

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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CA 08-01391

PRESENT: MARTOCHE, J.P., FAHEY, GREEN, AND PINE, JJ.

IRENE MOSKAL, PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

UTICA COLLEGE, PRESIDENT TODD HUTTON,
ROBERT GRANT, R. BARRY WHITE, AND DOES 1-50,
DEFENDANTS-APPELLANTS.

THE LAW FIRM OF FRANK W. MILLER, EAST SYRACUSE (IMAN ABRAHAM OF
COUNSEL), FOR DEFENDANTS-APPELLANTS.

SKANADORE REISDORPH LAW OFFICES, HUNTINGTON BEACH (DEBORAH S.
REISDORPH OF COUNSEL), FOR PLAINTIFF-RESPONDENT.

Appeal from an order of the Supreme Court, Oneida County (Anthony F. Shaheen, J.), entered August 22, 2007. The order denied the motion of defendants to dismiss the complaint and granted the cross motion of plaintiff for leave to amend the complaint.

It is hereby ORDERED that the order so appealed from is unanimously affirmed with costs.

Memorandum: Plaintiff commenced this action seeking damages for employment discrimination (see Executive Law § 296) and violations of the Family Medical Leave Act of 1993 (29 USC § 2601 *et seq.*) by, inter alia, her employer, defendant Utica College, and the individual defendants, three of her coemployees. Supreme Court denied defendants' motion to dismiss the complaint and granted plaintiff's cross motion seeking leave to amend the complaint. We note at the outset that defendants contend on appeal only that the court erred in denying that part of their motion seeking dismissal of the first cause of action against the individual defendants, and thus they have abandoned any issues with respect to the propriety of the remainder of the order (see *Ciesinski v Town of Aurora*, 202 AD2d 984).

The court properly denied that part of the motion seeking dismissal of the first cause of action against the individual defendants pursuant to CPLR 3211 (a) (7). Contrary to defendants' contention, plaintiff stated a cause of action against the individual defendants under Executive Law § 296 (6) for aiding and abetting the alleged discriminatory conduct (see *Mitchell v TAM Equities, Inc.*, 27 AD3d 703, 707; *Murphy v ERA United Realty*, 251 AD2d 469, 472; see also *Nesathurai v University at Buffalo, State Univ. of N.Y.*, 23 AD3d 1070,

1072; *D'Amico v Commodities Exch.*, 235 AD2d 313, 315).

Entered: February 6, 2009

JoAnn M. Wahl
Clerk of the Court