another positive performance review. She again set the goals of increasing her involvement in risk, trading and leadership.

83. In or about July, 2017, the former Risk Manager who had recently been moved to a marketing role, was moved to a commercial role.

84. In or about September 2017, a male Crude Desk Analyst asked if the desk's new male Junior Operator, who had just been hired out of college, could assist him with analyst work.

85. On or about September 21, 2017, Plaintiff and the other Crude Desk Operator, who is also female, met with Guy Freshwater about staffing Operations after the departure of a male Junior Operator. Mr. Freshwater told them, "I don't want another woman working on the desk."

86. In or about December, 2017, Plaintiff received another positive performance review. In reference to her goals for the following year, Plaintiff stated, "*as mentioned in prior reviews, I would welcome the opportunity for growth by taking on new challenges and increasing my opportunity to support the commercial side of the business as well as increase my leadership role more broadly in the company*".

87. On or about December 5, 2017, Plaintiff's day off, Louise Bullen called her to announce that she would be returning to London, and that Andrew McNamara would replace her as Head of Operations. Mr. McNamara had significantly fewer years of experience than Plaintiff. Plaintiff asked if there was an interview process, to which Ms. Bullen replied no, and told her that the decision had already been made by Andy Gibson, Giles Jones and herself.

88. Other than Plaintiff, there were at least three women in the office with significantly more experience than Mr. McNamara, and none of them were considered for this role.

89. Defendant has shown a consistent pattern of preferential treatment to male employees over similarly situated female employees. A former female co-worker told Plaintiff that she came to realize that there would be no opportunity to advance her career at Glencore. For this reason, combined with Ms. Bullen's overt hostility, she eventually left the company and is now Manager of Operations at another firm.

90. Another female co-worker told Plaintiff that she had taken role in the Metals Group because she did not want to be subjected to Ms. Bullen's hostility.

91. On information and belief, a black female employee in the Contracts Group asked Louise Bullen during her 2014 performance review if she could move to a Junior Operator role, but was refused. Ms. Bullen told her that she, "wouldn't fit in".

92. The same black female employee told Plaintiff that in or about February, 2018, she asked Ms. Bullen if she could fill a vacant Junior Operator position. Although she had years of experience on the Crude Desk, Ms. Bullen responded by telling her that the company was, "going in another direction", only hiring only people with "big 5" accounting experience. She then left for a Junior Operator position at a competitor company.

93. The position sought by the black female employee was recently filled with a white female. On information and belief, the new employee does not have "big 5" accounting experience, nor does she have any direct Crude Desk experience.

94. On information and belief, another black female employee, was told something similar. When she complained to Cheryl Driscoll, nothing was done to address her complaint.

95. On and around January 16, 2018, interviews were being conducting for the Graduate Trader Rotational program. Several employees commented to Plaintiff that they noticed the interviewees were overwhelmingly white males.

96. In or about April, 2017, after a Junior Operator was fired from the Crude Desk, Ms. Bullen told Plaintiff that only individuals with accounting backgrounds would be hired as Junior Operators. However, in the summer of 2017, a white male was hired as Junior Operator on the Crude Desk, directly from college with no prior experience whatsoever.

97. Following Mr. McNamara's promotion to Head of Operations, other roles changed as follows: a male Operator moved into Mr. McNamara's former position as Distillate Desk Operator; a male Junior Operator from the Fuel Oil Desk was moved into the Operator position; the other Distillate Desk Operator (also male) was moved into a Business Development role, and his spot was filled by another male employee from the San Francisco office.

98. Plaintiff has more years of industry experience than each of these men. None of these roles were posted on the Intranet to make known they were available. Plaintiff was never asked if she had interest in any of these roles, despite her numerous past conversations with Louise Bullen regarding her career progression

99. In February, 2018, the office moved to New York City, into office space specifically designed and built for Glencore. The men's bathroom was built within the secured trading floor area, allowing male employees to walk freely between the restroom and the office without needing to carry access badges. The women's bathroom, on the other hand, was placed outside the secured office area, with no signage indicating its function. To use the restroom, a female employee must go through an unmarked exit door to a hallway where the stairs are located, then use her badge twice to enter back into the office.

100. On or about March 17, 2018, a male former Junior Operator, who had been promoted twice within three years, was sent to London to take the Glencore Traders exam. His new marketing role provided him with the opportunity to gain commercial experience, which made him eligible to take the Trader's exam. This opportunity will increase his earning potential significantly.

Pervasive pregnancy-based discrimination

101. After Plaintiff was issued shares as part of her 2013 bonus, Mr. Freshwater told her that once the company issues shares to an employee, it will often periodically pay a portion of that employees bonus in shares.

102. Following Plaintiff's pregnancy in 2014, she was never offered shares again.

103. In 2016, Louise Bullen told Plaintiff that she would request shares for her the following year.

104. During Plaintiff's 2017 review, after her second child was born, Ms. Bullen asked how she felt about her compensation. Plaintiff reminded Ms. Bullen that she had offered to request shares for her, to which Ms. Bullen responded, "it didn't happen".

105. Prior to her pregnancies, Mr. Freshwater stated that Ms. Murphy, "show[ed] enormous potential to take on a senior ops role".

106. In or about August, 2014, Plaintiff told Mr. Freshwater that she was about 18 weeks pregnant. Mr. Freshwater asked her why she had waited so long to tell him, to which Plaintiff responded that she was concerned about how having a baby would impact her career. Mr. Freshwater replied, "it won't impact it, but it will definitely plateau it."

107. In or about December, 2014, when Plaintiff was eight months pregnant, she was given another positive performance review. She set the goal of increasing her leadership role in the company, as well as increasing her involvement in risk and trading.

108. In or about mid-2015, Plaintiff complained to Michele Morck about the horrific state of the supply closet that was designated as a lactation room. There were multiple stacks of heavy boxes blocking the chair, and the pumping area was filthy and unsanitary. Ms. Morck mocked her, saying, "the struggle is real".

109. When Plaintiff returned to pumping in 2017, the room was still in the same filthy condition. Again, Plaintiff needed to move heavy boxes in order to sit down.

110. On or about December 19, 2016, during Plaintiff's pregnancy, Mr. Freshwater yelled out, "the most read article today on the BBC is 'Woman's Brain Affected by Pregnancy for at Least Two Years'", clearly directing the statement at her. Two other female employees approached Plaintiff later to express their displeasure and asked if she was okay.

111. During her 2016 annual review meeting with Louise Bullen, Plaintiff pointed out that in her almost five years of employment, she had not seen any career progression or salary increase, other than the basic company-wide cost of living increase. Ms. Bullen told her that the only way she would be able to make more money would be to move laterally to another desk.

112. Ms. Bullen went on to caution Plaintiff about considering a lateral move because, "after returning from maternity leave as a mom of two, [she] might prefer to stay comfortable where [she is]".

113. On or about March 31, 2017, during Plaintiff's second pregnancy, she mentioned to Mr. Freshwater that given the office's new location amongst many other commodities companies,

Glencore employees would have more options to leave. He immediately responded by telling Plaintiff, "you're old and having babies so there's nowhere for you to go."

114. On or about August 23, 2017, upon Plaintiff's return from maternity leave, Guy Freshwater accused her of having "baby brain" when she temporarily forgot her voicemail password.

115. On or about November 28, 2017, Louise Bullen called Plaintiff into her office to discuss the impending move to New York City. During the meeting, she made multiple references to Plaintiff's children, probing her on how she intended to manage childcare arrangements after the move.

116. On information and belief, Ms. Bullen has frequently approached other female employees with children to ask similar questions, but did not ask these questions of male employees.

117. On or about December 11, 2017, during Plaintiff's annual review, Louise Bullen asked why she had wanted to know if there was an interview process for the Head of Operations role. Plaintiff told Ms. Bullen that she frequently noticed other employees changing roles, but that she herself never seemed to be given an opportunity to advance. Ms. Bullen again expressed that any move by Plaintiff would need to be lateral. Ms. Bullen then told Plaintiff that had it not been for her simultaneous maternity leave, she would have been given such opportunity when an Operator at another desk left the company,

118. Ms. Bullen then asked if Plaintiff would have wanted the Head of Operations role. Without hesitation, Plaintiff answered "yes." Ms. Bullen replied, "if you're being honest with yourself, do you really think you could do this job?" Plaintiff again replied, "yes."

119. There was no further discussion on the subject. In contrast to prior reviews, Ms. Bullen did not provide Plaintiff any feedback on her performance and there was no review document to look at or sign.

120. On more than one occasion, Louise Bullen told Plaintiff that the only way she would be able to grow in the company or increase her earning potential would be to take an Operator role on another desk. However, Plaintiff was given no opportunity to do so when these positions have become available. These positions were not posted on the Intranet and Glencore did not make the openings known until they were already filled.

121. On information and belief, prior to Plaintiff's arrival, Glencore demoted at least one female employee after she returned from maternity leave. This lead Junior Operator was not permitted to return to her position when she came back from her maternity leave. Several years later, she asked to be moved back into an Operator role. Her request was denied due to her "conflicting priorities as a mother". She then approached Chief Compliance Officer Cheryl Driscoll directly, to address the decision and rationale she had been given. Ms. Driscoll responded by telling her that since the statement was made verbally, there was no proof and therefore, nothing could be done. She still holds a Junior Operator role.

122. On information and belief, Glencore prorated the bonus of a female Operator for the period of her maternity leave. Glencore only reinstated her full bonus after she contested this decision as discriminatory.

123. On information and belief Glencore prorated the 2014 bonus of another female Operator for the period of her maternity leave.

124. On information and belief, after returning from maternity leave in 2014, another female Operator was demoted to a Junior Operator role until an Operator role became available. She was

never reinstated into her original position, but when an Operator role did become available, she was required to perform the tasks of both an Operator and a Junior Operator.

Retaliation for filing complaints

125. The Glencore Code of Conduct Legal and Compliance page declares, as one of its principal functions, to “*protect the Group reputation*”.

126. In addition to Ms. Morck’s demonstrated lack of follow-through, her romantic relationship with Plaintiff’s supervisor, Guy Freshwater, effectively precluded Plaintiff from approaching Ms. Morck with complaints about Mr. Freshwater’s behavior.

127. On or about February 28, 2018, Dawn Pomianowski and Louise Bullen met in Ms. Bullen’s office for about two and a half hours. Because Plaintiff’s desk in the new office is located directly outside Ms. Bullen’s office, she was able to see clearly that they were shifting around documents bearing the logo of undersigned counsel.

128. On or about March 6, 2018, Human Resources representative, Michele Polzer invited Plaintiff to a meeting with herself and Cheryl Driscoll. In the meeting they provided Plaintiff with a document entitled, “Internal Investigation Conclusion”, and told her that the fact that she had not first reported the discriminatory actions to Glencore was “going to be an issue”.

129. The Internal Investigation Conclusion Memorandum provides a summary dismissal of Plaintiff’s claims. Her performance reviews and resume directly contradict the Memorandum’s allegation that she is unqualified for the Head of Operations role. It provides no information as to why Andrew McNamara was considered a qualified candidate for the role. There appears to be no other purpose to the Memorandum or meeting other than to intimidate Plaintiff into abandoning her claims.

130. It is unclear what, if any, steps were actually taken to pursue a meaningful investigation of Plaintiff's claims. The one other female on the Crude Desk was not asked any questions in relation to Plaintiff's claims. Plaintiff is aware of no other employee interviews that were conducted in relation to Defendant's purported investigation of her claims.

131. Plaintiff has been discriminated against on the basis of her gender and her pregnancy, subject to a hostile work environment, and retaliated against for her pregnancies and for filing discrimination charges with the EEOC and CHRO.

V. COUNT ONE: UNLAWFUL GENDER DISCRIMINATION PURSUANT TO TITLE VII

132. Paragraphs 1-131 are incorporated by reference herein.

133. Ms. Murphy is a member of a protected class under Title VII of the 1964 Civil Rights Act ("Title VII") because of her gender (female).

134. Ms. Murphy is a highly qualified employee with a Masters degree in Business Administration, Finance and Marketing and over fourteen years of industry experience.

Throughout the tenure of her employment, she has received positive performance reviews, and has been recognized as a leader in the company. In fact, she is currently one of the highest paid Operators in Defendant's office.

135. Ms. Murphy has been passed over repeatedly for promotion opportunities.

136. Defendant's adverse employment actions occurred under circumstances giving rise to an inference of gender discrimination. Ms. Murphy has inquired on multiple occasions about the possibility of transitioning into a trading role. Each year on her self-assessment, Ms. Murphy has set the goal of increasing her leadership role in the company, but each year she has been denied

the opportunity to do so. Ms. Murphy even filed a complaint with HR regarding the lack of progress in her career, despite consistent positive work performance.

137. Defendant exhibits a clear and unmistakable preference for male employees over similarly situated female employees. Female employees are relegated to support positions, with little or no potential to advance within the company. Male Operators with significantly less education and experience are regularly promoted to higher level positions with the opportunity to earn considerably more money. Without conducting interviews, Defendant recently promoted a male employee to Head of Operations, despite the fact that he had significantly fewer years of experience than Ms. Murphy and at least three of her female coworkers.

138. Defendant has no legitimate basis for any of the adverse employment actions committed, and in fact has directly admitted to Ms. Murphy that her gender is the reason for these actions. Ms. Murphy's supervisor, Guy Freshwater has told her, in no uncertain terms, that Defendant maintains a policy against hiring or promoting women to trading positions. Indeed, the office itself is a clear reflection of this policy.

139. Ms. Murphy respectfully requests that Defendant be held liable on this claim and that all appropriate relief be awarded in her favor.

**VI. COUNT TWO: UNLAWFUL GENDER DISCRIMINATION
PURSUANT TO CONNECTICUT'S FAIR EMPLOYMENT
PRACTICES ACT (CFEPA)**

140. Paragraphs 1-139 are incorporated by reference herein.

141. Ms. Murphy is a member of a protected class under Connecticut's Fair Employment Practices Act, Conn.Stat. § 46a-60(7)(a) because of her gender (female).

142. Ms. Murphy is a highly qualified employee with a Masters degree in Business Administration, Finance and Marketing and over fourteen years of industry experience.

Throughout the tenure of her employment, she has received positive performance reviews, and has been recognized as a leader in the company. In fact, she is currently one of the highest paid Operators in Defendant's office.

143. Ms. Murphy has been passed over repeatedly for promotion opportunities.

144. Defendant's adverse employment actions occurred under circumstances giving rise to an inference of gender discrimination. Ms. Murphy has inquired on multiple occasions about the possibility of transitioning into a trading role. Each year on her self-assessment, Ms. Murphy has set the goal of increasing her leadership role in the company, but each year she has been denied the opportunity to do so. Ms. Murphy even filed a complaint with HR regarding the lack of progress in her career, despite consistent positive work performance.

145. Defendant exhibits a clear and unmistakable preference for male employees over similarly situated female employees. Female employees are relegated to support positions, with little or no potential to advance within the company. Male Operators with significantly less education and experience are regularly promoted to higher level positions, where they are able to earn considerably more money. Without conducting interviews, Defendant recently promoted a male employee to Head of Operations, despite the fact that he had significantly fewer years of experience than Ms. Murphy and at least three of her female coworkers.

146. Defendant has no legitimate basis for any of the adverse employment actions committed, and in fact has directly admitted to Ms. Murphy that her gender is the reason for these actions. Ms. Murphy's supervisor, Guy Freshwater has told her, in no uncertain terms, that Defendant maintains a policy against hiring or promoting women to trading positions. Indeed, the office itself is a clear reflection of this policy.

147. Ms. Murphy respectfully requests that Defendant be held liable on this claim and that all appropriate relief be awarded in her favor.

VII. COUNT THREE: UNLAWFUL DISCRIMINATION PURSUANT TO THE PREGNANCY DISCRIMINATION ACT (PDA)

148. Paragraphs 1-147 are incorporated by reference herein.

149. At all relevant times, Ms. Murphy was a member of a protected class based on her pregnant status.

150. Ms. Murphy is a highly qualified employee with a Masters degree in Business Administration, Finance and Marketing and over fourteen years of industry experience. Throughout the tenure of her employment, she has received positive performance reviews, and has been recognized as a leader in the company. In fact, she is currently one of the highest paid Operators in Defendant's office.

151. Prior to her pregnancies, Mr. Freshwater stated that Ms. Murphy, "*show[ed] enormous potential to take on a senior ops role*"

152. Ms. Murphy was subject to a consistent pattern of adverse actions each time Defendant refused to consider her for a new position, in preference for a similarly situated non-pregnant employee.

153. Defendant's discriminatory employment policies curtail the potential for career advancement to female employees based on pregnancy. Ms. Murphy's supervisors have stated directly, on numerous occasions, that female employees who become pregnant are not entitled to career advancement at Glencore. Guy Freshwater told Ms. Murphy that her pregnancy would "plateau" her career, and that she was, "old and having babies so there's nowhere for [her] to go". Head of Operations, Louise Bullen repeatedly communicated to Ms. Murphy that the only

internal move she might be given an opportunity to make would be a lateral one. When Ms. Murphy complained that unlike other employees, she had not been afforded any opportunities for advancement, she was told that there would have been an opportunity to make a lateral move if not for her maternity leave.

154. Defendant frequently probes into Ms. Murphy's childcare arrangements, and those of other female employees with children. However, male employees are never subject to such interrogation.

155. Without conducting interviews, Defendant recently promoted a male employee to the Head of Operations position, despite the fact that he had significantly fewer years of experience than Ms. Murphy and at least three of her female coworkers.

156. Ms. Murphy suffered additional adverse actions when she was denied adequate lactation accommodations following her pregnancies.

157. When Ms. Murphy complained to Human Resources about the unsanitary and unusable state of the supply closet designated as a lactation room, she was mocked, and her concern was ignored. When she returned to pumping two years later, Ms. Murphy discovered that the room was in the same unsanitary and unusable condition.

158. Defendant has no legitimate basis for any of the adverse employment actions committed. Defendant maintains overtly discriminatory employment policies that negatively impact pregnant female employees such as Ms. Murphy.

159. Ms. Murphy respectfully requests that the Defendant be held liable on this claim and that all appropriate relief be awarded in her favor.

VIII. COUNT FOUR: UNLAWFUL DISCRIMINATION BASED ON PREGNANCY PURSUANT TO CONNECTICUT'S FAIR EMPLOYMENT PRACTICES ACT (CFEPA)

160. Paragraphs 1-159 are incorporated by reference herein.

161. At all relevant times, Ms. Murphy was a member of a protected class based on her pregnant status.

162. Ms. Murphy is a highly qualified employee with a Masters degree in Business Administration, Finance and Marketing and over fourteen years of industry experience.

Throughout the tenure of her employment, she has received positive performance reviews, and has been recognized as a leader in the company. In fact, she is currently one of the highest paid Operators in Defendant's office.

163. Prior to her pregnancies, Mr. Freshwater stated that Ms. Murphy, "*show[ed] enormous potential to take on a senior ops role*"

164. Ms. Murphy was subject to a consistent pattern of adverse actions each time Defendant refused to consider her for a new position, in preference for a similarly situated non-pregnant employee.

165. Defendant's discriminatory employment policies curtail the potential for career advancement to female employees based on pregnancy. Ms. Murphy's supervisors have stated directly, on numerous occasions, that female employees who become pregnant are not entitled to career advancement at Glencore. Guy Freshwater told Ms. Murphy that her pregnancy would "plateau" her career, and that she was, "old and having babies so there's nowhere for [her] to go". Head of Operations, Louise Bullen repeatedly communicated to Ms. Murphy that the only internal move she might be given an opportunity to make would be a lateral one. When Ms. Murphy complained that unlike other employees, she had not been afforded any opportunities for

advancement, she was told that there would have been an opportunity to make a lateral move if not for her maternity leave.

166. Defendant frequently probes into Ms. Murphy's childcare arrangements, and those of other female employees with children. However, male employees are never subject to such interrogation.

167. Without conducting interviews, Defendant recently promoted a male employee to Head of Operations, despite the fact that he had significantly fewer years of experience than Ms. Murphy and at least three of her female coworkers.

168. Ms. Murphy suffered additional adverse actions by Defendant when she was denied adequate lactation accommodations following her pregnancies.

169. When Ms. Murphy complained to Human Resources about the unsanitary and unusable state of the supply closet designated as a lactation room, she was mocked, and her concern was ignored. When she returned to pumping two years later, Ms. Murphy discovered that the room was in the same unsanitary and unusable condition.

170. Defendant has no legitimate basis for any of the adverse employment actions committed. Defendant maintains overtly discriminatory employment policies that negatively impact pregnant female employees such as Ms. Murphy.

171. Ms. Murphy respectfully requests that the Defendant be held liable on this claim and that all appropriate relief be awarded in her favor.

IX. COUNT FIVE: HOSTILE WORK ENVIRONMENT BASED ON GENDER

172. Paragraphs 1-171 are incorporated by reference herein.

173. Ms. Murphy's work environment is permeated by an atmosphere of hostility and intimidation directed toward female employees. Ms. Murphy's direct supervisor, Guy Freshwater, makes frequent lewd and sexist comments about women, often addressed to, or in reference to specific female employees.

174. Defendant's hostile conduct is sufficiently severe and pervasive to alter the conditions of Ms. Murphy's employment. Guy Freshwater's overt hostility toward females has set the tone for the office, and the Crude Desk in particular. Mr. Freshwater codified this hostility in a way that was clear and undeniable when, after the 2016 presidential election, he stood up and proclaimed, "now that Trump is president, I can say those sexist misogynistic comments without fear of retribution!"

175. Former Head of Operations, Louise Bullen routinely behaved in way that was hostile and intimidating toward female employees. Her behavior was so severe and pervasive, that Ms. Murphy would become physically ill from anxiety before her scheduled meetings with Ms. Bullen. Several female employees ultimately left the Crude Desk, due at least in part to Louise Bullen's hostility.

176. In addition to the constant barrage of misogynistic comments, Ms. Murphy's work environment is permeated by unprofessional, sexually charged behavior. The frequent extramarital affairs between Glencore employees are given the tacit support of management. Ms. Murphy has been made to feel extremely uncomfortable by the behavior of her coworkers.

177. Defendant is responsible for its failure to control the stream of harassing behavior to which Ms. Murphy has been subject. Ms. Murphy's supervisors, Guy Freshwater and Louise Bullen have not only condoned the hostile and misogynistic behavior permeating her work environment, but have actively participated in it. When Ms. Murphy has brought this behavior to the attention of HR, Defendant has invariably refused to take any action.

178. Ms. Murphy respectfully requests that the Defendant be held liable on this claim and that all appropriate relief be awarded in her favor.

X. COUNT SIX: RETALIATION PURSUANT TO TITLE VII

179. Paragraphs 1-178 are incorporated by reference herein.

180. Ms. Murphy engaged in protective activity on the multiple occasions when she complained of discrimination on to HR, and later filed claims with the EEOC and CHRO. In mid-2015, Ms. Murphy complained to Head of HR Michele Morck about the hostile work environment and lack of merit-based career advancement she was experiencing. Ms. Morck said that she would address the issues with Andy Gibson. However, even after Ms. Murphy followed up several times with Ms. Morck, no action was ever taken. Eventually, she was told that nothing could be done to address the hostile environment.

181. Defendant retaliated against Ms. Murphy by refusing to consider her for promotions when they became available. Most recently, she was denied consideration for the Head of Operations position, despite her excellent qualifications. To support this decision, Defendant listed a variety of skills in which it claims Ms. Murphy is deficient. Most unbelievably, the single piece of evidence that Defendant used to substantiate these deficiencies was the performance review of an entirely different employee. Ms. Murphy's resume and performance reviews starkly

discount these ostensible deficiencies. Louise Bullen told Ms. Murphy, as she had previously, that any move she within the company made would need to be lateral.

182. Defendant further retaliated against Ms. Murphy for filing claims with the EEOC and CHRO. Following the filing of Ms. Murphy's claims, Defendant suddenly launched a long overdue investigation into her allegations of discriminatory conduct, much of which occurred routinely, and in plain sight of office managers and HR. This was followed by a hasty conclusion, lacking depth or detail, determining that there was no merit whatsoever to her claims. When presented with the "Internal Investigation Memo", Ms. Murphy was cautioned that having not first reported the discriminatory actions internally was "going to be an issue".

183. A clear causal connection exists between Ms. Murphy's complaints and the adverse actions taken against her. After years of ignoring Ms. Murphy's repeated complaints to HR, Defendant suddenly launched an "internal investigation", for no purpose other than to intimidate her into abandoning her claims.

184. Ms. Murphy respectfully requests that the Defendant be held liable on this claim and that all appropriate relief be awarded in her favor.

XI. COUNT SEVEN: RETALIATION PURSUANT TO THE PREGNANCY DISCRIMINATION ACT (PDA)

185. Paragraphs 1-184 are incorporated by reference herein.

186. Ms. Murphy engaged in protected activities when she requested a maternity leave of absence in 2015, and again 2017, and when she requested use of the lactation room upon her returns.

187. Defendant was aware that Ms. Murphy was pregnant, that she would be taking maternity leaves of absence and that she would require the lactation room.

188. Defendant retaliated against Ms. Murphy by refusing to consider her for promotions when they became available. After Ms. Murphy complained to HR, Louise Bullen told her on several occasions that, “any move [she made] would need to be lateral”. Most recently, she was denied consideration for the Head of Operations position, despite her excellent qualifications. To support this decision, Defendant listed a variety of skills in which it claims Ms. Murphy is deficient. Ms. Murphy’s resume and performance reviews starkly discount these ostensible deficiencies.

189. Defendant further retaliated against Ms. Murphy for filing claims with the EEOC and CHRO. Following the filing of Ms. Murphy’s claims, Defendant suddenly launched a long overdue investigation into her allegations of discriminatory conduct, much of which occurred routinely, and in plain sight of office managers and HR. This was followed by a hasty conclusion, lacking in any depth or detail, determining that there was no merit whatsoever to her claims. When presented with the “Internal Investigation Memo”, Ms. Murphy was cautioned that having not first reported the discriminatory actions internally was, “going to be an issue”. The “internal investigation” was a mere tool used by Defendant to intimidate Ms. Murphy into abandoning her claims.

190. A clear causal connection exists between of Ms. Murphy’s pregnancies and the adverse actions taken against her. Prior to the 2018 office move, Ms. Murphy was singled out as one of the employees, “most affected by the move due to location”. Defendant interrogated Ms. Murphy about her childcare arrangements, which it did routinely to female employees with children. In 2014, when Ms. Murphy expressed concern over how her pregnancy might impact her career, Mr. Freshwater told her, “it won’t impact it, but it will definitely plateau it.” In 2016, during Ms. Murphy’s second pregnancy, Mr. Freshwater yelled out, "the most read article today

on the BBC is ‘Woman's Brain Affected by Pregnancy for at Least Two Years’, clearly directing the statement toward her. On another occasion, during a discussion with Ms. Murphy about potential career opportunities, Mr. Freshwater told her, “you're old and having babies so there's nowhere for you to go.” In 2017, after returning from maternity leave, Mr. Freshwater chastised Ms. Murphy for having “baby brain” when she temporarily forgot her voicemail password. In 2016, Ms. Bullen cautioned Ms. Murphy about considering even a lateral move, because after her “return from maternity leave as a mom of two”, she might “prefer to stay comfortable” in her current position. Countless other employees who have taken maternity leave have been subject to demotions and bonus reductions upon returning.

191. Ms. Murphy respectfully requests that the Defendant be held liable on this claim and that all appropriate relief be awarded in her favor.

**XII. COUNT EIGHT: RETALIATION PURSUANT TO
CONNECTICUT’S FAIR EMPLOYMENT PRACTICES
ACT (CFEPA)**

192. Paragraphs 1-191 are incorporated by reference herein.

193. Ms. Murphy engaged in protective activities on the multiple occasions when she complained of discrimination on to HR, and later filed claims with the EEOC and CHRO. In mid-2015, Ms. Murphy complained to Head of HR, Michele Morck, about the hostility and lack of career advancement she had been subject to. Ms. Morck said that she would address these issues with Andy Gibson. However, no action was ever taken, even after Ms. Murphy followed up several times with Ms. Morck. Eventually, Ms. Murphy was told that nothing could be done to address her complaints. When, in mid-2015, Ms. Murphy complained about the unsanitary state of the supply closet lactation room, Ms. Morck mocked her, and did nothing to address her complaints.

194. Defendant retaliated against Ms. Murphy by refusing to consider her for promotions when they became available. Most recently, she was denied consideration for the Head of Operations position, despite her excellent qualifications. To support this decision, Defendant listed a variety of skills in which it claims Ms. Murphy is deficient. Most unbelievably, the single piece of evidence that Defendant used to substantiate these deficiencies was the performance review of an entirely different employee. Ms. Murphy's resume and performance reviews starkly discount these ostensible deficiencies.

195. Defendant further retaliated against Ms. Murphy for filing claims with the EEOC and CHRO. Following the filing of Ms. Murphy's claims, Defendant suddenly launched a long overdue investigation into her allegations of discriminatory conduct, much of which occurred routinely, and in plain sight of office managers and HR. This was followed by a hasty conclusion, lacking in any depth or detail, determining that there was no merit whatsoever to her claims. When presented with the "Internal Investigation Memo", Ms. Murphy was cautioned that having not first reported the discriminatory actions internally was "going to be an issue".

196. A clear causal connection exists between Ms. Murphy's complaints and the adverse actions taken against her. After years of ignoring Ms. Murphy's repeated complaints to HR, Defendant suddenly launched an investigation, for no apparent purpose other than to intimidate her into abandoning her claims.

197. Ms. Murphy respectfully requests that Defendant be held liable on this claim and that all appropriate relief be awarded in her favor.

XIII. COUNT NINE: DECLARATORY JUDGEMENT THAT AGREEMENT COMPELLING ARBITRATION IS UNENFORCEABLE

198. Paragraphs 1-197 are hereby incorporated by reference herein.

199. A judicial dispute exists in relation to an arbitration provision sought to be enforced by Defendant in the adjudication of Plaintiff's claims.

200. On July 13, 2012, Ms. Murphy completed and signed an application for employment at Glencore.

201. Above the signature line of Ms. Murphy's 2-page employment application is the arbitration clause at issue. It consists of a short paragraph following general boilerplate legal acknowledgments. "*...[i]n consideration for Glencore's considering my application for employment, I expressly agree that any dispute between Glencore and me, including, without limitation, my application for employment or my employment, if I am hired, will be submitted to final and mutually binding arbitration before the American Arbitration Association ("AAA") as the sole and exclusive forum, and shall not be brought in any state or federal court for ultimate resolution. Nothing herein shall prohibit me from exercising my statutory right to pursue an administrative charge or complaint, but any subsequent litigation concerning such a charge or complaint shall be subject to this arbitration agreement. Information regarding the American Arbitration Association and its procedures for handling employment disputes may be found at www.adr.org*"

202. Defendant presented the mandatory arbitration provision as part of Ms. Murphy's application for employment. Defendant did not review the contents of the application form with Ms. Murphy. Defendant did not mention or explain the arbitration provision to Ms. Murphy.

203. Ms. Murphy's employment application form was drafted by Defendant. Defendant required her signature in order for Ms. Murphy to be considered for a position. Ms. Murphy did not have legal representation, nor was she able to consult with legal counsel prior to signing the application.

204. Ms. Murphy did not assent to the arbitration provision. She does not recall ever reading the arbitration provision. Defendant never provided Ms. Murphy with a copy of her signed employment application containing the purported arbitration agreement. Defendant's July 27, 2012 offer letter to Ms. Murphy proposing detailed employment terms contains no further codification or mention of the purported arbitration agreement.

205. The arbitration provision, drafted by Defendant and non-negotiated by the parties, failed to provide and set forth in a conspicuous manner a valid jury waiver. The arbitration provision contains no jury waiver language and, in fact, the word "jury" is not used at all in the employment application form. There was no discussion between the parties about jury waiver. The employment application is completely devoid of any hint or suggestion to Ms. Murphy that she would be waiving her seventh amendment right to a jury trial. Ms. Murphy was unaware that by signing and submitting the application, she would be waiving her right to a trial by jury.

206. There is an actual bona fide and substantial question or issue in dispute or substantial uncertainty of legal relations between the parties which requires the Court's intervention to settle the matter before litigation commences.

207. Ms. Murphy seeks a declaratory judgment pursuant to Fed. R. Civ. Pro. 57 and 28 U.S.C. § 2201, as she has legal and equitable interest by reason of Defendants threat of enforcing the mandatory arbitration paragraph contained in her employment application.

208. The purported arbitration agreement is void because Ms. Murphy did not knowingly or intentionally agree to arbitrate her claims. Ms. Murphy was not given notice that by submitting her application for employment with Defendant, she was entering into a mandatory arbitration agreement.

209. The purported arbitration agreement is void due to unconscionability. A substantial disparity in bargaining power existed between the parties. Defendant incorporated the nonnegotiable arbitration provision into Ms. Murphy's application, as a condition to her candidacy for employment. Ms. Murphy was not afforded any opportunity to consult with counsel in negotiating her agreement. There was no mutual manifestation of the terms of the arbitration clause between the parties.

210. The purported arbitration agreement is void because Defendants failed to put Ms. Murphy on notice of her waiver to a jury trial. The Constitution of Connecticut, article first, § 19, provides that "[t]he right of trial by jury shall remain inviolate." There is absolutely no evidence to show that Ms. Murphy made a voluntary or knowing waiver of her seventh amendment right. The vague arbitration language buried in the employment application does not imply a jury waiver.

211. Ms. Murphy respectfully requests that the Court declare the arbitration provision void and unenforceable as a matter of law.

XIV. DEMAND FOR RELIEF

Plaintiff hereby requests the following relief:

- A. Declare that the arbitration provision is void and unenforceable as a matter of law;
- B. Award compensatory damages;
- C. Award punitive damages;
- D. Award attorneys' fees and costs;
- E. Award pre-judgement interest;
- F. Award post-judgement interest;
- G. Award such other relief in law or equity as this Court deems appropriate.

JURY TRIAL DEMANDED

Plaintiff respectfully requests a jury trial on all questions of fact raised by her Complaint.

ERIN MURPHY,
PLAINTIFF

By: /s/ Mark P. Carey
Mark P. Carey (ct17828)
Jill R. Saluck (ct30331)
Mark P. Carey, P.C.
71 Old Post Road, Suite One
Southport, CT 06890
(203) 255-4150 tel
(203) 255-0380 fax
mcarey@capclaw.com

HER ATTORNEY

EXHIBIT A

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Erin Murphy
C/O Mark Carey
71 Old Post RD. Suite 1
Southport, CT 06890

From: Boston Area Office
John F. Kennedy Fed Bldg
Government Ctr, Room 475
Boston, MA 02203

On behalf of person(s) aggrieved whose identity is CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No. 523-2018-00443
EEOC Representative Adriana Gomez, Investigator
Telephone No. (617) 565-3203

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

- More than 180 days have passed since the filing of this charge.
Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.
The EEOC is terminating its processing of this charge.
The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.
The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

Kenneth An

MAY 10 2018

(Date Mailed)

Enclosures(s)

Feng K. An,
Area Office Director

cc: GLENORE LTD.
C/O Marc L. Zaken
Ogletree Deakins Nash Smoak & Stewart
281 Tresser Blvd. - 6th Floor
Stamford, CT 06901

EXHIBIT B

STATE OF CONNECTICUT
COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES

Erin Murphy
COMPLAINANT

CHRO No. 1820275

vs.

EEOC No. 16A-2018-00443

Glencore, LTD
RESPONDENT


RELEASE OF JURISDICTION

The Commission on Human Rights and Opportunities hereby releases its jurisdiction over the above-identified complaint. The Complainant is authorized to commence a civil action in accordance with CONN. GEN. STAT. § 46a-100 against the Respondent in the Superior Court for the judicial district in which the discriminatory practice is alleged to have occurred, in which the Respondent transacts business or in which the Complainant resides. If this action involves a state agency or official, it may be brought in the Superior Court for the judicial district of Hartford.

A copy of any civil action brought pursuant to this release must be served on the Commission at ROJ@ct.gov or at 450 Columbus Blvd., Suite 2, Hartford, CT 06103 at the same time all other parties are served. Electronic service is preferred. **THE COMMISSION MUST BE SERVED BECAUSE IT HAS A RIGHT TO INTERVENE IN ANY ACTION BASED ON A RELEASE OF JURISDICTION PURSUANT TO CONN. GEN. STAT. § 46a-103.**

The Complainant must bring an action in Superior Court within 90 days of receipt of this release and within two years of the date of filing the complaint with the Commission unless circumstances tolling the statute of limitations are present.

DATE: 5/17/2018


Ianya A. Hughes, Executive Director

Service:

By email to Complainant's Counsel: mcarey@capclaw.com

Attorney Mark P. Carey

Mark P. Carey, P.C.

71 Old Post Road, Suite One, Southport, CT 06890

By email to Respondent's Counsel: marc.zaken@ogletreedeakins.com

Attorney Marc L. Zaken

Ogletree Deakins Nash Smoak & Stewart, P.C.

281 Tresser Boulevard, Suite 602, Stamford, CT 06901

EXHIBIT C

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

EEOC Form 161-B (11/16)

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Erin Murphy
C/O Mark Carey
71 Old Post Road Suite 1
Southport, CT 06890

From: Boston Area Office
John F. Kennedy Fed Bldg
Government Ctr, Room 475
Boston, MA 02203

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
523-2018-00929	Adriana Gomez, Investigator	(617) 565-3203

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA must be filed in a federal or state court **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

- More than 180 days have passed since the filing of this charge.
- Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.
- The EEOC is terminating its processing of this charge.
- The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court **WITHIN 90 DAYS** of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.
- The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred **more than 2 years (3 years)** before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

Kenneth An

Feng K. An,
Area Office Director

MAY 17 2018
(Date Mailed)

Enclosures(s)

cc: GLENCORE LTD.
330 Madison Ave # 945
New York, NY 10017